No. 26-88

IN THE
Supreme Court of the United States

ALASKA POLICY FORUM,

Petitioner,

v.

ALASKA PUBLIC OFFICES COMMISSION; YES ON 2 FOR BETTER ELECTIONS; and PROTECT MY BALLOT,

Respondents.

On Petition for Writ of Certiorari to the Alaska Supreme Court

BRIEF OF THOMAS MORE LAW CENTER, CENTER FOR INDIVIDUAL RIGHTS, AND ILLINOIS POLICY INSTITUTE AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

Thomas More Law Center is all too familiar with the First Amendment chilling effects of forced donor disclosure. The Law Center is a 501(c)(3) nonprofit that exists "to protect religious freedom, free speech, family values, and the sanctity of human life." *Americans for Prosperity Found.* v. *Bonta*, 594 U.S. 595, 602 (2021) (*AFPF*). Because some disagree with its mission, the Law Center has received "threats, harassing calls, intimidating and obscene emails, and even pornographic letters." *Id.* at 604 (citation omitted).

In 2012 and 2013, then-California Attorney General Kamala Harris sent the Law Center demands to disclose its top donors and their contact information as a condition for renewing the organization's non-profit registration. *Id.* at 603. After receiving threats of fines and suspension of its registration, the Law Center filed a federal lawsuit to protect its donors' privacy and prevent them from receiving the same harassment it has. *Ibid.* The Law Center secured a preliminary injunction; the Ninth Circuit vacated it. *Ibid.* The Law Center then secured a permanent injunction after a bench trial; the Ninth Circuit again vacated and directed entry of judgment for the Attorney General. *Id.* at 603–05.

This Court reversed. It surveyed decades of precedent invalidating disclosure laws for chilling First Amendment rights, like when the Alabama

[1] No counsel for a party authored this brief in whole or in part, and no person other than amici and their counsel made any monetary contribution intended to fund the preparation or submission of this brief. Counsel were timely notified of this brief as required by Supreme Court Rule 37.2.

Attorney General sought the NAACP's membership lists during the civil rights movement. *Id.* at 606 (citing *NAACP* v. *Alabama ex rel. Patterson*, 357 U.S. 449 (1958)). Similarly, California's "disclosure requirement impose[d] a widespread burden on donors' associational rights" by subjecting them to reprisals based on their associations and speech. *Id.* at 618. California's law failed any level of heightened scrutiny by "cast[ing] a dragnet for sensitive donor information from tens of thousands of charities each year, even though that information will become relevant in only a small number of cases involving filed complaints." *Id.* at 614; *id.* at 622 (Alito, J. concurring in part and in the judgment).

The Law Center thus has a substantial interest in protecting nonprofit donor privacy and ensuring that forced disclosure laws receive the appropriate level of constitutional scrutiny. The Constitution protects the right to associate anonymously. That includes by donating to a nonprofit of one's choice. Disclosure requirements also stop people from speaking because of the inevitable reprisals from supporting potentially unpopular causes. Without anonymous speech, the Law Center's vital work would become much more difficult, and our general discourse would lose important voices. The Law Center files this brief based on its experience with compelled disclosure to show that state laws mandating nonprofit donor disclosure—like Alaska's—must meet strict scrutiny.[2]

[2] The Law Center requests the Court grant certiorari on the first and third questions presented. It expresses no view on the second question.

The Center for Individual Rights (CIR) is a national nonprofit public interest law firm dedicated to strengthening and restoring individual rights that are essential to a free and flourishing society. Founded in 1989, CIR has a vital interest in preserving the guarantees of freedom of expression secured by First Amendment precedents. Through its free speech practice, CIR takes on cases in which individuals face suppression of their beliefs or of their right to form groups and associate with like-minded citizens. *E.g.*, *Friedrichs* v. *California Tchrs. Ass'n*, 578 U.S. 1 (2016) (per curiam); *Rosenberger* v. *Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995).

