

HOUSE BILL NO. 1248

Introduced by

Representatives Klemin, Rick C. Becker, Dockter, B. Koppelman

Senators Casper, Klein, Laffen

1 A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century
2 Code, relating to a prosperity states compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 54 of the North Dakota Century Code is created and
5 enacted as follows:

6 The state of North Dakota enacts, adopts, and agrees to be bound by the following
7 Prosperity States Compact:

8 **ARTICLE I - FINDINGS AND DECLARATION OF POLICY**

9 Whereas every state enacting, adopting, and agreeing to be bound by this prosperity states
10 compact legislation find that the establishment of prosperity districts as provided herein
11 advances their mutual sovereign interests in promoting prosperity;

12 Whereas this legislation is intended, among other things, to form an interstate compact in
13 accordance with the consent of Congress under 4 U.S.C. § 112;

14 Whereas each member seeks to secure the additional consent of Congress so that the
15 entirety of this legislation achieves the status of a law of the United States when an interstate
16 compact is formed embracing its terms and conditions;

17 Now, therefore, in consideration of their respective and reciprocal statutory enactments,
18 mutual promises and obligations expressed herein, every state passing this compact legislation,
19 herewith exercises all of their respective sovereign legislative and contractual powers as set
20 forth herein notwithstanding any law, regulation, or policy to the contrary.

21 **ARTICLE II - SPECIAL PURPOSE AUTHORITY OF PROSPERITY DISTRICTS**

22 1. Special purpose authority. The special purpose authority of every prosperity district is
23 exclusively to furnish consenting communities with a local jurisdiction that is
24 streamlined to maximize prosperity through a stable public policy environment

1 consisting of optimal regulatory and fiscal policy. No power or authority of any
2 prosperity district shall serve any other purpose.

3 2. District governance. Subject to Article III, a prosperity district formed within any
4 member under the authority of this compact shall be a governmental unit and political
5 subdivision of that member with the following structure, authority, and jurisdiction:

6 a. Legal capacity. Every prosperity district is a municipal corporation in the form of a
7 special district that can form enforceable contracts, sue, be sued, and exercise
8 exclusively the jurisdiction, power, and authority specified in this Article under the
9 law of each member in which it is formed and expanded; however, prosperity
10 districts shall not possess or claim sovereign immunity.

11 b. Governing structure. Supervisory and operational authority over the limited
12 governing, management, and administrative power of every prosperity district
13 shall be vested upon formation in a managing board consisting of seven natural
14 persons who are qualified electors under the general laws of this member, each
15 of whom shall serve for a term of four years, (with commencement and
16 termination dates as specified in the district bylaws), during which each shall hold
17 such authority in trust and exercise it as a fiduciary for every law-abiding
18 landowner, resident, and person rightfully within the district ("managing board").

19 (1) Board membership. The manner of appointment or election of the managing
20 board shall be consistent with the Fourteenth Amendment to the United
21 States Constitution, the guaranty of a republican form of government
22 thereunder, and this member's constitution; and it must be specified in the
23 formation petition required by [subparagraph d of paragraph 7 of subdivision](#)
24 [a of subsection 1 of Article IV.](#)

25 (2) Supervisory and operational authority. The managing board is authorized to
26 promulgate all necessary district by laws, ordinances, policies, procedures,
27 parliamentary rules, and directives, which shall be subordinate to and in
28 conformity with this compact, for the prosperity district's exercise of its
29 limited authorized powers and authorities under this Article, for its internal
30 management and administration, (including the collection and
31 reimbursement of revenues to which the district is contractually entitled, the

1 formation of committees, subordinate departments, and agencies, as well as
2 the designation and responsibilities of administrative offices and retention of
3 subordinate officials), and, if desired, for further limiting the power, authority,
4 and jurisdiction of the prosperity districts and its managing board.

5 departments, and agencies, if any, and establishing additional criteria for
6 withdrawal of lands pursuant to **subdivision a** of subsection 2 of Article IV.

7 (3) Official action. Official action by the managing board shall require a quorum
8 consisting of an absolute majority of the board present physically or
9 electronically and a vote in the affirmative of a majority of the board
10 members present at a public hearing.

11 (4) Separation of powers. Any member of the managing board who had
12 participated in the promulgation of a regulation shall not subsequently
13 participate in enforcing or adjudicating that regulation.

14 (5) Transparency. Subject to executive session procedures or privileges which
15 shall be specified in the district by laws and adopted after a public hearing,
16 all governing instruments, records, proceedings, and accounts of the
17 prosperity district shall be public and open for inspection or observation by
18 any person at all reasonable times. Detailed minutes or verbatim recordings
19 of all official actions and public hearings shall be maintained by the
20 managing board. The prosperity district shall fully comply with any written
21 public records request within the compliance deadline specified in the
22 request, or otherwise the prosperity district shall, within the deadline
23 specified in the request, if one is specified, furnish a written statement to the
24 requestor detailing the reasons for the partial compliance, noncompliance,
25 or a requested compliance deadline extension, which specifies a reasonable
26 alternative deadline, with specific reference to each records request.
27 Further, the prosperity district's managing board directly or through a
28 designated chief executive officer shall be required to produce annual
29 performance audits for contracted goods and services, the cost of which
30 must be accounted for and considered during the bidding process. In
31 addition, the prosperity district's managing board directly or through a

1 designated chief executive officer shall seek an independent audit every two
2 years to evaluate the district's operations and performance audits. All audits
3 shall be made public.

4 c. Governing authority. The governing authority of every prosperity district is strictly
5 limited to the following powers, which shall be exclusive of the exercise of the
6 same or like powers by any other governmental unit within the district's
7 boundaries, as they exist from time to time, and no other governmental unit shall
8 within such boundaries exercise the same or like powers as are granted to the
9 district under this subsection, except as expressly contemplated in this compact:

10 (1) Police power consisting solely of:

11 (a) Enforcing the malum in se criminal law, common law, and regulation
12 adopted in its formation petition as contemplated in subsection 1 of
13 Article IV; and

14 (b) Promulgating and enforcing regulation in strict conformity with
15 subsection 3 of this Article;

16 (2) The power to furnish transportation, utility, and transmission infrastructure,
17 regulation enforcement services, other municipal services specifically
18 authorized by the district bylaws, and internal managerial and administrative
19 operations (including the power to supervise and coordinate the orderly
20 enforcement of any revenue covenant among revenue beneficiaries thereof,
21 as well as to collect and disburse revenues from all authorized sources)
22 exclusively through independent contractors, intergovernmental
23 agreements, and public-private partnerships utilizing a process of open
24 competitive bidding specified in the district bylaws only if:

25 (a) No regulation is promulgated or enforced by the prosperity district,
26 directly or in combination with other regulations, that restricts free and
27 open competition in derogation of the common law in the provision of
28 such infrastructure and services;

29 (b) All costs incurred in furnishing such infrastructure and services are to
30 be reimbursed by either uniform, nondiscriminatory user fees paid
31 voluntarily by all users of the respective infrastructure service or

