

**AMENDMENT TO H.R. 4909**  
**OFFERED BY MR. PEARCE OF NEW MEXICO**

After section 7004, insert the following:

1 **SEC. 7005. RETURN OF CERTAIN LANDS AT FORT WINGATE**  
2 **TO THE ORIGINAL INHABITANTS ACT.**

3 (a) SHORT TITLE.—This section may be cited as the  
4 “Return of Certain Lands At Fort Wingate to The Original  
5 Inhabitants Act”.

6 (b) DIVISION AND TREATMENT OF LANDS OF  
7 FORMER FORT WINGATE DEPOT ACTIVITY, NEW MEX-  
8 ICO, TO BENEFIT THE ZUNI TRIBE AND NAVAJO NA-  
9 TION.—

10 (1) IMMEDIATE TRUST ON BEHALF OF ZUNI  
11 TRIBE; EXCEPTION.—Subject to valid existing rights  
12 and to easements reserved pursuant to subsection  
13 (c), all right, title, and interest of the United States  
14 in and to the lands of Former Fort Wingate Depot  
15 Activity depicted in dark blue on the map titled  
16 “The Fort Wingate Depot Activity Negotiated Prop-  
17 erty Division April 2016” (in this section referred to  
18 as the “Map”) and transferred to the Secretary of  
19 the Interior are to be held in trust by the Secretary  
20 of the Interior for the Zuni Tribe as part of the

1 Zuni Reservation, unless the Zuni Tribe otherwise  
2 elects under clause (ii) of paragraph (3)(C) to have  
3 the parcel conveyed to it in Restricted Fee Status.

4 (2) IMMEDIATE TRUST ON BEHALF OF THE  
5 NAVAJO NATION; EXCEPTION.—Subject to valid ex-  
6 isting rights and to easements reserved pursuant to  
7 subsection (c), all right, title, and interest of the  
8 United States in and to the lands of Former Fort  
9 Wingate Depot Activity depicted in dark green on  
10 the Map and transferred to the Secretary of the In-  
11 terior are to be held in trust by the Secretary of the  
12 Interior for the Navajo Nation as part of the Navajo  
13 Reservation, unless the Navajo Nation otherwise  
14 elects under clause (ii) of paragraph (3)(C) to have  
15 the parcel conveyed to it in Restricted Fee Status.

16 (3) SUBSEQUENT TRANSFER AND TRUST; RE-  
17 STRICTED FEE STATUS ALTERNATIVE.—

18 (A) TRANSFER UPON COMPLETION OF RE-  
19 MEDIATION.—Not later than 60 days after the  
20 date on which the Secretary of the Army, with  
21 the concurrence of the New Mexico Environ-  
22 ment Department, notifies the Secretary of the  
23 Interior that remediation of a parcel of land of  
24 Former Fort Wingate Depot Activity has been  
25 completed consistent with subsection (d), the

1 Secretary of the Army shall transfer adminis-  
2 trative jurisdiction over the parcel to the Sec-  
3 retary of the Interior.

4 (B) NOTIFICATION OF TRANSFER.—Not  
5 later than 30 days after the date on which the  
6 Secretary of the Army transfers administrative  
7 jurisdiction over a parcel of land of Former  
8 Fort Wingate Depot Activity under subpara-  
9 graph (A), the Secretary of the Interior shall  
10 notify the Zuni Tribe and Navajo Nation of the  
11 transfer of administrative jurisdiction over the  
12 parcel.

13 (C) TRUST OR RESTRICTED FEE STA-  
14 TUS.—

15 (i) TRUST.—Except as provided in  
16 clause (ii), the Secretary of the Interior  
17 shall hold each parcel of land of Former  
18 Fort Wingate Depot Activity transferred  
19 under subparagraph (A) in trust—

20 (I) for the Zuni Tribe, in the  
21 case of land depicted in blue on the  
22 Map; or

23 (II) for the Navajo Nation, in the  
24 case of land depicted in green on the  
25 Map.

1 (ii) RESTRICTED FEE STATUS.—In  
2 lieu of having a parcel of land held in trust  
3 under clause (i), the Zuni Tribe, with re-  
4 spect to land depicted in blue on the Map,  
5 and the Navajo Nation, with respect to  
6 land depicted in green on the Map, may  
7 elect to have the Secretary of the Interior  
8 convey the parcel or any portion of the  
9 parcel to it in restricted fee status.

