

State, and I am pleasantly surprised to find that Secretary Babbitt has contributed to the debate in a very constructive way.

New Mexico, my home State, is very dry. I have found that people within the beltway and in eastern America are unaware of the critical need for water in the West. With the lack of snow pack and precipitation in our State this year, we are facing a severe drought this summer. In fact, parts of the Rio Grande River, the largest river in our State, which runs from north to south and through the city of Albuquerque and many other communities, which has historically gone dry at times—this river is already drying up, even this early in the season.

My discussion with Secretary Babbitt was extremely timely, since my office received a call this past weekend from the Fish and Wildlife representatives saying they were out trying to find out what was happening to the endangered silvery minnow in the dry stretches of the river.

You see, the traditional tension among water users is not only exacerbated by litigation regarding the needs of the endangered silvery minnow, but also obviously exacerbated by all conflicting water needs when you are in a drought period.

In a lawsuit filed by the Forest Guardians and Defenders of Wildlife, a recent 10th Circuit Court of Appeals decision ordered an immediate critical habitat designation for the Rio Grande silvery minnow. The practical effect of this determination is the fish may get too much of the limited water in the river and some human users may not get any.

A Federal district judge in New Mexico allowed a few more months for the designation, but the lawsuit only dramatizes the growing conflict between the Federal Endangered Species Act and water for Rio Grande users. Secretary Babbitt agreed.

I asked the Secretary whether the Interior Department had sufficient data to determine the true water needs to sustain the silvery minnow in the Rio Grande River in New Mexico or to make an accurate economic and social assessment of the critical habitat designation on existing water rights owners.

In States like New Mexico, people actually own a proportionate share of the water in a river basin. All of those owners and their rights are predicated upon State law, which says if you put water to a beneficial use and continue to use it over time, you own the water rights that you have moved off the river and used. From the time you first applied water to beneficial use, you become a priority owner of the water as of that time.

Secretary Babbitt replied that his Department does not have sufficient information, but it has no choice but to act because of Federal court orders.

Secretary Babbitt stated that the Endangered Species Act does not work. He hoped that it could be modified to prevent court-ordered, unscientific, premature determinations. The courts need to give the Interior Department time to gather the data to develop a workable plan for habitat designation.

He does not have that data necessary to make a valid, critical habitat designation, and the courts, in trying to follow the act, are not giving him the necessary time. He will be forced to proceed, perhaps, with declaring a habitat. He also said he felt that it will not be productive and will be very inflammatory.

Litigation has only inflamed passions on both sides of this debate. In addition to the critical habitat litigation, a recent notice of intent to sue by the Forest Guardians and others threatens to force the release of stored water in any of four New Mexico reservoirs to "maintain the riparian habitat necessary for the survival" of two endangered species.

I am concerned about water necessary for the survival of New Mexicans, their well-being and way of life. I can only hope that the potential needs of this silvery minnow will not drain reservoirs which Albuquerque, Santa Fe, and many others depend on for their water.

I do believe that something is terribly wrong when people who own rights to water have to forego usage or face penalties for "taking" of a species without knowing what amount of water is needed for that endangered species.

Incidentally, Mr. President, I grew up in Albuquerque, and I lived within about eight city blocks of this Rio Grande River. I can tell you, as anyone who has lived in New Mexico for very long can assert, that river ran dry plenty of times. Historical data collected before the irrigation projects or large population increases along the river showed it dried up consistently in certain places. I am no biologist, but that minnow survived.

I can assure you that the river water did not run down the entire length of the river from north to south, which is what some say we must do now for the survival of the silvery minnow.

Mr. President, it really is upsetting when I understand that some data available indicates that the minnow "needs" more water than the Rio Grande can provide, even without consideration of the needs of human users. How can critical habitat be designated without the consideration of all users and their needs along the river, especially if they have property rights and own the water?

Some irrigators may have to take their toothbrushes to work because they might be thrown in jail due to a "take" of fish that they have shared the wet and dry times with for many years.

I care about including the silvery minnow. I care about making sure we try our best to save the silvery minnow. I support the intent of the Endangered Species Act. I actually was here to vote in favor of it, and I did. Today, I agree with Secretary Babbitt that it is broken and does not work. I do not think the problem is necessarily what we designed in the legislation, but I think the court interpretations have made it unworkable.

Mr. President, I say to my colleagues, I know the mention of modifying the Endangered Species Act brings howls and scowls from some quarters, but I say to you today that it can and it must be improved. I am willing to work with my fellow Senators and the administration and those surrounding this issue on all sides to try to find some solutions to this problem, both nationally and for my State of New Mexico.

Mr. President, I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Thank you, Mr. President.

