No. 26-88

IN THE

Supreme Court of the United States

ALASKA POLICY FORUM,

Petitioner,

v.

ALASKA PUBLIC OFFICES COMMISSION, ET AL.,

Respondents.

On Petition For a Writ of Certiorari to the Alaska Supreme Court

BRIEF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AND THE ALASKA CHAMBER AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

JONATHAN D. URICK
U.S. CHAMBER LITIGATION CENTER
1615 H Street, NW
Washington, DC 20062

CALEB P. BURNS
Counsel of Record
JEREMY J. BROGGI
BOYD GARRIOTT
WILEY REIN LLP
2050 M Street NW
Washington, DC 20036
(202) 719-7000
CBurns@wiley.law

Counsel for Amici Curiae

TABLE OF CONTENTS

Page

INTRODUCTION AND INTEREST OF *AMICI CURIAE* 1

SUMMARY OF ARGUMENT 3

ARGUMENT 5

I. The Court Should Grant The Petition Because Expansive Registration And Disclosure Laws Chill Speech And Association. 7

   A. Registration And Disclosure Requirements Burden Speech. 7

   B. Ambiguity Magnifies The Burdens Of Registration And Disclosure Requirements 11

II. The Court Should Grant The Petition To Reinforce That Registration And Disclosure Laws Are Subject To Rigorous Constitutional Guardrails. 15

   A. The Court Should Reaffirm That Laws Regulating Political Speech Must Have A Precise Scope. 16

   B. The Court Should Clarify The Interests That Can Justify Registration And Disclosure Requirements. 19

CONCLUSION 23

TABLE OF AUTHORITIES

Page(s)

Cases

American Meat Institute v. USDA,
760 F.3d 18 (D.C. Cir. 2014) 21

Americans for Prosperity Foundation v. Bonta,
594 U.S. 595 (2021) 9, 10, 20

Ashcroft v. Free Speech Coalition,
535 U.S. 234 (2002) 17

Buckley v. Valeo,
424 U.S. 1 (1976) 4, 9, 11, 12, 16, 20, 21

Chamber of Commerce of the United States of America v. Lierman,
151 F.4th 530 (4th Cir. 2025) 12

Chiles v. Salazar,
146 S. Ct. 1010 (2026) 15

Citizens United v. FEC,
558 U.S. 310 (2010) 13, 20, 21

FEC v. Cruz,
596 U.S. 289 (2022) 19

FEC v. Massachusetts Citizens for Life, Inc.,
479 U.S. 238 (1986) 8

FEC v. Wisconsin Right To Life, Inc.,
551 U.S. 449 (2007) 12, 15, 16, 17, 18

First Choice Women's Resource Centers, Inc. v. Davenport,
146 S. Ct. 1114 (2026) 9, 10

Gentile v. State Bar of Nevada,
501 U.S. 1030 (1991) 12

Human Life of Washington Inc. v. Brumsickle,
624 F.3d 990 (9th Cir. 2010) 18

Janus v. American Federation of State, County, & Municipal Employees, Council 31,
585 U.S. 878 (2018) 17

John Doe No. 1 v. Reed,
561 U.S. 186 (2010) 20

Markley v. State Elections Enforcement Commission,
349 Conn. 67 (2024) 18

McConnell v. FEC,
540 U.S. 93 (2003) 17

McCutcheon v. FEC,
572 U.S. 185 (2014) 19

McIntyre v. Ohio Elections Commission,
514 U.S. 334 (1995) 22

Monitor Patriot Co. v. Roy,
401 U.S. 265 (1971) 4

Moody v. NetChoice, LLC,
603 U.S. 707 (2024) 21

NAACP v. Alabama,
357 U.S. 449 (1958) 10, 13

NRSC v. FEC,
146 S. Ct. 2404 (2026) 4, 19, 20

Percoco v. United States,
598 U.S. 319 (2023) 13

Snyder v. United States,
603 U.S. 1 (2024) 11

State v. Grocery Manufacturers Association,
195 Wash. 2d 442 (2020) 14

Thomas v. Collins,
323 U.S. 516 (1945) 8

United States v. Hansen,
599 U.S. 762 (2023) 11

Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton,
536 U.S. 150 (2002) 7, 8

