Mr. Speaker, in 1990 the gentleman from Florida, Chairman Dante Fascell, put forth a democracy-promoting concept that today stands as a great tribute to his foresight, commitment and leadership. I am pleased to have had the privilege of serving with Mr. Fascell in this chamber and delighted to participate in honoring his accomplishments in this way. His alma mater, the University of Miami, is to be congratulated for its continued contributions through the North/South Center and for the recommendation to rename the North/South Center in Dante's behalf. It is a well-deserved recognition, and one which will make him, and all of us who served with him here in the House, very proud.

TELECOMMUNICATIONS COMPETITION AND CONSUMER PROTECTION ACT OF 1998

SPEECH OF

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of this important legislation to address the growing problem of telephone slamming. As the sponsor of an earlier version of anti-slamming legislation with Congressman BASS of New Hampshire, I was pleased to work with the gentleman from Louisiana, Mr. TAUZIN, to move this bill through the Congress.

As we are all aware, the problem of slamming has become an epidemic that has affected millions of American consumers. According to the Federal Communications Commission, tens of thousands of Americans are slammed each year. Among telephone users, this is by far their number one complaint. For many folks, telephones and e-mail are more than just communications devices. They can be the only links between a parent and a child halfway across the globe, or a way for old friends separated by the miles to relive old times. Many of our nation's seniors also rely on the telephone as a window to the world around them. It can be a vital connection that enables them to celebrate life with family and friends.

Telephone slammers don't just rob these folks of their hard-earned dollars. They rob them of a source of happiness, a lifetime to family and friends, and replace it with a feeling of anger and frustration at being swindled. The unsavory characters who commit this crime deserve swift and strong purnishment. Consumers are in need of stronger protections from these criminals. The passage of H.R. 3888 will help law enforcement put an end to the crime of long distance slamming and e-mail spamming.

Congress gave the FCC significant authority to eliminate slamming as part of the Telecommunications Act of 1996. Unfortunately, little action was taken by the FCC to exercise this new authority. The legislation we are considering today will remove a significant portion of the flexbility originally given to the FCC. Instead, the bill outlines a more detailed and instructive plan for eliminating the practice of slamming.

The bill gives telephone carriers two choices. The first option is for carriers to regulate themselves. The carriers have said that they want to eliminate slamming, and we will see if they can live up to their word.

For those carriers that cannot responsibly regulate themselves, they will be subject to the heavy hand of FCC enforcement. I join my colleagues in expressing optimism that carriers will be able to agree on regulations for themselves and stop slamming on their own. I strongly support giving the industry an opportunity to lead on this issue, having long opposed the imposition of burdensome regulations that raise the cost of doing business and serve as a barrier for competition.

For those companies that choose to violate the law, H.R. 3888 provides for significant penalties, including fines as high as $150,000 for repeat offenders. In addition, slammers will be forced to reimburse their victims for any extra charges incurred as a result of the slamming. This will achieve a balance between the need to give companies the ability to standardize their business practices and the need to allow State officials to enforce State statutes against consumer fraud.

The bill also addresses the growing problem of ''spamming,'' which is the mass distribution of unsolicited commercial E-mail messages to private computers. This annoying practice, which has become more widely used as the use of E-mail grows, is not only disruptive but highly intrusive. H.R. 3888 expresses the sense of the Congress that the private sector should promptly adopt, implement, and enforce measures to deter and prevent the improper use of unsolicated commercial electronic mail.

The characters who commit the crime of telephone slamming are striking at one of our most basic human freedoms—communication. Our ability to communicate with others, free from interruption and through our choice of services, must be protected. H.R. 3888 gives law enforcement the ammunication they need to defend consumers against telephone slammers, and will help bring an end to this private pervasive crime. I want to thank the hard work of the Chairman of the Subcommittee on Telecommunications, the gentleman from Louisiana (Mr. TAUZIN), and also my colleague from New Hampshire (Mr. BASS), who has long taken an interest in this important issue. I urge my colleagues to support this important legislation.

STATEMENT ON K–12 EDUCATION INITIATIVES

HON. MATT SALMON

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1998

Mr. SALMON. Mr. Speaker, the results of the Third International Mathematics and Science Study (TIMSS) released earlier this year, which revealed that U.S. 12th graders scored next to last in advanced math and dead last in physics, are a stunning rebuke to the aggressive efforts of the U.S. Department of Education to centralize the American education system. The Department of Education, which promised that the United States would lead the world in math and science by the year 2000, can't even claim bragging rights over war-torn Slovenia. As to reading, which was not measured by TIMSS, 40 percent of fourth graders can't read. Yet, in response to these epic failures, the education establishment in Washington has come back with demands for more power, more central control, more of the same—although with some new packaging. This is almost the equivalent of exhuming the Kremlin to institute democratic reforms in Russia.

