STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
RAÚL R. LABRADOR

ATTORNEY GENERAL OPINION 26-2

TO: The Honorable Phil McGrane
Idaho Secretary of State
700 W. Jefferson, #E205
Boise, ID 83702

You have requested a written opinion from the Attorney General regarding the effect on the Idaho Sunshine Law of *Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n*, a recent U.S. Supreme Court decision which held the statutory restrictions on coordinated political party expenditures with party candidates violate the First Amendment.

QUESTIONS PRESENTED

In light of the U.S. Supreme Court's decision in *Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n*, 146 S. Ct. 2404 (2026) (*NRSC*), how should the Secretary of State administer and enforce the Idaho Sunshine Law, chapter 66, title 67, Idaho Code, during the 2026 general election with respect to expenditures made by state and county central committees in cooperation or consultation with candidates? Specifically, in light of the *NRSC* opinion, do the current limits on contributions as applied to coordinated expenditures between a political party and its candidates remain enforceable?

BRIEF ANSWER

The Secretary of State should not enforce Idaho Code § 67-6610A's contribution limits to the extent they apply to coordinated campaign expenditures between a political party and its candidates. However, the Secretary should continue to enforce all other aspects of the Idaho Sunshine Law.

EXECUTIVE OFFICE
P.O. BOX 83720, BOISE, IDAHO 83720-0010
TELEPHONE: (208) 334-2400, FAX: (208) 854-8071
LOCATED AT 700 W. JEFFERSON STREET, SUITE 210

BACKGROUND

Prior to the *NRSC* opinion, Supreme Court precedent provided that limits on coordinated expenditures between political parties and their candidates did not violate the First Amendment. *See FEC v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431, 437 (2001) (*Colorado II*). That Supreme Court precedent remained binding for a quarter century, until June 30, 2026, when the U.S. Supreme Court issued its *NRSC* opinion overruling *Colorado II*, and instead concluding that federal restrictions on coordinated spending between political parties and their candidates violate the First Amendment. *See NRSC*, 146 S. Ct. at 2413. The Court stated that the First Amendment's protection of free speech has its "fullest and most urgent application precisely to the conduct of campaigns for political office." *Id.* at 2415.

At issue in the case was the Federal Election Campaign Act (FECA), which imposes limits on a political party's campaign spending. Specifically, the lawsuit challenged FECA's limits on party coordinated expenditures, which are expenditures made by political parties' national or state committees in connection with the general election campaigns of party candidates for federal office. *Id.* at 2413. A political party makes a coordinated expenditure when it spends money on campaign activities—for example, campaign advertising—in coordination or consultation with candidates. *Id*. The First Amendment right at the center of the case was a political party's ability to communicate with its candidates to coordinate campaign activities. *Id.* at 2416. The Court found that party coordinated expenditure limits "inflict a 'stifling effect on the ability of the party to do what it exists to do,'" explaining it is "natural for a party and its candidate to work together and consult with one another during the course of the election." *Id.* The Court reasoned that restrictions on coordinated party spending impair the party's traditional forms of communication such as advertisements; preclude political parties from amplifying their adherents' voice; and impose additional monetary costs and burdens on political parties. *Id*. The Court noted that political parties have an "especially strong First Amendment interest" in working with their candidates and making expenditures on political speech in coordination with their candidates. *Id.* at 2426 n.6.

In overruling *Colorado II*, the Court made clear that its more recent First Amendment precedents recognize "only one legitimate governmental interest for restricting campaign finances: preventing corruption or the appearance of corruption." *Id.* at 2418; *McCutcheon v. Federal Election Comm'n*, 572 U.S. 185, 206–07 (2014). Accordingly, the Court rejected four potential justifications for coordinated expenditure limits: reducing overall campaign spending, preventing party influence over candidates, curbing "undue influence" by donors, and preventing circumvention of contribution limits. *NRSC*, 146 S. Ct. at 2423.