10 (iii) NOTIFICATION OF ELECTION.—  
11 Not later than 45 days after the date on  
12 which the Zuni Tribe or the Navajo Nation  
13 receives notice under subparagraph (B) of  
14 the transfer of administrative jurisdiction  
15 over a parcel of land of Former Fort  
16 Wingate Depot Activity, the Zuni Tribe or  
17 the Navajo Nation shall notify the Sec-  
18 retary of the Interior of an election under  
19 clause (ii) for conveyance of the parcel or  
20 any portion of the parcel in restricted fee  
21 status.

22 (iv) CONVEYANCE.—As soon as prac-  
23 ticable after receipt of a notice from the  
24 Zuni Tribe or the Navajo Nation under  
25 clause (iii), but in no case later than 6

1 months after receipt of the notice, the Sec-  
2 retary of the Interior shall convey, in re-  
3 stricted fee status, the parcel of land of  
4 Former Fort Wingate Depot Activity cov-  
5 ered by the notice to the Zuni Tribe or the  
6 Navajo Nation, as the case may be.

7 (v) RESTRICTED FEE STATUS DE-  
8 FINED.—For purposes of this section only,  
9 the term “restricted fee status”, with re-  
10 spect to land conveyed under clause (iv),  
11 means that the land so conveyed—

12 (I) shall be owned in fee by the  
13 Indian tribe to whom the land is con-  
14 veyed;

15 (II) shall be part of the Indian  
16 tribe’s Reservation and expressly  
17 made subject to the jurisdiction of the  
18 Indian Tribe;

19 (III) shall not be sold by the In-  
20 dian tribe without the consent of Con-  
21 gress;

22 (IV) shall not be subject to tax-  
23 ation by a State or local government  
24 other than the government of the In-  
25 dian tribe; and

1 (V) shall not be subject to any  
2 provision of law providing for the re-  
3 view or approval by the Secretary of  
4 the Interior before an Indian tribe  
5 may use the land for any purpose, di-  
6 rectly or through agreement with an-  
7 other party.

8 (4) SURVEY AND BOUNDARY REQUIREMENTS.—

9 (A) IN GENERAL.—The Secretary of the  
10 Interior shall—

11 (i) provide for the survey of lands of  
12 Former Fort Wingate Depot Activity taken  
13 into trust for the Zuni Tribe or the Navajo  
14 Nation or conveyed in restricted fee status  
15 for the Zuni Tribe or the Navajo Nation  
16 under paragraph (1), (2), or (3); and

17 (ii) establish legal boundaries based  
18 on the Map as parcels are taken into trust  
19 or conveyed in restricted fee status.

20 (B) CONSULTATION.—Not later than 90  
21 days after the date of the enactment of this sec-  
22 tion, the Secretary of the Interior shall consult  
23 with the Zuni Tribe and the Navajo Nation to  
24 determine their priorities regarding the order in  
25 which parcels should be surveyed and, to the

1           greatest extent feasible, the Secretary shall fol-  
2           low these priorities.

3           (5) RELATION TO CERTAIN REGULATIONS.—  
4           Part 151 of title 25, Code of Federal Regulations,  
5           shall not apply to taking lands of Former Fort  
6           Wingate Depot Activity into trust under paragraph  
7           (1), (2), or (3).

8           (6) FORT WINGATE LAUNCH COMPLEX LAND  
9           STATUS.—Upon certification by the Secretary of De-  
10          fense that the area generally depicted as “Fort  
11          Wingate Launch Complex” on the Map is no longer  
12          required for military purposes and can be trans-  
13          ferred to the Secretary of the Interior—

14                (A) the areas generally depicted as  
15                “FWLC A” and “FWLC B” on the Map shall  
16                be held in trust by the Secretary of the Interior  
17                for the Zuni Tribe in accordance with this sub-  
18                section; and

19                (B) the areas generally depicted as  
20                “FWLC C” and “FWLC D” on the Map shall  
21                be held in trust by the Secretary of the Interior  
22                for the Navajo Nation in accordance with this  
23                subsection.

24          (c) RETENTION OF NECESSARY EASEMENTS AND AC-  
25          CESS.—

1           (1) TREATMENT OF EXISTING EASEMENTS,  
2 PERMIT RIGHTS, AND RIGHTS-OF-WAY.—

3           (A) IN GENERAL.—The lands of Former  
4 Fort Wingate Depot Activity held in trust or  
5 conveyed in restricted fee status pursuant to  
6 subsection (b) shall be held in trust with ease-  
7 ments, permit rights, and rights-of-way, and ac-  
8 cess associated with such easements, permit  
9 rights, and rights-of-way, of any applicable util-  
10 ity service provider in existence or for which an  
11 application is pending for existing facilities at  
12 the time of the conveyance or change to trust  
13 status, including the right to upgrade applicable  
14 utility services recognized and preserved, in per-  
15 petuity and without the right of revocation (ex-  
16 cept as provided in subparagraph (B)).

