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 a Writ of Certiorari to the Alaska Supreme Court

BRIEF OF AMERICAN LEGISLATIVE EXCHANGE COUNCIL AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICUS CURIAE*

Like Petitioner, Alaska Policy Forum ("APF"), the American Legislative Exchange Council ("ALEC") is a nonprofit and nonpartisan corporation organized under 501(c)(3) of the Tax Code.[1] ALEC and its members are dedicated to educating the people of the United States about the principles of limited government, free markets, and federalism.

ALEC proudly serves as America's largest nonprofit, nonpartisan voluntary membership organization of state legislators. With a membership base of hundreds of private sector organizations and with legislator-members in all 50 States, ALEC's state legislative membership amounts to nearly one-quarter of the state legislators in the United States.

ALEC submits this amicus brief because if ALEC speaks about an issue in Alaska, regardless of the amount spent on disseminating ALEC's speech, Alaska may interpret such speech as election related under an amorphous test. This interpretation could trigger disclosure of all ALEC's donors. In addition to disclosing ALEC's donors in filings with the Alaska Public Offices Commission, ALEC must, on the communication itself, disclose for a second time the names and state of residence of ALEC's top three donors in the past 12 months. This would impose a substantial chill on ALEC's speech, especially given

[1] No counsel for any party authored this brief in whole or in part. Additionally, no counsel for a party or any person for a party, made a monetary contribution to fund the preparation or submission of this brief. In fact, no person, other than ALEC, funded the preparation and submission of this brief. *See* Sup. Ct. R. 37.6. Additionally, on July 28, 2026, ALEC's counsel notified all parties in this case of ALEC's intent to file this amicus brief. Sup. Ct. R. 37.2.

the history of harassment against ALEC and its members. Accordingly, Alaska's disclosure and disclaimer requirements violate the First Amendment.

SUMMARY OF THE ARGUMENT

Alaska's two-tiered disclosure regime fails exacting scrutiny and therefore violates the First Amendment.

First, because APF's speech involves a ballot initiative, the only interest Alaska has in disclosure is in an informed electorate. *Buckley v. Am. Const. Law Found.*, 525 U.S. 182, 203 (1999).

Next, Alaska must adduce separate justifications for each of its two-tiers of disclosure. Its donor disclosure requirement that is filed with the Commission is to inform the electorate. Alaska must have a separate justification for its on-communication disclosure requirement. *McCutcheon v. FEC*, 572 U.S. 185, 210 (2014).

Second, Alaska's on-communication disclosure requirement does not satisfy the sufficiently important interest prong. Alaska justifies this requirement as a means to provide the listener with a heuristic to evaluate the speech. But this justification amounts to convenience, which is not sufficient to infringe First Amendment rights. *See, e.g., Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 615 (2021). Additionally, the Framers of the First Amendment would have found this justification foreign to the First Amendment and violative of the speaker's right to speak under a pseudonym. *McIntyre v. Ohio Elections Comm'n,* 514 U.S. 334, 342-43 (1995).

Third, Alaska's two-tiered disclosure requirement is not narrowly tailored. As for the base donor disclosure requirement, there are less intrusive means to inform the electorate. For example, Alaska could impose a threshold reporting requirement or an earmarking requirement. An earmarking requirement would inform the electorate as to exactly who supports the speech and not inundate the listener with misinformation. *Van Hollen v. FEC*, 811 F.3d 486, 497-98 (D.C. Cir. 2016).

Fourth, the on-communication disclosure requirement is also not narrowly tailored because that information is already available on disclosure reports. These disclosure reports are available almost immediately upon filing. The second disclosure of APF's top-three donors does not advance Alaska's interest in any meaningful way. *McCutcheon*, 572 U.S. at 210.

Fifth, Alaska's two-tiered disclosure regime imposes an intolerably high burden on First Amendment rights. The internet's ability to compile names and addresses quickly permits abuse. Examples of abuse are pervasive, especially to groups like ALEC. If Alaska's two-tiered disclosure regime is upheld, then it will chill the speech of organizations like ALEC, injuring both speakers and society. *Virginia v. Hicks*, 539 U.S. 113, 119 (2003).