The Court focused much of its analysis on addressing what it called a "serious" argument: that allowing coordinated expenditures without limit might invite donors to circumvent base contribution limits by making large cash donations to a political party for the party to then spend on a specific candidate.[1] *Id.* at 2427. The Court expressed concern for circumvention as a potential vessel for disguised *quid pro quo* corruption, but ultimately determined that other, less restrictive means, such as disclosure requirements, earmarking rules and base contribution limits, were sufficient to serve the government's interests "without unduly restricting core political party speech." *Id.* at 2422.

In Idaho, campaign spending regulations are codified in chapter 66, title 67, Idaho Code, known as "The Sunshine Law." Idaho's Sunshine Law is a citizen initiative that was initially approved in 1974. The Sunshine Law states that its purpose is 1) to "promote confidence in government;" 2) to "promote openness in government;" and 3) to "promote transparency by those giving financial support to election campaigns and those promoting or opposing legislation or attempting to influence executive or administrative actions for compensation." Idaho Code § 67-6601. The third purpose can be summarized by stating that the purpose is to help prevent corruption by publicly disclosing those who are trying to influence governmental actions.

Among other things, the Sunshine Law restricts contributions that a political party's county or state central committee can make to a candidate and the candidate's campaign. The law limits contributions from county and state central committees to $1,000 for local government candidates, $2,000 for state legislative candidates, $5,000 from a county central committee to a statewide candidate, and $10,000 from a state central committee to statewide candidates. Idaho Code § 67-6610A. Contributions subject to the limits include money, goods, services, and anything of value. Idaho Code § 67-6602(3). These limits apply in both primary and general elections. Idaho Code 67-6610A(2).

While Idaho law does not limit coordinated expenditures between a party and a candidate through a specific limitation on coordinated expenditures like the federal law at issue in *NRSC*,[2] Idaho considers coordinated expenditures as an in-kind contribution from the political party (or other person) to the candidate, and thus subject to the applicable contribution limits. *Cf.* Idaho Code 67-6610A, *with* 52 U.S.C. § 30116(d); *see also* Phil McGrane, *Campaign Finance Disclosure Manual for Candidates and Political Committees* ("Manual"), https://archive.voteidaho.gov/download/cf_disclosure_manual.pdf (last visited September 10, 2026). The Manual explains that if an expenditure was made "with the candidate's knowledge," then that expenditure is subject to the candidate's contribution limits, and the candidate must list it as an in-kind contribution from the party. Manual at 20–21. If the candidate was not working in

[1] A scenario where an individual contributes to a political party an amount above the limits on contributions to candidates and the party uses the funds to support a candidate is "one significant step removed from actual *quid pro quo* corruption—that is, from a donor's contribution *to a candidate* in exchange for official action." *NSRC*, 146 S. Ct. at 2419.

[2] Unlike Idaho Code § 67-6610A(2), FECA, 52 U.S.C. § 30116(d), specifically limits expenditures by political parties "in connection with" candidates.

coordination with the party, it is an independent expenditure. *Id.* at 21. Idaho does not limit independent expenditures. Idaho Code § 67-6611.

ANALYSIS

I. The Holding in *NRSC* Applies to Idaho Code § 67-6610A, Rendering Idaho's Limits on Party Coordinated Expenditures Unconstitutional and Unenforceable.

The Court in *NRSC* did not automatically invalidate any state law, nor did it say that all state restrictions on party spending are unconstitutional. However, the opinion was clear that restrictions on coordinated expenditures violate the First Amendment and are therefore no longer enforceable. This decision is applicable to the states. *Ridgeline Med., LLC v. Lyon*, 176 Idaho 812, 582 P.3d 498, 507 (2026) ("The guarantees of the First Amendment apply to the states through the Fourteenth Amendment.") (citation omitted); *Wall & Assocs., Inc. v. Dep't of Fin.*, 176 Idaho 185, 196, 574 P.3d 807, 818 (2025) (discussing circumstances when federal law supersedes state law).