CIR has a particular interest in the question this case presents. It has argued, as *amicus,* that government-compelled disclosure of a nonprofit's donors must satisfy strict scrutiny, and that the right to anonymous association is essential to preserving a vibrant civil society. See *The Buckeye Institute* v. *Internal Revenue Service*, No. 25-3170 (6th Cir. filed Nov. 26, 2025); *First Choice Women's Resource Centers, Inc.* v. *Davenport*, No. 24-781, (S.Ct. filed Aug. 28, 2025).

The Illinois Policy Institute is a nonpartisan 501(c)(3) research organization funded by the voluntary contributions of thousands of committed supporters from across the state who share its belief in free markets, free people, and a more prosperous Illinois. It does not accept government grants of any kind or union funding. It also welcomes support from a broad range of individuals, businesses, and charitable foundations that share its values and are willing to support its work for a better, brighter Illinois. The Illinois Policy Institute respects the decision of its donors not to have personal information shared with others, and that respect for donor privacy is essential for building and maintaining their trust.

BACKGROUND

Alaska law imposes a sweeping disclosure requirement before nonprofits may engage in certain political speech. "*All* communications" issued by a group must "clearly … include … the name and city and state of residence or principal place of business, as applicable, of each of the person's three largest contributors." Alaska Stat. § 15.13.090(a) (emphasis added). "[C]ommunication" "means an announcement or advertisement disseminated through print or broadcast media … excluding … those that do not directly or indirectly identify a candidate or proposition." *Id.* § 15.13.400(3). Contribution "means a … payment … that is made for the purpose of … influencing a ballot proposition or question." *Id.* § 15.13.400(4).

Like Amici, Petitioner Alaska Policy Forum is a 501(c)(3) nonprofit. Pet.App.6a. It "provide[s] research, information and public education in support of individual rights, limited government, personal responsibility and government accountability." Pet.App.6a. In 2020, the Forum issued a handful of communications discussing perceived problems with ranked-choice voting—including one before an Alaskan ranked-choice-voting ballot measure (Measure 2) qualified for the ballot. Pet.App.6a–10a. The Forum continued talking about ranked-choice voting after Measure 2 qualified for the ballot. *Ibid.* Alaskans passed Measure 2. Pet.App.154a.

Proponents of Measure 2 filed a complaint about the Forum's speech with Alaska's Public Offices Commission. Pet.App.10a. The Commission ruled that the Forum violated Alaska law by failing to include the "paid for by" disclosures. Pet.App.12a.

The Alaska Supreme Court upheld that conclusion. It rejected the Forum's request to apply strict scrutiny even though the disclosure compelled the Forum to identify its donors. Pet.App.61a. Without assessing any chill to association and speech, the court applied exacting scrutiny. Pet.App.60a. It held that the "paid for by" requirement—despite requiring the Forum to identify its donors by name on a communication when it otherwise wouldn't—did not actually "alter the content of speech." Pet.App.61a. The court ruled that requiring donor disclosure on "all communications" was narrowly tailored to Alaska's interest in promoting "an informed electorate." Pet.App.61a–62a.

SUMMARY OF THE ARGUMENT

The Court should grant the petition to resolve the question left open in *AFPF* and hold that strict scrutiny applies to nonprofit donor-disclosure requirements. *AFPF* garnered no majority holding on whether forced disclosure triggers strict or exacting scrutiny. This Court thus has not provided lower courts necessary guidance to protect sensitive First Amendment freedoms. Fidelity to precedent requires applying strict scrutiny. The Alaska Supreme Court's decision here shows the mischief inherent in any alternate approach. Without considering any chill to a nonprofit or donors' First Amendment rights, the court below upheld the law requiring nonprofits to identify their donors just to talk about certain political issues. But the court didn't explain how nonprofit speech has caused problems—if any—in Alaska elections or what useful information—if any—

the public gleans from knowing a private group's confidential information.