#### MICROSOFT CORPORATION

Mrs. MURRAY. Mr. President, I rise today to talk about an issue of great importance to Washington State and our country. I know it is an issue the Presiding Officer, the Senator from Washington, shares concern with me. There has been a lot of talk in recent months in the media and on the Senate floor about Microsoft and the Department of Justice. I want to take a few minutes today on the Senate floor and share a few of my thoughts on Microsoft.

Recently, Microsoft's competitors and critics have portrayed Microsoft as a serious threat to the technology sector. I can speak from experience about Microsoft. The Microsoft I know is far different than the ruthless company that has been described in newspaper articles. My own professional and political career covers the 20-year period of Microsoft's growth from the first personal computers to today's innovative software programs which have spurred consumers and educators and students and the business community to the re-invention of their daily lives.

Almost everyone is familiar with Microsoft and its products. Bill Gates and Paul Allen, the company's founders, had one vision in mind—that one day every home and family would have a PC. It was an ambitious goal but one that seems more attainable every day. Through the years, the company has developed tremendous innovations in

the technology industry, but Microsoft is more than the product it makes. I want to take some time today to talk about the things Microsoft does to make the lives of everyone in our country better.

I have spent most of my career as an advocate for education. I have traveled all across my State visiting schools and talking to students, parents, teachers, and local business leaders. I have worked hard to put computers into schools and train teachers in the use of technology and make sure that all children, no matter who they are or where they come from, has access to technology and the opportunities such skills and knowledge bring.

If there is one thing I have learned, it is that providing a good education, if we want to do it, takes the involvement of everyone, and that is particularly true of businesses. Microsoft believes one of its most important goals is to build technology to empower teachers and families to make lifelong learning more dynamic, more powerful, and more accessible. To this end, Microsoft contributes more than a half billion dollars annually for education, workforce training, and access to technology programs.

Microsoft is a leader in education technology. Through its connected learning community effort, they help students and educators and parents access technology, and through its "Working Connections" program, Microsoft supports technology training for underserved populations through the Nation's community college system. If we want our young people to compete for high paying technology jobs, we need to make sure they have the right skills.

Microsoft is also a leader in addressing the technological gap in many communities across our country. The Gates Library Foundation grants provide public access to the Internet in underserved areas in both rural and urban settings. Their ongoing financial commitment to this effort is making a real difference for underserved populations and areas.

I tell you these things today because I know firsthand of all the great things Microsoft and its employees are doing to bring new inventions and opportunities to American consumers.

When a grandfather learns how to e-mail his grandchild and play a larger role in that child's life, I appreciate Microsoft's efforts on behalf of families. When a Washington State family finds work in the technology sector, I appreciate Microsoft's contribution to my State's economy. When a child discovers the Internet as an educational tool for the first time, I see a child filled with excitement, for learning and hope for the future, and I thank Microsoft for helping to make that possible. That is the Microsoft I see and that is the Microsoft I represent in the Senate.

Now, we all know that high technology, and particularly the software business, is immensely competitive. Certainly, Microsoft, and all the other Washington high-tech firms, compete vigorously. That is the nature of these industries. Washington State has become a high-tech leader through hard work, a dedicated and creative workforce, and an unmatched quality of life.

Microsoft has enjoyed immense success over the years and continues to grow at an impressive rate. This success has been hard fought, however, and has recently drawn the oversight of the Department of Justice.

The Department of Justice has alleged consumer harm, but I have to ask: Where are the consumers who have been hurt? There is no consumer uproar over Microsoft or its business practices. Microsoft's business model—high volume, product sales at low prices—is both successful and proconsumer.

Microsoft's consumer benefits are well understood by the American public. A recent nationwide poll conducted by Hart-Teeter found that 73 percent of those polled believe Microsoft has benefited consumers, and 69 percent of those individuals have a favorable impression of Microsoft.

While those results do not surprise me, I was surprised to learn that 66 percent of those polled believe that the Government should not be pursuing this case against Microsoft, and more than half of the respondents believe that this case represents a poor use of tax dollars.

I have read the complaint filed by the Justice Department and I have followed the court proceedings in this case. I have seen how easy it might be to conclude, based on press reports, that Microsoft is faring poorly in the courtroom. The vigorous courtroom presentations during the trial have led to an aggressive public relations effort outside the courtroom. I think it is time for the parties in this case to move to a more productive dialogue.

The judge in this trial has implored both sides to seek a settlement. And I agree. Microsoft and the Justice Department should do all they can to meet the judge's request. Both sides should be free to pursue a settlement in private and free from the influence of the public and their competitors. Settlement of this case will mean that consumers will continue to benefit from Microsoft's innovative products and the antitrust claims will be put to rest.

