

# PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

# IDAHO

#### Inside This Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Idaho might apply to your state or local work. It includes:

- Summary of registration and reporting triggers
- Key takeaways for nonprofit organizations
- FAQs
- Case study for a hypothetical small student voting rights organization
- List of helpful additional resources

## What Lobbying Activities Trigger Registration Requirements in Idaho?

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
<b>State Legislators</b>	Yes	Any individual who is compensated more than \$250 in a calendar quarter to lobby public officials about legislation on your behalf is obligated to register.
<b>State Executive Branch Officials</b>	Yes	Any individual who is compensated more than \$250 in a calendar quarter to lobby public officials about executive branch decisions on your behalf is obligated to register.
<b>Local Legislators or Local Executive Branch Officials</b>	Probably not	Idaho state lobbying law does not cover lobbying local officials, and we are not aware of any local lobbying ordinances in Idaho's larger cities, but it is always a good idea to check with a local jurisdiction you plan to lobby has its own regulations.

**Grassroots lobbying:** In Idaho, grassroots legislative lobbying (calling on members of the public, or other organizations, to take action for or against legislative action) is lobbying and can trigger registration. Executive branch grassroots lobbying does not trigger registration since only direct communication with executive branch officials count as lobbying in Idaho.

### KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN IDAHO:

- **The threshold for triggering registration is low:** Any lobbying activity can trigger registration if the lobbyist is compensated more than \$250 in a calendar quarter, which is a relatively low threshold.
- **Reporting is relatively easy:** Lobbyist expenditure reporting, although somewhat frequent, is straightforward and does not include information like staff compensation or prorated office overhead. However, note that legal fees specifically related to lobbying must be reported.
- **If your organization employs lobbyists, it is not required to register, but might want to anyway:** Idaho allows a lobbyist's employer to register voluntarily using an option called the "lobbyist shield provision." Doing so allows the organization to appoint a designated lobbyist from its staff, who also must register. Then, no other individual staff member will need to register and your designated lobbyist and organization will jointly report the lobbying expenditures for the whole organization on a single report.

This resource is current as of November 2023. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at [advocacy@afi.org](mailto:advocacy@afi.org) or at [info@democracycapacity.org](mailto:info@democracycapacity.org) with any comments.

This resource is meant to convey the basic principles of sections of state law that are most relevant for nonprofit advocacy and does not cover all aspects or all details of the state statutes. Please refer to the full text of the law for more details. This resource also does not cover details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying-related activities. In some states there is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.

## Q: How should we think about using this Practical Guidance resource?

This Practical Guidance – What Nonprofits Need to Know About Lobbying resource is designed to help your nonprofit organization determine if state or local regulations might apply to your existing or proposed advocacy work. The answer is surprisingly often – **YES!** – but there are also often many advocacy activities that do not require state lobbyist registration or reporting.

This Guide will help you identify which of your state or local activities might trigger registration and reporting, and also give you potential alternative program design ideas that would allow your program to be in compliance with the regulations but not require registration and reporting.

If you do need to register and report with the state, this Guide will also give you practical tips about what information needs to be included in your reports, and how to try to minimize your operational burden while remaining in compliance with the rules.

While this Guide does provide some information about the federal IRS rules that apply to nonprofit lobbying, it is designed to cover state and local regulations. Links to resources containing more information about federal IRS rules can be found in the federal lobbying FAQ below.

We also hope that this Guide will prove useful to legal counsel and other advocacy advisors who are working to assist nonprofit advocacy organizations, as well as the funders who generously support this work. Advisors and funders are invited to use the free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in Bolder Advocacy’s resource library at <https://bolderadvocacy.org/>

## Q: What activities count as lobbying?

Three categories of activities are considered regulated **lobbying** in Idaho:

- **Legislative lobbying** means attempting to influence the approval, modification, or rejection of legislation by the state legislature, any committees of the state legislature, or the Governor by contacting, or causing others to contact, members of the legislature, members of a legislative committee, or any executive branch official.
- **Executive branch lobbying** means **directly** communicating with an **executive official** for the purpose of influencing the consideration, amendment, adoption, or rejection of any rule or rulemaking, ratemaking decision, procurement, contract, bid or bid process, financial services agreement, or bond issue.
  - Executive official means certain specific executive branch officials (the Governor, Lt. Governor, Secretary of State, Treasurer, Attorney General, or Superintendent of Public Instruction), and any deputy or staff of those office holders who, within the course and scope of their employment, are directly involved in major policy-influencing decisions for the office. Executive official also includes leaders of state-level executive branch departments, and members of state boards or commissions.
- **Goodwill lobbying** means developing or maintaining relationships with, promoting goodwill with, or entertaining members of the legislature or executive. Accordingly, it is possible to trigger an obligation to register, even if you are not discussing a specific legislative or executive branch decision with a public official.

