and fenced by the part for the benefit of these permit holders who, in turn, paid grazing fees at the required rate.

Since that time, development pressures have grown enormously. One of those permit holders has already sold his ranch, which became a major subdivision of middle-class houses. Meanwhile real estate prices continue to skyrocket, and intense development pressure has focused on the remaining permit holders.

In June of this year, a dear friend of mine, Mary Mead, died in a tragic accident doing what she loved best: working on her cherished ranch. Mary was the designated heir to her family's grazing permit on the Grand Teton National Park. Legally, with Mary's death the grazing permit would be terminated. However, without this permit the Mead family, along with former U.S. Senator Cliff Hansen—father of Mary—would no longer be able to maintain their cattle operation and ranch. Without the park's summer range on which all of their cattle depend, the family would almost certainly be forced to sell their livestock and the ranch, which would in all likelihood be immediately subdivided and developed. This tragic loss would not only destroy open space and scenic vistas but could also adversely impact wildlife habitat and migration patterns as well as the integrity of the park's greater ecosystem.

For these reasons, the family has requested consideration of an extension of their grazing privilege. In return, they are committed to working with the National Park Service and others to actively exploring options to preserve their ranchlands. I, too, am dedicated to maintaining the highly valuable open space and ranching culture in this vicinity of the park. An extension of grazing privileges would allow time to explore a network of relationships and avoid the indiscriminate development that will occur on these pastoral lands.

I am eager to work during the remainder of this year and in the 105th Congress with my colleagues both here in the House and the Senate, along with Grand Teton National Park Superintendent Jack Neckles and others in the local community, to bring a resolution to this unique situation.

THANK YOU, BILL BOWES, FOR YOUR SERVICE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, September 28, 1996

Mr. FIELDS of Texas. Mr. Speaker, when I hired Barbara Bowes as my district coordinator nearly 16 years ago, I didn't realize that I would obtain the services of her husband, Bill, as part of the deal. However, I am grateful that I did, and as I prepare to leave this institution, I want to take a moment to thank Bill Bowes for his service as chairman of my Service Academy Nominations Board.

William P. Bowes, Sr., is owner and president of Capt. I.S. Derrick, Independent ship and Cargo Surveyors, Inc. in Houston. Bill is a 1962 graduate of the U.S. Merchant Marine Academy in Kings Point, NY—one of the Nation's four service academies. Since graduating from Kings Point, Bill has remained active in the U.S. Merchant Marine Academy National Alumni Association, of which he is a life time member. Indeed, for 10 years, Bill served as gulf coast regional vice president of the alumni association, and he is a past president of its Houston chapter. He is the recipient of the alumni association's Meritorious Alumni Service Award as well as its Outstanding Professional Achievement Award, and he currently serves as the national alumni association's regional vice president.

Bill's dedication to, and belief in, Kings Point showed itself when funding for the U.S. Merchant Marine Academy was threatened several years ago. Bill traveled to Washington, DC, to educate Members of Congress on the value of the academy, and to lobby for continued federal funding for that important institution.

But Bill's dedication to the U.S. Merchant Marine Academy also evidenced itself when he agreed to my request to serve as chairman of my Service Academy Nominations Board.

The Service Academy Nominations Board is composed of representatives of each of the school districts in my congressional district. The Board is charged with sorting through applications sent to it from young men and women seeking to attend one of the Nation's four service academies: the U.S. Military Academy in West Point, NY; the U.S. Naval Academy in Annapolis, MD; the U.S. Air Force Academy in Colorado Springs, CO; and the U.S. Merchant Marine Academy.

I purposely designed the selection process to be highly competitive, and strictly merit-based. Having attended and graduated from Kings Point, Bill knows what qualities and characteristics to look for in potential nominees to ensure they will succeed at the nation's service academies. And as chairman of the Board, Bill's knowledge has proven remarkably effective. Since 1981, 203 young men and women from Texas' 8th Congressional District have received a total of 229 appointments to the nation's service academies.

Bill's service to the U.S. Merchant Marine National Alumni Association, and his service as chairman of my Service Academy Nominations Board, is only a part of his community service. He has been a member of, and a past president of, the Woodforest Civic Association. Since 1969, he has been a member of, and has held several leadership positions in, the North Shore YMCA. He is a member of the A.F. & A.M. Lodge No. 442/Scottish Rite, a member of Houston North Shore Elks Lodge No. 2476, and a member of the Houston Mariners Club. Additionally, Bill is a longtime member of the North Shore Rotary Club—being named ''Rotarian of the Year'' in 1986—and he is a member and past board member of the North Channel Area Chamber of Commerce.

I appreciate this opportunity to thank Bill Bowes for his service to me, to my Service Academy Nominations Board, and to his community. Thank you, Bill Bowes, for your service.

THE PUBLIC SCHOOL DESEGREGATION LITIGATION REFORM ACT

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, September 28, 1996

Mr. HOKE. Mr. Speaker, today I am introducing landmark legislation to ensure equal educational opportunity for all students, while getting the Federal courts out of the practice of running our schools.