"Over and again," this Court has held that "demands" for private donor information "burden the exercise of First Amendment rights." *First Choice Women's Res. Ctrs., Inc.* v. *Davenport*, 146 S. Ct. 1114, 1131 (2026). Those demands abridge associational privacy, suppress protected nonprofit advocacy, chill people from donating, and generally inhibit an association's functioning. *Id.* at 1123. That heavy burden on First Amendment rights demands strict scrutiny. And that's what this Court has applied. E.g., *NAACP*, 357 U.S. at 463.

Exacting scrutiny does not apply because it accounts for the unique government interests in preventing corruption in candidate elections, helping voters assess candidates, and detecting contribution limit violations. None of those interests applies to 501(c)(3) political speech related to issues that may be on the ballot. Under threat of severe federal penalties, 501(c)(3)s cannot campaign for candidates or engage in much lobbying. And as this Court has held, ballot initiatives don't pose a quid pro quo corruption risk like with candidate elections. *McIntyre* v. *Ohio Elections Comm'n*, 514 U.S. 334, 352 n.15 (1995).

Alaska's law burdens associational privacy while stopping and compelling speech. By requiring nonprofits to publicly divulge confidential information, Alaska chills nonprofits from speaking on political issues, discourages donors from donating and associating with the group, and requires the group to speak a message it otherwise wouldn't. The law triggers and fails strict scrutiny—and even exacting scrutiny. The forced disclosure provides voters with essentially no useful information when—for ballot initiatives—the most important information is the communication's message. And prophylactically restricting 501(c)(3) political speech isn't narrowly tailored to any government interest when those groups cannot advocate for candidates or lobby much.

"First Amendment freedoms need breathing space to survive." *NAACP* v. *Button*, 371 U.S. 415, 433 (1963). Without clarity from this Court, lower courts will continue to devalue associational rights. The Court should answer the question *AFPF* left open. Consistent with the Constitution and precedent, it should hold that strict scrutiny applies to nonprofit donor-disclosure requirements.

ARGUMENT

I. Donor-disclosure requirements directly abridge First Amendment freedoms.

The founding generation had deep regard for anonymous advocacy. *McIntyre*, 514 U.S. at 360–71 (Thomas, J., concurring in the judgment). In England and the American Colonies, authorities used press-licensing laws to expose the names of writers, printers, and distributors to "lessen the circulation of literature critical of the government." *Talley* v. *California*, 362 U.S. 60, 64 (1960). Before the American Revolution, "colonial patriots frequently had to conceal their authorship or distribution of literature that easily could have brought down on them prosecutions by English-controlled courts." *Id.* at 65.

The founding generation ratified the First Amendment "to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society." *McIntyre*, 514 U.S. at

357. Yet our nation has recently "permitted [state] regulation of anonymous speech." *Id.* at 367 (Thomas, J., concurring).

This modern innovation "chills speech by exposing anonymous donors to harassment and threats of reprisal." *Delaware Strong Families* v. *Denn*, 136 S. Ct. 2376, 2376 (2016) (Thomas, J., dissenting from denial of cert.). Donor-disclosure mandates are a perfect example because they make "group membership less attractive" and impair a "group's ability to express its message." *Rumsfeld* v. *Forum for Acad. & Institutional Rts., Inc.*, 547 U.S. 47, 69 (2006).

This Court has consistently held that forced disclosure requirements violate the First Amendment because they stop people from speaking and associating. *NAACP* showed that "chilling effect in its starkest forum." *AFPF*, 594 U.S. at 606. "Responding to the NAACP's efforts to promote integration in Alabama in the 1950s," the state attorney general sued the NAACP and sought its membership lists. *First Choice*, 146 S. Ct. at 1123. This Court rejected those efforts because of the "vital relationship between freedom to associate and privacy in one's associations." *NAACP*, 357 U.S. at 462.

Without "the ability of individuals to work together free from governmental oversight and intrusion, … the freedom to associate may become no freedom at all—individuals deterred, groups diminished, and their protected advocacy suppressed." *First Choice*, 146 S. Ct. at 1123. That's doubly true for "groups that hold 'dissident beliefs' disfavored by those holding the reins of power." *Ibid.* (citation omitted).