The answer to our educational woes cannot be found in Washington. Washington has spent 30 years and untold billions on a top-down approach to education with little if any success. Spending for education has increased on an annual basis. In fact, according to a report that I commissioned the Congressional Research Service to prepare on a variety of comparative statistics on education in the United States versus other nations participating in the TIMSS assessment, the United States is on the upper end of countries in terms of expenditures per pupil, expenditures per capita, and for average salaries for elementary school teachers. Clearly, our education woes are not for a lack of funding. To improve the educational performance of our children, I believe that we must open the education monopoly at both the federal and state levels, spend education resources more wisely, and return power to parents and communities.

When it comes to returning power to parents and injecting competition and accountability into the public school system, Arizona is at the front of the class. Charter schools—innovative public schools financed by tax dollars but free of most regulations—have flourished. Arizona, which has two percent of the nation's population, is home to one-quarter of the charter schools in existence. (Congress just passed a bill that is designed to increase the number of charter schools.) These schools have fundamentally altered the Arizona education system; traditional public schools now compete with charters for students. The charter school movement has begun the process of having education dollars literally follow the student from school to school. The Arizona legislature also enacted education tax credits last year, which can be used by parents to cover a wide array of education expenses associated with primary and secondary education. The Arizona legislature also enacted education tax credits last year, which can be used by parents to cover a wide array of education expenses associated with primary and secondary education. The education reforms enacted in Arizona are designed to increase parental choice over their children's education and improve education quality. In Arizona, education reform is no longer a spectator sport.

I have introduced two bills with Senator JON KYL that will compliment the new reforms in place in my state and should provide other states with similar opportunities for innovation. One bill, the ''K–12 Community Participation Education Act,'' was inspired by the new Arizona education tax credit and would encourage Americans to get involved personally and to participate in efforts to improve K–12 education. The other proposal, the ''Dollars Follow the Student Education Block Grant Act'' would block grant certain federal education dollars and permit states to distribute the funds in such a way that money would literally ''follow the child'' from school to school, which is the manner in which charter schools are funded in Arizona.

K–12 COMMUNITY PARTICIPATION EDUCATION ACT

The ''K–12 Community Participation Act'' calls on parents, other members of the community, and businesses to invest in education. Phased in over four years, the legislation offers every family and business a tax credit of up to $500 for any K–12 education-related expense or activity.

The tax credit could be used for expenses incurred at any public (including charter), private, or parochial institution. The credit could also be applied for home schooling. Permissible expenses include: books, tuition, fees, supplies, computers, tutors, or equipment required for courses of instruction. Additionally, the credit would be available for extracurricular activities. Moreover, the tax credit could be contributed to ''school tuition organizations''—charitable organizations that allocate at least ninety percent of their annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice.

Imagine the possibilities. For example, concerned businesses in a particular community could band together, and direct tax credit contributions to a school tuition organization that provides scholarships to low income children in malfunctioning school districts. Rather than wait for governmental assistance, individuals and businesses would be deputized to act immediately to save children in dangerous or academically under-achieving schools.

Unlike the big government proposals being pushed by the President, under the K–12 tax credit bill families control the expenditure of education dollars, not centralized bureaucrats. Additionally, the community participation tax credit would direct immediate assistance to our faltering K–12 system.

DOLLARS FOLLOW THE STUDENT EDUCATION BLOCK GRANT ACT

According to a report released by the Heritage Foundation, at least 20 percent of education tax dollars spent from Washington are lost to administrative costs. Moreover, the House Committee on Education and the Workforce report, Education at the Crossroads, disclosed this staggering statistic: The federal government accounts for only seven percent of the funding for K–12 education, but 50 percent of the paperwork burden for schools. Several important initiatives have been introduced in this Congress to ensure that more federal education dollars reach the classroom, without the staggering administrative burdens that currently accompany these funds.

The Dollars Follow the Student Education Block Grant Act would give states the opportunity to have nearly all of a $13 billion pot of federal education dollars go directly to parents of children. The block grant is modeled after a proposal that has already passed in the House and Senate, but was stripped from an appropriations bill last year at the President's insistence. That proposal would have consolidated most federally funded K through 12 education programs, except for special education, and would have given states the ability to have federal funds sent directly to local school districts or to the state education authority minus federal regulations. States also would have been allowed to reject the block grant approach if they preferred to maintain the current system of allocating funds directly into specific programs, with very little flexibility.

