efficient use of the national airspace system by all stakeholders.

(d) REPORT BY THE SECRETARY.—Not less than two years after the date of the establishment of the pilot program under subsection (b)(1), the Secretary shall submit to the appropriate committees of Congress a report on the interim findings of the Secretary with respect to the pilot program. Such report shall include an analysis of how the pilot program affected military test and training.

(e) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate; and

(B) the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Armed Services of the House of Representatives.

(2) The term ''special activity airspace'' means the following airspace with defined dimensions within the National Airspace System wherein limitations may be imposed upon aircraft operations:

(A) Restricted areas.

(B) Military operations areas.

(C) Air Traffic Control assigned airspace.

(D) Warning areas.

SA 4732. Mr. REED submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CYBERSECURITY TRANSPARENCY.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14B (15 U.S.C. 78n–2) the following:

''SEC. 14C. CYBERSECURITY TRANSPARENCY.

''(a) DEFINITIONS.—In this section—

''(1) the term 'cybersecurity' means any action, step, or measure to detect, prevent, deter, mitigate, or address any cybersecurity threat or any potential cybersecurity threat;

''(2) the term 'cybersecurity threat'—

''(A) means an action, not protected by the First Amendment to the Constitution of the United States, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system; and

''(B) does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement;

''(3) the term 'information system'—

''(A) has the meaning given the term in section 3502 of title 44, United States Code; and

''(B) includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers;

''(4) the term 'NIST' means the National Institute of Standards and Technology; and

''(5) the term 'reporting company' means any company that is an issuer—

''(A) the securities of which are registered under section 12; or

''(B) that is required to file reports under section 15(d).

''(b) REQUIREMENT TO ISSUE RULES.—Not later than 360 days after the date of enactment of this section, the Commission shall issue final rules to require each reporting company, in the annual report of the reporting company submitted under section 13 or section 15(d) or in the annual proxy statement of the reporting company submitted under section 14(a)—

''(1) to disclose whether any member of the governing body, such as the board of directors or general partner, of the reporting company has expertise or experience in cybersecurity and in such detail as necessary to fully describe the nature of the expertise or experience; and

''(2) if no member of the governing body of the reporting company has expertise or experience in cybersecurity, to describe what other aspects of the reporting company's cybersecurity were taken into account by any person, such as an official serving on a nominating committee, that is responsible for identifying and evaluating nominees for membership to the governing body.

''(c) CYBERSECURITY EXPERTISE OR EXPERIENCE.—For purposes of subsection (b), the Commission, in consultation with NIST, shall define what constitutes expertise or experience in cybersecurity using commonly defined roles, specialties, knowledge, skills, and abilities, such as those provided in NIST Special Publication 800–181, entitled 'National Initiative for Cybersecurity Education (NICE) Cybersecurity Workforce Framework', or any successor thereto.''.

AUTHORITY FOR COMMITTEES TO MEET

Mrs. MURRAY. Mr. President, I have 5 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:00 a.m., to conduct a hearing.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:00 a.m., to conduct a business meeting.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:15 a.m., to conduct a hearing on nominations.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 10:00 a.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Tuesday, November 16, 2021, at 2:30 p.m., to conduct a closed briefing.

U.S. SUPREME COURT

Mr. WHITEHOUSE. Mr. President, I rise today for now the ninth time to unmask the rightwing, dark money scheme to capture our Supreme Court. I say ''capture'' in the sense of regulatory capture, an Agency capture—a well-known phenomenon.

Today, I turn to an important tool of the scheme's apparatus: the orchestrated amicus curiae brief.

So, first things first, amicus—or friend of the court—briefs are an important instrument in our judicial system. They help those who aren't parties to a case to share their expertise, insight, or advocacy with the Court. I file them myself. ''Friend of the court'' briefs are necessary and useful, usually.

However, in recent years, the Court has had a lot more friends than it used to. Amici filed 781 briefs in the 2014 Supreme Court term—a more than 800-percent increase from the 1950s and a 95-percent increase just from 1995. In the 2010 term, 715 amicus briefs were filed in 78 cases. By 2019, that number had swelled to 911 briefs in just 57 cases. The average number of briefs per argued case almost doubled—from 9 in 2010 to 16 in 2019.