## Q: What triggers lobbyist registration and reporting with the state?

Any individual who receives prorated compensation of more than \$250 in a calendar quarter for lobbying must register unless they are subject to one of the lobbying exceptions. Your organization does not have to register or authorize lobbyist registrations, unless you opt for the lobbyist shield provision.

Both the exceptions and the lobbyist shield are discussed further in the “Are there exceptions to what counts as lobbying?” FAQ, below.

## Q: How does the trigger threshold work if we are a fiscally sponsored project?

You will need to be sure you are communicating transparently and in a timely fashion with your fiscal sponsor if you plan to undertake activities that might potentially count as lobbying activities!

Each fiscal sponsor will have its own ways of working with projects who wish to take on lobbying activities.

In general, for fiscally sponsored projects that do not have their own legal entity and the fiscal sponsor engages all of the project's independent contractors or employees, the lobbyist registration trigger must be analyzed together with all of the projects housed at the fiscal sponsor who are doing lobbying activities in the state.

Your account manager at your fiscal sponsor will be able to help you understand how they track the registration threshold.

**IMPORTANT NOTE:** In states where registration is required prior to lobbying, or very shortly after the registration threshold is reached, or periodic lobbyist disclosure is due shortly after the end of a reporting period, special procedures may need to be worked out in order to process your project's registration or reporting on time. You should connect with your account manager as soon as you begin planning any potential lobbying strategy!

## Q: Are there exceptions to what counts as lobbying?

**Yes!** In Idaho the following exceptions may be relevant to your nonprofit organization:

- **Lobbyist shield provision:** If your organization chooses to take advantage of this provision by registering in its own name, all of your individual employees' lobbying activities will be covered under your organizational "lobbyist shield" registration, and their related expenditures will be reported on a joint report by your designated lobbyist and your organization. For more details about how to use the lobbyist shield provision see the "If we are required to register, how does the process work?" FAQ, below.
- **Public testimony:** Individuals who appear on your behalf before public sessions of legislative or executive bodies, but otherwise do no other lobbying, are exempt from registration.
- **Volunteer lobbying:** Individuals who are not compensated to lobby for you do not trigger registration.
- **Incidental lobbying:** Individuals who receive prorated compensated of \$250 or less during a calendar quarter for lobbying on your behalf.
- **Trade association members:** Members of a trade association with a registered lobbyist who reports their expenditures.
- **Churches:** A member of a church who represents the church solely for the purpose of protecting the constitutional right to free exercise of religion.

## Q: How does this work together with federal IRS lobbying regulations?

All tax-exempt organizations must follow both federal tax law (regulated by the IRS) **and** any state and local lobbying laws that apply to their work.

The IRS rules regulate how much lobbying a nonprofit organization can do, while state and local regulations are transparency rules designed to help the public understand what funds are being spent to influence decision making and by whom. As a result, federal tax law rules related to lobbying and state lobbying regulations are quite different, and state lobbying regulations also vary greatly state to state.

In general, the IRS requires 501(c)(3) organizations to report on their annual Form 990 legislative lobbying at the federal, state, and local levels, but does not count as lobbying

advocacy activities relating to executive branch or administrative officials at any level. There is no additional requirement for organizations or individuals to “register” with the IRS to report lobbying activities.

Nonprofits that are public charities under IRS exemption 501(c)(3), including grantmaking public charities like community foundations, can lobby within the generous limits allowed by federal tax law. The amount of lobbying is determined by either using the insubstantial part test or the 501(h) expenditure test.

See <https://bolderadvocacy.org/resource/public-charities-can-lobby-guidelines-for-501c3-public-charities-2/>

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying. See <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>

Your organization will need to ensure that you are keeping track of your lobbying staff time and your expenses in a way that works for both your IRS reporting, and for any required state or local reporting, since the information required in each regime will be different.

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities. Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with substantial lobbying activities and expenses to file. For more information see [https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding\\_the\\_Lobbying\\_Disclosure\\_Act.pdf](https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf)

## **Q: Does supporting or opposing a ballot measure count as lobbying?**

In Idaho, the legislature may put proposed constitutional amendments on the ballot for voters to approve or reject. Citizens may use the initiative process to place proposed statutes or veto referendums for existing statutes on the ballot.

Communicating with public officials with the goal of influencing a decision by the legislature whether to place a proposed constitutional amendment on the ballot constitutes lobbying and may trigger registration, as outlined in this Guide.

