

PUBLIC LAW 115-243—SEPT. 20, 2018

TRIBAL SOCIAL SECURITY FAIRNESS  
ACT OF 2018

Public Law 115–243  
115th Congress

An Act

Sept. 20, 2018  
[H.R. 6124]

To amend title II of the Social Security Act to authorize voluntary agreements for coverage of Indian tribal council members, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tribal Social  
Security Fairness  
Act of 2018.  
42 USC 1305  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Tribal Social Security Fairness Act of 2018”.

**SEC. 2. VOLUNTARY AGREEMENTS FOR COVERAGE OF SERVICES BY AMERICAN INDIAN TRIBAL COUNCIL MEMBERS.**

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended by inserting after section 218 the following new section:

“VOLUNTARY AGREEMENTS FOR COVERAGE OF INDIAN TRIBAL COUNCIL MEMBERS

“Purpose of Agreement

42 USC 418a.

“SEC. 218A. (a)(1) The Commissioner of Social Security shall, at the request of any Indian tribe, enter into an agreement with such Indian tribe for the purpose of extending the insurance system established by this title to services performed by individuals as members of such Indian tribe’s tribal council. Any agreement with an Indian tribe under this section applies to all members of the tribal council, and shall include all services performed by individuals in their capacity as council members.

Applicability.

“(2) Notwithstanding section 210(a), for the purposes of this title, the term ‘employment’ includes any service included under an agreement entered into under this section.

“Definitions

“(b) For the purposes of this section:

“(1) The term ‘member’ means, with respect to a tribal council, an individual appointed or elected to serve as a member or the head of the tribal council.

“(2) The term ‘tribal council’ means the appointed or elected governing body of a federally recognized Indian tribe.

“Effective Date of Agreement

“(c)(1) Any agreement under this section shall be effective with respect to services performed after an effective date specified in

such agreement, provided that such date may not be earlier than the first day of the next calendar month after the month in which the agreement is executed by both parties.

“(2) At the request of the Indian tribe at the time of the agreement, such agreement may apply with respect to services performed before such effective date for which there were timely paid in good faith (and not subsequently refunded) to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 had such services constituted employment for purposes of chapter 21 of such Code. No agreement under this section may require payment to be made after the effective date specified in such agreement of any taxes with respect to services performed before such effective date.

#### “Duration of Agreement

“(d) No agreement under this section may be terminated on or after the effective date of the agreement.”.

#### (b) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY ACT.—Section 210(a) of the Social Security Act (42 U.S.C. 410(a)) is amended—

(A) in paragraph (20), by striking “or” at the end;

(B) in paragraph (21), by striking the period at the end and inserting “; or”; and

(C) by inserting after paragraph (21) the following new paragraph:

“(22) Service performed by members of Indian tribal councils as tribal council members in the employ of an Indian tribal government, except that this paragraph shall not apply in the case of service included under an agreement under section 218A.”.

(2) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 is amended—

(A) in section 3121(b)—

(i) in paragraph (20), by striking “or” at the end;

(ii) in paragraph (21), by striking the period at the end and inserting “; or”; and

(iii) by inserting after paragraph (21) the following new paragraph:

“(22) service performed by members of Indian tribal councils as tribal council members in the employ of an Indian tribal government, except that this paragraph shall not apply in the case of service included under an agreement under section 218A of the Social Security Act.”; and

(B) in section 3121(d)(4), by inserting “or 218A” after “section 218”.

(c) RULE OF CONSTRUCTION.—Nothing in this Act or the amendments made by this Act shall be construed to affect application

26 USC 3121  
note.

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of any Federal income tax withholding requirements under the Internal Revenue Code of 1986.

Approved September 20, 2018.

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LEGISLATIVE HISTORY—H.R. 6124:

HOUSE REPORTS: No. 115–801 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 164 (2018):

July 24, considered and passed House.

Sept. 6, considered and passed Senate.