- 1 otherwise paid pursuant to a separate contract voluntarily and
2 consensually binding all landowners residing in the prosperity district
3 during the provision of such infrastructure services; and
4 (c) A designated, commensurate revenue source exists for all payment
5 obligations incurred in connection with furnishing such infrastructure
6 and services.
- 7 (3) The power to organize a municipal court with the concurrence and under the
8 supervision of the highest court of the judicial branch of each member in
9 which any part of the prosperity district is located, with original jurisdiction of
10 all civil and criminal causes of action arising within that district, unless
11 otherwise agreed by all parties to the cause of action in a contract furnishing
12 an alternative venue or method of dispute resolution;
- 13 (4) The power to borrow exclusively by issuing bonds in accordance with such
14 procedures as may be specified in its bylaws for the sole purpose of
15 financing the exercise of its authorized powers provided that:
- 16 (a) The total outstanding principal of all bonds issued under the authority
17 of this section together with the sum of all other liabilities owed by the
18 respective prosperity district shall never exceed the fair market value
19 of all assets held in the name of that district;
- 20 (b) The obligation of such bonds shall be secured solely and exclusively
21 by the respective prosperity district's receipts from revenue covenants
22 running with the land in the district, by authorized gifts, or by receipts
23 received pursuant to contract, if any;
- 24 (c) Neither the United States government nor any state nor any other
25 government body or agency shall pay, guarantee, or be liable for the
26 obligation of any bond issued under this section (with the sole
27 exception of any liability that may be incurred by the member where
28 the prosperity district is located, if the member were to violate its
29 pledge herewith to all future bondholders of any prosperity district that
30 it shall refrain from any action or omission that would infringe on the
31 district's jurisdiction, power, and authority under this Article); and

- 1 (d) The terms of such borrowing shall provide that any holder of a bond
2 issued by a prosperity district who induces or attempts to induce any
3 prosperity district or any other governmental body to violate this Article
4 shall thereby immediately forfeit all right of repayment for any bond
5 issued by that prosperity district;
- 6 (5) The power to accept gifts of real or personal property exclusively from
7 landowners and qualified electors residing within a prosperity district for the
8 sole purpose of defraying the costs of exercising its authorized powers
9 provided that the fiduciary obligations of the managing board are not
10 breached through the acceptance of the gift; and
- 11 (6) Such incidental power as is both specified in the district bylaws and also
12 essential to carrying out the foregoing powers, including the power to open
13 and maintain bank accounts, acquire or lease real or personal property,
14 provided that a prosperity district may not and shall not under any
15 circumstances, directly or indirectly, principally or incidentally, or for any
16 purpose, enjoy, accept, claim, or exercise any power:
- 17 (a) To levy any tax;
- 18 (b) Of eminent domain;
- 19 (c) Of civil property forfeiture based on actions or omissions that
20 constitute a violation of criminal law unless the owner of such property
21 has been convicted of violating that criminal law;
- 22 ~~(g)~~(d) To furnish any subsidy to private enterprise;
- 23 ~~(h)~~(e) To establish or enforce by regulation or otherwise, directly or indirectly,
24 any monopoly or cartel in the provision of any good or service within
25 its jurisdiction in derogation of the common law;
- 26 ~~(i)~~(f) To accept gifts, grants, or conditional grants from any governmental
27 unit, including, but not limited to, any state, county, municipality, or the
28 United States government, which are sourced from taxes,
29 government-imposed fees or fines, or borrowing which is secured or
30 to be repaid by taxes or government-imposed fees or fines;

1 extradition request, or other legal process by any agency, branch,
2 department, instrumentality, or political subdivision of any member or the
3 United States government having jurisdiction over the matter, which
4 concerns any person or property within the boundaries of that district and
5 arises from a cause of action that accrued outside of the boundaries of that
6 district, the prosperity district shall either:

7 (a) Serve, execute, or enforce the same to the reasonable satisfaction of
8 each such agency, branch, department, instrumentality, or political
9 subdivision in accordance with this Article; or

10 (b) Cooperate by refraining from objecting to, challenging, disputing, or
11 impeding the exercise of jurisdiction by each such agency, branch,
12 department, instrumentality, or political subdivision within the
13 boundaries of the district to the extent needed to serve, execute, or
14 enforce the same.

15 (2) Hold harmless for district externalities. Upon notice furnishing evidence of a
16 probable district externality to the managing board of the relevant prosperity
17 district by any agency, branch, department, instrumentality, or political
18 subdivision of any member or the United States government having
19 jurisdiction over the matter, the prosperity district shall either:

20 (a) Remedy within the limits of its power and authority the district
21 externality to the reasonable satisfaction of each such agency, branch,
22 department, instrumentality, or political subdivision in accordance with
23 this Article; or

24 (b) Cooperate by refraining from objecting to, challenging, disputing, or
25 impeding the exercise of jurisdiction by each such agency, branch,
26 department, instrumentality, or political subdivision within the
27 boundaries of the district to the extent needed to remedy that district
28 externality. However, each member is prohibited from discriminating
29 against or otherwise interfering with the free transmission,
30 transportation, ingress, or egress of goods, persons, services,
31 activities, capital, or entities to or from any prosperity district on terms

1 not generally applicable to all similar goods, persons, services,
2 activities, capital, or entities; accordingly, a prosperity district's duty to
3 remedy or cooperate as aforesaid shall not apply to facilitate any such
4 prohibited discriminatory action.

5 (3) Hold harmless for external services. Any person domiciled within any
6 prosperity district that voluntarily uses governmental services or
7 infrastructure furnished by any branch, agency, or political subdivision of
8 any member, other than what that prosperity district furnishes, shall be liable
9 for the proportionate cost of such services and infrastructure usage to the
10 extent that such cost is not defrayed by funds distributed to such branch,
11 agency, or political subdivision from the revenue covenant running with title
12 to the real property in the prosperity district or by any other revenues paid
13 directly or indirectly by such person to the respective branch, agency, or
14 political subdivision. In order to recover such liability, all branches, agencies,
15 or political subdivisions that desire reimbursement of such costs shall first
16 annually determine and publicly post a reasonable fee for such services and
17 infrastructure based on uniform criteria that must be paid by persons
18 domiciled within any such prosperity district in order to use such services
19 and infrastructure; the reasonableness of the fee in relation to the
20 proportionate cost of such services and infrastructure usage and all other
21 revenues paid directly or indirectly by such person to the respective branch,
22 agency, or political subdivision shall be subject to judicial review and
23 alternative dispute resolution in accordance with this compact.

24 (4) External eminent domain. Any person, governmental unit, member agency,
25 or political subdivision which has jurisdiction or authority under general laws
26 to exercise eminent domain in any location contiguous to the boundaries of
27 a prosperity district may continue to exercise eminent domain for
28 transportation, utility, or transmission purposes within the boundaries of that
29 prosperity district in accordance with generally applicable laws provided that
30 any proposed or consummated taking:

- 1 (a) Shall take place exclusively either with regard to real property within
2 such corridors as are designated by appropriate legal description in
3 the petition required by subsection 1 of Article IV or otherwise within
4 such scope as is absolutely necessary to accomplish the asserted
5 public use of the taking;
- 6 (b) The targeted property shall not be taken for private use and shall be
7 used exclusively for transportation, utility, or transmission purposes on
8 equal terms by all members of the public or otherwise with title held in
9 trust for the benefit of the public;
- 10 (c) If the taking occurs within the aforesaid designated corridors,
11 generally applicable statewide laws of the state in which the targeted
12 property is located shall apply to the taking;
- 13 (d) If the taking occurs outside of the aforesaid designated corridors, all
14 persons whose vested rights will be condemned, diminished, or
15 damaged by the taking shall be made whole by the condemnor as just
16 compensation, which shall include, compensation consisting of
17 payment of the maximum fair market value of the targeted property as
18 assessed at any point in time up to the consummation of the taking
19 and after the first public statement of any such intent to exercise
20 eminent domain by any political subdivision or agency of the state or
21 any public official thereof, and damages for all injuries and costs
22 incurred which were proximately caused by the proposal, initiation, or
23 consummation of the taking, including, but not limited to, any loss of
24 prospective economic advantage, legal expenses, and attorney's fees;
- 25 (e) Any property taken must be dedicated to the public use upon which
26 the taking was premised within five years of the consummation of the
27 taking or it shall revert to the original owner or successor in interest;
28 and
- 29 (f) If such taking proceedings are not initiated within two years of the
30 public statement of any such intent to exercise eminent domain by
31 any political subdivision or agency of this member or any public official