Wyoming Gun Owners v. Gray,
83 F.4th 1224 (10th Cir. 2023) 18

Statutes

Alaska Stat. § 15.13.040 .... 7, 21

Alaska Stat. § 15.13.050 7

Alaska Stat. § 15.13.090 9

Other Authorities

Alaska Public Offices Commission, Advisory Opinion 24-04-CD (Sept. 9, 2024), available at https://tinyurl.com/y4tz4kxk 21

Press Release, U.S. Chamber of Commerce, U.S. Chamber Joins Alaska Business Leaders for Working Families Tax Cuts Roundtable Alongside Speaker Johnson and Members of Congress (Aug. 12, 2026), https://tinyurl.com/4an3c6m5.................. 2

Press Release, U.S. Chamber of Commerce, U.S. Chamber, Triangle East Chamber Host Retail Crime Roundtable with Rep. Brad Knott (July 31, 2026), https://tinyurl.com/3vyx38dx.............................. 2

INTRODUCTION AND INTEREST OF *AMICI CURIAE*[1]

The Chamber of Commerce of the United States of America is the world's largest business organization. As the nation's leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

The Alaska Chamber is Alaska's largest advocacy organization, serving as the voice of business throughout the state. Its mission is to promote a healthy business environment in Alaska. The Alaska Chamber represents more than 700 businesses, manufacturers, and local chambers and its members employ more than 55,000 Alaskans.

This case concerns an issue that is important to the U.S. Chamber, the Alaska Chamber, and their members: the ability of private organizations to express opinions about matters of public concern. Under the Alaska statute at issue here, organizations must

---

[1] Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for any party authored this brief in whole or in part and no entity or person, aside from *amici curiae*, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief. *Amici* provided timely notice of this filing to all parties.

register with the State and publicly name their donors if they expend funds on speech relating to issues that are the subject of a state ballot initiative. It is obvious that state-mandated registration and disclosures as a condition of expressing opinions on the most important topics of the day impose serious expressive and associational burdens. Worse still, the line dividing regulated "advocacy" from unregulated issue discussion is fuzzy, which further chills free and open debate by those who wish to avoid the State's onerous requirements.

Those burdens matter to the business community. "[F]ree association, free expression, and free enterprise are deeply intertwined." *See* Br. of U.S. Chamber of Commerce, *NRSC v. FEC*, No. 24-261, at 10 (Aug. 28, 2025), available at https://tinyurl.com/y2xp4mzc. Businesses and their associations are participants not only in the literal marketplace, but also in the figurative marketplace of ideas. They express views about important public-policy topics—including topics that may become the subject of ballot initiatives, such as tax policy,[2] retail crime,[3] and more. But if subjected to invasive registration and disclosure requirements, the business community will be deterred from offering its perspectives—to the detriment of policymakers, businesses, customers, and the general public alike. Further, uncertainty in

[2] *See*, Press Release, U.S. Chamber of Commerce, U.S. Chamber Joins Alaska Business Leaders for Working Families Tax Cuts Roundtable Alongside Speaker Johnson and Members of Congress (Aug. 12, 2026), https://tinyurl.com/4an3c6m5.

[3] *See* Press Release, U.S. Chamber of Commerce, U.S. Chamber, Triangle East Chamber Host Retail Crime Roundtable with Rep. Brad Knott (July 31, 2026), https://tinyurl.com/3vyx38dx.

these laws' reach is itself a substantial burden chilling valuable speech because organizations frequently comment on public-policy questions that may later become the subject of ballot initiatives.

Amici thus urge the Court to grant the Petition and clarify that registration and disclosure requirements like those imposed by Alaska are subject to rigorous constitutional safeguards. In particular, the Court should require exceedingly precise definitions for what counts as regulated advocacy, and it should limit registration and disclosure to what is necessary to police corruption and its appearance.

SUMMARY OF ARGUMENT

Consider a hypothetical state law that makes it illegal to speak about a specific public-policy issue unless the speaker first registers with the State, reports its speech to regulators, and accompanies its speech with a state-mandated script and a list of donors. As a content-based prior restraint on speech, it would be hard to come up with a more blatant First Amendment violation.

Yet Alaska claimed authority to do much the same thing here. The State penalized the nonprofit Alaska Policy Forum for publicly discussing the merits of ranked-choice voting. The organization's offense? Not registering with state officials, not reporting when it spoke, and not displaying a government-mandated script with a list of its donors.