ARGUMENT

I. ALASKA'S TWO-TIERED DISCLOSURE REGIME FAILS CLOSELY DRAWN SCRUTINY.

Alaska requires that organizations register with the Alaska Public Offices Commission ("the Commission") before the organization spends money on a ballot proposition campaign. Alaska Stat. § 15.13.050. Additionally, Alaska generally requires reporting to the Commission all expenditures made to influence an election—including a ballot proposition—even when the expenditure is $1. *Id*. § 15.13.040(d) and (h).

The report must disclose all donors who donated to the entity regardless of the amount donated "for the purpose of influencing the outcome of the election." *Id.* § 15.13.040(e). Although the statute seems to contain a limiting principle, seemingly requiring disclosure of only those donations made with the purpose of influencing the election, to quote Hamlet: "I know not seems." William Shakespeare, *Hamlet*, Act 1, Scene 2, Line 76 (Norton ed. 1997). As the Commission's regulations make clear, if an organization's general funds are used, all the organization's donors who donated must be disclosed. *See* 2 Alaska Admin. Code § 50.270(e)(2). Instead, if an organization wants to limit disclosure of its donors to only those who donated with the purpose of influencing the election, the organization must first complete some prerequisites. First the organization must establish a separate bank account; then the organization must solicit contributions expressly for the purpose of supporting the particular speech, allowing the contributor to indicate that they want to influence the election; lastly, the organization must then place the contributions received into that account. *See id.* § 50.270(e). All of this must be done prior to speaking. *See Citizens United v. FEC*, 558 U.S. 310, 337-38 (2010).

In addition to these disclosures filed with the Commission, the organization must make a disclosure on the communication itself when an organization makes a communication related to a ballot proposition. This disclosure must identify the organization's top three donors within the past 12 months and provide their names and states of residence. Alaska Stat. § 15.13.090(a)(2).

Alaska's disclosure and disclaimer requirements are unconstitutional for a few reasons.

First, Alaska needs to separately justify both of its disclosure requirements. Because this case involves a ballot proposition, the Supreme Court has made clear that the government's interest in preventing actual or apparent corruption is not at issue. Thus, the only interest Alaska has in disclosure is to provide information to the electorate.

Thus, Alaska must justify its base disclosure requirement in that it demands organizations like APF to disclose all donors who donated, even those who gave only $1. Then, Alaska must also justify why it needs a second disclosure layered on top of the base disclosure, especially when the second disclosure, the on-communication disclosure, is also intended to promote an informed electorate. Alaska fails to do this.

Second, even if Alaska could provide separate justifications for each of its disclosure regimes, those justifications are not properly tailored to the means used. Accordingly, Alaska's disclosure regime fails closely drawn scrutiny.

A. Alaska Cannot Justify Its Two-Tiered Disclosure Regime Demanding Public Disclosure Of All APF's Donors And A Second Public Disclosure Of The Top-Three Donors On The Communication Itself.

In *McCutcheon*, this Court declared unconstitutional Congress's aggregate contribution limits. This Court found that the aggregate contribution limits—in addition to the base contribution limits—did little if anything to prevent actual or apparent corruption. 572 U.S. at 191. This is because when a contributor contributes the maximum permitted under the base limits to ten candidates, on the eleventh candidate, the aggregate contribution limits suddenly prevent the contributor from contributing even a dime. This is because with the aggregate limits, Congress considered that dime corrupting. *Id*. at 210. Here, the Supreme Court emphasized that in the context of campaign finance laws, fit matters. *Id*. at 218. The aggregate contribution limits at issue in *McCutcheon* were not closely drawn to avoid "the unnecessary abridgment of associational freedoms." *Id*.

In the disclosure context, disclosure also serves to prevent actual or apparent corruption. *Buckley v. Valeo*, 424 U.S. 1, 67 (1976). Disclosure of large contributions allows the public to more easily detect post-election *quid pro quo* corruption. *Id*. Additionally, disclosure prevents actual or apparent corruption due to reporting and record keeping requirements, allowing the government to detect and pursue actual or apparent corruption. *Id*. Lastly, disclosure provides the electorate with information allowing the electorate to evaluate the candidates and to know to which interests the candidate will be most responsive. *Id*. at 66. Because this case involves a ballot initiative, the first two government interests are simply not present. *Am. Const. Law Found.*, 525 U.S. at 203. The only interest that Alaska may advance with these disclosure statutes is an informed electorate.