The bill I have introduced would permit each state opting to have a block grant to have the money ''follow the child.'' The states would be permitted to decide to allow parents of children in public schools (including charter), private schools, and parents of ''home schooled'' kids, to receive their ''per capita'' amount directly, rather than indirectly through the school district and school, thus creating an incentive for schools to provide quality education by competing for children. All schools would have an incentive to improve its overall performance, since if parents weren't satisfied, they could move their child to another school—along with the dollars that accompany their children.

The proposal provides that if federal funding falls below the levels agreed to in the 1997 budget agreement, it will revert back to the current system of funding under federally-designated categories. My bill also requires that states adjust block grants to ensure that poorer districts receive an adequate level of funding.

In a recent article, ''First, Do No Harm: The Federal Role in Education Reform,'' featured in American Outlook, former U.S. Assistant Secretary of Education Chester E. Finn identified as part of a new paradigm for education, child-centered funding:

''[U]ncle Sam should replace today's hundreds of separate ''categorical'' programs with a couple of block grants or voucher-style programs. When a child is deemed eligible for federal aid, for whatever reason, that aid should follow him to the school (or other vendor) of his and his family's choice. . . . Washington should also quit subsidizing state and local education bureaucracies.''

Under a child-centered approach, Dr. Finn argued that: ''No school will be guaranteed its budget (or jobs). No school will own its students. It will have to 'earn' its revenue by doing what it is supposed to.''

CONCLUSION

We need the courage to stand up to the powerful education bureaucrats and say you have failed our children and we will tolerate it no longer. No more five or ten year plans to nowhere. It's time to give the fabric of America, our families and communities, new tools to improve student performance. My hope is that Congress has the wisdom to follow the lead of the Arizona legislature, and pass a K–12 education tax credit bill, and the Dollars Follow the Student Education Block Grant Act.

INTRODUCTION OF H.R. 4852

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1998

Mr. ARCHER. Mr. Speaker, today, in coordination with the Treasury Department, I am introducing H.R. 4852, a bill to clarify the tax treatment of certain transfers of assets and liabilities to a corporation.

In general, when a shareholder transfers assets to a corporation it controls and receives stock in return, the shareholder does not have gain from the exchange. The shareholder may have gain, however, if the corporation assumes a liability of the shareholder, or receives assets from the shareholder that secure a liability. If the shareholder has gain, the corporation's basis in the assets is received is increased by the gain.

The tax treatment under present law is unclear in situations involving the transfer of liabilities, and some taxpayers are structuring transactions to take advantage of the uncertainty. For example, where more than one asset secures a single liability, some taxpayers take the position that, on a transfer of the assets to different subsidiaries, each subsidiary counts the liability in determining the basis of the asset. This interpretation arguably could result in assets having a tax basis in excess of their value and excessive depreciation deductions—results that are clearly inconsistent with fundamental tax policy.

The legislation I am introducing today is intended to eliminate the uncertainty and to focus on the underlying economics of these corporate transfers. Under the legislation, a corporation is treated as assuming a liability if, based on the facts and circumstances, the corporation has agreed and is expected to satisfy the liability. In addition, in determining the corporation's basis in property it receives as part of these transfers, the corporation's basis cannot exceed the fair market value of the property. Special rules apply with respect to nonrecourse liabilities.

The House of Representatives and the Senate passed substantially identical legislation earlier this year which did not become law at the time originally anticipated. To discourage continued use of corporate transaction structuring that the Congress and the Administration believe is inappropriate, I am introducing the legislation today, and it applies to transfers on or after today. I anticipate including this proposal in tax legislation next year.

A Joint Committee on Taxation explanation of the bill follows.

TECHNICAL EXPLANATION

Under the bill, the distinction between the assumption of a liability and the acquisition of an asset subject to a liability is generally eliminated. First, except as provided in regulations, a recourse liability or any portion thereof is treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed and is expected to satisfy the liability or portion thereof (whether or not the transferor has been relieved of the liability). Thus, where more than one person agrees to satisfy a liability or portion thereof, only one will be treated as expected to satisfy such liability or portion thereof. Second, except as provided in regulations, a nonrecourse liability is treated as having been assumed by the transferee of any asset subject to the liability with a limitation. The amount treated as assumed shall be reduced by the amount of the liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to satisfy, up to the fair market value of such other assets (determined without regard to section 7701(g)).

In determining whether any person has agreed to and is expected to satisfy a liability, all facts and circumstances are to be considered. In any case where the transferee does agree to satisfy a liability, the transferee will be treated as expected to satisfy the liability in the absence of facts indicating the contrary.

In determining any increase to the basis of property transferred to the transferee as a result of gain recognized because of the assumption of liabilities under section 357, the increase cannot cause the basis to exceed the fair market value of the property (determined without regard to sec. 7701(g)). In addition, if gain is recognized to the transferor