No. 24-621

IN THE

Supreme Court of the United States

NATIONAL REPUBLICAN SENATORIAL COMMITTEE, *et al.*,

Petitioners,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF OF *AMICUS CURIAE* REPUBLICAN PARTY OF FLORIDA IN SUPPORT OF PETITIONERS

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INTEREST OF AMICUS CURIAE[1]

The Republican Party of Florida ("RPOF") is the officially recognized Republican state political party in the State of Florida. With over five million registered Florida Republican voters, RPOF exists to elect Republican candidates to public office, promote the principles of the Republican Party, and facilitate civic engagement across Florida's sixty-seven counties.

RPOF plays a central role in recruiting and supporting candidates for federal, state, and local office; conducting voter registration and get-out-the-vote ("GOTV") efforts; and communicating a unified message on behalf of its federal, state, and local nominees. These activities require close coordination between RPOF and its candidates, particularly in a state like Florida, where campaigns are fast-moving, voter attention spans are short, and timely, coherent communication is essential.

RPOF has a direct interest in this case because the Federal Election Campaign Act's ("FECA") coordinated party expenditure limits, 52 U.S.C. § 30116(d), impose severe and unnecessary restrictions on RPOF's ability to work effectively with its federal candidates. RPOF has registered as a federal political committee with the Federal Election Commission and through its federal account makes contributions and expenditures to influence federal elections and support its Republican

1. In accordance with this Court's Rule 37.6, no counsel for any party has authored this brief in whole or in part, and no person or entity, other than amici, their members, or counsel, have made a monetary contribution to the preparation or submission of this brief.

federal candidates. The coordinated party expenditure limits force RPOF to choose between fragmenting its communications and reducing its overall impact, or ceding a central role in campaigns to less accountable outside organizations.

Florida's own experience demonstrates that robust coordination between a political party and its candidates does not create actual or apparent quid pro quo corruption. Under Florida law, state parties are not subject to federal-style coordinated spending caps when supporting their state and local candidates, and strong contribution limits, earmarking prohibitions, and disclosure requirements prevent corruption without impairing RPOF's ability to perform its core democratic functions.

Because the federal coordinated expenditure limit burdens core political speech and association without serving any legitimate anti-corruption interest, RPOF supports Petitioners and urges the Court to strike it down.

SUMMARY OF ARGUMENT

The First Amendment's protections for speech and association are at their zenith when applied to political parties engaged in election campaigns. Coordinated communication between a party and its candidates is not corruption—it is the very essence of a party system of government. This Court has recognized that political parties enjoy a constitutionally protected right to associate for the common advancement of shared beliefs. *Democratic Party of the United States v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 121-22 (1981). In furtherance of that right, political parties perform an indispensable function in

American democracy: helping voters understand where candidates stand and what their election would mean for governmental policy. Political parties' ability to communicate in concert with their nominees is at the core of the First Amendment.

Section 30116(d)'s coordinated expenditure limit is a relic of an earlier era in campaign finance law, upheld in *Federal Election Commission v. Colorado Republican Federal Campaign Committee* (*Colorado II*), 533 U.S. 431 (2001), based on speculative fears of "corruption by circumvention." More than two decades of real-world experience—especially in states like Florida—have shown those fears to be unfounded. More than half the States allow broad or unlimited party-candidate coordination without evidence of quid pro quo arrangements. Florida's own record in state elections confirms that contribution limits, anti-earmarking rules, and disclosure laws are more than sufficient to prevent circumvention of contribution limits.

Since *Colorado II*, this Court's campaign finance jurisprudence has evolved. Decisions like *McCutcheon v. Federal Election Commission*, 572 U.S. 185 (2014) and *Federal Election Commission v. Cruz*, 596 U.S. 289 (2022) make clear that restrictions on political speech must be justified by evidence of actual or apparent quid pro quo corruption and cannot rest on redundant "prophylaxis-upon-prophylaxis" rationales. The coordinated expenditure limit fails this test; it exists only to suppress the most effective form of party communication.

Moreover, by limiting state and national party coordination with their nominees, § 30116(d) weakens

political parties and drives campaign resources to less transparent and less accountable outside groups. The result is a campaign finance system that undermines voter confidence, party accountability, and the robust exchange of ideas at the heart of the First Amendment.

This Court should overrule *Colorado II* and hold that the coordinated expenditure limit is unconstitutional.