The Alaska Supreme Court ruled that its two-tiered disclosure regime served the informational interests of Alaska's voters. *Alaska Policy Foundation v. Alaska Public Offices Commission*, 583 P.3d 701, 735 (Alaska 2026). Concerning the base disclosure requirements, the court ruled that Alaska has an interest in an informed electorate. *Id*. at 730. Next, the Alaska Supreme Court contends that the top-three donor disclosure requirement better effectuates the government's interest in an informed electorate than publicly available disclosure reports. *Id*. at 737. This is so because on communication disclosure "provides an instantaneous heuristic by which to evaluate generic or uninformative speaker names..." *Id*.

Alaska fails to justify its double disclosure regime. Closely drawn scrutiny requires that Alaska demonstrate that its top-three donor disclosure requirement targets the informational interest in a meaningful way and uses means that are narrowly tailored. *Ams. for Prosperity Found.*, 594 U.S. at 608. Accordingly, Alaska cannot use means that unnecessarily abridge First Amendment rights. *McCutcheon*, 572 U.S. at 199.

i. Alaska's Justification for its Top-Three Donor Disclosure Requirement Amounts to Administrative Convenience Which is Insufficient to Justify Infringements on Free Speech.

At the outset, Alaska's justification for its top-three donor disclosure requirement is merely an argument for administrative convenience. Alaska justifies the requirement because it provides an "instantaneous heuristic" to the listener and thus is more effective at serving the government's interest of an informed electorate. *Alaska Policy Foundation*, 583 P.3d at 737.

Importantly, however, within the context of a ballot petition, Alaska's individual voters are exercising legislative power. *Id*. at 709; *cf. Ariz. State Legis. v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 793 (2015). Thus, Alaska compels speakers to provide a second layer of disclosure as a matter of convenience to those acting with legislative power. The First Amendment does not countenance government efficiency as a sufficiently important interest to justify infringement of First Amendment rights. *Ams. for Prosperity Found.*, 594 U.S. at 615; *McCullen v. Coakley*, 573 U.S. 464, 495 (2014); *see* Pet. at 36. Alaska cannot use administrative convenience to justify disclosure.

ii. Alaska's Justification That on Communication Disclosure Provides Immediate Assistance to the Listener to Evaluate the Speaker's Speech is Foreign to the First Amendment.

Premised on a mistrust of governmental power, the First Amendment declares in no uncertain terms that Congress "shall make no law…abridging the freedom of speech…". U.S. Const. amend. I; *Citizens United*, 558 U.S. at 340. The major purpose of the First Amendment is to "protect the free discussion of governmental affairs." *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 776-77 (1978).

Importantly, "the inherent worth of the speech in terms of its capacity for informing the public does not depend upon" the speaker's identity. *Id*. at 777. Thus, a state's interest in providing voters with relevant information is insufficient to abridge the right to anonymous speech. *McConnell v. FEC*, 540 U.S. 93, 276 (2003) (Thomas, J., concurring in part, concurring in judgment in part, and dissenting in part); *see also McIntyre*, 514 U.S. at 348 (holding that the government's informational interest is insufficient to compel a speaker to disclose their identity).

When interpreting the meaning of the Free Speech Clause, this Court looks to the meaning of the words when it was adopted, and what the contemporaneous understanding was concerning the Clause's protections. *See McIntyre*, 514 U.S. at 359 (Thomas, J., concurring) (citing *South Carolina v. United States*, 199 U.S. 437, 448 (1905) and *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984)).