The State's defense of that scheme—accepted by its highest court—only crystallizes the constitutional problem. Alaska argued that it could regulate public debate about ranked-choice voting because Alaskans would soon vote on a ballot initiative on that topic. That, the State reasoned, made discussion about ranked-choice voting an "express communication," a nebulous category it subjects to heightened speech regulation.

Alaska's disfavored treatment for political speech gets things exactly backwards. "[T]he First Amendment was fashioned to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271–72 (1971) (quotation marks omitted). The Amendment thus "has its fullest and most urgent application precisely to the conduct of campaigns" to enact such social and political changes. *NRSC v. FEC*, 146 S. Ct. 2404, 2415 (2026) (quotation marks omitted); *see also Buckley v. Valeo*, 424 U.S. 1, 14–15 (1976). That Alaska Policy Forum's speech about ranked-choice voting bore on a live campaign topic should have, if anything, entitled it to more speech protection—not less.

To be sure, this Court has recognized limited circumstances in which narrowly tailored political-speech regulations may be imposed to prevent *quid pro quo* corruption or its appearance. But those exceptions require clear constitutional limits, particularly where, as here, the State seeks to regulate speech about a ballot initiative rather than a candidate election.

These principles extend far beyond this case. Businesses, trade associations, nonprofits, and countless other organizations routinely participate in public debate on issues that are, or may become, the subject of ballot initiatives. If governments may transform issue discussion into regulated advocacy whenever an issue appears on the ballot, speakers will predictably self-censor rather than risk burdensome registration, reporting, and disclosure requirements.

The decision below is an excellent vehicle to reinforce the Constitution's protections against burdensome registration and disclosure laws. Alaska Policy Forum's communications were not the kind of express advocacy that could be regulated to protect electoral integrity. Those communications did not urge anyone to vote for or against Alaska's ranked-choice-voting ballot initiative. They merely contributed to the public debate about ranked-choice voting. But in any event, a test malleable enough to allow a State to use its decision to put ranked-choice voting on a ballot to strip speech of constitutional protection is chilling.

This Court should grant the petition and reject the Alaska Supreme Court's inversion of bedrock First Amendment principles. That a State's highest court could treat discussion of a public-policy issue as regulable advocacy once that issue appears on the ballot demonstrates the need for this Court's guidance. The Court should grant review to clarify the constitutional limits on regulations of ballot-initiative speech and reaffirm that political speech sits in the heartland of First Amendment protection, not as second-class expression to be policed by the Government.

ARGUMENT

Registration and disclosure requirements may not silence speakers outright. But they often achieve the same pernicious outcome by deterring speech before it occurs.

The Alaska election scheme at issue here embodies that danger. It imposes registration, reporting, and disclosure requirements on organizations that expend funds on advocacy relating to ballot initiatives. The result is a substantial burden on expression and association. *See infra* I.A. And, as this case demonstrates, imposing these burdens in the ballot-initiative context creates heightened ambiguity over what counts as regulated advocacy as opposed to unregulated issue discussion. That uncertainty exacerbates the First Amendment burden by chilling speakers who do not wish to trigger state-mandated registration and disclosure. *See infra* I.B.

Those serious burdens necessitate rigorous enforcement of constitutional limits. Ballot-initiative registration and disclosure requirements warrant particular scrutiny because they regulate speech that often overlaps substantially with ordinary discussion of public issues. Courts must therefore ensure both that the line between regulated advocacy and unregulated issue discussion is defined with exceptional clarity, *see infra* II.A, and that any resulting burdens on speech and association are supported by sufficiently weighty governmental interests, *see infra* II.B.

The Court should grant certiorari to provide lower courts with much-needed guidance on these issues.

I. THE COURT SHOULD GRANT THE PETITION BECAUSE EXPANSIVE REGISTRATION AND DISCLOSURE LAWS CHILL SPEECH AND ASSOCIATION.

Alaska's regime burdens speech in two related ways. Its registration and disclosure requirements directly burden expression and association, and its vague scope magnifies those burdens through a chilling effect.

A. Registration And Disclosure Requirements Burden Speech.

Alaska's ballot-proposition law embodies the dangers to speech and association that come with expansive registration and disclosure requirements.