ARGUMENT

I. Political parties operate at the core of the First Amendment's protections of speech and association.

"Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution." *Buckley v. Valeo*, 424 U.S. 1, 14 (1976). That is why this Court has repeatedly explained that the First Amendment "has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Id.* at 15 (quoting *Monitor Patriot Co. v. Roy*, 401 U.S. 265 (1971)). These points appear at the very front end of modern campaign-finance doctrine for a reason: elections are the primary means by which citizens govern themselves, and speech about who should serve—and on what terms—sits at the constitutional center of that process.

Because "contribution and expenditure limitations operate in an area of the most fundamental First Amendment activities," courts must treat restrictions on electoral speech and association with the utmost care. *Buckley*, 424 U.S. at 14. Any ceiling on political spending reduces the "quantity of expression" by limiting "the

number of issues discussed, the depth of their exploration, and the size of the audience reached," which is why such limits warrant heightened scrutiny. *Id.* at 19.

Political parties are not just another class of speakers within this framework; they are the institutions through which citizens organize to persuade their fellow voters. As the Federal Respondents' merits brief underscores, representative democracy requires "the ability of citizens to band together" in parties to promote candidates for public office, and this Court has "vigorously affirm[ed] the special place the First Amendment reserves for, and the special protection it accords" to a party's selection and promotion of its nominees. Br. of Fed. Resp. 17 (quoting *California Democratic Party v. Jones*, 530 U.S. 567, 574 (2000); *Randall v. Sorrell*, 548 U.S. 230, 256 (2006) (plurality)).

The associational dimension is critical. In *Eu v. San Francisco County Democratic Central Committee*, the Court emphasized that the First Amendment protects a political party's autonomy in its "internal affairs," which includes "discretion in how to organize itself, conduct its affairs, and select its leaders." 489 U.S. 214, 230 (1989). The Court went so far as to describe a law curbing a party's internal communications as a "particularly egregious" form of censorship—an admonition that resonates even more strongly where the government curtails a party's communication with its own "standard bearer"—the political party's nominee. *Eu*, 489 U.S. at 224 (quotation omitted). Limits on how parties speak and associate with their nominees therefore burden both sides of the First Amendment—speech and association—at the precise moment (the "conduct of campaigns") when constitutional protection is at its height. *Buckley*, 424 U.S. at 14.

The "basic function" of a political party is to nominate candidates and encourage voters to elect them, and a candidate, in turn, is the party's "ambassador to the general electorate," carrying the party's name and policies to voters. *Jones*, 530 U.S. at 575, 580. That reciprocal relationship is not just typical; it is the natural structure of representative politics, so "it is natural for [parties and their nominees] to work together" during campaigns. *Colorado II*, 533 U.S. at 473 (Thomas, J., dissenting). When the government restricts coordinated political party speech with its candidates, it strikes at the party's core institutional function and the associational rights that make it possible.

The Court's cases therefore treat party speech not as an afterthought, but as essential to voters' ability to evaluate platforms and candidates. The Federal Respondents' merits brief observes, correctly, that voters often "judge candidates by their parties and judge parties by their candidates" (Br. of Fed. Resp. 18), reflecting how party-candidate coordination helps the electorate make informed choices. That is why ceilings on coordinated spending "severely limit the ability of a party to assist its candidates' campaigns" across the most impactful channels of modern persuasion—advertising, events, and voter contact. *Randall*, 548 U.S. at 257; *see also Buckley*, 424 U.S. at 39 (primary effect of expenditure limitations "is to restrict the quantity of campaign speech by individuals, groups, and candidates"); *Colorado Republican Federal Campaign Committee v. Federal Election Comm'n* (*Colorado I*), 518 U.S. 604, 630 (1996) (Kennedy, J., concurring in the judgment and dissenting in part) (recognizing our "constitutional tradition of political parties and their candidates engaging in joint First Amendment activity").

RPOF's experience in Florida drives this point home. In one of the nation's largest, most expensive, and most diverse political environments, effective electioneering requires sustained, message-consistent coordination between the party and its candidates across multiple high-cost media markets and voter-outreach programs. The First Amendment secures precisely that kind of coordinated speech and association. The constitutional guarantee does not treat party-candidate collaboration on the common goal of securing electoral victory as suspect—it treats it as central to self-government.

The coordinated expenditure limit in § 30116(d) directly interferes with this core function. It arbitrarily caps the amount of money RPOF can spend in coordination with its own nominees for federal office, even when those expenditures are devoted entirely to constitutionally protected political speech. That cap forces RPOF, as a state political party, to either curtail its message, engage in cumbersome and limited "exempt party activities," or operate in parallel with its federal candidates via uncoordinated independent expenditures—duplicating work, wasting resources, diluting the clarity of the candidate's voice, and, in Florida, risking the loss of hundreds of thousands of dollars in filing fees and party assessment funds. Fla. Stat. § 106.087(1). This is not a curb on corruption—it is a curb on speech.