1 thereof, timely initiated but abandoned before consummation, or not
2 consummated within four years of initiation, then the respective
3 political subdivision or agency shall pay to all persons whose vested
4 rights have been thereby diminished or damaged compensation for all
5 injuries and costs incurred which were proximately caused thereby,
6 including, but not limited to, any loss of prospective economic
7 advantage, legal expenses, and attorney's fees, unless otherwise
8 agreed respectively by each such adversely affected person. If any
9 agency or political subdivision of this or any member engages in any
10 action or omission that is the functional equivalent of exercising
11 eminent domain within the boundaries of any prosperity district, any
12 person whose vested rights have been diminished or damaged
13 thereby may bring an action at law or equity to compel institution of
14 proceedings under this subsection. Costs incurred by any agency or
15 political subdivision of this or any member to exercise the power of
16 eminent domain within the boundaries of a prosperity district shall not
17 be funded by proceeds from any revenue covenant or otherwise
18 charged to any landowner or person domiciled within the district. This
19 subsection may be enforced at law or equity in any venue of
20 competent jurisdiction by any person whose vested rights have been
21 or probably will be taken, diminished, or damaged as herein
22 contemplated.

23 (5) Judicial forum. Subject to [paragraph 3 of subdivision c](#) of subsection 2 of
24 this Article, Article III, V, and VI, and subsection 1 of Article VIII of this
25 compact, the judicial branch of this member shall have jurisdiction over all
26 cognizable causes of action arising within any prosperity district located in
27 this member, unless otherwise agreed by all parties to the cause of action in
28 a contract furnishing an alternative venue or method of dispute resolution.

29 e. Exclusive jurisdiction. Subject to [subdivision d](#) of subsection 2 of this Article and
30 Articles III, V, and VI, every prosperity district shall have exclusive governing
31 jurisdiction within its boundaries, as those boundaries may be established from

1 time to time (except as nongovernmental persons may otherwise agree in
2 adopting a venue selection clause or choice of law provision in a valid contract
3 between them). Accordingly, to the extent of such exclusive jurisdiction, every
4 agency, department, instrumentality, unit, or political subdivision of this member,
5 including any county, city, town, state agency, or special district, is prohibited
6 within district boundaries, as they may exist from time to time, from:

7 (1) Exercising jurisdiction or superimposing additional governing jurisdictions
8 therein;

9 (2) Fining, penalizing, prosecuting, regulating, taxing, or otherwise addressing
10 through government action any condition, state of affairs, person, entity,
11 service, property, action, or omission located, committed, or occurring
12 therein; and

13 (3) Annexing lands therein.

14 3. Optimal regulation. The only legitimate public purpose of regulation within the
15 boundaries of every prosperity district, as those boundaries may be established from
16 time to time, is to safeguard public health and safety by protecting the individual right
17 to life, liberty, and property, which, as to any competent adult, shall be limited to
18 defending one's freedom to pursue a flourishing and productive existence either in
19 consensual association with others or alone, which requires securing unobstructed
20 action according to one's will, provided that such action does not infringe upon
21 another's like freedom, and resolving conflicting claims to unobstructed action by
22 deferring to or enforcing any governing prior agreement of the claimants or otherwise
23 applying the principle of first in time, first in right to defer to, or enforce the claim of the
24 first actor. Accordingly, within six months of formation, and periodically thereafter as
25 determined by official action of the managing board, each prosperity district shall hold
26 one or more public hearings to decide whether, how, and when to promulgate and
27 enforce regulations within its boundaries to safeguard public health and safety strictly
28 in accordance with the following subsections; further, a prosperity district's authorized
29 police power shall be exercised in strict conformity with the following subdivisions.

30 a. Regulatory impact statement. As a precondition of promulgating or initially
31 enforcing any regulation within any prosperity district, other than the exercise of

1 police power authorized by subparagraph a of paragraph 1 of subdivision c of
2 subsection 2 of this Article and adopted pursuant to subparagraph d of
3 paragraph 7 of subdivision a of subsection 1 of Article IV, or an exercise of
4 concurrent jurisdiction authorized by subdivision d of subsection 2 of this Article,
5 including, but not limited to, any regulation clarifying, modifying, or superseding
6 the common law in effect within district boundaries, every prosperity district shall
7 conduct fact-finding at one or more hearings that are open to the public with at
8 least seven days prior notice to assess the extent to which the regulation would
9 fulfill or, if previously promulgated or enforced prior to repeal, has fulfilled the
10 criteria required for regulatory authority and tailoring under this section, and shall
11 publicly report as soon as practicable exactly how such criteria have been or
12 would be fulfilled by the regulation in a regulatory impact statement that:

13 (1) Articulates the nature and magnitude of the threat to the individual right to
14 life, liberty, or property targeted by the regulation by, at a minimum,
15 characterizing the risk pathways, populations exposed and consequences of
16 exposure, and assessing whether the regulation or similar regulations have
17 been effective in reducing the targeted risks;

18 (2) Articulates a theory of cause and effect, consistent with established
19 economic and scientific theories, that shows how the regulation could or did
20 produce the desired outcomes and that also explicitly assesses whether the
21 risks addressed by the regulation are likely to increase, decrease, or stay
22 the same in the absence of the regulation;

23 (3) Demonstrates consideration of a wide variety of alternate and less
24 restrictive or burdensome regulatory approaches consistent with the
25 hierarchy of regulation contemplated by this Article, including, but not limited
26 to, expressly assessing whether the regulation has a negative effect on
27 competition, whether the regulation can be modified to reduce its
28 anticompetitive effects, and determining whether and how private voluntary
29 action can reduce the risks addressed by the regulation;

30 (4) Comprehensively assesses the benefits and costs of a wide variety of
31 alternative regulatory approaches or solutions to the asserted threat to

1 individual rights to life, liberty, or property, including a showing of how much
2 of the problem the regulation is likely to solve;

3 (5) Considers the foregoing criteria in light of all actual evidence of the
4 regulation's efficacy or lack thereof from any previous promulgation or
5 enforcement of the same or similar regulation; and

6 (6) Specifies the data utilized to make the assessments shown in the report.

