



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 21, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1986-27

Dianna Conyers
Treasurer
Alaska Labor Independent Voters Education
P.O. Box 102092
Anchorage, AK 99510

Dear Ms. Conyers:

This responds to your letter of June 26, 1986, on behalf of Alaska Labor Independent Voters Education ("A.L.I.V.E.") requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the effect of filing consolidated reports including Federal election activity with a state commission.

You state that Teamsters Local 959 maintains two separate segregated funds for political activities. Teamsters Local 959 Alaska Labor Independent Voter Education-Voluntary ("A.L.I.V.E. Voluntary") is registered with the Federal Election Commission and contributes to candidates for Federal office. Teamsters Local 959 Alaska Labor Independent Voter Education-Regular ("A.L.I.V.E. Regular") is registered with the Alaska Public Offices Commission and contributes to candidates for state and municipal offices. You add that separate bank accounts are maintained for each committee as well as separate receipt and disbursement journals.

You state that A.L.I.V.E. Voluntary conducts raffles each year as the primary fundraising activity for both committees. You explain that the raffles are conducted under the Act and Commission regulations and that all proceeds from the raffles are deposited in A.L.I.V.E. Voluntary's bank account. The gross receipts and the appropriate itemization of individual contributors are reported to the Commission in the manner required by Commission regulations. A.L.I.V.E. Voluntary uses these receipts to pay its raffle expenses and winnings. Surplus funds are then transferred from A.L.I.V.E. Voluntary to A.L.I.V.E. Regular and reported as an "other

disbursement" on your reports filed with the Commission. A.L.I.V.E. Voluntary's reports for 1985 disclose that its payments for raffle expenses and winnings and its transfers to A.L.I.V.E. Regular constituted approximately 80 percent of its disbursements. Correspondingly, A.L.I.V.E. Regular reports the transfer from A.L.I.V.E. Voluntary as a receipt on its reports filed with the Alaska Public Offices Commission ("the Alaska Commission"). The reports filed with the Alaska Commission by A.L.I.V.E. Regular also show the receipt of funds from Teamsters Local 959, which are allowed under Alaska law but which are prohibited by the Act. See 2 U.S.C. 441b(a).

You explain that the Alaska Commission has taken the position that A.L.I.V.E. Voluntary is the fundraising arm of A.L.I.V.E. Regular and that the two committees should be consolidated as one political action committee for state reporting purposes. You add that the Alaska Commission has requested that you file consolidated reports retroactive to January 1, 1984. In a consolidated report the receipts and disbursements of A.L.I.V.E. Voluntary would be reported and itemized according to provisions of Alaska law. Among other requirements, these provisions require the itemization of contributions of more than \$100, including the contributor's check number, and all expenditures of any amount, including the check number. See 2 Alaska Admin. Code 50.321(a). Thus, the consolidated report filed with the Alaska Commission will show the receipt of treasury monies from Teamsters Local 959 and contributions to Federal candidates as if received and made by a single political committee.

You ask whether the filing of such a consolidated report covering the receipts and disbursements of both A.L.I.V.E. Voluntary and A.L.I.V.E. Regular as a single committee is permissible under the Act and regulations.

The Act defines "political committee" to include a separate segregated fund established pursuant to 2 U.S.C. 441b(b)¹ and requires the treasurer of each political committee to report the committee's receipts and disbursements. 2 U.S.C. 431(4)(3) and 434. Commission regulations permit a political committee to establish a separate account for Federal election purposes, which is treated as a separate political committee subject to the requirements of the Act including reporting requirements.² 11 CFR 102.5(a)(1)(i); see also, 2 U.S.C. 439(a); 11 CFR 108.3. The Act requires the itemization of individual contributions when the aggregate amount from a person exceeds \$200 within the calendar year. 2 U.S.C. 434(b)(3)(A). Commission regulations, however, permit a committee to itemize individual contributions in lesser amounts on a separate schedule. 11 CFR 104.3(a)(4)(i). The Act also establishes a similar \$200 threshold for itemizing disbursements. 2 U.S.C. 434(b)(5)(A). Neither the Act nor Commission regulations require the identification of check numbers with respect to contributions and disbursements.