The Framers of the Constitution engaged in political advocacy under pseudonyms, most famously "Publius" of the Federalist Papers. *Id*. at 360. In 1779, Dr. Benjamin Rush wrote under the pseudonym "Leonidas" and argued that Congress had caused inflation. *Id*. In 1784, the Governor of New Jersey, William Livingston wrote under the pseudonym "Scipio" arguing that the New Jersey legislature failed to lower taxes. *Id*. at 362-63. Those who opposed the writings of Publius signed their writings under pseudonyms such as Cato, Centinel, Brutus, and The Federal Farmer. *Id*. at 343 n.6. Benjamin Franklin also "employed numerous different pseudonyms" in his writings. *Id*. at 341 n.4. Chief Justice Marshall also wrote under the penname "a friend to the Republic" to defend some of the Supreme Court's decisions. *See* Note, *The Constitutional Right to Anonymity: Free Speech, Disclosure and the Devil*, 70 Yale L.J. 1084, 1085 (1961). Accordingly, from 1789 to 1809, "no fewer than six presidents, fifteen cabinet members, twenty senators, and thirty-four congressmen published political writings either unsigned or under pen names." *Id*. Political advocacy through the use of pseudonyms was therefore common. *McIntyre*, 514 U.S. at 369 (Thomas, J., concurring). In fact, Abraham Lincoln himself engaged in political advocacy through the use of pseudonyms. *McIntyre*, 514 U.S. at 373 (Scalia, J., dissenting). The Framers, therefore, established a "respected tradition of anonymity in the advocacy of political causes" and an "honorable tradition of advocacy and dissent" because anonymity provides a "shield from the tyranny of the majority." *McIntyre*, 514 U.S. at 343, 357.

Speaking through a pseudonym, however, had another salutary purpose. Clinton Rossiter, one of the most respected historians of *The Federalist Papers*, states that Alexander Hamilton, James Madison, and John Jay chose to speak pseudonymously because they wanted "their arguments debated on the merits, rather than through personal attacks." *See* Bradley A. Smith, *In Defense of Political Anonymity*, City Journal at 9 (Winter 2010). The Supreme Court too has recognized that speaking through a pseudonym requires the listener to judge the speech not the speaker. *McIntyre*, 514 U.S. at 342.

The idea, therefore, that the government has a sufficiently important interest in compelling disclosure on the communication itself to provide the listener with an "instantaneous heuristic" is foreign to the Free Speech Clause. In fact, just the opposite: the Framers wanted the listener to engage the speech disseminated in the message, not attack the identity of the speaker. Providing the listener with "instantaneous heuristic" is a concept the Framers of the First Amendment would have rejected. In fact, the Framers did reject attempts both in Congress and the courts to compel the disclosure of a speaker's identity. *McIntyre*, 514 U.S. at 361-62 (Thomas, J., concurring) (discussing both the court case of John Peter Zenger, a printer who refused to identify the author of pamphlets attacking the royal governor of New York; and the case of "Leonidas" where Elbridge Gerry moved Congress to compel the printer of a newspaper to testify before Congress on the identity of "Leonidas;" his motion failed).

B. Alaska's Two-Tiered Disclosure Regime Unnecessarily Abridges Speech and is Therefore not Narrowly Tailored.

Alaska's two-tiered disclosure regime is not narrowly tailored for it unnecessarily abridges the First Amendment rights of speakers. Alaska is "not free to enforce any disclosure regime that furthers its interests. It must instead demonstrate its need for [its two-tiered disclosure regime] in light of any less intrusive alternatives." *Ams. for Prosperity Found.*, 594 U.S. at 613.

First, there are less intrusive alternatives that Alaska can choose that would achieve its interest in an informed electorate.

This Court has previously declared unconstitutional disclosure statutes in the context of ballot petitions. Specifically, this Court declared unconstitutional Colorado's requirement that petition circulators wear badges that displayed their names and Colorado's requirement that disclosure reports identify the names and addresses of each paid circulator. *See Buckley*, 525 U.S. 182. Evidence demonstrated that the badge requirement caused fewer people to serve as petition circulators. *Id*. at 198. This is especially true because when the circulator begins speaking with a potential signatory, it is in that moment that retaliation may occur, especially if the ballot issue is volatile. *Id*. Colorado, for its part, insisted that the badge requirement was necessary for law enforcement purposes. *Id*.

The Court concluded that there were less intrusive alternatives available to Colorado, such as the affidavit requirement which demands the circulator sign his name and provide his address behind each page bearing a voter's signature. *Id*. Importantly too, the affidavit is separate from when the circulator speaks, separating the speaker from the "heat of the moment." *Id*. at 198-99. The affidavit was therefore sufficient to meet the law enforcement requirement.

Next, the Court declared unconstitutional Colorado's requirement the names and addresses of each paid circulator be disclosed on disclosure reports. *Id*. at 201-02. The Court declared this disclosure requirement unconstitutional because Colorado also required the disclosure of "who has proposed [the] measure and who has provided funds for its circulation." *Id*. at 203. Colorado failed to prove that it needed the names and addresses of the paid circulators themselves to have an informed electorate. *See id*. As it was, Colorado had means available to it that less infringed on First Amendment rights, such as voiding those signature pages if the petition circulator violated the laws governing petition circulation. *Id*. at 205.