II. Florida's experience confirms that coordinated party expenditure limits are unnecessary to prevent corruption.

In *Colorado II*, the Court accepted the government's argument that unlimited coordinated party expenditures

could enable "corruption by circumvention" of contribution limits. 533 U.S. at 461. Florida's experience, like that of many states, disproves that fear. Florida's state-level elections operate without a federal-style cap on coordinated party expenditures. Florida law permits RPOF to work closely with its nominees for statewide office, the state legislature, and local office to plan and fund campaign messaging without an arbitrary ceiling.

At the same time, Florida's campaign-finance code combines three interlocking safeguards that directly target the only corruption interest recognized in this Court's more recent precedents—actual or apparent *quid pro quo* corruption—without suppressing core party-candidate speech.

First, Florida law imposes contribution limits capping the amount persons (including state political committees) may give directly to state and local candidates, providing the same first-line anticorruption protection found in federal law. *See* Fla. Stat. § 106.08(1)(a) (setting per-election contribution limit of $3,000 to candidates for statewide office and $1,000 for other candidates). Florida's candidate contribution limits, like the federal candidate contribution limits, perform the heavy lifting: they prevent large personal contributions directly to a candidate that could carry the risk (or appearance) of a direct quid pro quo. However, unlike federal law, Florida does not prohibit corporations or labor organizations from making direct contributions to candidates. And Florida has established much higher and less restrictive limits on contributions from political parties to candidates, *see* Fla. Stat. § 106.08(2)(a) and (b) (limiting political party contributions to state legislative and local candidates

at $50,000 in the aggregate and statewide candidates at $250,000 in the aggregate). And Florida's party contribution limits provide great latitude to political party expenditures on behalf of its candidates by explicitly excluding many common categories of party-candidate coordinated expenditures. *See id.* (providing that political party's in-kind payment of "polling services, research services, costs for campaign staff, professional consulting services, telephone calls, and text messages" does not count against statewide candidates' contribution limit); *see also* Fla. Stat. § 106.021(3)(d) (providing that political party expenditures for "obtaining time, space, or services in or by any communications medium for the purpose of jointly endorsing three or more candidates" is not considered a contribution or expenditure to or on behalf of any candidate). There is also no limit on expenditures by a political party in Florida for communications that reference or support a candidate for state or local office but do not expressly advocate for their election, because these communications are not considered contributions. *See* Fla. Stat. §§ 106.011(8) ("electioneering communications") and 106.1437 ("miscellaneous advertisements"). Because Florida fixes the amount any donor can give a candidate directly, there is no need for an additional ceiling on how the party coordinates its own spending on speech with that candidate. Doctrinally, the direct candidate contribution limit is the narrowly tailored tool; a separate coordinated political party expenditure cap would be extra prophylaxis layered on top of an already effective anticorruption rule.

Second, Florida law separately forecloses the classic circumvention route—channeling money "through" the party to a specific candidate. *See* Fla. Stat. § 106.08(6)(a) (prohibiting political party from accepting "any

contribution that has been specifically designated for the partial or exclusive use of a particular candidate"). Like the federal prohibition on circumvention of base limits through contributions to political party committees, 11 C.F.R. § 110.6, Florida's statute makes it unlawful for a donor to direct a contribution to a political party with instructions that the funds be used for a named candidate. That rule matters because it addresses the precise theory that animated *Colorado II*: the concern that donors would use parties as "pass-through" entities to evade the base contribution limits. 533 U.S. at 462. In Florida, they cannot. The anti-earmarking rule severs the link between a donor's check to the party and any fixed obligation to a candidate, eliminating the quid pro quo potential that could arise from a directed transfer. And Florida does this while allowing individuals, corporations, and political committees to give unlimited contributions to a political party's state account, whereas federal law permits an individual to give only $10,000 to a state political party committee's federal account. 52 U.S.C. § 30116(a)(1)(D).

Finally, Florida imposes a comprehensive first-dollar campaign finance disclosure regime that requires both candidates and political parties to file regular reports of "all contributions received" and "all expenditures made." *See* Fla. Stat. § 106.07 (candidate and political committee reporting); Fla. Stat. § 106.29(1) (political party reporting). This system of public disclosure makes evasion both detectable and sanctionable. Transparency thus supplies a natural back-end check on the first two safeguards: if someone tried to circumvent Florida's candidate contribution limits by channeling a contribution to that candidate through a party, those transactions would be publicly reported.