7 b. Criteria for authorized regulation. A prosperity district has no power to regulate or
8 otherwise to use or threaten coercion in connection with its governing authority
9 except through:

10 (1) The exercise of police power authorized by [subparagraph a of paragraph 1](#)
11 [of subdivision c](#) of subsection 2 of this Article and adopted pursuant to
12 [subparagraph d of paragraph 7 of subdivision a](#) of subsection 1 of Article IV;
13 and

14 (2) Promulgating and enforcing regulations that fulfill each of the following
15 criteria:

16 (a) The regulation governs or protects the individual right to life, liberty, or
17 property of either those who are not parties to a contract that
18 furnishes a rule of governance covering the same subject matter as
19 the regulation; or those who are in breach of a contract covering the
20 same subject matter as the regulation, provided that the dispute
21 resolution procedures specified in the contract, if any, are not being
22 observed by all parties to the contract, and at least one party to the
23 contract requests such regulation or enforcement;

24 (b) The regulation and its enforcement accurately codifies or implements
25 the exercise of police power authorized by [subparagraph a of](#)
26 [paragraph 1 of subdivision c](#) of subsection 2 of this Article and
27 adopted pursuant to [subparagraph d of paragraph 7 of subdivision a](#)
28 [of subsection 1](#) of Article IV, or governs an act, activity, inactivity,
29 occupation, profession, use of property, person, entity, condition, or
30 state of affairs that is not ordinarily peaceful, nonviolent, and
31 nonfraudulent;

- 1 (c) Neither the predominant effect of the regulation considered alone or in
2 the context of the prosperity district's existing regulatory framework,
3 nor any part of its purpose is to protect any individual, entity, or group
4 from otherwise rightful competition or to restrain competent adults for
5 their own good; and
- 6 (d) The act, activity, inactivity, occupation, profession, use of property,
7 person, entity, condition, or state of affairs targeted for regulation has
8 violated, is violating, or is an actual threat to individual right to life,
9 liberty, or property.
- 10 c. Targeted regulation. To the extent that a prosperity district is authorized to
11 promulgate or enforce regulations under [subparagraph b of paragraph 1 of](#)
12 [subdivision c of subsection 2 of this Article](#), the regulation may only:
- 13 (1) Furnish modified, additional, or augmented civil remedies to render the
14 exercise of police power authorized by [subparagraph a of paragraph 1 of](#)
15 [subdivision c of subsection 2 of this Article](#) and adopted pursuant to
16 [subparagraph d of paragraph 7 of subdivision a of subsection 1 of Article IV](#)
17 more effective in protecting the individual rights of life, liberty, or property;
- 18 (2) Impose clear, objective legal standards only if the foregoing mode of
19 regulation will not reasonably reduce the threat to the individual rights of life,
20 liberty, or property;
- 21 (3) Enable the enforcement of clear, objective legal standards by inspections
22 and enforcement of violations by civil penalty only if the foregoing modes of
23 regulation will not reasonably reduce the threat to the individual rights of life,
24 liberty, or property;
- 25 (4) Enable the enforcement of clear, objective legal standards by permitting,
26 licensing, or other regulatory preapproval processes only if the foregoing
27 modes of regulation will not reasonably reduce the threat to the individual
28 rights of life, liberty, or property; or
- 29 (5) Enable the enforcement of clear, objective legal standards by criminal
30 sanctions only if the foregoing modes of regulation will not reasonably
31 reduce the threat to the individual rights of life, liberty, or property.

1 d. Conforming enforcement. Before exercising the police power authorized by
2 subparagraph a of paragraph 1 of subdivision c of subsection 2 of this Article and
3 adopted pursuant to subparagraph d of paragraph 7 of subdivision a of
4 subsection 1 of Article IV, and any other regulation authorized by subparagraph b
5 of paragraph 1 of subdivision c of subsection 2 of this Article, each prosperity
6 district must adopt appropriate internal management and administrative
7 procedures in the district bylaws governing such enforcement, including ensuring
8 that the method of enforcement makes it probable that the regulation will protect
9 the individual right to life, liberty, or property; the method of enforcement makes it
10 probable that the regulation will fulfill the criteria that authorized its promulgation;
11 and that reasonable public notice of the regulation had been furnished to any
12 affected person before the regulation is enforced.

13 e. Automatic sunset. Every regulation adopted pursuant to item 3 of subparagraph d
14 of paragraph 7 of subdivision a of subsection 1 of Article IV or promulgated
15 pursuant to subparagraph b of paragraph 1 of subdivision c of subsection 2 of
16 this Article shall be automatically repealed and held for naught five years from
17 their effective date, if one is specified, and otherwise from their adoption or
18 enactment date, as the case may be, and may only be promulgated again
19 thereafter as provided in subdivisions a through c of subsection 3 of this Article
20 (with any regulation previously adopted pursuant to item 3 of subparagraph d of
21 paragraph 7 of subdivision a of subsection 1 of Article IV to be reinstated only
22 through exercising the authority furnished by subparagraph b of paragraph 1 of
23 subdivision c of subsection 2 of this Article). The prosperity district may
24 commence proceedings to consider reinstating such regulation as provided in
25 subdivisions a through c of subsection 3 of this Article as early as two years prior
26 to their automatic repeal date.

27 4. Eminent domain, regulatory, and tax overreach defense. It is a complete defense in
28 any venue to the exercise of eminent domain or the enforcement of any regulation or
29 tax within the boundaries of every prosperity district, as those boundaries may be
30 established from time to time, that the exercise of eminent domain, regulation, or tax
31 was promulgated or enforced in violation of this compact. If this defense is raised, the

1 proponent of the taking, regulatory, or taxing action has the burden of proving strict
2 compliance with the provisions of this compact with clear and convincing evidence or
3 with such quantum of proof as otherwise agreed to by all disputants.

4 **ARTICLE III - AUTHORIZED STATEWIDE TAILORING**

5 Under the authority and subject to the provisions of subsection 6 of Article VIII of this
6 compact, the following provisions shall clarify, supplement, modify, or supersede, as applicable,
7 any relevant or contrary provision of the compact in Article I, II, IV, V, VI, and VII solely with
8 respect to this member:

9 1. Repealer. Subject to **subdivision d** of subsection 2 of Article II, this Article, and
10 **subdivision d** of subsection 2 of Article IV:

11 (a) Every ordinary member law of this member that extends to, applies to, penalizes,
12 prosecutes, taxes, regulates, or can otherwise be based on any condition, state
13 of affairs, person, entity, service, property, action, or omission located, committed,
14 or occurring in a prosperity district is deemed to conflict with this compact, and is
15 entirely repealed, superseded, or held for naught; (as applicable to negate any
16 legal effect;) within the boundaries of every prosperity district, as those
17 boundaries may be established from time to time, and shall not thereafter extend
18 to, penalize, prosecute, tax, regulate, apply to or be based on any condition, state
19 of affairs, person, entity, service, property, action, or omission located, committed,
20 or occurring within the boundaries of any such district; (except as
21 nongovernmental persons may otherwise agree in adopting a venue selection
22 clause or choice of law provision in a valid contract between them); and

23 (b) When and to the extent that this compact becomes an interstate compact that
24 has contractually bound this member and received the consent of Congress,
25 every ordinary federal law and every other law, regulation, or constitutional
26 provision of this member not previously repealed, which is capable of being
27 pre-empted, repealed, superseded, or held for naught by such consent of
28 Congress, that extends to, applies to, penalizes, prosecutes, taxes, regulates, or
29 can otherwise be based on any condition, state of affairs, person, entity, service,
30 property, action, or omission located, committed, or occurring in a prosperity
31 district is deemed to conflict with this compact and is entirely pre-empted,

1 repealed, superseded, or held for naught, as applicable to negate any legal
2 effect, within the boundaries of every prosperity district, as those boundaries may
3 be established from time to time (except as nongovernmental persons may
4 otherwise agree in adopting a venue selection clause or choice of law provision
5 in a valid contract between them).