AFPF, as discussed, reaffirmed *NAACP*. It recognized that "compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other] forms of governmental action." *AFPF*, 594 U.S. at 606 (citation omitted).

Compelled disclosure "creates an unnecessary risk of chilling" protected association and speech by "indiscriminately sweeping up the information of *every* major donor with reason to remain anonymous." *Id.* at 616–17 (citation omitted). Advocacy on certain issues risks "bomb threats, protests, stalking, and physical violence." *Id.* at 617. Those risks "seem to grow with each passing year, as anyone with access to a computer can compile a wealth of information about anyone else, including such sensitive details as a person's home address or the school attended by his children." *Ibid.* (citation modified).

Just last Term, the Court recounted that, since the 1950s it has encountered "one official demand" for donor information "after another." *First Choice*, 146 S. Ct. at 1131. "Over and again," this Court has held that "official demand[s] for private donor information … discourage[s] reasonable individuals from associating with a group" and "discourage[s] groups from expressing dissident views." *Id.* at 1130–31. In that case, just like in *NAACP* and *AFPF*, the New Jersey Attorney General's subpoena for donor identities was "enough to discourage groups from expressing dissident views." *Id.* at 1130.

Disclosure requirements directly abridge First Amendment associational protections. Each right "to speak, worship, publish, assemble, and petition … necessarily carries with it a corresponding right to associate with others." *Id.* at 1122 (citation modified). Because "associational rights carry special significance for political, social, religious, and other minorities," compelled disclosure of donors or members "constitute[s] an effective restraint on freedom of association." *Id.* at 1122–23 (citation modified).

Donor disclosure laws also stop people from speaking. Group association "undeniably enhance[s]" "[e]ffective advocacy" of potentially "controversial" views. *NAACP*, 357 U.S. at 460. But mandatory disclosure renders "protected advocacy suppressed." *First Choice*, 146 S. Ct. at 1123.

II. When governments burden associational rights, strict scrutiny applies.

Nonprofit donor-disclosure requirements must satisfy strict scrutiny. *AFPF* did not have a majority holding that exacting scrutiny applies. Exacting scrutiny accounts for the government's important interests in combating electoral corruption and helping voters assess candidates. The same interests don't apply to Alaska's law targeting 501(c)(3)s, which can't advocate for candidates or lobby much. That law forces 501(c)(3)s to disclose their donors as a condition for engaging in certain political speech. It thus triggers strict scrutiny.

A. Nonprofit donor-disclosure laws must meet strict scrutiny.

The First Amendment has no categorical exception for donor-disclosure requirements. Laws that burden private association must meet at least strict scrutiny. *Boy Scouts of Am.* v. *Dale*, 530 U.S. 640, 648 (2000). The same rule applies for government action that censors or compels speech based on its content. *Chiles* v. *Salazar*, 146 S. Ct. 1010, 1021–22 (2026). Laws like Alaska's condition protected political speech on disclosing confidential donor information. They intrude on a group's associational privacy. They also chill nonprofit and donor speech on important issues. Such laws must meet strict scrutiny.

The Court decided its "seminal compelled disclosure cases before it developed modern strict scrutiny doctrine." *AFPF*, 594 U.S. at 622 (Alito, J., concurring). But those cases' "language and reasoning … anticipated and is fully in accord with contemporary strict scrutiny doctrine." *Id.* at 622–23. For example, the Court required Alabama to show a "compelling" "interest in obtaining the disclosures." *NAACP*, 357 U.S. at 463. Just two years later, the Court held the interest "cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved." *Shelton* v. *Tucker*, 364 U.S. 479, 488 (1960). In sum, mandatory disclosure laws "should be subject to the same scrutiny as laws directly burdening other First Amendment rights." *AFPF*, 594 U.S. at 620 (Thomas, J., concurring in part and in judgment).