Once a measure is on the ballot, whether initiated by the legislature or citizens, supporting or opposing the measure is regulated under the state’s campaign finance laws (note, however, the IRS considers such activity to be lobbying).

Nonprofit organizations considering working on ballot measures in Idaho should seek advice on how to comply with any applicable state or local campaign finance reporting requirements.

## **Q: If we are required to register, how does the process work?**

Lobbyists are required to register online unless they obtain a special waiver to submit a hard copy. The online registration portal is available here: <https://sos.idaho.gov/elections-division/lobbyist-information/>

Lobbyists must register before engaging in lobbying, or within 30 days of employment as a lobbyist, whichever occurs first.

The registration fee is \$10. Your lobbyist must renew their registration by January 10 of the following year if they plan to keep lobbying. Your organization does not have to register or authorize lobbyist registrations, unless you opt for the lobbyist shield provision.



## Using the lobbyist shield provision

The lobbyist shield provision in Idaho allows your organization to centralize registration and reporting – if your organization chooses this option, the organization registers, then the designated employee lobbyist registers, and no other employee will need to register, even if they would otherwise trigger registration (because they received more than \$250 in a calendar quarter for lobbying).

Moreover, the organization and designated lobbyist will file a joint report that sets forth the whole organization’s reportable expenditures. This option can be a good way for your organization to enhance the quality control over its reporting, and to minimize the number of employees who must register.

### Information required on the registration statement

- Contact information for your lobbyist (use business not personal information since it will be made public)
- The general nature of your organization
- If you are using the lobbyist shield provision, provide the name of your organization and an e-mail address for notifications
- Whether your lobbyist will be lobbying the legislature, executive officials or both
- The general subject(s) of your lobbyist’s legislative interest
- The name and address of the person who will have custody of the accounts, receipts and other documents required to be kept by law (again, use business contact information here since it will be made public)

If any facts change, or if your employee stops lobbying for you, they should update or terminate their registration within one week of the change. If the employee lobbyist terminates their registration, they still are obligated to file an annual report for the partial year and report any reportable expenditures they made during the part of the year they were still lobbying.

## Q: When are periodic lobbying reports due?

There are different reporting schedules, depending on whether you are lobbying the legislature or the executive branch.

### Legislative lobbying reports

If you are seeking to influence legislation or build goodwill with legislators or executive branch public officials for the purpose of future legislative lobbying, then either your employee lobbyists, or your organization and designated lobbyist (if you are using the lobbyist shield provision) file reports every month while the legislature is in session. Note that the legislative session generally ends in March, but often is extended for additional months. You must also file reports for any months when the session is extended. Reports for any given month are due on the 15th of the following month.

In addition to these monthly reports, legislative lobbyists must also file an annual report by January 31, which reports information from the full prior year (including information previously reported on the monthly reports).

### Executive branch lobbying reports

If your employee lobbyist lobbies **both** the legislature and the executive branch, they should follow the legislative lobbyist timeline and report monthly while the legislature is in session.

If they do **not** lobby the legislature at all, and lobby **only** the executive branch, then they should file reports twice a year, on July 31 and January 31. (Note that the January 31st report is the same annual report described in the legislative lobbyist description.)

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**Remember:** All lobbyists must file the January 31 annual report, which covers the preceding calendar year and includes expenditures that were previously reported on the monthly or semi-annual reports.

The following table is drawn from the Idaho Registration and Reporting Manual (linked on the Additional Resources page, below):

Report	Period Covered	Who Files	Due
1st Monthly	January	Legislative	February 15
2nd Monthly	February	Legislative	March 15
3rd Monthly	March	Legislative	April 15
Semi-Annual	Jan.1-June 30	Executive Only	July 31
Annual	Jan.1-Dec. 31	All Lobbyists	January 31

You are required to submit reports, even if you did not make any reportable expenditures during the reporting period.

If the session is extended, you will need to file extra monthly reports.

Reports should be submitted electronically, through the Idaho's lobbyist information system, at this website: [sos.idaho.gov/elections-division/lobbyist-information/](https://sos.idaho.gov/elections-division/lobbyist-information/)

Organizations using the lobbyist shield provision file a joint report for the organization and the designated lobbyist.

## Q: What information do the periodic lobbying reports include?

The periodic lobbyist reports are the same for legislative lobbying, executive branch lobbying, and goodwill lobbying.

The form requires you to list the matters being lobbied, as well as the total aggregate amount of your lobbying expenditures in certain categories – specifically, advertising, gifts, entertainment and food for the benefit of public officials, living accommodation, telephone, travel, and other expenses or services related to lobbying (which include legal fees, but do **not** include prorated staff compensation, or any prorated office overhead expenses).