Consider the State's registration and reporting requirements. An organization must "register" with the State before expending funds for advocacy about a "ballot proposition," Alaska Stat. § 15.13.050(a), and then report such advocacy after the fact, *id.* § 15.13.040(d). These kinds of regulations are inherently suspect. "It is offensive—not only to the values protected by the First Amendment, but to the very notion of a free society—that in the context of everyday public discourse a citizen must first inform the government of her desire to speak … and then obtain a permit to do so." *Watchtower Bible & Tract Soc'y of New York, Inc. v. Vill. of Stratton*, 536 U.S. 150, 165–66 (2002). Even if registration "is a ministerial task that is performed promptly and at no cost to the applicant," such laws are "a dramatic departure from our national heritage and constitutional tradition." *Id.* at 166.

The burdens from registration and reporting requirements are obvious. "[R]ecordkeeping and disclosure obligations … impose administrative costs" and introduce friction that "discourage[s] protected speech." *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 254–55 (1986) (plurality). Registration and reporting also chill the speech of those who wish to "support causes anonymously," *Watchtower*, 536 U.S. at 166, and give state officials the ability to monitor which organizations criticize them. Some "patriotic citizens" with "firm convictions about their constitutional right to" free speech "would prefer silence to speech licensed by a petty official." *Id.* at 167.

Perhaps most significant in the political context, registration and reporting requirements "effectively ban[ ]" "a significant amount of spontaneous speech." *Ibid.* Say, for example, an organization expends funds to host a free-ranging interview with a public official in Alaska. If the public official speaks about an issue on a ballot initiative, the organization may have to censor the interview before sharing it to avoid violating the State's pre-registration requirement. *See* App.41a–44a (affirming liability for posting a video critical of ranked-choice voting). The result is that expression is chilled, and the public loses out on valuable spontaneous speech on an issue of public importance.

For good reason then, this Court has held that "requiring previous registration as a condition for exercising" the right to free expression is generally "quite incompatible with the requirements of the First Amendment." *Thomas v. Collins*, 323 U.S. 516, 540 (1945).

In addition to registration, Alaska's public-disclosure requirements also burden First Amendment rights. Under Alaska law, advocacy communications must disclose the identity of the speaker and its three largest donors. *See* Alaska Stat. § 15.13.090(a)(2). This Court has long recognized such "that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment." *Buckley*, 424 U.S. at 64.

The Court's recent decisions confirm those concerns. In *First Choice Women's Resource Centers, Inc. v. Davenport*, 146 S. Ct. 1114 (2026), the Court reiterated that disclosure demands "inevitably" deter the exercise of First Amendment rights. *See id.* at 1125–26. The record in *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595 (2021), vividly illustrates why. There, "hundreds of organizations" appearing as *amici curiae*, "span[ning] the ideological spectrum, and indeed the full range of human endeavors," explained that donor disclosure creates a "real and pervasive" chill on their associational rights. *Id.* at 617. For example, a nonprofit that sought to advance its views about marriage saw its "supporters … targeted with death threats." *See* Br. of Proposition 8 Legal Defense Fund 12, *Americans for Prosperity Found. v. Becerra*, No. 19-251 (Mar. 1, 2021), available at https://tinyurl.com/2f977z6k. A different group "dedicated to advancing a peaceful transition to democracy in China" reported that one of its "consistent major donor[s]" was "imprisoned" by Chinese officials, while "[a]nother major donor discontinued his support after learning that the Chinese government had discovered his donations." Br. of Citizen Power Initiatives for China 1, 7, *Americans for Prosperity Found. v. Becerra*, No. 19-251 (Mar. 1, 2021), available at https://tinyurl.com/ytw64twx. A libertarian group reported that its supporters faced "harassment campaigns," attempted boycotts, and efforts to have them "fired from" their jobs. Br. of Freedom Foundation 3–5, *Americans for Prosperity Found. v. Becerra*, No. 19-251 (Mar. 1, 2021), available at https://tinyurl.com/yc6xexnu. Worse, public "officials 'across the political spectrum' have sometimes issued subpoenas and other investigatory demands in order to secure just these results." *See First Choice*, 146 S. Ct. at 1126.

Here, the potential for chill is even *greater*, as Alaska requires organizations to *publicly* disclose their donors. In *Bonta*, organizations were only required to disclose their donors to the State. 594 U.S. at 615 ("California's Schedule B requirement is confidential"). The same was true in *First Choice*. *See* 146 S. Ct. at 1130–31. Even in the context of private disclosures, the chill was palpable. "Just ask yourself," the Court posed, "would it have been an answer in *NAACP v. Alabama* if the State's Attorney General promised to keep the NAACP's membership rolls to himself?" *Id*. at 1131. But here, the chill is even more severe because Alaska requires donor disclosure in public-facing communications. By depriving an organization and members of "privacy in [their] associations," these kinds of disclosure laws deter association and expression, particularly of "dissident beliefs." *NAACP v. Alabama*, 357 U.S. 449, 462–63 (1958). Indeed, "[i]t is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may" act as "a restraint on freedom of association." *Bonta*, 594 U.S. at 606 (quoting *NAACP*, 357 U.S. at 462).

