DRAFT LANGUAGE (as of 090519)

A bill to establish an Agreement to Phase Out Corporate Welfare

Section 1. This Act may be cited as the Agreement to Phase Out Corporate Welfare Act.

Section 2. The Agreement to Phase Out Corporate Welfare Act is hereby enacted into law and entered into with any state or the District of Columbia which legally joins in substantially the following form:

Article 1: Membership

Any state of the United States and the District of Columbia may become a member of this compact by enacting this compact.

Article 2: Definitions

“Corporate welfare” means any company-specific or industry-specific disbursement of funds via property, cash or deferred or reduced tax liability by a state or local government to a particular company or industry.

“Member state” means any state or the District of Columbia that has enacted a statute agreeing to this compact.

“Company-specific tax incentive” is any change in the general tax rate or valuation offered or presented to a specific company that is not available to other similarly-situated companies. Any tax incentive that is part of a special agreement negotiated with an official of the state government is hereby defined as a company-specific tax incentive and not permitted under this law.

“Company-specific grant” is any disbursement of funds via property, cash or deferred tax liability by the state government to a particular company and is not permitted under this law.

“Located in any other Member state” means any office space, manufacturing facility or company headquarters that is physically located in another Member state, whether or not the company has other property in the Member state.

Article 3: Findings

The Member states find that:

Corporate welfare as an economic development policy is among the least effective uses of taxpayer dollars;

Local and state leaders are in a prisoners dilemma where it is in all of our interest to stop the practice altogether and create a level playing field for all employers, but each level of government has an incentive to subsidize a company through a tax abatement, credit or direct subsidy, generating a race to the bottom;

State and local government cooperation to phase out all forms of corporate welfare, both company-specific and industry-specific subsidies is required to free government leaders from the prisoners dilemma;

While it will take years to build a national consensus to phase out all forms of corporate welfare, governments should begin to phase out the most egregious and destructive forms of corporate welfare as soon as practical where agreement among some governments to do so can be reached;

Companies should grow and potentially relocate to other states based on the general condition of the state (including but not limited to modern infrastructure, an educated workforce, a clean environment, and a favorable tax and regulatory climate), not based on the size of a specific grant for that company;

Company-specific subsidies fuel business inequality as only the largest businesses tend to receive these subsidies;

A hopeful path towards ending this practice altogether is to begin with the most problematic of these practices which are company-specific offers to companies located in other states;

Creating a national Board of appointees from state for a permanent body charged with finding consensus and drafting improvements and revisions to this Agreement will assist governments in escaping from the prisoners dilemma;

This compact is a collaborative approach towards building a national consensus for a better, fairer economic development policy for all;

Article 4: Company-specific subsidies to companies in other Member states

Each Member State agrees to refrain from offering or providing any company-specific tax incentive, company-specific grant or other distribution of funds prohibited under this compact for any company facility currently located in any other Member state.

Each Member State agrees to refrain from offering or providing funds for corporate headquarters, manufacturing facilities, office space or other real estate developments for any company facility currently located in any other Member state if that facility, headquarters or office space will relocate to the offering Member state.

Article 5: Exclusions

Workforce development grants that train employees are not subject to this agreement, as the company receiving the grant may benefit but the employees receiving the training are the largest beneficiary.

Existing company-specific grants are not impacted by this agreement, as this agreement is not retroactive, except that any changes to the terms of any existing company-specific grants are to be considered new company-specific grants and thus not permitted under the terms of this agreement.

Article 6: Withdrawal

Any member state may withdraw from this agreement with six months notice and shall do so in writing to the chief executive officer of every other member state to the agreement.

Article 7: Enforcement

The chief law enforcement officer of each Member state shall enforce this compact.

A taxpaying resident of any Member state has standing in the courts of any Member state to require the chief law enforcement officer of that Member state to enforce this compact.

Article 8: National Board of States to Draft and Disseminate Next Steps to Phase Out Corporate Welfare

A Board of Member States to the Agreement to Phase Out Corporate Welfare Act is established by this Agreement. Each Chief Executive Officer of each Member State shall appoint one member to the Board. The Board shall accept appointees from non-Member states that wish to appoint a member of the Board. The purpose of the Board is to publish suggested revisions to this Agreement in December of every year to continue to phase out all forms of corporate welfare, including from local governments, for state legislatures to consider implementing. The Board shall convene at least annually, elect officers from its membership, establish rules and procedures for its governance and publish a report in December of every year that includes suggested revisions and improvements to this Agreement. The Board shall collect testimony from all interested parties, including member states and organizations and associations representing state legislators, taxpayers and subject matter experts on how the Agreement can be improved and strengthened.

Article 9: Construction and Severability

This compact shall be liberally construed so as to effectuate its purposes.

If any phrase, clause, sentence or provision of this compact, or the applicability of any phrase, clause, sentence or provision of this compact to any government, agency, person or circumstance is declared in a final judgment by a court of competent jurisdiction to be contrary to the constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact and the applicability of the remainder of this compact to any government, agency, person or circumstance shall not be affected.

If this compact is held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the affected member sate as to all severable matters.