17           (B) TERMINATION.—An easement, permit  
18 right, or right-of-way recognized and preserved  
19 under subparagraph (A) shall terminate only—

20           (i) on the relocation of an applicable  
21 utility service referred to in subparagraph  
22 (A), but only with respect to that portion  
23 of the utility facilities that are relocated; or

1 (ii) with the consent of the holder of  
2 the easement, permit right, or right-of-  
3 way.

4 (C) ADDITIONAL EASEMENTS.—The Sec-  
5 retary of the Interior shall grant to a utility  
6 service provider, without consideration, such ad-  
7 ditional easements across lands held in trust or  
8 conveyed in restricted fee status pursuant to  
9 subsection (b) as the Secretary considers nec-  
10 essary to accommodate the relocation or re-  
11 connection of a utility service existing on the  
12 date of enactment of this section.

13 (2) ACCESS FOR ENVIRONMENTAL RESPONSE  
14 ACTIONS.—The lands of Former Fort Wingate  
15 Depot Activity held in trust or conveyed in restricted  
16 fee status pursuant to subsection (b) shall be subject  
17 to reserved access by the United States as the Sec-  
18 retary of the Army and the Secretary of the Interior  
19 determine are reasonably required to permit access  
20 to lands of Former Fort Wingate Depot Activity for  
21 administrative and environmental response purposes.  
22 The Secretary of the Army shall provide to the gov-  
23 ernments of the Zuni Tribe and the Navajo Nation  
24 written copies of all access reservations under this  
25 subsection.

1 (3) SHARED ACCESS.—

2 (A) PARCEL 1 SHARED CULTURAL AND RE-  
3 LIGIOUS ACCESS.—In the case of the lands of  
4 Former Fort Wingate Depot Activity depicted  
5 as Parcel 1 on the Map, the lands shall be held  
6 in trust subject to a shared easement for cul-  
7 tural and religious purposes only. Both the  
8 Zuni Tribe and the Navajo Nation shall have  
9 unhindered access to their respective cultural  
10 and religious sites within Parcel 1. Within 1  
11 year after the date of the enactment of this sec-  
12 tion, the Zuni Tribe and the Navajo Nation  
13 shall exchange detailed information to docu-  
14 ment the existence of cultural and religious  
15 sites within Parcel 1 for the purpose of carrying  
16 out this subparagraph. The information shall  
17 also be provided to the Secretary of the Inte-  
18 rior.

19 (B) OTHER SHARED ACCESS.—Subject to  
20 the written consent of both the Zuni Tribe and  
21 the Navajo Nation, the Secretary of the Interior  
22 may facilitate shared access to other lands held  
23 in trust or restricted fee status pursuant to  
24 subsection (b), including, but not limited to, re-  
25 ligious and cultural sites.

1           (4) I--40 FRONTAGE ROAD ENTRANCE.—The  
2           access road for the Former Fort Wingate Depot Ac-  
3           tivity, which originates at the frontage road for  
4           Interstate 40 and leads to the parcel of the Former  
5           Fort Wingate Depot Activity depicted as “adminis-  
6           tration area” on the Map, shall be held in common  
7           by the Zuni Tribe and Navajo Nation to provide for  
8           equal access to Former Fort Wingate Depot Activ-  
9           ity.

10           (5) COMPATIBILITY WITH DEFENSE ACTIVI-  
11           TIES.—The lands of Former Fort Wingate Depot  
12           Activity held in trust or conveyed in restricted fee  
13           status pursuant to subsection (b) shall be subject to  
14           reservations by the United States as the Secretary  
15           of Defense determines are reasonably required to  
16           permit access to lands of the Fort Wingate launch  
17           complex for administrative, test operations, and  
18           launch operations purposes. The Secretary of De-  
19           fense shall provide the governments of the Zuni  
20           Tribe and the Navajo Nation written copies of all  
21           reservations under this paragraph.

22           (d) ENVIRONMENTAL REMEDIATION.—Nothing in  
23           this section shall be construed as alleviating, altering, or  
24           affecting the responsibility of the United States for clean-  
25           up and remediation of Former Fort Wingate Depot Activ-

1 ity in accordance with the Comprehensive Environmental  
2 Response, Compensation, and Liability Act of 1980.

3 (e) PROHIBITION ON GAMING.—Any real property of  
4 the Former Fort Wingate Depot Activity and all other real  
5 property subject to this section shall not be eligible, or  
6 used, for any gaming activity carried out under the Indian  
7 Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