1. Alaska requires that APF disclose all donors who donated to it regardless of amount. Alaska does not, however, demonstrate that such broad disclosure is necessary to have an informed electorate. *Ams. for Prosperity Found.*, 594 U.S. at 614. In fact, there is no evidence that Alaska considered less intrusive alternatives. *See Ams. for Prosperity Found.*, 594 U.S. at 618 (holding that California failed to carry its burden for mandating disclosure of all 990s because California failed to consider any less intrusive alternative). Instead, an earmarking requirement would provide the electorate with knowledge of exactly who supported the speech. *Van Hollen*, 811 F.3d at 497. Additionally, Alaska has not shown why an informed electorate requires the disclosure of each and every donor to an organization that spent less than $700 to

support a ballot initiative. *See Ams. for Prosperity Found.*, 594 U.S. at 613-14.

2. Alaska's second layer of disclosure, the top-three donor disclosure requirement, is also not narrowly tailored. The top-three donor names are already disclosed on campaign finance reports. This is similar to Colorado where the petition circulators' names were also already disclosed on the affidavit, making the ID badge requirement unnecessary. *Am. Const. Law Found.*, 525 U.S. at 198. Also, like Colorado, disclosure in campaign finance reports separates the speaker from its message, allowing the listener to at least initially, in the heat of the moment, to evaluate the message itself. Then, if the listener wants to know, the listener can pull the disclosure reports. Requiring that APF disclose its top-three donors twice is not closely drawn.

Additionally, because Alaska requires disclosure reports, voters already have all of the donors information, including the names and addresses of the top three donors. The added on-communication information does not advance the voter's knowledge but instead provides an incomplete picture in the heat of the moment when the speech is heard. The voter still has the information about who donates to the organization long before casting a vote at the polls. The on-communication disclosure does not advance the government's interest in an informed electorate in any meaningful way. *See McCutcheon*, 572 U.S. at 210.

This is especially true when campaign finance reports are publicly available as soon as the reports are filed. This Court recognized that the internet allows for "prompt" dissemination of disclosure reports. This permits voters to rapidly react and hold elected officials accountable. *See Citizens United*, 558

U.S. at 370-71. The Commission's website provides searchable campaign finance reports, including 24-hour reports. When a filer certifies the report, "it is immediately available for the public to view."[2]

That Alaska allows organizations like APF and ALEC to establish a separate segregated fund and to fundraise for that purpose is of no import. It is well known that people begin to focus on the election close in time to the election. The decision to speak in elections happens quickly and often in the heat of the campaigns in the weeks leading up to the election. Accordingly, the window within which to speak is often short. *Citizens United*, 558 U.S. at 334. For organizations like APF and ALEC that do not and cannot electioneer, 26 U.S.C. 501(c)(3), requiring them to establish a separate fund, create separate solicitations where the contributor would then indicate express support for the message, is simply impractical. *See Citizens United*, 558 U.S. at 334, 337-38 (discussing the burdensome PAC requirements imposed on corporations); *see also* 2 Alaska Admin. Code § 50.270(e). APF must comply with all of these requirements if it wishes to spend less than $700 on a ballot initiative and maintain the privacy of its donors.

Second, such broad disclosure would supply the electorate with misinformation. For example, ALEC serves as a nationwide forum for the study, education, and vigorous debate of issues concerning individual rights and free market policies. ALEC has legislative members in all 50 states and collaborates with non-profit think tanks and corporations. All three groups

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[2] *Electronic Filing of APOC Documents*, *available at* https://apoc.doa.alaska.gov/filer-resources/electronic-filing-of-apoc-documents/ (last visited Aug. 16, 2026).

participate in these debates to formulate policy proposals. ALEC's corporate members employ more than 30 million people and ALEC has sometimes partnered with ideological opponents, such as the ACLU, on issues like criminal justice reform.

Thus, individuals, nonprofits, and corporations all participate with ALEC for various reasons and its members do not agree with all ALEC's activities. Accordingly, ALEC's donors donate for many reasons. ALEC educates the public on many issues. If ALEC were to run a communication in Alaska opposing ranked choice voting, it is unlikely that its donors would know about the communication and it is further unknown how many donors would support ALEC's message.