These three safeguards make a separate coordinated-expenditure cap unnecessary. Taken together, Florida's framework targets quid pro quo corruption at each relevant location: 1) at the source, with contribution limits constraining the size of donors' direct contributions to candidates; 2) at the routing stage, with anti-earmarking restrictions to eliminate circumvention via "pass-through"; and 3) at the verification stage, with comprehensive disclosure providing accountability on all contributions and expenditures.

No further limitations on party-candidate coordination are needed to prevent quid pro quo corruption with these three rules in place. That is why Florida's experience is so probative. The State conducts some of the nation's most expensive, high-salience campaigns across multiple media markets, and yet—without a federal-style coordinated expenditure cap on state campaigns—there has been no systemic evidence of quid pro quo corruption arising from a political party's coordination with its own nominees. Florida's real-world track record thus shows that the federal cap does not advance the anticircumvention interest in any meaningful way; it merely suppresses the most effective form of party speech.

Florida's model at the state level mirrors the core federal safeguards that already exist at the national level: base contribution limits, anti-earmarking, and disclosure. The coordinated-expenditure cap then functions as an *additional* level of restraint on the party's own speech—a speaker- and content-targeted restriction layered on top of other rules that already neutralize the purported corruption interest several times over. A concurring opinion below aptly referred to the federal coordinated

expenditure limit as a "prophylaxis-upon-prophylaxis[-upon-prophylaxis-upon-prophylaxis-upon-prophylaxis] approach" functioning as a "significant indicator that the regulation may not be necessary for the interest it seeks to protect." *Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n*, 117 F.4th 389, 403-04 (6th Cir. 2024) (Thapar, J., concurring) (quoting *Cruz,* 596 U.S. at 306).

Florida's experience demonstrates that the first-order rules are sufficient; adding a federal-style coordinated-expenditure ceiling is not "closely drawn" to any legitimate end. Instead, it is a speech-rationing device that disables the very institutions—state political parties—best positioned to communicate clearly and accountably to voters. Florida is among the nation's most populous states, with more than 13.5 million registered voters and multiple high-cost media markets. Statewide campaigns (and even state legislative campaigns) regularly rank among the most expensive in the country, often requiring tens of millions of dollars in advertising, field operations, and voter-contact programs to remain competitive. If coordinated-party-candidate expenditures were a vehicle for circumvention, Florida would be the proving ground. Yet under Florida law, where state parties may coordinate with their nominees without a federal-style cap, there has been no evidence of quid pro quo corruption arising from party coordination. That experience matters: it demonstrates that the federal coordinated-expenditure cap is not necessary to prevent corruption even in the most challenging electoral environments. Florida's record shows that candidate contribution limits, earmarking bans, and transparency requirements do the constitutional work. A further ceiling on a party's own speech is not just redundant, it is uniquely harmful in precisely the setting where the First Amendment's protection is at its zenith.

III. Coordinated party expenditure limits harm the ability of state parties to fulfill their core political functions.

Political parties perform functions that no other actor in the campaign ecosystem can replicate. They recruit candidates, develop platforms, mobilize voters, build lasting coalitions, aggregate resources, and channel those resources into clear, candidate-aligned messages voters can understand. By capping the very activity that makes parties distinctive—working *with* their nominees—the federal coordinated expenditure limit hobbles parties in ways that other participants in the system do not experience. The Federal Respondents' brief explains why: "independent spending may prove counterproductive," while coordination lets parties and candidates "work together" making party speech "more focused, understandable, and effective," and enabling a "unified message" that avoids counterproductive communications. Br. of Fed. Resp. 20 (quotations omitted). These are not abstractions. They are the everyday mechanics of party politics—and the very reasons parties exist.

The limits impose at least three distinct, party-specific burdens. First, they ration the most efficient party activity—candidate-coordinated party communications—down to a "minuscule fraction of total campaign spending," *Id.* at 21, even as competitive federal races in Florida routinely cost millions or tens of millions of dollars. *See, e.g.*, Scott Powers, *Final Tab: Florida's U.S. Senate Race Cost Almost $205 million in 2018*, Florida Politics (Feb. 4, 2019) https://tinyurl.com/mtdjc4cc; Emily Cochrane, *G.O.P. Bolsters House Majority by Retaining Two Seats*

in Florida, New York Times (Apr. 1, 2025) https://tinyurl.com/43vse6su (noting "millions of dollars" raised by candidates for two special congressional elections). Second, they force parties who wish to communicate to voters beyond the caps to set up expensive siloed independent expenditure units with firewalls and redundant staff and vendors in order to promote the success of specific candidates. Third, they chill speech by threatening parties with investigations and penalties if protected advocacy is later deemed to be "coordinated."

