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May 5, 2005

Re: Safe-TEA/TEA-LU Highway Bill and the Government Contracting Reform Amendment

Dear Senator:

The Campaign Legal Center strongly urges you to support the Government Contracting Reform Amendment to the Safe-TEA/TEA-LU Highway Bill, which protects the right of states to enact and enforce “pay to play” laws.

For more than 50 years federal law has prohibited political contributions to federal candidates from federal government contractors. In recent years, state and local governments around the nation have followed Congress’ lead by enacting similar “pay to play” laws to protect the integrity of the procurement process.

The right of states to enact and enforce “pay to play” laws has recently come under threat. Late in 2004, the Federal Highway Administration determined that a New Jersey State Executive Order limiting the size of political contributions from government contractors to state candidates violates federal law competitive bidding requirements, established by 23 U.S.C. § 112, for state highway construction contracts involving federal funds.

This Federal Highway Administration action affects not only New Jersey, but also threatens enforcement of similar “pay to play” laws in Kentucky, Ohio, South Carolina and West Virginia. Further, the Highway Administration action curtails the right of other states around the nation to enact their own “pay to play” laws.

The Government Contracting Reform Amendment sponsored by Senators Corzine and Lautenberg amends 23 U.S.C. § 112, which establishes the competitive bidding requirement for contracts involving federal highway funds, to state that “Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.”

Similarly, the Government Contracting Reform Amendment amends 49 U.S.C. § 5323, which establishes general provisions for the award of contracts involving mass transportation funds, to make clear that state “pay to play” laws “shall be considered to be in accordance with Federal competitive procurement requirements.”

State laws restricting political contributions from government contractors are consistent with, and advance the purposes of, the federal law contracting requirements for highway and transit funds. Competitive bidding requirements, and reasonable restrictions on contributions

from contractors who do business with the government, both advance the government's interest in avoiding real and apparent political corruption and preserving the integrity of the contracting process.

We urge you to support the Corzine-Lautenberg Government Contracting Reform Amendment to the pending Safe-TEA/TEA-LU Highway Bill, to protect states' rights to enact and enforce "pay to play" laws.

Sincerely,

/s/ Meredith McGehee

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