While the Alaska Supreme Court trumpeted the perceived virtues of Alaska's registration and disclosure regimes, App. 62a, it gave little attention to the serious First Amendment burdens that result from those policies. As a result, it wrongly credited a bare informational interest, despite this Court's modern precedents holding that anticorruption is the only state interest that can justify burdening political speech. *See infra* II.B.

B. Ambiguity Magnifies The Burdens Of Registration And Disclosure Requirements.

While registration and disclosure schemes are burdensome on their face, that burden is doubly so where, as here, their scope remains vague. After all, it is one thing to impose burdens on speakers that knowingly plunge into advocacy around a ballot initiative. But if the line between advocacy and non-advocacy is hazy, the law's burdens will necessarily chill speakers that wish to avoid veering onto the regulated side of that line.

This Court's precedents reflect that reality. Basic principles of due process prohibit the Government from drawing regulatory "lines [that] are unknown and unknowable." *Snyder v. United States*, 603 U.S. 1, 17 (2024). Those principles apply with special force when it comes to speech. "Where First Amendment rights are involved," this Court has explained, "'an even greater degree of specificity' is required." *Buckley*, 424 U.S. at 77. Precision in speech regulation "provides breathing room for free expression." *United States v. Hansen*, 599 U.S. 762, 769 (2023). It also helps "to eliminate the impermissible risk of discriminatory enforcement, for history shows that speech is suppressed when either the speaker or the message is critical of those who enforce the law." *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1051 (1991) (citations omitted).

Vagueness has long plagued disclosure requirements in electoral speech. Even as this Court has recognized a limited role for disclosures to "deter actual corruption and avoid the appearance of corruption," *Buckley*, 424 U.S. at 67, those requirements must be limited to avoid "significant encroachments on First Amendment rights," *id.* at 64. "Vagueness" in the scope of a disclosure requirement thus compounds constitutional burdens by "deter[ring] those who seek to exercise protected First Amendment rights." *Id.* at 77.

Those vagueness concerns are particularly acute in the ballot-initiative context. After all, "what separates issue advocacy and political advocacy is a line in the sand drawn on a windy day." *FEC v. Wisconsin Right To Life, Inc.*, 551 U.S. 449, 499 (2007) (Scalia, J., concurring). And in the ballot-initiative context, that line is even *harder* to draw because advocacy on a ballot initiative often looks indistinguishable from issue advocacy.

Consider an example: a state ballot initiative on whether to raise the State's sales tax. If a libertarian think tank runs a piece saying, "the State should never raise taxes," that is obviously issue advocacy at the zenith of First Amendment protection. *Cf. Chamber of Com. of the United States of Am. v. Lierman*, 151 F.4th 530, 533 (4th Cir. 2025) ("complaining about taxes remains a grand American political tradition"). But under Alaska's reasoning, the contemporaneous placement of the sales tax on a ballot initiative might transform the think tank's protected speech into political advocacy that the State may regulate. It thus takes little imagination to understand the serious chilling effect that results.

That uncertainty is especially problematic for trade associations and other organizations that routinely participate in public debate on policy questions that may later become ballot measures. Such organizations exist in part to provide a collective voice on issues affecting their members. *See NAACP*, 357 U.S. at 462. But when the boundary between protected issue discussion and regulated advocacy is unclear, associations face substantial pressure to remain silent rather than risk registration obligations, disclosure of the members, and significant penalties. Thus, many associations stay silent to avoid triggering vague registration and disclosure laws. That risk-averse approach is particularly understandable, given that vague laws "encourage arbitrary and discriminatory enforcement" against disfavored groups. *See Percoco v. United States*, 598 U.S. 319, 331 (2023). These concerns are especially acute for smaller local organizations. Such groups may unwittingly trigger speech regulations simply by sharing a national organization's speech, *see* App.41a–44a, yet lack the resources to hire an army of "campaign finance attorney[s] … before discussing the most salient political issues of our day," *Citizens United v. FEC*, 558 U.S. 310, 324 (2010).