There is another odd feature to this uptick of amicus briefs. Most of the time, you file an amicus brief when the Justices have taken a case and are poised to actually decide the outcome of that case, at the so-called merits stage of the case, which makes sense because this is when the rulings actually become law. But these days, more and more amici arrive when the Court considers whether to take up the case, when the Justices are deciding whether to grant certiorari, or cert. Between 1982 and 2014, the percentage of petitions with at least one cert-stage amicus more than doubled.

Justices pay attention to amicus briefs. The Court cited amicus briefs 606 times in 417 opinions from 2008 to 2013—far more than in the past. These briefs don't always add value, and top appellate judges are beginning to sound that alarm.

Seventh Circuit Judge Michael Scudder said in 2020: ''Too many amicus briefs do not even pretend to offer value and instead merely repeat . . . a party's position'' and ''serve only as a show of hands on what interest groups are rooting for what outcome.''

OK. So what does this have to do with the scheme?

Well, what happens if the Justices whom dark money forces ushered onto the Court are looking for that show of hands?

I doubt it is just a coincidence that the rightwing donor machine that set out to capture the Court has also kicked into gear flotillas of amici that

inundate the Court with briefs, signaling their desire for a certain outcome—a showing of hands that is orchestrated.

Now, the scheme is, by design, hard to make out. It runs on anonymous dark money for a reason. It works through front groups, some with multiple fictitious names. It works hard and spends plenty to hide its hand. Still, look carefully, and the scheme's hand is there to see. Like eddies swirling the water's surface as a creature moves beneath, signs of rightwing donor influence swirl around the Court.

One of the strongest signs is that there is a pattern—a pattern of success when orchestrated flotillas of dark money amici, funded by a small number of wealthy rightwing donors, show up: they win. This Court, the Court that dark money built, delivers in their favor. Exhibit A is probably the U.S. Chamber of Commerce, where the idea for this scheme first bubble up years ago with the Powell memo.

Over the past 15 years or so, the chamber has filed more amicus briefs at the Supreme Court than almost anyone else and has gotten its preferred result 70 percent of the time. And no one knows what company or what interest the chamber may be fronting for. That is hidden from the Court and from the other parties.

The chamber can even hide if one of its members wrote or funded the chamber's amicus brief in that member's own case. So the members of the party and the chamber on behalf of the member file an amicus brief, and no one is the wiser.

So it is no surprise that the chamber is trying very hard to block the Judicial Conference from bringing more transparency and daylight into the funding of these amicus briefs.

It is not just the chamber in this deep racket here. If you take the recent anti-union cases—Janus v. AFSCME, Cedar Point Nursery v. Hassid, and Freidrichs v. California Teachers Association, each case drew 10 or more amicus filers connected to these scheme donors.

In both Freidrichs and Janus, scheme megadonor the Bradley Foundation funded the law groups representing the anti-union plaintiffs and also funded a dozen supporting amici. The front groups even swapped seats with a group representing plaintiffs in one case, turning up as an amicus in the other case and vice versa. It is a front-group, pea-and-shell game that the Court, for some reason, indulges. It is no surprise that all of these cases delivered big wins for corporate interests out to weaken organized labor.

Or you could look at the scheme's attack on the Consumer Financial Protection Bureau. The CFPB has long been a target of rightwing interests. The Center for Media and Democracy reported that 16—16—rightwing foundations, including the Bradley Foundation and Donors Trust, had donated almost $70 million to 11 amici who opposed the Consumer Financial Protection Bureau.

I did a brief in that case, an amicus brief of my own, and I put this graphic in my amicus brief as an appendix to show the Court the common funding of all of these groups that purported to come in as independent, unassociated amicus filers.

So here are the donors across the top—Donors Trust, Bradley Foundation, Scaife Foundation, Searle Trust, Charles Koch Foundation, Kirby Foundation, and the DONNA Foundation—and here are the groups that filed briefs. Every single one got money from Donors Trust, which is called the Koch brothers' ATM. It is the entity that hides who the real donor is, and it just shows up as Donors Trust.

