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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Opening Statement of
The Honorable Don Young
Chairman, Subcommittee on Indian and Alaska Native Affairs
Legislative Hearing on H.R. 3532, the American Indian Empowerment Act of 2011
February 7, 2012

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The federal policy to hold tribal land in federal trust arose from an old notion that American Indians were helpless and should be made wards of the government. Considering how tribes saw their land bases decimated in the 19th and early parts of the 20th century, it is easy to understand how this policy was formed.

Today, the policy is long outdated. Since President Richard Nixon ushered in the era of Tribal Self-Determination, tribes have been gradually taking over functions traditionally performed by the Bureau of Indian Affairs through “638 Contracts”, tribal compacts, and annual funding agreements with the Department of the Interior. Tribes are increasingly self-sufficient and sophisticated in their take-over of BIA duties with respect to tribal lands.

Nonetheless, when you peel off the layers of the Self-Determination contracting and compacting, underneath is the so-called “trustee” – the government, which ultimately sets the rules for a tribe to follow. And it is this policy which must change.

One often thinks of a “trust” as a sacred duty to do what’s in the best interest of the beneficiary. But the term “trust” means something different in the context of federal Indian land. When Indian land is held in trust by the Department of the Interior, legal title to the land is effectively *owned* by the federal government. Nothing can occur on trust lands without the permission of Washington, D.C. In practice, on some reservations nothing *does* occur.

The government’s detailed, sprawling rules for the use of trust lands are designed not for maximum benefit to a tribe, but for minimum risk to the taxpayer. Even so, the government’s historic record of mismanaging tribal lands has cost both tribe and taxpayer billions. And with the trustee running a debt topping \$15 trillion, the government’s management of Indian lands is unlikely to improve over its historically poor record.

An article appearing in the New York Times last week profiled life on the Wind River Reservation in Wyoming. According to the report, “On average, residents can expect to live 49 years, 20 years fewer than in Iraq. Unemployment, estimated to be higher than 80 percent, is on a par with Zimbabwe’s, and is approaching the proportionate inverse of Wyoming’s 6 percent jobless rate.”

This is what happens when the federal government owns your land. To those who believe a tribe is incapable of managing its lands, I would ask, can the tribe do any worse?

H.R. 3532 proposes to move federal policy in a completely new direction. The bill allows a tribe, at its sole discretion, to take its lands out of federal trust, and to pass tribal laws governing them. It is as simple as that.

It is past time to declare the old notions and federal principles of Indian law as outdated, and explore new ideas, and to transition from Self-Determination era of the last few decades, into something yet newer. H.R. 3532 is meant to spark a long-overdue discussion of blazing a new path in federal Indian policy.

I am pleased to recognize the Ranking Member, Mr. Boren, who is an original cosponsor of this legislation.