These concerns are not theoretical. In one high-profile case, Washington levied millions of dollars in penalties against a trade association for opposing a ballot initiative where it failed to register with the State and disclose which of its members donated funds for its advocacy. *State v. Grocery Manufacturers Ass'n*, 195 Wash. 2d 442, 450 (2020). This even though there was genuine statutory ambiguity over the law's reach, *see id.* at 456–61 (deciding "statutory interpretation" "issue of first impression"), and even though the association's "staff and member companies were threatened" in response to their prior advocacy, *id.* at 449; *see also id.* at 466–67 (describing "death threats," "harass[ment]," and vandalism). Notwithstanding those serious concerns, the Washington Supreme Court found no First Amendment problem—deeming the speech burdens "somewhat modest," *id.* at 461, and crediting the State's informational interest even absent "specific evidence" to substantiate it, *id.* at 463. The result of statutory ambiguity, hefty penalties, and watered-down scrutiny is—unsurprisingly—a heavy deterrent against speech by organizations on important public-policy issues.

The Alaska Supreme Court's opinion further underscores the problem with vague registration and disclosure laws in the context of ballot initiatives. When Alaska Policy Forum argued that its speech about ranked-choice voting was an "issues communication," the court responded that, "in the context of ballot initiatives," efforts "to persuade the public to oppose a discrete issue on the ballot" are indistinguishable from "advocating an electoral result." App. 38a–39a. But that is not an answer so much as an admission of the fundamental line-drawing problem for regulation of ballot-initiative advocacy. Such regulation can, without concrete definitions, give the state plenary authority to require preclearance and disclosures for any and all expressions of opinion on a ballot topic.

That is anathema to the First Amendment. "Discussion of issues cannot be suppressed simply because the issues may also be pertinent in an election." *Wisconsin Right To Life*, 551 U.S. at 474 (opinion of Roberts, C.J.). Rather, "[w]here the First Amendment is implicated, the tie goes to the speaker, not the censor." *Ibid.*; *accord infra* II.A.

* * *

Laws like Alaska's—that pair an ambiguous scope with the burdens of registration and disclosure—are inherently suspect intrusions on Americans' "freedom to think as you will and to speak as you think." *Chiles v. Salazar*, 146 S. Ct. 1010, 1020 (2026).

II. THE COURT SHOULD GRANT THE PETITION TO REINFORCE THAT REGISTRATION AND DISCLOSURE LAWS ARE SUBJECT TO RIGOROUS CONSTITUTIONAL GUARDRAILS.

This Court should grant certiorari to ensure that States may not use vague registration and disclosure laws to chill speech and association. In particular, it should clarify bedrock First Amendment principles requiring such laws to be (i) exceedingly precise, and (ii) limited only to preventing corruption or its appearance.

A. The Court Should Reaffirm That Laws Regulating Political Speech Must Have A Precise Scope.

Vague political-speech regulations are especially pernicious because they deter non-electoral speech over which the State has no interest in regulating. This Court should thus reaffirm that States may regulate political speech only using laws that are precisely defined. *See* Pet. 9–19.

Here, Alaska chose to use an express-advocacy standard as the trigger for its law. *See* App. 22a–23a ("express communications"). To avoid unconstitutional vagueness, that standard must adhere to the line drawn in *Buckley*: "communications that include explicit words of advocacy of election or defeat of a candidate" or, in this case, a ballot initiative. 424 U.S. at 43; *see also id.* at 79–80. Only when a communication expressly seeks "the nomination or election of a candidate"—or here, passage of a ballot initiative—does it fall within "the core area" of electoral advocacy for which political-speech laws may serve a legitimate interest. *See id.* at 79.

To be sure, *Buckley*'s line is underinclusive in some circumstances. Because of the hazy boundary between issue and electoral advocacy, "the practical reality" is that some speakers may omit the language of electoral action to try and "evade the express-advocacy standard." *Wisconsin Right To Life*, 551 U.S. at 499 (Scalia, J., concurring). But that underinclusiveness is a feature, not a bug. "[T]he way to indulge th[e] instinct" that line-drawing in speech regulation creates difficulties is to use "the express-advocacy line, set in concrete on a calm day by *Buckley*." *Ibid.*;

accord Ashcroft v. Free Speech Coal., 535 U.S. 234, 255 (2002) ("The Government may not suppress lawful speech as the means to suppress unlawful speech.").