- 6 2. Revenue covenant based on unimproved land value. In the case of a new or
7 expanded prosperity district to be located in this member, the following revenue
8 covenant may be used to fulfill the revenue covenant requirements of [paragraph 9 of](#)
9 [subdivision a of](#) subsection 1 of Article IV of this compact (after following relevant
10 instructions specified in brackets):

11 "Each landowner and each successor, assign and heir of such landowner of the
12 land encompassed by the [insert legal name of new or expanded prosperity
13 district] (hereinafter collectively "owner") shall pay, on an annual basis: (a) to
14 [insert legal name of member] an annual amount equal to the greater of: (1) the
15 product of (i) one percent of the fair market unimproved value of the land
16 encompassed by the [insert legal name of new or expanded prosperity district]
17 (hereinafter "prosperity district land value") and (ii) the ratio of the fair market
18 [unimproved](#) value of that owner's respective ownership interest in such land
19 (hereinafter "ownership interest land value") over the prosperity district land
20 value; or (2) the product of (i) the total amount of revenue collected directly by
21 [insert legal name of member] in the fiscal year immediately preceding [the
22 formation or expansion] of the [insert legal name of new or expanded prosperity
23 district] from all activities, inactivities, properties, and entities located within the
24 area of the land within the boundaries of [insert name of new or expanded
25 prosperity district], including, but not limited to, all fees, fines, assessments, as
26 well as income, sales, and property taxes, if any, and (ii) the ratio of that owner's
27 ownership interest land value over the prosperity district land value; (b) to [insert
28 legal name of each county in which the new or expanded prosperity district will
29 be located] respectively an annual amount equal to the greater of: (1) the product
30 of (i) one-half of one percent of the fair market unimproved value of the land
31 encompassed by the [insert legal name of new or expanded prosperity district]

1 (hereinafter "prosperity district land value") and (ii) the ratio of the fair market
2 unimproved value of that owner's respective ownership interest in such land
3 (hereinafter "ownership interest land value") over the prosperity district land
4 value; or (2) the product of (i) the total amount of revenue collected directly by
5 [insert legal name of each county in which the new or expanded prosperity district
6 will be located] in the fiscal year immediately preceding [the formation or
7 expansion] of the [insert legal name of new or expanded prosperity district] from
8 all activities, inactivities, properties, and entities located within the area of the
9 land within the boundaries of [insert name of new or expanded prosperity district],
10 including, but not limited to, all fees, fines, assessments, as well as income,
11 transaction, sales, and property taxes, if any, and (ii) the ratio of that owner's
12 ownership interest land value over the prosperity district land value; (c) to [insert
13 legal name of new or expanded prosperity district] an annual amount equal to the
14 product of (1) one-quarter of one percent of the fair market unimproved value of
15 the land encompassed by the [insert legal name of new or expanded prosperity
16 district] (hereinafter "prosperity district land value") and (2) the ratio of the fair
17 market unimproved value of that owner's respective ownership interest in such
18 land (hereinafter "ownership interest land value") over the prosperity district land
19 value. [insert the following if any part of a new or expanded prosperity district is
20 located within the jurisdiction of any municipality: (d) to [insert legal name of each
21 municipality in which the new or expanded prosperity district will be located]
22 respectively an annual amount equal to the greater of: (1) the product of (i)
23 one-quarter of one percent of the fair market unimproved value of the land
24 encompassed by the [insert legal name of new or expanded prosperity district]
25 (hereinafter "prosperity district land value") and (ii) the ratio of the fair market
26 unimproved value of that owner's respective ownership interest in such land
27 (hereinafter "ownership interest land value") over the prosperity district land
28 value; or (2) the product of (i) the total amount of revenue collected directly by
29 [insert legal name of each municipality in which the new or expanded prosperity
30 district will be located] in the fiscal year immediately preceding [the formation or
31 expansion] of the [insert legal name of new or expanded prosperity district] from

1 all activities, inactivities, properties, and entities located within the area of the
2 land within the boundaries of [insert name of new or expanded prosperity district],
3 including, but not limited to, all fees, fines, assessments, as well as income,
4 transaction, sales, and property taxes, if any, and (ii) the ratio of that owner's
5 ownership interest land value over the prosperity district land value."] Said
6 amounts shall be: (a) assessed by the managing board of the [insert legal name
7 of new or expanded prosperity district] as a first priority lien against the relevant
8 land and a joint and several debt of each owner in favor of the relevant payee on
9 the first business day of each calendar year after the formation or expansion, as
10 the case may be, of the [insert legal name of prosperity district] to include the
11 relevant land based on the average of contemporaneous appraisals, formulated
12 in accordance with reasonable and customary appraisal standards, previously
13 submitted to the managing board of the [insert legal name of the new or
14 expanded prosperity district] by each owner and the [insert legal name of
15 member]; and (b) paid to the previously identified recipients of revenues by each
16 owner on the last business day of each calendar year following [the formation or
17 expansion] of the [insert legal name of new or expanded prosperity district],
18 prorated for any period of any calendar year in which the [insert legal name of
19 new or expanded prosperity district] was not recognized by [insert legal name of
20 member], provided that no adverse judicial or administrative proceedings
21 involving any owner and [insert legal name of member], or any political
22 subdivision or agency thereof, had been brought by [insert legal name of
23 member] or any of its political subdivisions or agencies against any owner
24 (excluding claims subject to the alternative dispute resolution process specified in
25 Article V of the prosperity states compact, as enacted by [insert legal name of
26 member] and amended from time to time) in the preceding twelve months. Upon
27 such payment, the lien specified above shall be deemed released, subject to
28 modification by written agreement of all affected parties, laws generally
29 applicable to the foreclosure of real property liens in the [insert legal name of
30 member] shall determine available procedures and remedies in the event of
31 nonpayment or untimely payment of the assessment hereunder due. The

1 foregoing revenue covenant is a covenant running with the land encompassed by
2 the [insert legal name of new or expanded prosperity district] for the benefit of the
3 previously identified recipients of revenues. [Insert the following if it is desired for
4 the provisions of this revenue covenant to be modified or superseded by a
5 negotiated revenue covenant: "This revenue covenant is subject to modification
6 or supersession by a negotiated revenue covenant pursuant to Article III of the
7 prosperity states compact, as enacted by the [insert legal name of member] and
8 amended from time to time."}]"

9 3. Negotiated revenue covenant. To comply with the petition requirement specified in
10 paragraph 9 of subdivision a of subsection 1 of Article IV, or subsequently to
11 supplement or revise a revenue covenant authorized under Article IV or this Article, the
12 petitioners or their successors in interest may negotiate a revenue covenant
13 ("negotiated revenue covenant") with the governor of this member or the governor's
14 nominee ("state official") in the case of the formation or expansion of a prosperity
15 district to be located in whole or in part within this member by giving notice of a
16 demand for such negotiations to the office of the governor or a person authorized to
17 accept service of process on behalf of the governor, whereupon they shall commence
18 negotiations within twenty days. In addition to other relevant provisions, the negotiated
19 revenue covenant shall:

- 20 a. Only concern the generation, collection, and distribution of revenues;
21 b. Be duly signed by petitioners and state officials;
22 c. Define the revenues or revenue sources to which it applies and, if applicable and
23 desired, include terms and provisions to supplement or revise the terms of an
24 existing default revenue covenant, if any, upon recordation;
25 d. Guarantee that the member and any county or municipality in which any part of a
26 proposed new prosperity district is to be located receives on an annual basis
27 revenues and distributions of state shared revenues, if any, that are at least equal
28 to the total amount of revenue and distributions of state shared revenues
29 collected or received by that member and any such county or municipality in the
30 fiscal year immediately preceding the respective formation of the prosperity
31 district from all activities, inactivities, properties, and entities located within the

1 area of the real property to be encompassed by the proposed new prosperity
2 district, including, but not limited to, all fees, fines, assessments, as well as
3 income, transaction privilege, use, gas, sales, and property taxes, if any;

