

I commend the champion Seffner Armwood football team for a wonderful and magical run this year. The people of Florida and Hillsborough County are proud of you. You have all demonstrated that hard work, perseverance and unity are the foundation of success.

I applaud both Seffner Armwood and runner-ups Lake Gibson's football coaching staff for their commitment and dedication to their players and for proving that hard work, sportsmanship and determination pay off.

I salute the Seffner Armwood High School students, teachers, coaches and the entire football team on their achievement as once again victors of the Class 4A State championship football game.

#### THE OJITO WILDERNESS ACT

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 2, 2005*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Ojito Wilderness Act. This bill designates the Ojito Wilderness Study Area, an area totaling approximately 11,000 acres, as a permanent wilderness area to be protected pursuant to the 1964 Wilderness Act. The bill also provides for the purchase and transfer of adjacent Bureau of Land Management, BLM, lands, contiguous to the established boundaries of the Pueblo of Zia, by the Pueblo. This land, an area totaling approximately 13,000, will then be taken into trust and held for the benefit for the Pueblo by the Secretary of the Interior, and would subsequently be managed by the Pueblo in perpetuity as wilderness.

This bipartisan, bicameral legislation is the result of true collaboration among many people in New Mexico. Very similar versions of this bill were introduced, deliberated on, and passed unanimously in both the House and the Senate during the 108th Congress. This is truly a compromise bill, and I look forward to its swift passage in the House. I am proud to say that in New Mexico most of the people I meet recognize how vitally important it is to protect natural areas, to encourage the sustainable use of our State's natural resources, and to honor the role of land in the lives of Native Americans. As this Ojito legislation demonstrates, with creativity and cooperation we can find mutually compatible solutions for all of these necessities.

This proposal has been under consideration for many years. In 1991, Manuel Lujan, the Secretary of the Interior in the former President Bush's cabinet, recommended the Ojito area to Congress for wilderness designation. The BLM has evaluated this area and found it qualifies for full wilderness status and protection.

The legislation has the explicit support of the Governor of New Mexico, the counties of Sandoval and Bernalillo, individual members of State government including our State Land Commissioner Patrick Lyons, the Pueblo of Zia and its members, the adjacent private land owners and individuals who graze their cattle on the land, numerous environmental groups, mineral extraction companies in the region, and business owners and private citizens living and working nearby.

The Ojito Wilderness Study Area is characterized by pristine and dramatic landforms and rock structures, and by several rare plant populations that are indigenous to the area. This area is also recognized for its high density of cultural and archeological sites, including sites that have religious significance to Pueblo Indians.

In particular, this legislation is important to the Pueblo of Zia. The Pueblo's reservation lands currently lie in two noncontiguous sections. Zia has made a concerted effort over many years to adjoin its reservation lands. This legislation will help make this long-standing goal a reality. The Pueblo has consistently and openly worked in cooperation with other interested parties to reach a mutually satisfactory arrangement for the protection of these important lands as undeveloped open space with continued public access. And, in an additional gesture of good faith, the Pueblo has waived its sovereign immunity from suit for matters arising under the provisions of this bill.

Considering the above, I believe this bill does the right thing by ensuring the preservation, protection, and public accessibility of this special area of New Mexico for future generations of Americans. Allow me to express a special thanks to my cosponsor in the House, Representative HEATHER WILSON, and to the members of the New Mexico delegation in the Senate.

#### ACADEMY NOMINEES FOR 2004 11TH CONGRESSIONAL DISTRICT OF NEW JERSEY

### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 2, 2005*

Mr. FRELINGHUYSEN of New Jersey. Mr. Speaker, every year, more high school seniors from the 11th Congressional District trade in varsity jackets for navy pea coats, Air Force flight suits, and Army brass buckles than most other districts in the country. But this is nothing new—our area has repeatedly sent an above average portion of its sons and daughters to the nation's military academies for decades.

This fact should not come as a surprise. The educational excellence of area schools is well known and has long been a magnet for families looking for the best environment in which to raise their children. Our graduates are skilled not only in mathematics, science, and social studies, but also have solid backgrounds in sports, debate teams, and other extracurricular activities. This diverse upbringing makes military academy recruiters sit up and take note—indeed, many recruiters know our towns and schools by name.

Since the 1830s, Members of Congress have enjoyed meeting, talking with, and nominating these superb young people to our military academies. But how did this process evolve? In 1843, when West Point was the sole academy, Congress ratified the nominating process and became directly involved in the makeup of our military's leadership. This was not an act of an imperial Congress bent on controlling every aspect of Government. Rather, the procedure still used today was, and is, a further check and balance in our democracy. It was originally designed to weaken

and divide political coloration in the officer corps, provide geographical balance to our armed services, and to make the officer corps more resilient to unfettered nepotism and handicapped European armies.

