upheld the Wellstone amendment that applied this definition to ads run by advocacy groups in addition to labor unions and for-profit corporations and upheld the disclosure requirements in the law.

The definition upheld by the district court actually is not limited to a 30- or 60-day window. So at any time during the election cycle, including today, groups may not use soft money to run ads attacking candidates in this manner. This is very significant. The definition is broader and will very likely cover many more ads in the primary definition of electioneering communications that we passed. The court even threw out a clause included by Senator SPECTER to attempt to narrow the definition, declaring it made the overall definition too vague. Frankly, I don't know whether this ruling will survive when the Supreme Court rules on the case.

What is most interesting here is the majority of the court decided that Congress is not limited to regulating advertisements that use the so-called magic words of express advocacy. Year after year, opponents of McCain-Feingold said you could only limit this to the magic words, vote for or vote against. That is not true under this court's ruling, and that is a major step forward, potentially. It recognizes the Constitution is not a straitjacket leaving the Congress powerless to address clear efforts to evade the law through phony issue ads.

In our appeal to the Supreme Court, we will argue that the 30/60 provision drafted by Senators SNOWE and JEFFORDS is constitutionally defensible because it gives groups certainty over what ad is covered and what is not. But either definition is preferable to the current very narrow magic words test that allows a massive evasion of disclosure and source requirements for the attack ads that tend to dominate the airways in the weeks before an election.

The court reached decisions on a number of other provisions of the bill. A number of these decisions were unanimous, and I will not take time right now to go through each of them. I ask unanimous consent that a summary of those rulings be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. FEINGOLD. Mr. President, in the next few days a decision will be made whether to seek a stay of the district court's decision. I think the arguments for such a stay are strong. The parties have been working under the new campaign finance rules since November of last year.

To shift to another system for a few months while the Supreme Court reviews the case only to shift again when the Supreme Court rules, whatever its decision might be, does not make much sense. It would be preferable for a variety of reasons to keep things the way they are now until the Supreme Court makes a final decision. That decision should come in plenty of time for the parties to prepare for the upcoming elections.

One of the main arguments for a stay is that in order to put the district court's decision in place, the FEC would almost certainly have to undertake a whole new set of rulemaking proceedings. The FEC worked to put implementing regulations in place in a timely manner, as instructed by the new law. Many of those regulations are not particularly useful under the law established by the district court's decision. In any event, I call on the parties to act with restraint, especially until the courts rule on any requests for a stay.

As I mentioned at the outset, we have always known that this case was headed to the Supreme Court. I am pleased that the decision of the three judge panel has come down and that the final stage of this legal process can now begin. I have great confidence in the Department of Justice and in the legal team that is representing the congressional sponsors. They did an extraordinary job in assembling a factual record and laying out the arguments for the law's constitutionality in the district court.

These lawyers are acting to defend a legislative product that reflects not only political compromise, but also great care and attention to constitutional principles and the American people's desire for a political system that is based on ideas and not money. I am proud to continue the fight for campaign finance reform in the courts, and I again thank my colleagues for their support in this long effort.

I chose to come to the floor because if anybody had read the news accounts on Friday and Saturday, frankly, they would not have any idea of what the actual effect of this ruling was which was, on balance, positive, in favor of campaign finance reform. But we do hope the U.S. Supreme Court will even go further and complete the job.

EXHIBIT 1

Coordionation—A 2–1 majority of the court rejected challenges to the coordination provisions. It held that a challenge to the provision that requires the FEC to issue new regulations was premature.

Independent/coordinated party expenditures—By a 3–0 vote, the court struck down the provision of the bill that requires parties to choose once a candidate had been nominated between making independent or 441a(d) expenditures.

Millionaire provisions—By a 3–0 vote, the court decided that the plaintiffs lacked standing to challenge the millionaire amendments.

Stand by your ad—By a 3–0 vote, the court determined that the candidate plaintiffs do not have standing to challenge the Wyden amendment requiring candidates to personally appear in ads that attack their opponents in order to get the lowest unit rate.

Increased contribution limits—By a 3–0 vote, the court ruled that the Adams plaintiffs do not have standing to challenge the increased contributions limits.