At issue here is more than just the fate of Microsoft. The resolution of this trial will have broad implications on the software industry as a whole. Microsoft employs more than 30,000 people, including 15,000 from my home State. The U.S. software industry employs more than 600,000 people and enjoys an annual growth rate of 10 percent.

The industry paid more than \$36 billion in wages to U.S. employees in 1996. Software and high-tech companies have been the driving force behind the economic expansion that we continue to experience here in the United States, and much of our economic future lies in these knowledge-based industries. We have to be cautious and thoughtful about Government intervention so that we do not stifle the economic promise that software and high-tech companies offer.

Of course, we should not protect companies or guarantee profits and market share. But we—as legislators and as the Federal Government—must be careful to correctly interpret the state of competition. My own view is competition is alive in this industry. Any tech company that rests on its current product line or stock price risks a quick and decisive downfall.

While Microsoft is headquartered in Redmond, WA, my remarks are more than a defense of a constituent company. My concerns should be felt by every Senator on this floor.

A recent piece in the Wall Street Journal offered the following passage:

Dominant firms are the norm in high tech. TV ads boast that virtually all internet traffic travels on Cisco systems. Quicken has 80 percent of the financial-software market. Netscape once boasted of having 90 percent of the browser business. Intel still has 76 percent of the microprocessor business. America Online, Lotus Notes and Oracle all dominate their respective markets. Executives who work in such glass offices should think twice before encouraging zealous prosecutors and gullible reporters to define monopoly as a large share of an artificially tiny market.

The high-tech industry employs 4.5 million workers across this country. According to the American Electronics Association, 47 of the 50 States added high-tech workers between 1994 and 1996. It is not just States such as Washington and California and Texas that are booming as a result of technology jobs. Georgia, Colorado, North Carolina, Oregon, Illinois, Virginia, Florida, and Utah are States that are experiencing phenomenal job growth in the tech sector.

To maintain this impressive nationwide job growth in the technology sector, the Congress and the Federal Government must be careful. Let's not forget that most of this phenomenal growth occurred over the last decade when technology was not on either the Federal or congressional radar screen.

Before yielding, let me reiterate the points that brought me to the floor today. I hope each of my colleagues will give serious consideration to these issues.

Microsoft is a true Washington State and American success story that is still unfolding for the benefit of consumers, business and the general public. Microsoft has a particularly impressive record of community activism, and I am especially proud of the company's efforts in the area of education.

The ongoing court case is of utmost interest and importance to me in the work I do in the Senate. I implore all parties to give the legal system an opportunity to work. Judge Jackson has urged both parties to seek a settlement, and I strongly encourage them to heed the judge's advice.

Finally, the outcome of the Microsoft case will have long-term ramifications on our Nation's economy. Technology is growing rapidly, and we all know many technology jobs are high-paying, family-wage jobs. The United States is a technology superpower. The Federal Government must use its immense powers with care and caution in monitoring the technology sector. When the Federal Government interjects itself in this intensely competitive sector of our economy, it must ensure that it does not do serious damage to our economy.

Mr. President, I again urge my colleagues to pay attention to the Microsoft case. I look forward to discussing this issue with my colleagues again on the floor of the Senate.

#### EDUCATION AND CLASS SIZE

Mrs. MURRAY. Mr. President, while I have the floor, I want to turn quickly to a different topic, and that is on the issue of education and class size.

I know my colleagues have watched me come to the floor and talk numerous times about how important it is that we reduce class sizes in the grades of 1 through 3. I have talked about the research in this country which has shown that reducing class size makes a difference for our students.

I ask unanimous consent to have printed in the RECORD a report from Tennessee that has just come out. It is called the Star Report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Project STAR News]

#### BENEFITS OF SMALL CLASSES PAY OFF AT GRADUATION

PROJECT STAR FINDS SMALL CLASSES IN K-3 LINKED TO GREATER STUDENT ACHIEVEMENT, BETTER GRADES, LOWER DROPOUT RATES, AND HIGHER COLLEGE ASPIRATIONS

WASHINGTON, D.C.—A ground-breaking Tennessee-based class size study has found that public school students placed in small classes in grades K-3 continue to outperform students in larger classes right through high school graduation.

Researchers for Project STAR (Student/Teacher Achievement Ratio)—whose earlier findings helped form the basis for class size reduction in some 20 states—today reported that students placed in small class sizes in grades K-3 have better high school graduation rates, higher grade point averages, and are more inclined to pursue higher education.

"This research adds to the evidence we have compiled over the past 14 years," said Dr. Helen Pate-Bain, who convinced the Tennessee state legislature to provide funding for the initial STAR research. "The project's findings indicate that students placed in

small classes in grades K-3 continue to benefit from that experience in grades 4-12."