AFPF did not garner a majority on whether strict or exacting scrutiny should apply to nonprofit donor requirements. Because of the heavy burden on First Amendment rights, the Law Center argued that strict scrutiny should apply. *AFPF*, 594 U.S. at 607 (op. of Roberts, C.J.). Justice Thomas agreed, and Justices Alito and Gorsuch left the question open. *Id.* at 622 (Alito, J., concurring). Only three Justices in the majority thought that exacting scrutiny categorically applied to "compelled disclosure requirements." *Id.* at 608 (op. of Roberts, C.J.). This Court's prior cases haven't "resolved the question in favor of exacting scrutiny." *Id.* at 622 (Alito, J., concurring).

B. Exacting scrutiny is tailored to prevent corruption in electoral processes—not to police 501(c)(3) political speech.

Exacting scrutiny applies to certain election regulations because the government has an important interest in preventing electoral corruption. *Buckley* v. *Valeo*, 424 U.S. 1, 66 (1976) (per curiam). The "exacting scrutiny" rubric first appeared in *Buckley*. *Id.* at 64. There, the Court explained that certain electoral "governmental interests [are] sufficiently important to outweigh the possibility of infringement" of free association. *Id.* at 66.

Buckley identified three such interests: (1) deterring electoral corruption and the appearance of corruption, such as "'buying' of elections" or "undue influence of large contributors" on government officials, 424 U.S. at 70; (2) aiding voters' evaluation of candidates for office, *id.* at 66–67, 68 n.82; and (3) detecting violations of contribution limits, *id.* at 67–68. Given the weighty government interests at stake, the Court excepted the Federal Election Campaign Act's disclosure provisions from strict scrutiny, holding *NAACP* "inapposite." *Id.* at 70.

None of those interests apply to 501(c)(3) nonprofits. Charities can neither buy elections nor exercise governmental power. Their existence is not subject to popular vote. There are no statutory limits on charitable donations.

Indeed, federal law ensures the separation of 501(c)(3)s from political campaigning. The definition of a tax-exempt organization excludes nonprofits that "participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." 26 U.S.C. 501(c)(3). Donations to charities that violate this restriction are not tax deductible. 26 U.S.C. 170(c)(2)(D). The United States may sue to enjoin wayward charities "from further making political expenditures." 26 U.S.C. 7409(a)(1); accord 26 U.S.C. 7409(a)(2)(B)(i). Federal law also places stringent limits on nonprofit "lobbying," which includes "influencing" a ballot "initiative" process. 26 U.S.C. 4911. Consequences for violations include taxes and loss of nonprofit status. 26 U.S.C. 501(h).

Buckley's exacting scrutiny doesn't govern forced charitable-donor-disclosure laws. This Court has consistently taught that *Buckley*: (1) applies "to disclosure requirements in the electoral context," *John Doe No. 1* v. *Reed*, 561 U.S. 186, 196 (2010); (2) was designed for "campaign-related activities," *Citizens United* v. *FEC*, 558 U.S. 310, 366 (2010) (quoting *Buckley*, 424 U.S. at 64); and (3) regulates only the "compelled disclosure of campaign-related payments," *Buckley* v. *American Const. Law Found., Inc.*, 525 U.S. 182, 202 (1999); accord *McCutcheon* v. *FEC*, 572 U.S. 185, 224 (2014) (assuaging political donors' concerns about exposure by suggesting they "contribute unlimited amounts to 501(c) organizations" anonymously instead). Nothing in this "election-law jurisprudence" has "broadly cabined" the Court's "earlier decisions" protecting anonymous association in nonprofits. *AFPF*, 594 U.S. at 622–23 (Alito, J., concurring).