You must also report if you gave anything with a value greater than \$130 to a public official on a single occasion. The \$130 threshold is adjusted in January of every other year, in odd numbered years, by the Secretary of State.

If your organization has chosen to use the lobbyist shield provision, you must also report the names of any employee who made \$50 or more of aggregate unreimbursed lobbying expenditures during a calendar year.

## Q: What is considered a reportable “expenditure”?

As noted above, your expenditure reports are submitted electronically through the Idaho's lobbyist information system, which is available here: [sos.idaho.gov/elections-division/lobbyist-information/](https://sos.idaho.gov/elections-division/lobbyist-information/)

Idaho has a helpful guide to reporting available (currently the link is just under the portal login button, or you can access the pdf directly here):

[https://sos.idaho.gov/elections/publications/Lobbyist\\_Handbook.pdf](https://sos.idaho.gov/elections/publications/Lobbyist_Handbook.pdf)

### Completing the periodic lobbyist report form

When entering information to create your lobbying report, the system will present a series of items, which are explained below. Note that the instructions say that if you have

nothing to report in a particular category, you should write “none” instead of writing “N/A” or leaving any item blank.

- **Lobbying expenditures:** This section is where you enter expenditures you made (directly or via reimbursement) for any lobbying-related purposes.
  - **Advertising:** Report here expenditures your organization makes for digital or print ads, including printed mailers or canvassing literature.
  - **Entertainment, food, and refreshment:** This category includes any expenditures on lobbying-related entertainment, food, and refreshment that you made **on public officials**. Note that expenditures for a lobbyist’s own subsistence are reported under the living accommodations category.
  - **Living accommodations:** This category includes only **unreimbursed** out of pocket expenditures that are related to your lobbyist’s transient place of living. Since reimbursed living accommodation expenses do **not** have to be reported, most nonprofit lobbyists reports will report zero in this category.
  - **Telephone:** This category only requires you to report lobbying-specific telephone costs. Expenditures that might need to be reported here would include the cost of using a phone banking platform for grassroots legislative lobbying calls.
  - **Travel:** The only travel expenses you need to report here are **unreimbursed** travel. If you reimburse your staff for their travel expenses, then you don’t need to report them.
  - **Other expenses or services:** This catch-all category includes any specifically lobbying-related expenses not listed in the other categories. It includes gifts to (or on behalf of) any legislator or executive official (or member(s) of their household), as well as any lobbying-related legal fees. This category does not include entertainment, which is reported under the entertainment, food, and refreshment category. You are also not required to prorate expenses you make on materials or services that you use for activities other than lobbying. For example, you do not need to include any portion of your monthly office rent. You also do not need to report prorated staff compensation.
- **Itemized expenditures on public officials:** In this section, you would report any expenditure of more than \$130 on (or for the benefit of) a legislator, public officeholder, or executive official (or any member(s) of their households). If you had such expenditures, you would report each one separately, and list the date, place, and amount, along with the names of the public officials and family members in the group. If, like many nonprofit organizations, you do not make such expenditures on public officials, you won’t have anything to report in this item.
- **Legislation lobbied:** In this section, you would list the legislation being supported or opposed, including the appropriate subject codes and bill, resolution, or other legislative identification number.
- **Executive decisions lobbied:** Identify any rule, ratemaking decision, procurement, contract bid or bid process, financial services agreement, or bond you are supporting or opposing.

### Recordkeeping and audits

Your lobbyists should retain any relevant records that back up their reports for three years after filing the report. Idaho does not conduct regular audits, but the Elections Division has provided informal guidance that the staff will do a brief “desk audit” when a report is first received, to identify obvious errors.

**Gift ban:** The general rule in Idaho is that legislative and executive branch officials are prohibited from soliciting or accepting gifts in return for action on a bill, legislation, proceeding, or official transaction from any person with an interest in those things. There are a number of exceptions to this rule, but it is often best practice for



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organizations that are not using professional lobbyists and compliance staff to avoid giving gifts.

It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and “gift ban” laws. Those state and local rules often apply even if your employees and organization have not triggered lobbyist registration, and may apply to a broader range of officials. You should be certain that you understand the intricacies of both sets of rules before giving any gifts to, or paying expenses for, any public officials at the state or local level.

**Q: Do our organization’s donors need to be disclosed on any lobbying reports?**

No.