In *Van Hollen v. FEC*, the D.C. Circuit analyzed whether the FEC's purpose requirement in its electioneering communications disclosure regulations survived an APA challenge. 811 F.3d 486, 488 (D.C. Cir. 2016). Although the statute's disclosure provision did not contain as a pre-requisite to disclosure that the donor donate for the purpose of influencing the electioneering communication, the FEC's regulations adopted a purpose provision. In defending that decision, the FEC contended that contributions to the general treasury of a corporation "would mislead voters as to who really supports the communications." *Id*. at 497.

In agreeing with the FEC, the D.C. Circuit provided an example: a Republican donates $5,000 to the American Cancer Society ("ACS") because the Republican wants to provide funding for cancer research. Then, the ACS runs targeted advertisements against Republican congressional members because these Republicans sought to end federal funding to

ACS. Compelling disclosure of the Republican donor to ACS would convey misinformation to the electorate about "who supported the advertisements." *Id*.

Consider the following hypothetical with ALEC. A donor donates a substantial sum of money making the donor one of ALEC's top-three donors. This donor makes the donation because he supports ALEC's educational efforts in supporting conservative and free market principles.

Like some conservative voters, however, this hypothetical donor supports ranked choice voting.[3] ALEC, by contrast, opposes ranked choice voting.[4] Imagine if ALEC ran a communication like Petitioners and ALEC were required to disclose all its donors, including the top-three donors on the communication itself, because it posted on its website analysis of why ranked choice voting is concerning. Alaska would require the disclosure of the hypothetical donor which would convey misinformation to the public. *Van Hollen*, 811 F.3d at 497. Thus, Alaska's broad and two-tiered disclosure regime does not serve the interests of an informed electorate in any meaningful way. *McCutcheon*, 572 U.S. at 210.

Accordingly, Alaska's two-tiered disclosure regime is not closely drawn.

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[3] University of Maryland, School of Public Policy, Program for Public Consultation, *Six-In-Ten Favor Ranked Choice Voting In Federal Elections* (April 20, 2022) *available at* https://publicconsultation.org/united-states/six-in-ten-favor-ranked-choice-voting-in-federal-elections/ (last visited Aug. 16, 2026).

[4] Katherine T. Bennett, *Testimony in Ohio: Ranked Choice Voting* (Feb. 18, 2026) *available at* Testimony in Ohio: Ranked Choice Voting (last visited Aug. 16, 2026).

C. Alaska's Two-Tiered Disclosure Regime Does not Reflect the Burden on a Speaker's First Amendment Rights.

When evaluating the constitutionality of a disclosure regime, part of the exacting scrutiny analysis is evaluating the strength of the governmental interest against the actual burden on First Amendment rights. *Davis v. FEC*, 554 U.S. 724, 744 (2008).

The risks of disclosure make Alaska's on-communication disclosure regime unnecessarily abridge Free Speech rights. Donors may cease giving to organizations if their names and addresses are at risk of disclosure, especially if it's an issue they may or may not support.

People have misused disclosure laws for purposes of harassment for decades. *See Shelton v. Tucker*, 364 U.S. 479, 486 n.7 (1960) (observing that a local association had dedicated itself to obtaining the names of teachers who belonged to controversial organizations "with a view to eliminating from the school system persons who supported organizations unpopular with the group, including the ACLU."); *see also NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 465-66 (1958) (declaring unconstitutional Alabama's demand that the NAACP produce its Alabama membership list as part of Alabama's purported effort to compel compliance with the state's incorporation laws).

The advent of the internet, however, has made disclosure abuse more widespread and concerning. As this Court recently recognized "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." *Ams. for Prosperity Found.*, 594 U.S. at 617 (quoting in part *Doe v. Reed*, 561 U. S. 186, 208 (2010) (Alito, J., concurring)).