Adopting *Buckley*'s clear test would resolve persistent lower-court confusion about the so-called functional-equivalence standard. That standard comes from *McConnell v. FEC*, 540 U.S. 93 (2003), where the plurality made two distinct holdings relevant here: (i) that the Government may regulate issue ads that "are the functional equivalent of express advocacy," *id.* at 206, 193, and (ii) the four-part objective definition of "electioneering communications" in the statute at issue in that case was not vague, *id.* at 194. But the Court never suggested that functional equivalence was itself sufficient to save a political-speech regulation from vagueness. In fact, a majority of the Court subsequently found that functional equivalence, as a freestanding standard, *was* impermissibly vague. *Wisconsin Right to Life*, 551 U.S. at 492–97 (Scalia, J., concurring); *accord id.* at 474 n.7 (opinion of Roberts, C.J.) (agreeing that functional equivalence was impermissibly vague without additional guardrails). And indeed, the functional-equivalence line "has proved to be impossible to draw with precision" even as it has taken hold in the lower courts. *See Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 921 (2018).

The caselaw bears this out. Consider the decision below, which purported to apply the functional-equivalence standard under Alaska law. *See* App. 25a–29a. The Alaska Supreme Court conceded that "when it comes to ballot initiatives," "express and issue advocacy are arguably one and the same." App. 39a. Notwithstanding that obvious line-drawing problem, the court then went on to hold that the statute was not vague and that the Alaska Policy Forum's issue speech was regulable advocacy. App. 51a. That analysis confirms that the functional-equivalence line produces perilously close questions and underscores that, in practice, lower courts have struggled to remember that in close cases "the tie goes to the speaker, not the censor." *Wisconsin Right To Life*, 551 U.S. at 474 (opinion of Roberts, C.J.).

It is not just Alaska. The Tenth Circuit found it permissible for a Wyoming statute to regulate a radio broadcast by a gun-rights organization that informed the public of the candidates' positions on guns, even though the broadcast did not expressly call for votes for or against any candidate. *See Wyoming Gun Owners v. Gray*, 83 F.4th 1224, 1236–37 (10th Cir. 2023). Worse still, the Tenth Circuit found this result impervious to vagueness by incorrectly positing that this Court "rejected the idea that the functional-equivalent test is impermissibly vague." *Id.* at 1236. The Ninth Circuit similarly held under a Washington statute that a non-profit organization's messaging about assisted suicide was the functional equivalent of advocacy on a ballot initiative even though the messages "d[id] not mention" the initiative "by name." *See Hum. Life of Washington Inc. v. Brumsickle*, 624 F.3d 990, 1015 (9th Cir. 2010). And Connecticut spent years litigating the "close[ ] question" whether communications "somewhat evocative of an ongoing negative campaign" amounted to express advocacy. *See Markley v. State Elections Enf't Comm'n*, 349 Conn. 67, 118 (2024).

These opinions demonstrate that organizations face a real chill when they speak on the most important issues of the day. Whatever the result in individual cases, the cumulative impact is to convey to speakers that ordinary issue discussion may later be treated as regulated advocacy. That, in turn, deters organizations from speaking in the first place. This Court should thus hold that functional equivalence is impermissibly vague when used to define the reach of a statutory speech regulation.

B. The Court Should Clarify The Interests That Can Justify Registration And Disclosure Requirements.

The Petition is right that Alaska's alleged informational interest is insufficient to justify its onerous registration and disclosure requirements. Pet. 19–32. Indeed, the Court should take this opportunity to clarify that registration and disclosure requirements are justifiable for only one purpose: to prevent *quid pro quo* corruption and its appearance.

This Court's modern precedents in the speech-*restriction* context are unequivocal. "The Court now recognizes only one legitimate governmental interest for restricting campaign finances: preventing corruption or the appearance of corruption." *NRSC*, 146 S. Ct. at 2418. "Moreover, Congress may target only a specific type of corruption—'*quid pro quo*' corruption." *Ibid.* (quotation marks omitted); *see also FEC v. Cruz*, 596 U.S. 289, 305–06 (2022); *McCutcheon v. FEC*, 572 U.S. 185, 206–09 (2014) (plurality).