Here is the Bradley Foundation—all but one, two, three. Here is the Scaife Foundation—all but one, two, three, four, five, and so on. So there is an enormous amount of overlap that I was able to figure out, as pointed out in my brief, and then the Center for Media and Democracy came through with a more complete report and did an even better job of researching that.

So remember from my previous speeches how it was the Federalist Society that was home to the dark money turnstile that selected all three of Trump's Supreme Court appointees. Eleven amici supporting the challenge to the CFPB received funding from entities that also funded the Federalist Society. So it is a pea-and-shell game of funded amici with a lot of shells.

And then there is the biggest scheme case of them all. You might call it the scheme-a-palooza. The case was called Americans for Prosperity Foundation v. Bonta. In this case, more than 50 dark money organizations filed amicus briefs at the cert stage, when the question is, Do we take the case, before it is even being argued on the merits? Fifty dark money groups appeared at the cert stage, and another 45 turned up at the merit stage, all to support the Americans for Prosperity Foundation, which you will recognize as the Koch-backed twin to Americans for Prosperity, which is the front group at the heart of the Koch brothers' political operation. It is the center of the rightwing political dark money web.

Essentially, the Americans for Prosperity Foundation and Americans for Prosperity are the same organization. In current, state-of-the-art, dark money politics, you twin a 501(c)(3) and a 501(c)(4) and work them as a pair.

Sure enough, if you look at Americans for Prosperity and Americans for Prosperity Foundation, they share quite a lot. They share the exact same address, for instance: 1310 North Courthouse Road, Suite 700, Arlington, VA. They share the same CEO. They share the same senior vice president of grassroots in Americans for Prosperity and senior vice president for State operations in Americans for Prosperity Foundation. They share the same senior vice president of policy. They share the same chairman of the board. They share the same president. If you were to do a piercing of the corporate veil analysis, you would be hard-pressed to show that these are not essentially the same organization.

And that armada of amici that came into the Americans for Prosperity Foundation case, all of them received funding from the Koch political network or the Koch identity laundering group, Donors Trust.

At least eleven prominent rightwing groups gave close to $222 million, spread across 69 of those amici who came in to support their fellow Americans for Prosperity Foundation.

If the little flotillas of a dozen or so in the CFPB case and in the anti-labor cases were sending a signal to the Court, this turnout was a screaming alarm—a megaphone—in the Court's face.

So what made the AFPF case such a big deal for the scheme? Well, this case gave ''the Court that dark money built'' an opportunity to do something that dark money donors desperately wanted. It gave the Court the opportunity to create for the dark money donors a new constitutional right—a new constitutional right to dark money, the essential political weapon for the scheme. And the Court did it. The Republican Justices, six to three, did it.

''The Court that dark money built'' struck down a State rule requiring limited disclosure of nonprofit donor information from a very political nonprofit and went on to cast a shadow of doubt on the constitutionality of disclosure requirements of any kind.

The amicus mischief at the Court continues. Look at the gun case before the Court right now, New York State Rifle & Pistol Association v. Bruen. This case is priority No. 1 for the NRA and its gun industry backers. It has been a centerpiece of the scheme for a very long time to have the Court create gun rights that even a Republican Congress won't give to the firearms industry. So in this case, the amicus signal flags are flying.

Sixty-five organizations filed briefs supporting the NRA affiliate that brought the challenge. At least 13 of those groups have ties to the scheme's dark money funding network.

Several amici are arms of other amici; that is, the fundraising or lobbying arm of an organization that itself also filed a brief in the case. At least five amici are NRA affiliates, and they were joined by the NRA's ''Civil Rights Defense Fund.'' And, believe it or not, thanks to leaks by Russian hackers, we have seen that the NRA paid a lawyer at one of the amicus groups hundreds of thousands of dollars to file pro-NRA briefs in this case, none of which was disclosed to the Court, none of which was disclosed to the parties, none of which was disclosed to the public. It took Russian hackers to find out that the NRA was funneling money to an amicus for a brief.

Well, it seems like the Justices got the signal from all of those dark-

money-funded amici. Based on questioning from the Court Republicans at oral argument, this case looks almost certain to go in the scheme's favor.

Pause to consider what this means. The NRA basically cloned itself to amplify its voice before the Court, just as other scheme front groups have done in other cases, in wave upon orchestrated wave of amicus briefs, washing into the cases that matter to the scheme's big donors.