For example, with California's Proposition 8, opponents of Proposition 8 created websites that compiled address information of Proposition 8 supporters. *Citizens United*, 558 U.S. at 481 (Thomas, J., dissenting). Supporters received threats like: "Consider yourself lucky. If I had a gun I would have gunned you down along with your friends." *Id*. Other supporters were compelled to resign from jobs. *Id*. at 482. Other people and organizations have abused campaign finance disclosure reports as a means to threaten potential donors to Republican candidates. *Id*. One particular organization sent warning letters to potential donors warning them that if they contributed to Republican candidates, the donor could expect, "legal trouble, public exposure, and watchdog groups digging through their lives." *Id*. at 482-83. The head of this organization described this tactic as "going for the jugular." *Id*. at 482.

Websites, such as The Huffington Post, use Google Maps "so viewers can see who in their neighborhood has made political contributions." David M. Primo, *Full Disclosure: How Campaign Finance Disclosure Laws Fail To Inform Voters and Stifle Public Debate* at 6 (2011). The internet continues to provide opportunities for people to abuse publicly available campaign finance disclosure reports. Bradley A. Smith, *Doxing Trump Donors Is Just The Beginning*, National Review (Aug. 9, 2019) *available at* https://www.nationalreview.com/2019/08/doxxingtrump-donors-is-just-the-beginning (last accessed Aug. 16, 2026) (discussing Congressman Joaquin Castro posting campaign finance reports on Twitter in 2019 disclosing San Antonio residents who contributed the maximum amount to

President Trump's reelection campaign and subsequent harassment and threats those donors endured).

ALEC itself has endured a consistent barrage of attacks where ideological opponents have sought the complete list of ALEC's members and donors. Br. for ALEC as Amicus Curiae Supporting Petitioner, *Americans for Prosperity Found. v. Bonta*, Nos. 19-251 & 19-255, at 3 (U.S. Mar. 1, 2021).[5] Then, beginning in 2013, U.S. Senator Dick Durban of Illinois also harassed organizations he thought might be members of ALEC. In letters echoing the disgraced Senator Joseph McCarthy, Durbin demanded to know if these organizations are now or ever have been members of or donors to ALEC. *Id*. at 4-5. More recently, in 2021, ideological opponents filed complaints in 15 states alleging that ALEC's activities triggered those state's reporting and disclosure statutes. Br. for ALEC as Amicus Curiae Supporting Petitioner, *First Choice Women's Resource Centers, Inc. v. Platkin*, No. 24-781, at 6 (U.S. Aug. 28, 2025).[6]

These harassing tactics had their intended effect. Within the decade of 2011 to 2021, ALEC's ideological opponents caused ALEC's funding to decrease by $2 million. *Id*. at 7. It took ALEC five years to rebuild the organization's support. *Id*. Additionally, between 2011 and 2013, ALEC lost approximately 25% of its private sector members and 400 state legislative members, including members who are Democrats. *Id*. at 7-8.

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[5] *Available at https://www.supremecourt.gov/DocketPDF/19/19-251/170380/20210301122354239_19-251%20Amicus%20Brief.pdf* (last visited Aug. 16, 2026).

[6] *Available at https://alec.org/wp-content/uploads/2025/09/ALEC-Amicus-Brief-FirstChoiceWomens-v-Platkin.pdf* (last visited Aug. 16, 2026).

Government action that leads to membership withdrawal and a loss of donations harms both free speech and free associational rights. *NAACP*, 357 U.S. at 462-63 (observing that a withdrawal of membership is a First Amendment harm); *Brock v. Local 375, Plumbers Int'l Union*, 860 F.2d 346, 350 (9th Cir. 1988) (same); *AFL-CIO v. FEC*, 333 F.3d 168, 176, 178 (D.C. Cir. 2003) (same).

Accordingly, the burden of Alaska's disclosure regime risks chilling the speech of organizations like APF and ALEC. *Watkins v. United States*, 354 U.S. 178, 197-98 (1957) (observing that compelling a congressional witness to publicly testify about their beliefs and associations could cause the witness to experience terrible reactions from the public that are disastrous for the witness and for those persons whom the witness discloses; additionally, those who adhere to the same beliefs will refrain from speaking to avoid a similar fate). Rather than speak, and risk disclosure of their supporters, subjecting them to potential harassment, some organizations might rather avoid the public square altogether. This chilling of speech not only harms organizations like APF and ALEC, but also harms society. *See Virginia*, 539 U.S. at 119 (chilled speech harms society because it is "deprived of an uninhibited marketplace of ideas.").

CONCLUSION

For the foregoing reasons, this Court should grant certiorari.

Respectfully submitted,

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