C. Alaska's donor-disclosure requirement invades associational privacy and stops and compels speech.

Alaska's sweeping disclosure requirement shows the necessity of applying strict scrutiny. It applies to *every* communication of *every* nonprofit that may even "indirectly" reference a ballot initiative. Alaska Stat. § 15.13.400. Nonprofits that want to talk about political issues must then disclose their top three donors. Alaska's law thus intrudes on a nonprofit's private affairs, stops protected anonymous speech, and compels the nonprofit's speech.

"No form of speech is entitled to greater constitutional protection than" political speech. *McIntyre*, 514 U.S. at 347. Protecting that speech "assure[s] the unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Id.* at 346 (citation modified). But "advocacy of a politically controversial viewpoint" threatens "retaliation" and "suppression" of ideas from "an intolerant society." *Id.* at 347, 357.

History has shown the risks of disclosing identities of those who speak about political issues. Supporters of California's Prop 8, which protected traditional marriage, received "threats of physical violence or death" and "suffered property damage." *Citizens United*, 558 U.S. at 481 (Thomas, J., concurring in part and dissenting in part). The California law there required donors to Prop 8 to disclose their full name, street address, occupation, employer's name, and amount of contribution. *Ibid.* Proposition opponents used this information to create public websites with maps showing the locations of donors—leading to harassment campaigns. *Id.* at 481–82.

As *NAACP*, *AFPF*, and *First Choice* establish, demanding identities of speakers on political issues directly abridges the First Amendment. Forced donor disclosure inhibits a nonprofit's ability to speak itself, pursue its mission, and bring together like-minded people. It will also stop people concerned about retaliation from donating to the nonprofit. That's more than "enough to discourage groups from expressing dissident views." *First Choice*, 146 S. Ct. at 1130.

Doubling down on the First Amendment violation, Alaska's law also compels speech. It forces a nonprofit like the Forum to say something on its communications that it otherwise wouldn't: its donors' names and locations. Compelled speech imposes "additional damage" above censorship. *Janus* v. *American Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 893 (2018). Freedom of speech "necessarily compris[es] the decision of both what to say and what not to say." *Riley* v. *National Fed'n of the Blind of N.C., Inc.*, 487 U.S. 781, 797 (1988). Under the First Amendment, the speaker—not the government—gets to decide what to say. "[N]o other approach would comport with the premise of individual dignity and choice upon which our political system rests." *Cohen* v. *California*, 403 U.S. 15, 24 (1971).

The court below skated by the compelled-speech implications with the ipse dixit that the disclosure requirement didn't "alter the content of speech." Pet.App.61a. Not so. The Forum spoke about ranked-choice voting. Yet Alaska law required it to disclose the names and locations of its donors in the same communication. Alaska's law "plainly alters the content" of what nonprofits want to say. *National*

Inst. of Fam. & Life Advocs. v. *Becerra*, 585 U.S. 755, 766 (2018) (*NIFLA*) (citation modified).

Because it burdens associational rights and stops and compels speech, Alaska's law triggers (and fails) strict scrutiny.

III. Alaska's disclosure requirements cannot meet strict or even exacting scrutiny.

Under strict scrutiny, state laws "are presumptively unconstitutional." *NIFLA*, 585 U.S. at 766 (citation omitted). The government must prove its action is "narrowly tailored to serve compelling state interests." *Ibid.* (citation omitted). Narrow tailoring requires the state to use the means "least restrictive" of First Amendment rights. *McCullen* v. *Coakley*, 573 U.S. 464, 478 (2014). Exacting scrutiny also mandates narrow tailoring to a "sufficiently important governmental interest." *AFPF*, 594 U.S. at 611 (citation omitted). This Court's precedent shows that Alaska's law flunks both the compelling interest and narrow tailoring prongs under either test.

A. Alaska has no compelling interest in requiring public disclosure of a 501(c)(3)'s donors.

The court below assessed the state's "interest in an informed electorate." Pet.App.62a. But that interest cannot "justify a state requirement that a writer make statements or disclosures she would otherwise omit." *McIntyre*, 514 U.S. at 348. The name and location of a donor "add[s] little, if anything, to the reader's ability to evaluate the document's *message*." *Id.* at 348–49 (emphasis added).