Minors' contributions—By a 3–0 vote, the court struck down the ban on contributions by minors.

ID of sponsors—The court upheld the Durbin amendment requiring more identifying information on the identification of the sponsor or sponsors of a political ad.

Disclosure of broadcasting records—By a 3–0 vote, but for differing reasons, the court struck down the Hagel amendment requiring broadcasting stations to maintain and make publicly available records of requests to purchase political advertising time.

RECESS APPOINTMENT OF PETER EIDE

Mr. DURBIN. Mr. President, today I rise to share my concerns about the recess appointment of Peter Eide to fill the post of general counsel at the Federal Labor Relations Authority.

Recently, President Bush announced several recess appointments of pending nominees to fill posts in his administration. One of those appointments was granted to Peter Eide. Mr. Eide's nomination has been under active consideration by the Governmental Affairs Committee since its referral, and a public hearing to consider his appointment was held on April 10. I am disappointed that the President chose to exercise his discretion to make this recess appointment rather than allowing the advice and consent process to continue on course.

Mr. Eide's credentials would make him an impeccable candidate for any number of positions in the Federal Government. However, General Counsel at the Federal Labor Relations Authority is not one of them.

The position to which Mr. Eide was appointed is described under law as being a neutral party in the settlement of disputes that arise between Federal agencies and unions on matters outlined in the Federal Service Labor Management Relations statute. However, for the past 12 years, Mr. Eide has been an outspoken critic of labor protections on behalf of the Chamber of Commerce. He has consistently supported the dilution of protections for workers. He opposed OSHA regulations on safety and health programs, including ergonomics standards. He opposed provisions of the 1991 Civil Rights Act that provide compensatory damages and jury trials for violations of the Americans with Disabilities Act. He advocated a policy that would exempt employers who hired former welfare recipients from employment discrimination laws for 18 months. He consistently opposed increases in the Federal minimum wage. I find it disconcerting that someone who has been such a passionate and unrelenting foe of such labor protections for so many years would not only seek this position, but feel he is qualified to be the general counsel of the Federal Labor Relations Authority.

Looking beyond his former policy positions, Mr. Eide also lacks the requisite experience with Federal labor-management relations that I believe this important post necessitates. Most of his recent labor law experience has been in the private sector representing

management viewpoints. Nothing in his experience indicates he has the qualifications to perform a job representing Federal employee labor concerns.

Given his background, Federal employee labor organizations are worried about Mr. Eide's ability to perform the functions of his new post. I believe they have good reason to be concerned. I am submitting for the RECORD letters that I have received from Federal labor union leaders in opposition to Mr. Eide's nomination. I ask unanimous consent that these documents be printed in the RECORD at the conclusion of my statement.

As I have previously stated, Mr. Eide has the qualifications to serve in hundreds of positions throughout the Federal Government. General Counsel at the Federal Labor Relations Authority is simply not one of them.

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

THE NATIONAL TREASURY EMPLOYEES UNION,
March 26, 2003, Washington, DC.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURBIN: The National Treasury Employees Union, the largest independent union of federal employees, respectfully opposes the nomination of Peter Eide to be General Counsel of the Federal Labor Relations Authority (FLRA).

As members of the Governmental Affairs committee are aware, the General Counsel of the FLRA is charged with enforcing the provisions of the Federal Sector Labor-Management Relations Statute (FSLMRS). The General Counsel directs the operations of the FLRA's regional offices in their investigation of unfair labor practices and in their conduct of representation matters, such as running elections and making appropriate unit determinations. The General Counsel is the prosecutor for the FLRA; the incumbent determines, in the first instance, whether to pursue alleged misconduct and, if so, under what legal theory. The refusal of the General Counsel to issue a complaint on an alleged unfair labor practice charge is unreviewable. If the General Counsel does issue a complaint, he or she controls the course of the litigation before the FLRA.

Mr. Eide, in our opinion, is not qualified to perform the important responsibilities of the position of General Counsel. Although the General Counsel is the chief prosecuting lawyer for the FLRA, Mr. Eide has not been a practicing lawyer since 1990. Moreover, his legal experience up to the date was confined to private sector labor relations. There is nothing in his record that indicates any experience whatsoever in federal sector labor relations, which differs in many major respects from its private sector counterpart.