And when those little orchestrated flotillas or the big orchestrated armadas show up at the Court to signal what they want, they always get what they want from the dark money majority at the Court—always. Maybe not all they want always—some groups ask for more than others. Some signal where they want the Court to go in future cases, not just what they want in this case. But the response from the Republicans on ''the Court that dark money built'' is clear. They heed the dark money signals every single time.

Our Supreme Court is awash in dark money influence, with flotillas of dark-money-funded front groups—front groups that don't bother to ''offer value,'' that aren't even real, in the sense that they have no real business or function, that exist merely to signal their donors' desired outcomes, while hiding their donors' identities.

It is an armada of fakery that the court indulges. This fakery lets a small, wealthy, donor elite manufacture sham allies to get themselves a bigger say at the Supreme Court than everyone else. They are out to get the Court to do stuff for them that Americans don't want and that Congress won't vote for. But with a captured Court, they can get what they want, and they do.

The American people may not be able to see all of the rot, but they can see enough to know that something is rotten over there across First Street at that Court. We must set it right.

To be continued.

The PRESIDING OFFICER. The Senator from Rhode Island.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 117–1

Mr. WHITEHOUSE. Mr. President, as if in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 16, 2021, by the President of the United States: Amendment to Montreal Protocol ''Kigali Amendment,'' Treaty Document No. 117–1. I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the ''Montreal Protocol''), adopted at Kigali on October 15, 2016, by the Twenty-Eighth Meeting of the Parties to the Montreal Protocol (the ''Kigali Amendment''). The report of the Department of State is also enclosed for the information of the Senate.

The principal features of the Kigali Amendment provide for a gradual phasedown in the production and consumption of hydrofluorocarbons (HFCs), which are alternatives to ozone-depleting substances being phased out under the Montreal Protocol, as well as related provisions concerning reporting, licensing, control of trade with non-Parties, and control of certain byproduct emissions.

The United States has sufficient domestic authority to implement obligations under the Kigali Amendment, including through the American Innovation and Manufacturing Act of 2020 (the ''AIM Act'') and the Clean Air Act. The Environmental Protection Agency's recent rulemakings under the AIM Act establish a domestic HFC allocation system and other provisions that would enable the United States to begin implementation of the provisions of the Kigali Amendment.

The Kigali Amendment has strong support from the U.S. business community and nongovernmental organizations. Ratification by the United States would advance U.S. interests in remaining a leader in the development and deployment of HFC alternatives, ensuring access to rapidly growing refrigeration and cooling markets overseas and stimulating U.S. investment, exports, and job growth in this sector. Ratification will also ensure the United States continues to have a full voice to represent U.S. economic and environmental interests as implementation of the Kigali Amendment moves forward in coming years.

The Kigali Amendment entered into force on January 1, 2019, and there are currently 124 Parties to the Amendment. The Senate has given its advice and consent to ratification of all four previous amendments to the Montreal Protocol, with bipartisan support. I recommend that the Senate give favorable consideration to the Kigali Amendment and give its advice and consent to ratification at the earliest date.

JOSEPH R. BIDEN, Jr.,
THE WHITE HOUSE, *November 16, 2021.*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations en bloc: Calendar Nos. 466, 509, and 358; that the Senate vote on the nominations en bloc without intervening action or debate; the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that any statements related to the nominations be printed in the Record; that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The question is, Will the Senate advise and consent to the following nominations, en bloc: subject to qualifications provided by law, the following for Director, National Oceanic and Atmospheric Administration Commissioned Officer Corps and Office of Marine and Aviation Operations to be Rear Admiral, Nancy A. Hann; Willie L. Phillips, Jr., of the District of Columbia, to be a Member of the Federal Energy Regulatory Commission for a term expiring June 30, 2026; and Richard Trumka, Jr., of Maryland, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 2021?

The nominations were confirmed en bloc.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

NATIONAL COLLEGE APPLICATION MONTH

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 449, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 449) designating November 2021 as ''National College Application Month''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 449) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

HONORING THE LIFE AND LEGACY OF THE LATE SENATOR MAX CLELAND

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S.