Florida's experience magnifies each problem. Florida is a sprawling, media-intensive state with multiple major (and expensive) broadcast markets. The types of speech that typically constitute party coordinated communications—broadcast, cable, and satellite ads; newspaper and magazine advertising; outdoor; mass mailings; phone banks; and paid internet placements—are precisely the channels a statewide party must use to reach Florida voters efficiently. 11 C.F.R. § 100.26. A single week of coordinated broadcast advertising can quickly consume a significant share of RPOF's cap, leaving little room for other coordinated voter-contact or other activities that parties are uniquely positioned to perform. When the cap hits, the party must either stand down or divert its resources into less efficient and more costly forms of speech such as independent expenditures or cumbersome and restrictive "exempt party activities." *See*, *e.g.*, 11 C.F.R. § 100.87 (specifying detailed conditions under which a state political party's payment for "bumper stickers," "handbills," and "yard signs" used in connection with volunteer activities on behalf of the party's nominee may be exempt from contribution limits).

The record confirms how tight these caps are in practice, even in Florida's highest profile races. In 2022, Republican committees made just under $3.7 million in total coordinated expenditures on behalf of Senator Marco Rubio; several Florida Congressional contests also involved coordinated expenditures at or near the combined applicable cap of $103,000. Jt. App'x 141-42. The inevitable result in a state like Florida is that the cap dictates *how* RPOF may speak and *how much* it may say in concert with its federal nominees.

In short, Florida's realities highlight the doctrine: low coordinated caps plus high-cost media markets force parties to abandon the most effective, accountable, and voter-centric form of speech in favor of siloed and often counterproductive alternatives—or to abandon the field and refrain from talking to voters about their nominees. FECA's coordinated expenditure limit uniquely impairs state parties precisely where their constitutional value is highest. These constraints serve no anti-corruption purpose; they only diminish RPOF's effectiveness in serving voters.

IV. The coordinated party expenditure limit is out of step with modern campaign finance jurisprudence.

The coordinated party expenditure limit cannot be reconciled with this Court's contemporary First Amendment framework. Recent decisions insist that the only interest sufficient to justify campaign finance limits—restrictions on core campaign speech—is preventing the reality or appearance of quid pro quo corruption: "dollars for political favors." *McCutcheon*, 572 U.S. at 192 (plurality) (quoting *Federal Election Comm'n v. National*

Conservative Political Action Comm., 470 U.S. 480, 497 (1985)). *McCutcheon* rejected broader conceptions that quid pro quo corruption includes "mere influence or access" and rejected additional limits based on speculative anti-circumvention theories. *Id.* at 208. *Cruz* followed suit, warning again against the "prophylaxis-upon-prophylaxis" approach to regulating campaign finance. 596 U.S. at 306.

Modern doctrine likewise demands real evidence and narrow tailoring. As Petitioners explain, closely drawn scrutiny is "rigorous" and courts must be "particularly diligent in scrutinizing the law's fit," especially where Congress stacks one prophylactic on another. Br. of Pet. 31. The coordinated expenditure cap fails that test because existing base limits and anti-earmarking rules already target the supposed quid-pro-quo risk; piling on a separate cap aimed at the same concern is exactly what *McCutcheon* forbids.

The Court has also emphasized that disclosure now provides a powerful, less-restrictive safeguard. Congress's post-BCRA real-time reporting regime makes disclosure "effective to a degree not possible" when *Colorado II* was decided, undermining any need for blunt caps on coordinated party speech. *McCutcheon*, 572 U.S. at 224. For that reason alone, the coordinated party expenditure limit warrants renewed consideration under the current doctrinal and factual landscape.

Finally, the direction of travel is unmistakable: since *Colorado II*, the Court has repeatedly invalidated campaign-finance limits that were not tightly tethered to quid-pro-quo corruption, including the limits struck

down in *Cruz* and *McCutcheon*. Carrying forward a unique cap on a political party's speech coordinated with its own nominee is out of step with that jurisprudence and destabilizes the law of political speech. The better course is to align this outlier with the Court's modern cases and restore full First Amendment protection to coordinated party speech.

CONCLUSION

Florida's experience shows that strong political parties and effective anti-corruption safeguards can coexist without the coordinated expenditure cap. Section 30116(d) burdens the very speech and association the First Amendment exists to protect without serving any valid governmental interest. This Court should overrule *Colorado II* and reverse the judgment of the United States Court of Appeals for the Sixth Circuit.

Respectfully submitted,

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