Perhaps even more troubling to NTEU, Mr. Eide's work for the last twelve years has been as an advocate for the dilution of statutory protections for employees. As Manager and then Director of Labor Policy for the Chamber of Commerce, Mr. Eide has worked to oppose OSHA regulations on safety and health programs. For example, he has proudly pointed to this role in spearheading a coalition of businesses and associations opposing OSHA ergonomics regulations. He has also worked vigorously to undermine the Fair Labor Standards Act and to amend Title VII of the Civil Rights Act of 1964. In short, there is nothing in this record to indicate that Mr. Eide would energetically enforce the statutory protections of the FSLMRS, if confirmed as General Counsel.

The General Counsel of the FLRA operates, to a large extent, without review by the members of the Authority or by any court. If he refuses to pursue allegations of misconduct, the injured entity has no other legal recourse. This broad prosecutorial discretion makes the incumbent an extremely powerful figure in the federal sector labor relations. It should not be entrusted to one whose career has been devoted to advocacy of diminution of statutory protections for workers.

NTEU therefore asks you to oppose the nomination of Peter Eide to be General Counsel of the FLRA.

Sincerely yours,
COLLEEN M. KELLEY,
National President.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO
April 9, 2003, Washington, DC.

The Hon. RICHARD DURBIN,
Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: On behalf of the American Federation of Government Employees, AFL–CIO, I am writing to express our opposition to the nomination of Peter Eide to be General Counsel of the Federal Labor Relations Authority (FLRA).

The General Counsel of the FLRA is, in effect, the chief prosecutor of unfair labor practices. Over 80 percent of unfair labor practices in the federal sector are filed by unions. The General Counsel of the FLRA, therefore, is primarily called upon to enforce the labor statute on behalf of unions. Mr. Eide's career, for over the past decade, would indicate that he is ideologically incapable of performing this task.

In this regard, our review of his resume clearly shows that Mr. Eide has spent the last twelve years working for the Chamber of Commerce as the chief architect of every Chamber effort opposing every labor initiative. From his opposition to Senator Edward Kennedy's ergonomics initiative to promoting a diminution of Fair Labor Standards Act and Equal Employment Opportunity protections, Mr. Eide's efforts have been dedicated 100% of the time to opposing the labor movement and worker-friendly statutes.

Section 7101, the ''findings and purpose'' section of the Federal Service Labor-Management Relations statute, states that:

''(a) The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest.

(B) contributes to the effective conduct of public business, and

(C) facilities and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.''

AFGE respectfully submits that Mr. Eide's entire adult career is inexorably inconsistent and opposed to the stated Congressional ''findings and purpose'' of Section 7101, and his nomination should be opposed.

Sincerely,
BOBBY L. HARNAGE, SR.,
National President.

MEASURES READ FOR FIRST TIME—H.R. 6 AND H.R. 1298

Mr. MCCONNELL. Mr. President, I understand that H.R. 6 and H.R. 1298 are at the desk, and I ask for their first reading.

The PRESIDING OFFICER. The clerk will read the bills by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

A bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

Mr. MCCONNELL. I ask for their second reading and object to further proceedings on the matters.

The PRESIDING OFFICER. The objection is heard. The bills will remain at the desk.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. As in executive session, I ask unanimous consent that on Wednesday, May 7, at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session to consider Calendar No. 6, the NATO expansion treaty on today's Executive Calendar. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; further, that the nine committee-recommended declarations and three understandings be considered agreed to; there then be 4 hours for debate equally divided between the chairman and the ranking member; provided further that the only amendments in order be the following: a Warner-Levin-Roberts on a consensus, a Levin-Warner on suspension, and a Dodd on administrative structure.

Further, there be 60 minutes equally divided on each of the amendments, with relevant second degrees in order and limited to 60 minutes as well. I further ask that following the disposition of the above amendments and the use or yielding back of time, the resolution of ratification be temporarily set aside; provided further that the Senate then proceed to a vote on the adoption of the resolution of ratification on Thursday, May 8, at a time determined by the leader, after consultation with the Democratic leader.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Mr. President, I apologize to the distinguished majority whip, but