This Court should clarify that this unequivocal principle also applies to disclosures. That clarification is needed because the Court's teachings have been mixed in the disclosure context. In *Buckley*, the Court identified an interest in "provid[ing] the electorate with information," but, at the same time, explained that information derived from disclosures serves to "deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity." 424 U.S. at 66–68. In *Citizens United*, the Court credited an "informational interest," 558 U.S. at 368–69, but a few months later, it declined to "address [a] State's 'informational' interest" in disclosure, relying instead on "the State's interest in preserving the integrity of its electoral process," *John Doe No. 1 v. Reed*, 561 U.S. 186, 197 (2010). And all of these rulings predated "subsequent cases, particularly *McCutcheon* and *Cruz*," where the Court "squarely rejected" all non-corruption-related interests as "permissible bas[e]s for the Government to regulate campaign finances and limit political speech." *NRSC*, 146 S. Ct. at 2418; *cf. Bonta*, 594 U.S. at 612 (crediting "interest in preventing … fraud and self-dealing" in context of charity disclosure requirement).

This Court should take the opportunity to clarify that disclosure requirements for political speech may be justified only to prevent quid-pro-quo corruption or its appearance. That understanding accords with *McCutcheon* and its progeny because disclosure requirements are a means "for the Government to regulate campaign finances and limit political speech." *NRSC*, 146 S. Ct. at 2418; *see also supra* Section I (demonstrating burdens on political speech).

Further, pre-*McCutcheon* attempts to ground disclosure in a broader informational interest are unpersuasive. *Buckley* opined that disclosure could "aid the voters in evaluating those who seek federal office." *Buckley*, 424 U.S. at 66–67. But that justification rests on the misguided notion that *the Government* should decide what speech is important for voters to evaluate candidates. This Court has consistently warned that, "[o]n the spectrum of dangers to free expression, there are few greater than allowing the government to change the speech of private actors in order to achieve its own conception of speech nirvana." *Moody v. NetChoice, LLC*, 603 U.S. 707, 741–42 (2024). Taking another tack, *Citizens United* opined that disclosure allows voters to be "fully informed about the person or group who is speaking." 558 U.S. at 368 (quotations omitted). But "it is plainly not enough for the Government to say simply that it has a substantial interest in giving [voters] information." *See Am. Meat Inst. v. USDA*, 760 F.3d 18, 31 (D.C. Cir. 2014) (Kavanaugh, J., concurring). "After all, that would be true of any and all disclosure requirements" and thus drain the First Amendment "of any meaning in the context of compelled [political-speech] disclosures." *Ibid.*

Alaska's broader disclosure regime illustrates the practical danger of untethering disclosure requirements from any anticorruption rationale. Alaska requires organizations contributing to ballot-measure committees to publicly disclose a substantial universe of donors who never earmarked funds for election-related activity. *See* Alaska Stat. § 15.13.040(k); Alaska Public Offices Commission, Advisory Opinion 24-04-CD, at 6–8 (Sept. 9, 2024), available at https://tinyurl.com/y4tz4kxk. The predictable result is self-censorship. Indeed, many trade associations and other groups—including the Alaska Chamber—have forgone support of Alaska ballot-measure committees altogether as a result of these onerous donor-disclosure requirements.

Finally, this case itself shows the mischief that can occur when States mandate disclosures for no interest other than the distribution of information. Here, Alaska Policy Forum put out a handful of education and opinion pieces and hosted a YouTube video on its website. All told, it spent about $600 on those efforts—though "spent" is an overstatement, as that is just the value of staff time to review the materials that were posted. App. 10a–11a, 68a. Such efforts were hardly corruptive. *See McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 352 n.15 (1995) ("The risk of corruption perceived in cases involving candidate elections simply is not present in a popular vote on a public issue." (citations omitted)). Even so, the Alaska Supreme Court held that the public needed information about Alaska Policy Forum's small-dollar efforts in order to foster an "informed electorate." App. 63a. That barebones interest in information is a thin reed upon which to demand that a nonprofit seek preclearance to speak, report its speech to state regulators, and accompany each of its messages with invasive donor disclosures.

CONCLUSION

The Court should grant the petition.

August 20, 2026

Respectfully Submitted,

JONATHAN D. URICK
U.S. CHAMBER LITIGATION CENTER
1615 H Street, NW
Washington, DC 20062

CALEB P. BURNS
Counsel of Record
JEREMY J. BROGGI
BOYD GARRIOTT
WILEY REIN LLP
2050 M Street NW
Washington, DC 20036
(202) 719-7000
CBurns@wiley.law