For more than 20 years, the Cleveland public school system has operated under various court-ordered remedies. The results have been disastrous. Almost $1 billion have been spend on desegregation activities in Cleveland, yet the schools are worse. Enrollment has plummeted. Graduation rates have declined. Average SAT scores have dropped. Truancy rates have skyrocketed. And racial integration has not been achieved. Schools with a 60-percent minority population in 1970 are 79-percent minority today.

The greatest tragedy is that most of these schools have been rendered completely dysfunctional primarily because those who can afford to—whenever their race—have gone to the suburbs where they have the freedom to decide for themselves where their children will attend school.

And unfortunately, this tragedy is not limited to the public schools in Cleveland. It is being repeated in school districts across the country—to the incalculable detriment of America's greatest cities.

In September 1995, the House Judiciary Committee's Constitution Subcommittee traveled to Cleveland, OH, to learn more about this issue from the parents, teachers and school administrators who have to live with it every single day of the year. The message of that hearing was clear, More than anything else, Clevelanders want quality education for their children. They overwhelmingly prefer to send their children to schools in their own neighborhoods. And the race of the pupil sitting next to their child is almost completely irrelevant to them.

The facts are overwhelming: Busing for racial balance has failed to improve academic achievement opportunities for minorities; has drained the financial resources of Cleveland public schools; and has led parents who can afford it to send their children to suburban or parochial schools.

A second hearing held by the subcommittee in April 1996 focused on the unprecedented authority assumed by Federal courts in the administration of these student assignment orders. Most of the legal and constitutional experts who testified agreed that judges have interjected themselves in the school management arena with disastrous results. When nonelected judges take it upon themselves to manage local institutions, individuals are denied basic freedoms. Parents—not judges—should be deciding where children attend school. The willingness of the courts to allow such an expansion was no doubt motivated by the worthy desire to eradicate segregation. But however well-intentioned, this broad expansion of judicial authority has undermined our fundamental understanding of the separation of powers and has brought federal courts into the daily management of local institutions—something the framers surely never intended.

That is why I have introduced legislation prohibiting federal courts from mandating remedies that extend beyond what is necessary to correct and prevent constitutional and federal statutory right violations. Relief must be narrowly drawn, limited and no more intrusive than is necessary to right the violation. Before courts enter a student assignment order, a less intrusive relief must have failed to remedy the violation. And a decision to finally enter a

student assignment order must be made by a three-judge panel.

To expedite the implementation of court-ordered remedies, the legislation directs the courts to review existing cases—most of which have been in effect for twenty years or more. In cases across the country there is simply no justification for continued court supervision. Integration of the public schools is an accepted public policy position, and in the vast majority of cases intentional segregation has been eliminated. Unfortunately, in some cases, court orders are perpetuated by those who use them as financial leverage with state appropriators. For instance, when a court in Kansas City ordered the construction of an Olympic size swimming pool and implement a fencing program as part of the athletic curriculum, the state anted up the money.

To put an end to such abuses, judges are to review cases after two years to determine whether school officials are in compliance. If it is determined that the district has not taken steps to remedy the violation, a judge may extend the order one year at a time. The legislation also establishes new procedures for the appointment and tenure of special masters.

Finally, the measure prohibits judges from raising taxes and allows any state or local official responsible for the operation or funding of the public school to challenge the imposition or continuation of court-ordered relief.

Mr. Speaker, I know there are only a few short days left in the 104th Congress. However, this is an issue I have studied and worked on for the past two years. And I think it is important to introduce it now so that a broader discussion of this issue may develop over the next several months so that the 105th Congress can promptly consider this legislation. Therefore I am proud that today I am able to introduce common-sense legislation providing relief for America's most precious asset—our children.

STAFFING FIRMS WORKER BENEFITS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, September 28, 1996

Mr. CARDIN. Mr. Speaker, one of the most significant changes in our economy in recent years has been the growth of staffing firms. These firms employ individuals on a temporary or a long-term basis and assign them to client companies as needed.

The rapid expansion of these employment arrangements in our economy has give rise to a number of difficult questions in the area of employment taxes, as well as retirement, health, and other benefits. Our Nation's tax laws require employers to collect employment taxes, and offer tax-favored treatment for employer-provided fringe benefits.

Within our existing tax system, the ability to identify clearly who is the employer of a group of workers is crucial to the enforcement of the law. These issues also have important consequences for working Americans seeking the benefits of health insurance and pension coverage through their employment.

As more and more companies make use of staffing firms in meeting their needs for temporary and long-term workers, it will become necessary for the Congress to examine the application of our tax laws to these arrangements. Among the issues we must consider are the ability of staffing firms under existing law to act as employer for the purposes of collecting and paying employment taxes, as well as retirement and health benefits.

I have been working, along with my Ways and Means colleague Rep. PORTMAN, on a proposal that addresses many of these issues. We are putting the proposal forward at this time in the hope that it will draw comment from concerned parties. We hope to continue to work on this issue in the 105th Congress.

The draft proposal, along with a brief section by section summary, follows.