In 1854, Representative Gerritt Smith of New York added a new component to the academy nomination process—the academy review board. This was the first time a Member of Congress appointed prominent citizens from his district to screen applicants and assist with the serious duty of nominating candidates for academy admission. Today, I am honored to continue this wise tradition in my service to the 11th Congressional District.

The Academy Review Board is composed of six local citizens who have shown exemplary service to New Jersey, to their communities, and to the continued excellence of education in our area—many are veterans. Though from diverse backgrounds and professions, they all share a common dedication that the best qualified and motivated graduates attend our academies. And, as true for most volunteer panels, their service goes largely unnoticed.

I would like to take a moment to recognize these men and women and thank them publicly for participating in this important panel. Being on the board requires hard work and an objective mind. Members have the responsibility of interviewing upwards of 50 outstanding high school seniors every year in the academy review process.

The nomination process follows a general timetable. High school seniors mail personal information directly to the Military Academy, the Naval Academy, the Air Force Academy, and the Merchant Marine Academy once they become interested in attending. Information includes academic achievement, college entry test scores, and other activities. At this time, they also inform my office of their desire to be nominated.

The academies then assess the applicants, rank them based on the data supplied, and return the files to my office with their notations. In late November, our Academy Review Board interviews all of the applicants over the course of 2 days. They assess a student's qualifications and analyze character, desire to serve, and other talents that may be hidden on paper.

This year the board interviewed over 40 applicants. Nominations included 10 to the Naval Academy, 11 to the Military Academy, 4 to the Merchant Marine Academy and 4 to the Air Force Academy—the Coast Guard Academy does not use the congressional nomination process. The recommendations are then forwarded to the academies by January 31, where recruiters reviewed files and notified applicants and my office of their final decision on admission.

As these highly motivated and talented young men and women go through the academy nominating process, never let us forget the sacrifice they are preparing to make: to defend our country and protect our citizens. This holds especially true at a time when our nation is fighting the war against terrorism. Whether it is in Afghanistan, Iraq, or other hot spots around the world, no doubt we are constantly reminded that wars are fought by the young. And, while our military missions are both important and dangerous, it is reassuring to know that we continue to put America's best and brightest in command.

ACADEMY NOMINEES FOR 2004, 11TH  
CONGRESSIONAL DISTRICT, NEW JERSEY

AIR FORCE ACADEMY

Dennis N. Stenkamp, Sparta, Sparta H.S.  
Bryant J. Tomlin, Sparta, Sparta H.S.  
John P. Libretti, Pine Brook, Seton Hall  
Prep  
Benjamin A. Kalfas, Montville, Montville  
H.S.

MERCHANT MARINE

Matthew R. Brady, Chatham, Chatham H.S.  
Ryan T. Davidson, Randolph, Randolph H.S.  
Anthony J. Day, Flanders, Mt. Olive H.S.  
Ashley Lally, Sparta, Sparta H.S.

MILITARY ACADEMY

Anthony Arbolino, Netcong, Lenape Valley  
H.S.  
Brianna A. Beckman, Kinnelon, Kinnelon  
H.S.  
Kristen Cassarini, Rockaway, Morris Hills  
H.S.  
Christopher R. Elam, Oak Ridge, Jefferson  
H.S.  
Matthew J. Gnad, Kinnelon, Kinnelon H.S.  
John M. Kilcoyne, Essex Fells, West Essex  
H.S.  
Kristen Laraway, Long Valley, West Morris  
Central H.S.  
Shawn P. McKinstry, Bloomingdale, Trinity  
Christian School  
Michael A. Robinson, Brookside, West Morris  
Mendham H.S.  
Abigail E. Zoellner, Basking Ridge, Ridge  
H.S.  
Joshua A. Lospinoso, Florham Park, Han-  
over Park H.S.

NAVAL ACADEMY

Raymond F. Allen, Califon, West Morris Cen-  
tral H.S.  
Ashley Asdal, Chester, West Morris  
Mendham H.S.  
Sean K. Bergstrom, Mendham, Delbarton  
School  
Thomas D. Brenner, Jr., Livingston, Living-  
ston H.S.  
Michael Collett, Chester, Delbarton School  
Jonathan E. DeWitt, Mendham, West Morris  
Mendham H.S.  
Mark Infante, Chester, Delbarton School  
Patrick Leahey, Morris Plains, Morristown  
H.S.  
Ashwin Rajaram, Flanders, Mount Olive H.S.  
Brian Schoenig, Pompton Plains,  
Pequanock H.S.

INTRODUCTION OF THE CLASS  
ACTION FAIRNESS ACT OF 2005

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 2, 2005*

Mr. GOODLATTE. Mr. Speaker, I am pleased to introduce today, along with my good friend from Virginia, Mr. BOUCHER, the Class Action Fairness Act of 2005.

This much-needed bipartisan legislation corrects a serious flaw in our Federal jurisdiction statutes. At present, those statutes forbid our Federal courts from hearing most interstate class actions—the lawsuits that involve more money and touch more Americans than virtually any other type of litigation in our legal system.