While the *NRSC* decision focused its analysis on the constitutionality of limits on party coordinated *expenditures* and not party *contributions* to candidates, the holding applies to Idaho's Sunshine Law to the extent that Idaho treats coordinated expenditures as in-kind contributions subject to the contribution limits in Idaho Code § 67-6610A. *Colorado II*, the case expressly overruled by *NRSC*, discussed the First Amendment issue relating to "coordinated spending," acknowledging the Federal Election Commission's treatment of political parties' coordinated expenditures as in-kind contributions to the candidate, and thus subject also to the contribution limits. *Colorado II*, 533 U.S. at 443–45. The *Colorado II* Court determined that "[t]here is no significant functional difference between a party's coordinated expenditure and a direct party contribution to the candidate," and then held that "a party's coordinated expenditures, unlike expenditures truly independent, may be restricted to minimize circumvention of contribution limits." *Id.* at 464–65. But the Court rejected this conclusion in *NRSC*, instead holding that political-party coordinated-expenditure limits violate the First Amendment, rejecting the same anti-circumvention interests adopted by the *Colorado II* decision. *NRSC*, 146 S. Ct. at 2422, 2428.

It is thus clear that the *NRSC* holding is applicable to the Sunshine Law's contribution limits. Thus, to the extent Idaho Code § 67-6610A limits party coordinated expenditures by treating them as in-kind contributions subject to the contribution limits, the limits on coordinated expenditures between a political party and its candidates violate the First Amendment and can no longer be enforced.

II. Idaho's Base Limits on Campaign Contributions Remain Enforceable.

Idaho's base contribution limits in Idaho Code § 67-6610A applicable to political parties remain enforceable. The Supreme Court in *NRSC* did not invalidate base contribution limits at the federal level or otherwise. To the contrary, the Court listed base contribution limits among the "prophylactic measures" that are sufficient to serve the government's interests in preventing corruption "without unduly restricting core political party speech" through coordinated expenditure limits. *NRSC*, 146 S. Ct. at 2422. Further, the *NRSC* decision does not invalidate all limits on in-kind contributions from a political party to its candidates.

While the Court in *NRSC* was not specifically tasked with deciding the constitutionality of base contribution limits, it commented that, unlike coordinated expenditure limits, base contribution limits are not *per se* unconstitutional and can comport with the First Amendment if they are "closely drawn" to serve their asserted goal. To satisfy closely drawn scrutiny, a campaign contribution limit cannot be "disproportionate" and must be necessary and narrowly tailored to its asserted goal. *NRSC*, 146 S. Ct. at 2417; *see also Moving Oxnard Forward, Inc. v. Lopez*, 173 F.4th 1070, 1077 (2026); *Lair v. Motl*, 873 F.3d 1170 (9th Cir. 2017) (applying "closely drawn" scrutiny to determine the constitutionality of state limits on contributions to political candidates).

Because the Court did not specifically address the constitutionality of FECA's direct contribution limits, it did not analyze them under closely drawn scrutiny. *See* 52 U.S.C. § 30116. But the Court acknowledged several times that measures like campaign finance disclosure and earmarking rules play an important role in preventing the corruption at which campaign spending rules are aimed, in part because they help prevent circumvention of base contribution limits. *NRSC*, 146 S. Ct. at 2420 (recognizing the government has a constitutionally sufficient interest in preventing circumvention of base limits on contributions to candidates). It is evident from Court's stated concern about donors circumventing FECA's base contribution limits that the Court considers contribution limits a constitutionally permissible tool to help prevent corruption or its appearance in elections.

Therefore, Idaho's direct contribution limits, including those Idaho law imposes on political parties, are constitutional and remain enforceable in the 2026 general election.

III. Idaho's Disclosure and Earmarking Rules Remain Enforceable.

The Supreme Court made clear in *NRSC* that its holding invalidating party coordinated expenditure limits rested in significant part on the existence of other "prophylactic measures," such as reporting requirements, base contribution limits, and earmarking rules. *NRSC*, 146 S. Ct. at 2423. Idaho has a form of all these prophylactic measures.