¹ The Act permits a labor organization to establish a separate segregated fund to be used for political purposes. 2 U.S.C. 441b(b)(2)(C).

² Commission regulations at 11 CFR 102.5(a)(1)(i) state that only funds subject to the prohibitions and limitations of the Act may be deposited into the Federal account, that all disbursements in connection with any Federal election are made from the Federal account, and that no transfers are made to the Federal account from any other account maintained by the committee or organization for the purpose of financing activity in connection with non-Federal elections. This provision, however, does not prohibit the transfer of funds from the Federal account to the non-Federal account or the use of funds deposited into the Federal account for non-Federal election purposes. See Advisory Opinions 1983-42 and 1981-18.

The Act supersedes and preempts any provision of state law with respect to election to Federal office. 2 U.S.C. 453. Commission regulations explain that such preemption includes (1) the organization and registration of political committees supporting Federal candidates and (2) the disclosure of receipts and expenditures by Federal candidates and political committees. 11 CFR 108.7(b). The Commission has noted that the legislative history evinces the intent of Congress that the Act should occupy the field with respect to Federal campaign funds. See Advisory Opinion 1986-11. The Act does not, however, preempt state law with respect to the reporting of receipts and disbursements of funds used for non-Federal election purposes or the registration and reporting of non-Federal accounts or state committees. See, e.g., Advisory Opinions 1983-42 and 1981-18. In the circumstances presented in this request, the Commission concludes that it should interpret the Act's preemption provision with respect to the reporting obligations of a Federal political committee in a manner that also recognizes Alaska's interest with respect to the reporting obligations of a non-Federal political committee and the receipts and disbursements for non-Federal election purposes.

Accordingly, the Commission concludes that the Act will not preempt the Alaska Commission from requiring A.L.I.V.E. Regular to report, in accordance with state reporting requirements, the original source of funds transferred from A.L.I.V.E. Voluntary to A.L.I.V.E. Regular and those fundraising expenses properly allocable to such transferred funds.³ The Commission further concludes, however, that the Act will preempt the Alaska Commission from requiring A.L.I.V.E. Regular to report all other receipts and disbursements, including contributions to Federal candidates, by A.L.I.V.E. Voluntary in a consolidated report filed with the Alaska Commission. Such a requirement would impose reporting and itemization requirements on A.L.I.V.E. Voluntary, a Federal political committee, that would exceed those required by the Act and Commission regulations. Nevertheless, this conclusion will not preclude A.L.I.V.E. Regular from deciding as a matter of administrative convenience to report and itemize all receipts and disbursements of A.L.I.V.E. Voluntary in accordance with state reporting requirements in a consolidated report filed with the Alaska Commission. See, 11 CFR 104.3(a)(4)(i).

The filing of a consolidated report with the Alaska Commission will be permissible under the Act, whether it includes all receipts and disbursements of A.L.I.V.E. Voluntary or only those attributable to the funds transferred and their allocable expenses. The filing of such a report will not affect A.L.I.V.E. Voluntary's registration and organization or its reporting and other requirements as a Federal political committee under the Act. Although a consolidated report may include both receipts of treasury monies from Teamsters Local 959 and contributions to Federal candidates, the consolidation of this information for state reporting purposes will not constitute a violation of the Act as long as A.L.I.V.E. Voluntary is maintained as a separate Federal political committee in accordance with 11 CFR 102.5(a) and that contributions to Federal candidates are made from this separate Federal account. The filing of a consolidated report will not alter A.L.I.V.E. Voluntary's reporting requirements pursuant to 2 U.S.C. 439(a) and 11 CFR 108.3.

³ The Commission has generally utilized a last-in, first-out method for determining the source of funds transferred from one committee to another. See, e.g., 11 CFR 104.12 and 110.3(a)(2)(v)(B). The Alaska Commission may require that this method or any other acceptable accounting method be used in this instance.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures (AOs 1986-11, 1983-42, and 1981-18)