TECHNICAL SUMMARY OF STAFFING FIRM WORKER BENEFITS ACT OF 1996

Overview. In general, the bill amends the Internal Revenue Code to make it clear that a ''qualified staffing firm'' is the employer of the employees covered by staffing arrangements, both for purposes of employment tax liability and for purposes of employee benefit plan sponsorship. The bill also amends the leased employee and separate line of business provisions of Code section 414 to encourage retirement and fringe benefit coverage of employees of qualified staffing firms.

Introduction/Section 1. Staffing firms serve a variety of business needs, and their services are referred to in a variety of ways, *e.g.*, temporary help, long-term staffing, managed services, and professional employer arrangements. In the latter type of arrangement, primarily small to mid-size firms transfer their payroll and human resources functions to the staffing firm in order to concentrate on their core business. Staffing firms provide their services to customers on a contract or fee basis. The workers supplied by the staffing firm assumes the role of employer with respect to these workers in a number of ways, *e.g.*, paying the workers' wages, paying employment taxes with respect to these wages, retaining authority for hiring, reassigning, and dismissing the workers, etc. Because of the nature of their work, though, staffing firm employees normally are under the day-to-day supervision of the customer where they work.

The relationship that staffing firms typically establish with customers is built on the fundamental premise that the staffing firm, and not the customer, is responsible to staffing firm employees who work at the customer's work site for the payment of wages, and to the extent applicable, any specified employee benefits. While in many staffing arrangements there is no question that the staffing firm is the employer of its employees under the traditional common-law test, in other staffing arrangements this is less clear. For example, the Internal Revenue Service has established a market segment study of the ''employee leasing'' industry and is questioning whether, in certain types of arrangements involving staffing firms, the staffing firm is properly regarded as the ''employer'' for purposes of employment tax withholding and for purposes of maintaining employee benefit plans. An adverse holding on these issues could undermine the 401(k) and other benefits of staffing firm employees, as well as disrupt the business relationship between the staffing firm and the customer.

Section 2. This section of this bill is designed to codify the status of a ''qualified staffing firm'' as the entity with exclusive responsibility for federal employment taxes (income, FICA, and FUTA) with respect to workers covered by contracts between the firm and its customers. Implicit in this rule is that the customer will not have liability for such employment taxes if, for some reason, the qualified staffing firm does not pay.

This special rule is intended to apply only with respect to workers who are properly classified as employees, and not independent contractors, and to clarify that the qualified staffing firm, and not the customer, is these employees' employer. The rule applies whether or not the qualified staffing firm would otherwise be held to be the employer of these employees under the common-law test. No inference is intended as to the employer status of a qualified staffing firm under the common-law test.

Section 2(d) defines a ''qualified staffing firm'' for purposes of the special ''employer'' treatment accorded by the bill. This definition requires that the staffing firm must be liable for the worker's wages, the related employment taxes, and any agreed-upon employee benefits, without regard to the receipt or adequacy of the customer's payments. In addition, the staffing firm must have authority to hire, reassign, and dismiss the workers, and must maintain employee records relating to the workers, and must have responsibility for addressing the workers' complaints, claims, etc., relating to their employment. The fact that the customer may also have some involvement in these matters will not preclude a staffing firm from qualifying under this definition. Thus, the requirements of the definition will be met even though the staffing firm may take into account the customer's views in hiring or dismissing workers, the customer may maintain its own set of records with respect to the workers, or the customer may share responsibility for addressing the workers' complaints, claims, etc.

Section 3. This section amends an existing rule in section 7701(a)(20) in the Internal Revenue Code for full-time life insurance salesmen. That rule treats such sales representatives, who otherwise would be classified as independent contractors, as common-law employees for purposes of certain specified employee common-law employees for purposes of certain specified employee benefits. This enables them to enjoy the tax-favored treatment that the Code affords such benefits when furnished to employees.

The bill does not alter the rule for the life insurance salesmen, but adds a new subparagraph (B) that is designed to treat individuals who would be treated as employees of the qualified staffing firm under the employment tax provisions as employees of such firm for purposes of the employee benefit provisions that are listed in the text. The employee benefits provisions include those relating to group-term life insurance, accident and health plans, profit-sharing and retirement plans (including 401(k) and savings plans, but excluding defined benefit plans), cafeteria plans, dependent care programs, educational assistance programs, employer-provided fringe benefits, VEBAs, and employee achievement awards. The bill also makes it clear that these individuals will be treated as employees of the staffing firm for purposes of applying the provisions of section 414(n), and thus may be counted as ''leased employees'' of the customer if the other requirements of section 414(n) are met.

In addition, the bill clarifies that a worker will be treated as having separated from service if the worker ceases to be employed by the customer and becomes employed by the qualified staffing firm, or ceases to be employed by the qualified staffing firm and becomes employed by the customer. This will allow distribution of the worker's benefits under the 401(k) or retirement plan of the worker's prior employer. This provision is not intended to negate the application of the special leased employee service crediting rule under section 414(n)(4)(B).