Alaska's law implements a "prophylaxis-upon-prophylaxis approach" devoid of any compelling interest. *FEC* v. *Cruz*, 596 U.S. 289, 306 (2022). In this area implicating sensitive First Amendment freedoms, Alaska "must do more than simply posit the existence of the disease sought to be cured." *Id.* at 307 (citation modified). It must provide "record evidence or legislative findings demonstrating the need to address a special problem." *Ibid.* (citation modified). This Court has "never accepted mere conjecture as adequate to carry a First Amendment burden." *Ibid.* (citation modified).

The Alaska Supreme Court's decision had nothing but conjecture. Citing no record evidence, it assumed the public would want to know who funded the under-$650 the Forum spent to issue some communications about ranked-choice voting. Pet.App.70a–71a. And it resorted to "imagin[ation]" about a hypothetical video "going viral" during election season. Pet.App.71a. It didn't cite *any* evidence showing that 501(c)(3) communications had deceived or defrauded or even confused anyone.

The Alaska Supreme Court's citation to *Citizens United* doesn't establish a compelling interest. Contra Pet.App.62a. There, this Court applied exacting scrutiny to a law requiring a disclaimer about the group funding an electioneering communication supporting or attacking a candidate. 558 U.S. at 366. But a risk of perceived corruption in candidate elections "simply is not present in a popular vote on a public issue." *McIntyre*, 514 U.S. at 352 n.15 (citations omitted). And as discussed, that interest doesn't apply to 501(c)(3) communications because those groups cannot campaign or do much lobbying.

B. Alaska’s law flunks narrow tailoring.

Alaska’s donor-disclosure requirement is not the least restrictive means to any government interest. First, it creates a broad prophylactic intrusion on donor privacy and nonprofit speech. It mandates disclosure of private information for every communication sent by a nonprofit that even “indirectly” references the topic of a ballot initiative. It is not limited to “the activities of candidates and their organized supporters” but extends to nonprofits “acting independently and using only their own modest resources.” See *McIntyre*, 514 U.S. at 351.

Second, it applies to 501(c)(3)s, which can’t advocate for candidates and have stringent limits on lobbying. Those groups can’t engage in direct political campaigning, so disclosing donors only serves to burden the nonprofit’s protected political speech.

Voters learn nothing about funding streams for candidates or ballot initiatives by seeing donor identities on 501(c)(3) communications. The court below identified a public interest “in knowing who funded” the Forum’s speech. Pet.App.69a. But the forced disclosure here doesn’t inform the electorate in a relevant way—for example, to combat corruption or detect contribution limit violations. The public already knows the 501(c)(3) that is speaking. The public understands people donate to nonprofits. States and courts can’t “underestimate the common man.” *McIntyre*, 514 U.S. at 348 n.11. “People are intelligent enough to evaluate” ideas based on assessing sources of a message and funding, including potentially anonymous ones, and ultimately making a decision based on the message expressed. *Ibid.*

C. Alaska's law also fails exacting scrutiny.

For the same reasons, Alaska's law cannot meet exacting scrutiny. That standard has "real teeth," requiring a substantial relationship to a sufficiently important government interest and narrow tailoring to preserve First Amendment rights. *AFPF*, 594 U.S. at 622 (Alito, J., concurring); *id.* at 611 (majority op.). Alaska's broad prophylactic law burdens 501(c)(3) association and speech while providing little—if any—useful information to the public. It applies to groups that can't campaign for candidates or do much lobbying. Yet it chills many in what groups they associate with and how they donate their money, while also limiting nonprofit activities. That shows a "dramatic mismatch" to the supposed government interest and the blunderbuss means used to achieve it. *Id.* at 612.

CONCLUSION

This Court should grant the petition, hold that strict scrutiny applies to compelled nonprofit donor disclosure requirements, and reverse the Alaska Supreme Court.

Respectfully submitted,

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AUGUST 2026