4 e. Guarantee that the member and any county or municipality in which any part of
5 the proposed expansion area of an existing prosperity district is to be located
6 receives on an annual basis revenues and distributions of state shared revenues,
7 if any, that are equal to or greater than the total amount of revenue and
8 distributions of state-shared revenues collected or received by that member and
9 any such county or municipality in the expansion area in the fiscal year
10 immediately preceding the proposed expansion of the prosperity district from all
11 activities, inactivities, properties, and entities located within the area of the real
12 property to be encompassed by the proposed expansion area, including, but not
13 limited to, all fees, fines, assessments, as well as income, transaction privilege,
14 use, gas, sales, and property taxes, if any;

15 f. Guarantee that the payment of income, transaction privilege, use, gas, sales, and
16 property taxes by any third-party beneficiary which are imposed by this member
17 and any of its political subdivisions on activities, inactivities, properties, and
18 entities located within the area of the real property included within the proposed
19 new or expanded prosperity district, if any, shall be ratably credited against that
20 third-party beneficiary's obligations under any such negotiated revenue covenant;

21 g. Apply and run with title to all real property in the proposed new or expanded
22 prosperity district upon the formation or expansion of the district, as the case may
23 be, and as long as the encumbered real property is within the jurisdiction of the
24 district;

25 h. Be drafted in general language, without limitation to a closed class of one or
26 more identifiable persons, and with such uniformity as to allow the entire class of
27 landowners located within any other existing or future prosperity district within the
28 same state to have the option of adopting the negotiated revenue covenant to
29 fulfill the requirements of [paragraph 9 of subdivision a of subsection 1 of](#)
30 Article IV, or subsequently to supplement or revise an existing revenue covenant
31 authorized under Article IV or this Article if such right was reserved;

- 1 i. Be deemed accepted and ratified by this member and any political subdivision of
2 this member benefited by the negotiated revenue covenant for use by petitioners,
3 any other class of petitioners under subsection 1 of Article IV, and their
4 successors-in-interest within this member's jurisdiction when approved by joint
5 resolution of the legislature of this member; and
- 6 j. If meant to revise or supplement a revenue covenant already running with title to
7 real property in an existing prosperity district, the accepted and ratified negotiated
8 revenue covenant shall be recorded with the county recorder for each county in
9 which the respective prosperity district is located and with each such other official
10 responsible for the public recordation of interests in real property located within
11 the proposed boundaries of the respective prosperity district, if any, as the case
12 may be.
- 13 4. Relationship of compact to existing laws and jurisdictions. This subsection shall be
14 effective in this member notwithstanding the reciprocity otherwise required by
15 subsection 5 of Article V, subdivision e of subsection 2 of Article II, subsection 1 of this
16 Article, and subsections 3 and 4 of Article V are herewith clarified, modified, and
17 superseded, as applicable, with respect to this member in regard to the following laws
18 and governmental unit jurisdictions constituted thereby, which shall continue to be
19 effective in any prosperity district or any portion of any prosperity district that is located
20 in this member to the same extent as in any other political subdivision of this member:
- 21 a. All interstate agreements, compacts, and laws enforcing or protecting vested
22 contractual or property rights existing in this member as of the enactment date of
23 the compact legislation, including, but not limited to, any interstate agreement or
24 compact concerning water rights and gaming, as well as all governmental units
25 constituted thereby, shall continue to be effective in any prosperity district located
26 in this member to the same extent as before the enactment date of the compact.
27 Vested contractual or property rights defined by reference to laws in effect in this
28 member upon vesting shall be construed and enforced in any prosperity district
29 located in this member as if such laws were still in effect;
- 30 b. All member laws and laws of the United States government that concern national
31 security, declared states of emergency, immigration, violent crime, prostitution, or

1 the possession, sale, transfer, or use of controlled substances, and the
2 jurisdictions of all governmental units to the extent they are constituted thereby,
3 as well as all related ongoing investigations, prosecutions, and administrative
4 proceedings;

5 c. All member laws and laws of the United States government governing the
6 management, administration, immunity, discipline, and compensation of law
7 enforcement personnel engaged in the exercise of concurrent or original
8 jurisdiction on behalf of this member or the United States government within the
9 boundaries of any prosperity district, as they may exist from time to time, under
10 the authority of this subdivision shall be in full force and effect as to such
11 personnel to the same extent as would have been the case in the absence of the
12 formation or expansion of such district;

13 d. Any provision of this member's constitution requiring the taxation of property or a
14 specific mode of taxation, and any law to implement any such provision, and the
15 jurisdictions of all governmental units constituted thereby, provided that:

16 (1) The payment of these taxes by any third-party beneficiary shall be ratably
17 credited against any revenue covenant obligation imposed on them by this
18 compact in favor of this member or any of its political subdivisions;

19 (2) The payment of such taxes shall be credited against any required fee for
20 external services as contemplated in [paragraph 3 of subdivision d of](#)
21 subsection 2 of Article II to the extent that such revenues are used directly
22 or indirectly to defray the cost of such services; and

23 (3) Subsequent reductions in any such applicable tax rate or burden after the
24 enactment date of the compact shall be effective in all prosperity districts;

25 e. The uniform commercial code of this member's revised statutes, and the
26 jurisdictions of all agencies to the extent they are constituted by such laws, which
27 shall be regarded as codifying the corresponding common law subject matters
28 applicable within any prosperity district located within this member;

29 f. All laws governing mining, mineral rights, oil, and gas extraction rights of this
30 member's revised statutes and promulgated in regulations authorized thereby.

1 and the jurisdictions of all agencies to the extent they are constituted by such
2 laws;

3 g. All laws governing mechanics liens of this member's revised statutes and
4 promulgated in regulations authorized thereby, and the jurisdictions of all
5 agencies to the extent they are constituted by such laws;

6 h. All laws governing the licensure and regulation of medical doctors of this
7 member's revised statutes and promulgated in regulations authorized thereby,
8 and the jurisdictions of all agencies to the extent they are constituted by such
9 laws;

10 i. All laws governing the licensure and regulation of attorneys of this member's
11 revised statutes and promulgated in regulations authorized thereby, and the
12 jurisdictions of all agencies to the extent they are constituted by such laws;

13 j. All laws governing fraud of this member's revised statutes and promulgated in
14 regulations authorized thereby, and the jurisdictions of all agencies to the extent
15 they are constituted by such laws;

16 k. All laws governing public records and open meetings of this member's revised
17 statutes and promulgated in regulations authorized thereby, and the jurisdictions
18 of governmental units constituted thereby;

19 l. All state and federal laws that concern elections, election qualifications, ballot
20 measures, referenda, and campaign finance and the jurisdictions of all
21 governmental units constituted by such laws, including, but not limited to, that
22 which is codified in this member's revised statutes, and the jurisdictions of all
23 governmental units constituted thereby, as well as all related ongoing
24 investigations, prosecutions, and administrative proceedings;

25 m. All state and federal laws governing banking, securities, and financial
26 transactions, including, but not limited to, that which is codified in the revised
27 statutes, and promulgated in regulations authorized thereby, as well as all related
28 ongoing investigations, prosecutions, and administrative proceedings; and

29 n. All state and federal laws specifically defining and protecting the individual right
30 to life, liberty, or property, or otherwise specifically governing the adoption,
31 guardianship, care, or representation of minor children, the incompetent, and the

1 disabled, and the jurisdictions of all governmental units constituted by such laws,
2 including, but not limited to, that which is codified in the revised statutes, and
3 promulgated in regulations authorized thereby, as well as all related ongoing
4 investigations, prosecutions, and administrative proceedings.

5 5. Income of residents doing business in district. This subsection shall be effective in this
6 member notwithstanding the reciprocity otherwise required by subsection 5 of
7 Article V. This member may tax income earned by its residents from income-producing
8 activities occurring within a prosperity district as provided by law if such residents are
9 neither domiciled nor residing in such prosperity district.