**Q: How are our lobbyists required to identify themselves while lobbying?**

Idaho law does not require a name tag. However, the Secretary of State’s office strongly recommends wearing a green name tag with white lettering for lobbyists. Name tags can be obtained from rubber stamp companies and sporting goods stores with an engraving service.

**Q: Are there any other restrictions on lobbyists that we should be aware of?**

**Yes!**

Paying lobbyists contingency fees based on securing passage or defeat of legislation is prohibited.





Lobbyists are permitted to make political contributions in their own individual capacity and are not required to report personal political contributions on the lobbyist reports.

# Case Study STUDENTS VOTE NOW

**Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about bill H0101 currently pending in the Idaho House of Representatives**

## STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their state house representative about the bill.
- Doing an in-person Lobby Day at the state capital about H0101 to meet with legislators, or alternatively arranging a virtual Zoom lobby event. The Lobby Day activity might potentially include renting a bus, buying T-shirts for the volunteer participants, and handing out some small swag type items from the organization to the legislators, or if done by Zoom, the purchase of an upgraded Zoom account.
- Testifying before a committee of the House of Representatives regarding the student perspective on H0101.
- Having an employee engage with the Mayor of Boise about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p><b>Student Engagement</b></p>	<p>The student engagement activities are regulated grassroots legislative lobbying, so if the prorated compensation for any paid staff that is attributable to this project is more than \$250 in a quarter, then at least one of those staffers will need to register.</p> <p>If Students Vote Now chooses to register in its own name and designates one employee as its designated lobbyist using the lobbyist shield provision, then any other staffers who might otherwise trigger will not need to register.</p> <p>The student volunteers are uncompensated, so they will not need to register.</p> <p>Spending on printed mailings should be reported under advertising.</p> <p>Spending on e-mails should be reported under “other expenses or services” while spending on phone banking should be reported under “telephone.”</p>
 <p><b>Lobby Day</b></p>	<p>Lobby Day activities are regulated direct lobbying.</p> <p>Students Vote Now can minimize how many staffers they will need to register by utilizing the lobbyist shield provision as described above.</p> <p>Student volunteers do not need to register because they are not compensated.</p> <p>It is simpler to avoid giving public officials any gifts. Students Vote Now can give them informational materials about the organization instead.</p>
 <p><b>Committee Testimony</b></p>	<p>As long as the committee testimony is public, this activity will not trigger lobbyist registration on its own.</p>
 <p><b>Mayor</b></p>	<p>Lobbying the Mayor of Boise does not trigger any registration or reporting requirements because the state lobbying law does not apply to lobbying local public officials, and Boise does not have its own local ordinance.</p>
<p><b>Bottom Line</b></p>	<p>With a low registration threshold for lobbying, Students Vote Now is likely better off utilizing the lobbyist shield provision to limit the number of staff who need to register.</p> <p>Students Vote Now will need to report most or all of its expenses for the student engagement and Lobby Day activities, but the amounts are reported in aggregate and do not include prorated staff compensation or prorated office expenses, so the reports should be fairly easy to produce.</p> <p>Committee testimony is not lobbying in Idaho, and there are no local lobbying regulations for Boise (or any other local jurisdiction that we are aware of).</p>

## ADDITIONAL RESOURCES

### BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Assistance Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact Bolder Advocacy's team of experts by e-mailing [advocacy@afj.org](mailto:advocacy@afj.org), or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

### IDAHO STATE RESOURCES:

- **Idaho Secretary of State**

The Idaho Secretary of State administers the state's Sunshine Law, which is what the lobbying law is generally called, through its Elections Division. <https://sos.idaho.gov/elections-division/lobbyist-information/>

- **Full Text of Idaho Lobbying Statutes**

The full text of the Idaho state lobbying statute can be found here: <https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH66/>

- **Full Text of Idaho Lobbying Regulations**

The full text of the Idaho state lobbying regulations can be found here: <https://adminrules.idaho.gov/rules/current/34/340301.pdf>

- **Registered Lobbyist Reporting Manual**

Idaho Secretary of State publishes a helpful reporting manual which can be found here: <https://sos.idaho.gov/elections-division/lobbyist-information/>

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be directed to [elections@sos.idaho.gov](mailto:elections@sos.idaho.gov) or (208) 334-2852.

### BOLDER ADVOCACY'S FEDERAL LAW RESOURCES:

While state and local laws regulate which lobbying activities require registration and reporting, the IRS also regulates how much lobbying a 501(c)(3) tax-exempt organization is allowed to do, including at the state and local levels. The way the IRS counts lobbying will almost always be different than how state and local laws count it, and organizations are urged to review Bolder Advocacy's federal law resources to ensure all IRS compliance obligations are being met. See: <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>



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