The original STAR research tracked the progress of an average of 6,500 students each year in 79 schools between 1985 and 1989 (and 11,600 students overall). It found that children who attended small classes (13-17 pupils per teacher) in kindergarten through grade 3 outperformed students in larger classes (22-25 pupils) in both reading and math on the Stanford Achievement Test for elementary students. The second phase of the STAR research found that even after returning to larger classes in grade 4, STAR's small class students continued to outperform their peers who had been in larger class sizes.

At a news conference held today at the National Press Club, STAR researchers released a new wave of findings:

Students in small classes are more likely to pursue college: STAR students who attended small classes—and black students in that group in particular—were more likely to take the ACT or SAT college entrance exams, according to Princeton University economist Dr. Alan B. Krueger, who researched test data linked to the Project STAR database. "Attendance in small classes appears to have cut the black-white gap in the probability of taking college-entrance exam by more than half," Krueger said.

Small classes lead to higher graduation rates: Preliminary data from participating STAR school districts in Tennessee show that students in small classes were more likely to graduate on schedule; they were less likely to drop out of high school; and they were more likely to graduate in the top 25% of their classes, according to Dr. Jayne Boyd-Zaharias, a STAR researcher since 1986. In addition, Boyd-Zaharias found that small class students graduated with higher grade point averages (GPAs) than regular class size students.

Students in small classes achieve at higher levels: Three other researchers—Dr. Jeremy D. Finn, professor of education at SUNY Buffalo, Susan B. Gerber of SUNY Buffalo, and Charles M. Achilles, Ed.D., of Eastern Michigan University, together with Boyd-Zaharias—released new findings showing that STAR students who attended small classes in grades K-3 were between 6 and 13 months ahead of their regular-class peers in math, reading, and science in each of grades 4, 6, and 8. "Our analyses show that at least three years in a small class are necessary in order for the benefits to be sustained through later grades," wrote the researchers. "Further, the benefits of having been in a small class in the primary years generally increase from grade to grade."

Class size is different from pupil/teacher ratio: Achilles, one of the original STAR researchers, explained the difference between class size (the number of students assigned to a teacher) and pupil/teacher ratio (the total number of students divided by the total number of educators in a school). Many "class size" studies, he noted, have relied on pupil/teacher ratios to make their case. The STAR research is able to track students based on specific class size. Achilles noted that some 20 states—including Michigan, California, Nevada, Florida, Texas, Utah, Illinois, Indiana, New York, Oklahoma, Iowa, Minnesota, Massachusetts, South Carolina, and Wisconsin—have initiated or considered STAR-like class size reduction efforts.

Teachers who taught small classes in Project STAR support the program strongly.

"All educators instinctively know that the smaller the class size, the more individual attention a teacher can provide a student,"

said Sandy Heinrich, a teacher at Granbery Elementary School in Davidson County, Tenn., who taught first grade in the STAR program in 1986. "The more individual attention per student, the more learning and personal growth each student can enjoy. I was fortunate enough to witness this notion first-hand."

The STAR research is the only large-scale, long-term class size research of its kind. Dr. Frederick Mosteller, a professor of mathematical statistics at Harvard University, said this about STAR in 1995: "Because a controlled education experiment (as distinct from a sample survey) of this quality, magnitude, and duration is a rarity, it is important that both educators and policymakers have access to its statistical information and understand its implications."

In fact, the STAR research provided support for federal legislation that proposes to reduce class sizes by hiring 100,000 new teachers in grades K-3 nationwide.

Last fall, Congress appropriated \$1.2 billion in the FY 1999 federal budget as a "down-payment" on that legislation, enough to hire approximately 30,000 teachers for one year. Future funding will require congressional authorization and additional annual appropriations. Pate-Bain was scheduled to share the new STAR findings with a number of education policy experts and Members of Congress later in the day.

Mrs. MURRAY. This is a report about a study that researchers in Tennessee began many years ago in relation to reduced class size in the first through third grades. They followed those young people all the way through to the point where they are now graduating this year.

It is a very impressive study. It shows exactly what I have been debating on the floor of the Senate; and that is that students who are in smaller class sizes in the first through third grades are more likely to pursue college, have higher graduation rates, they achieve at higher levels, and it makes a difference in discipline.

Mr. President, it seems to me that we have to get back to this issue. I urge all of my colleagues to take a second look and recognize that we can make a difference by continuing our support of class size reduction and teacher training here in the Senate.

I ask unanimous consent that the 23 Senators on the list that I send to the desk be added as cosponsors to my bill, S. 564, the Class Size Reduction and Teacher Quality Act of 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Thank you, Mr. President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.