The class action device is a necessary and important part of our legal system. It promotes efficiency by allowing plaintiffs with similar claims to adjudicate their cases in one proceeding. It also allows claims to be heard in cases where there are small harms to a large

number of people, which would otherwise go unaddressed because the cost to the individuals suing could far exceed the benefit to the individual. However, class actions are increasingly being used in ways that do not promote the interests they were intended to serve.

In recent years, State courts have been flooded with class actions. As a result of the adoption of different class action certification standards in the various States, the same class might be certifiable in one State and not another, or certifiable in State court but not in Federal court. This creates the potential for abuse of the class action device, particularly when the case involves parties from multiple States or requires the application of the laws of many States.

For example, some State courts routinely certify classes before the defendant is even served with a complaint and given a chance to defend itself. Other State courts employ very lax class certification criteria, rendering virtually any controversy subject to class action treatment. There are instances where a State court, in order to certify a class, has determined that the law of that State applies to all claims, including those of purported class members who live in other jurisdictions. This has the effect of making the law of that State applicable nationwide.

The existence of State courts that broadly apply class certification rules encourages plaintiffs to forum shop for the court that is most likely to certify a purported class. In addition to forum shopping, parties frequently exploit major loopholes in Federal jurisdiction statutes to block the removal of class actions that belong in Federal court. For example, plaintiffs' counsel may name parties that are not really relevant to the class claims in an effort to destroy diversity. In other cases, counsel may waive Federal law claims or shave the amount of damages claimed to ensure that the action will remain in State court.

Another problem created by the ability of State courts to certify class actions which adjudicate the rights of citizens of many States is that oftentimes more than one case involving the same class is certified at the same time. In the Federal court system, those cases involving common questions of fact may be transferred to one district for coordinated or consolidated pretrial proceedings.

When these class actions are pending in State courts, however, there is no corresponding mechanism for consolidating the competing suits. Instead, a settlement or judgment in any of the cases makes the other class actions moot. This creates an incentive for each class counsel to obtain a quick settlement of the case, and an opportunity for the defendant to play the various class counsels against each other and drive the settlement value down. The loser in this system is the class member whose claim is extinguished by the settlement, at the expense of counsel seeking to be the one entitled to recovery of fees.

Our bill is designed to prevent these abuses by allowing large interstate class action cases to be heard in Federal court. It would expand the statutory diversity jurisdiction of the Federal courts to allow class action cases to be brought in or removed to Federal court.

Article III of the Constitution empowers Congress to establish Federal jurisdiction over diversity cases—cases between citizens of different States. The grant of Federal diversity ju-

isdiction was premised on concerns that State courts might discriminate against out of State defendants. In a class action, only the citizenship of the named plaintiffs is considered for determining diversity, which means that Federal diversity jurisdiction will not exist if the named plaintiff is a citizen of the same State as the defendant, regardless of the citizenship of the rest of the class. Congress also imposes a monetary threshold—now \$75,000—for Federal diversity claims. However, the amount in controversy requirement is satisfied in a class action only if all of the class members are seeking damages in excess of the statutory minimum.

These jurisdictional statutes were originally enacted years ago, well before the modern class action arose, and they now lead to perverse results. For example, under current law, a citizen of one State may bring in Federal court a simple \$75,001 slip-and-fall claim against a party from another State. But if a class of 25 million product owners living in all 50 States brings claims collectively worth \$15 billion against the manufacturer, the lawsuit usually must be heard in State court.

This result is certainly not what the framers had in mind when they established Federal diversity jurisdiction. Our bill offers a solution by making it easier for plaintiff class members and defendants to remove class actions to Federal court, where cases involving multiple State laws are more appropriately heard. Under our bill, if a removed class action is found not to meet the requirements for proceeding on a class basis, the Federal court would dismiss the action without prejudice and the action could be refiled in State court.

In addition, the bill provides a number of new protections for plaintiff class members, including greater judicial scrutiny for settlements that provide class members only coupons as relief for their injuries. The bill also bars the approval of settlements in which class members suffer a net loss. In addition, the bill includes provisions that protect consumers from being disadvantaged by living far away from the courthouse. These additional consumer protections will ensure that class action lawsuits benefit the consumers they are intended to compensate.

This legislation does not limit the ability of anyone to file a class action lawsuit. It does not change anyone's right to recovery. Our legislation merely closes the loophole, allowing Federal courts to hear big lawsuits involving truly interstate issues, while ensuring that purely local controversies remain in State courts. This is exactly what the framers of the Constitution had in mind when they established Federal diversity jurisdiction.

I urge each of my colleagues to support this very important bipartisan legislation.

CONGRATULATING JUDD AND  
SUSAN SHOVAL AND GUARD IN-  
SURANCE GROUP UPON RECEIV-  
ING THE WILKES-BARRE 2005  
COMMUNITY LEADERSHIP  
AWARD

**HON. PAUL E. KANJORSKI**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 2, 2005*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the