Idaho law requires candidates and committees to submit campaign finance reports online to the Secretary of State. County, city, special district, and judicial candidates must report contributions and expenditures once they receive or expend at least $500. Idaho Code § 67-6608. Political action committees (PACs) must report campaign finances once they receive or spend $1,000. Idaho Code § 676602(14)(b). Central committees must file campaign finance reports with the state once they spend $5,000 in a calendar year. Idaho Code 67-6602(14)(c). The penalty for failing to comply with Idaho's campaign finance disclosure rules is a fine of $50 per day for late filings and fines of $250 to $2,500 for other violations. Idaho Code § 67-6625.

Idaho law also requires candidates and their campaigns to report to the Secretary of State all contributions they receive over $50 and all expenditures made over $25. Idaho Code § 67-6607(a) and (b). Additionally, Idaho Code § 67-6610 requires any person who contributes over $50 to a candidate or their campaign in a calendar year to "accompany the contribution with a statement of his full name and complete address." The statutorily imposed base contribution limits range from $1,000 to $10,000 per election depending on the donor and candidate. Idaho Code § 67-6610A.

The U.S. Supreme Court defined earmarking as any "designation, instruction, or encumbrance" directing funds to support a candidate. *NRSC*, 146 S. Ct. at 2421. In Idaho, it is illegal to make a contribution or expenditure "directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution." Idaho Code § 67-6614. Further, Idaho Code § 67-6610A(6)(a) states that a contribution by a political committee (including a political party) of funds that "have all been contributed by one (1) person who exercises exclusive control over the distribution of funds … is a contribution by the controlling person."

Thus, if a person were to contribute money to a political party with instructions that it be used to support a specific candidate, whether through coordinated expenditures or a pass-through contribution, that contribution would be considered to be a contribution to the candidate by the person who contributed the money to the political party. An earmarked contribution such as that would need to be counted toward the contribution limit of the person who contributed the earmarked funds to the political party.

Given that the Court indicated throughout *NRSC* that it favors these measures over coordinated expenditure limits for preventing corruption or its appearance, these provisions in the Sunshine Law remain enforceable.

CONCLUSION

Based on the above analysis, the State, including the Secretary of State, the Attorney General, county clerks, and county prosecuting attorneys, should not enforce Idaho Code § 67-6610A's contribution limits to the extent they unconstitutionally limit coordinated expenditures between a political party and its candidates. However, all other provisions of the Sunshine Law, including the statute's base contribution limits, disclosure rules, and earmarking rules, remain enforceable.

AUTHORITIES CONSIDERED

1. **UNITED STATES CODE:**

   52 U.S.C. § 30116(d)

2. **IDAHO CODE:**

   Idaho Code title 67, chapter 66

3. CASES:

FEC v. Colorado Republican Federal Campaign Committee, 533 U.S. 431, 437 (2001)

Lair v. Motl, 873 F.3d 1170 (9th Cir. 2017)

McCutcheon v. Federal Election Comm'n, 572 U.S. 185, 206–07 (2014)

Moving Oxnard Forward, Inc. v. Lopez, 173 F.4th 1070, 1077 (2026)

Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n, 146 S. Ct. 2404 (2026) (*NRSC*)

Ridgeline Med., LLC v. Lyon, 176 Idaho 812, 821, 582 P.3d 498, 507 (2026)

Wall & Assocs., Inc. v. Dep't of Fin., 176 Idaho 185, 196, 574 P.3d 807, 818 (2025)

4. OTHER AUTHORITIES:

Phil McGrane, *Campaign Finance Disclosure Manual for Candidates and Political Committees*, https://archive.voteidaho.gov/download/cf_disclosure_manual.pdf (last visited September 10, 2026)

Dated this 11th day of September, 2026.

RAÚL R. LABRADOR
Attorney General

Analysis By:

JAMES E. M. CRAIG, Division Chief
Civil Litigation and Constitutional Defense Division

CANDICE SPECTOR
Deputy Attorney General