10 6. Federal primacy, mandates, and grant requirements protected. This subsection shall
11 be effective in this member notwithstanding the reciprocity otherwise required by
12 subsection 5 of Article V. Until this compact receives the consent of Congress in such
13 form as to obviate any need for this member to comply with otherwise applicable
14 federal mandates and conditions of maintaining or securing federal primacy or federal
15 grants, every prosperity district located in this member shall cooperate with this
16 member in fulfilling the lawful conditions of any federal grant or assumption of federal
17 primacy and complying with any lawful federal mandate, including the adoption of
18 appropriate bylaws and regulations, in the event that this member is specifically
19 threatened by the federal government in writing with any sanction, the loss of federal
20 primacy, the loss of any federal grant, or if this member loses federal primacy or a
21 federal grant due to a failure of compliance with a federal mandate or a condition to
22 the maintenance of federal primacy or to the grant caused by the actions or omissions
23 of any prosperity district. To enforce this cooperation duty, this member shall give
24 notice of the threat or loss to the managing board of each responsible prosperity
25 district as soon as possible together with a specification of the sanction or the amount
26 of the grant that has been threatened or lost, as well as a specific demand for the
27 curative action or inaction that the prosperity district must undertake in order to restore
28 federal primacy, the grant, or prevent the sanction or the loss of federal primacy or the
29 grant.

30 a. The prosperity district is authorized and required to respond to the foregoing
31 demand in one or more of the following three ways as needed to ensure that

1 federal primacy is maintained by this member or this member is kept or made
2 whole:

3 (1) It shall strictly comply with the demand in a fashion that may supersede any
4 limitation on its regulatory authority as otherwise specified in Article II only to
5 the extent absolutely necessary:

6 (2) It shall post a surety bond in favor of this member or tender cash to the this
7 member for the full amount of the grant that has been threatened or lost
8 which shall be payable without delay to this member or its designated
9 recipient on its demand if the grant is lost, subject to this member refunding
10 said amount immediately upon the restoration of the grant; or

11 (3) It shall delegate so much of its authority within its boundaries to this
12 member or its designated agency, instrumentality, or political subdivision to
13 hold and exercise in receivership as is absolutely necessary to fulfill the
14 federal mandate or the conditions of the threatened or lost federal primacy
15 or federal grant until such time as the threatened sanction is retracted or
16 lifted, or the federal primacy or grant is restored and no longer specifically
17 threatened by the federal government.

18 b. If the prosperity district fails to respond to the foregoing demand as aforesaid,
19 this member shall have the right to commence a special action in state court to
20 appoint a receiver to hold and exercise all power of the prosperity district as
21 necessary to comply with the federal mandate or to fulfill the conditions of the
22 threatened or lost federal primacy or federal grant until such time as the
23 threatened sanction is retracted or lifted, or the federal primacy or grant is
24 restored and no longer specifically threatened by the federal government, and
25 each prosperity district causing this member to fail to fulfill the conditions of any
26 such federal primacy or federal grant shall be jointly and severally liable for
27 tendering the full amount of any federal moneys that are denied to this member
28 as a result of the failure of cooperation within thirty calendar days after
29 submission of a proof of claim by this member to each prosperity district for the
30 replacement funding.

1 c. This subsection shall self-repeal upon this compact receiving the consent of
2 Congress in such form and substance as to declare or render the actions or
3 omissions of a prosperity district nonprejudicial to any obligation this member
4 may have to comply with otherwise applicable federal mandates and conditions
5 of maintaining or securing federal primacy or federal grants.

6 7. National security modification to definition of "eligible land". This subsection shall be
7 effective in this member notwithstanding the reciprocity otherwise required by
8 subsection 5 of Article V. The formation and expansion of a prosperity district in this
9 member, as well as investment in property located within an existing prosperity district,
10 shall be subject to the review process for controlling direct foreign investment in the
11 United States for the purpose of protecting national security, which is managed by the
12 multi-agency federal entity known as the Committee on Foreign Investment in the
13 United States, in accordance with the Foreign Investment and National Security Act
14 and Title 31 Code of Federal Regulations part 800. Accordingly, any person wishing to
15 form or expand a prosperity district or otherwise to invest in property located within an
16 existing prosperity district should expect that the Committee on Foreign Investment in
17 the United States will review, and potentially block, direct foreign investment for the
18 purpose of protecting the national security of the United States, but only to the same
19 extent as it does for such investments in all other areas of the United States.

20 8. County opt-out. This subsection shall be effective in this member notwithstanding the
21 reciprocity otherwise required by subsection 5 of Article V. If a county of this member
22 wishes to exclude land within its jurisdiction and outside of the territorial and
23 extraterritorial jurisdiction of any municipality from being deemed "eligible land" under
24 this compact before the formation or expansion of a prosperity district upon such land,
25 it may pass a local law declaring such exclusion with a sufficient legal description to
26 identify the excluded land based on such procedures as apply generally to the
27 enactment of local laws by such county notwithstanding any other law of this member
28 provided that:

29 a. The local law is enacted and effective within six months of the enactment date of
30 the compact legislation;

31 b. A certified copy of the local law is recorded with the county recorder of deeds;

- 1 c. The local law shall automatically self-repeal in four years from its enactment date
2 without prejudice to its re-enactment; and
- 3 d. The local law does not have the purpose or effect of rendering the authority to
4 form, expand, or withdraw from a prosperity district a law, privilege, or immunity
5 for a closed class of one or more identifiable persons. Any such local law may be
6 subsequently amended or repealed in accordance with such procedures as apply
7 generally to the enactment of local laws by such county notwithstanding any
8 other law of this member provided that the amendment or repeal does not have
9 the purpose or effect of rendering the authority to form, expand, or withdraw from
10 a prosperity district a law, privilege, or immunity for a closed class of one or more
11 identifiable persons.
- 12 9. Municipal opt-in. This section shall be effective in this member notwithstanding the
13 reciprocity otherwise required by subsection 5 of Article V. Any consent required to be
14 given by the governing body of a municipality to deem real property within the
15 territorial or extraterritorial jurisdiction of that municipality "eligible land" under this
16 compact:
- 17 a. Shall be enacted as a local law based on such procedures as apply generally to
18 the enactment of local laws by such municipality notwithstanding any other law of
19 this member, including, but not limited to, any law requiring or enforcing any local,
20 regional, or statewide land use plan;
- 21 b. Shall contractually bind such municipality to recognize the classification of such
22 real property as "eligible land" under this compact;
- 23 c. May include further stipulations and conditions superseding, modifying, or limiting
24 the text or applicability of provisions of this compact as authorized by
25 subdivision j of subsection 6 of Article VIII of this compact within the territorial or
26 extraterritorial jurisdiction of the consenting municipality; and
- 27 d. Must provide that any alteration to the applicability of provisions of this compact
28 that is specified in the aforesaid local law may be repealed by subsequently
29 enacted local law provided that such repeal shall not have the effect of:

- 1 (1) Delegating powers or authorities to any prosperity district in addition to
2 those expressly delegated to the district by [subdivision c](#) of subsection 2 of
3 Article II of this compact;
- 4 (2) Creating or expanding the jurisdictions of any governmental unit within the
5 boundaries of any prosperity district in addition to that which is expressly
6 permitted under [subdivision d](#) of subsection 2 of Article II of this compact;
- 7 (3) Eliminating the text or authority of any revenue covenant that otherwise
8 would satisfy the petition requirement under [paragraph 9 of subdivision a](#) of
9 subsection 1 of Article IV;
- 10 (4) Preventing the formation or expansion of prosperity districts or the
11 withdrawal of land from a prosperity district in that municipality; or
- 12 (5) Disqualifying real property as eligible land which would have otherwise
13 qualified as eligible land as of the enactment date of the respective
14 member's original compact legislation.
- 15 10. Insurance, performance, and surety bonding. This subsection shall be effective in this
16 member notwithstanding the reciprocity otherwise required by subsection 5 of
17 Article V. This member and any political subdivision of this member that has the right
18 to foreclose on a revenue covenant lien attached to real property located within a
19 prosperity district or that may be required by law to assume jurisdiction over lands
20 withdrawn from a prosperity district, shall have the right to a reasonable performance
21 or surety bond or coverage as a named insured under a reasonable insurance policy
22 from the petitioners seeking district formation, expansion, and withdrawal in an amount
23 and with such limits and terms sufficient to cover the reasonably anticipated costs
24 associated with maintenance of structures on such lands as well as to cover the
25 reasonably anticipated costs of enforcing public health, safety, and sanitation
26 standards imposed by generally applicable laws within its jurisdiction with regard to
27 such land in the event of such foreclosure or withdrawal. A detailed written demand for
28 the furnishing of such insurance or the posting of such a bond specifying required
29 terms and conditions of the bond or insurance shall be interposed against the relevant
30 petitioners by service of the demand upon each petitioner and all required recipients of
31 their petition prior to its approval. The demand shall not prevent approval of the

1 petition; however, if petitioners do not comply with the demand within ninety days of
2 service, or if the disputants do not first settle their differences in regard to the demand,
3 then the serving member or political subdivision may institute an action in a venue of
4 competent jurisdiction to compel compliance with the demand by petitioners and such
5 compliance shall be compelled if the terms and conditions of the demanded insurance
6 policy or bond are found contractually enforceable and reasonable based on
7 admissible evidence of the magnitude and likelihood of the risk of incurring costs
8 associated with maintenance of structures on such lands as well as to cover the
9 reasonably anticipated costs of enforcing public health, safety, and sanitation
10 standards imposed by generally applicable laws within its jurisdiction with regard to
11 such land in the event of such foreclosure or withdrawal. If the terms and conditions of
12 the demanded bond or insurance are not found contractually enforceable or
13 reasonable based on such evidence, then the serving member or political subdivision
14 shall be held liable for all legal expenses and attorney's fees incurred by petitioners in
15 defending the action. If petitioners do not comply with the demand after being ordered
16 to do so by the adjudicating authority, then the serving member or political subdivision
17 may seek a money judgment against the relevant petitioners jointly and severally in
18 the amount of the demanded bond or limits of the demanded insurance policy or
19 appropriate equitable relief reasonably tailored to mitigate the reasonably anticipated
20 costs of enforcing public health, safety, and sanitation standards imposed by generally
21 applicable laws within its jurisdiction with regard to such land in the event of such
22 foreclosure or withdrawal. If a written demand for the posting of a bond or furnishing of
23 insurance is not timely served or if an action to compel compliance with the demanded
24 bond or insurance policy is not commenced within six months of the approval of the
25 relevant petition, then the right to demand a bond or insurance policy from petitioners
26 under this section shall be forfeit and forever barred except as may otherwise be
27 provided in any settlement agreement between the disputants.

28 11. Statute of repose. This subsection shall be effective in this member notwithstanding
29 the reciprocity otherwise required by subsection 5 of Article V. Any person claiming a
30 right to challenge the legality of this compact shall have six months after the
31 enactment date of the compact legislation to file an action for such declaration of

1 rights in a court of competent jurisdiction or thereafter be forever barred from bringing
2 any such claim or related cause of action. Any person claiming a right to challenge the
3 legality of the formation or expansion of a prosperity district, or the withdrawal of land
4 from a prosperity district, shall have six months after the recordation of the petition
5 authorized by Article IV of this compact to file an action for such declaration of rights in
6 a court of competent jurisdiction or thereafter be forever barred from bringing any such
7 claim or related cause of action.

8 12. Clarification of headings and internal references. This member's local legislative
9 drafting and codification style requires the principal paragraphs of each Article of this
10 compact to be designated solely by a numeral and internally cross-referenced as a
11 subsection, designates certain subparagraphs alphabetically, references subclauses
12 of subparagraphs either without designation or as numerical items, does not permit the
13 use of initial capitalization to designate defined terms in the body of legislation, and
14 requires the plural form of the terms "petitioners," "recipients," and "state officials,"
15 which is intended to include the possibility of a singular application, as well as the
16 singular form of "governor," which is intended to include the possibility of plural
17 application. This member understands that other members in privity may nevertheless
18 refer to the same principal paragraphs with a heading that includes the word "section"
19 prefacing the same numeral and also internally cross-reference the same as a
20 "section," refer to the same subparagraphs with different headings, refer to the same
21 defined terms with initial capitalization or full capitalization, and prefer to use
22 "governor(s)," "petitioner(s)," "recipient(s)," and "state official(s)" to reference the plural
23 and singular form of such terms. As with any other difference in legislative drafting or
24 codification style, these internal references are intended to be and should be
25 construed as substantively equivalent.

26 **ARTICLE IV - PROSPERITY DISTRICT FORMATION, EXPANSION, AND WITHDRAWAL**

27 1. Petition to form or expand prosperity district. A prosperity district is formed or
28 expanded when a petition that is deemed compliant with this section (the "petition") is
29 recorded with the county recorder for each county in which the new or expanded
30 prosperity district is located and with each such other official responsible for the public
31 recordation of interests in real property located within the proposed boundaries of the

1 new or expanded prosperity district, if any. Accordingly, to form or expand a prosperity
2 district, a petition containing the information specified herein shall be signed, served,
3 reviewed, deemed compliant, and recorded as follows:

4 a. With respect to eligible land to be included in the new or expanded prosperity
5 district, one or more landowners representing one hundred percent of the surface
6 land ownership interests in such eligible land; (the "petitioners") shall sign a
7 petition requesting the formation or expansion of a prosperity district to include
8 such eligible land under the authority of this compact and further attesting to the
9 accuracy of the following information under oath, which shall also be included in
10 the petition:

11 (1) A statement requesting the formation or expansion of a prosperity district
12 and avowing that the land to be encompassed by the new district or
13 included in the expanded district is eligible land;

14 (2) The name, address, telephone number, and email address of each such
15 signing landowner, if any;

16 (3) A statement that one hundred percent of the qualified electors who are
17 residing on such eligible land have consented in writing to the petition or,
18 alternatively, a statement that no qualified electors are then residing on said
19 eligible land;

20 (4) The name, address, telephone number, and email address of each such
21 resident qualified elector, if any;

22 (5) A legal description of the external boundaries of the proposed new or
23 expanded prosperity district, as well as of the boundaries of any corridor for
24 the exercise of eminent domain by external agencies pursuant to [item 1 of](#)
25 [subparagraph a of paragraph 4 of subdivision d of subsection 2 of Article II](#)
26 and any individual parcels that are internal to such eligible land which shall
27 continue to be recognized within the prosperity district upon formation,
28 expansion, and withdrawal;

29 (6) A map and a general description of the area to be included in the proposed
30 new or expanded prosperity district that is sufficiently detailed to permit a

1 property owner to determine if a particular property is located in the
2 proposed new or expanded prosperity district;

3 (7) For a new prosperity district:

4 (a) A unique name to be assigned to the prosperity district;

5 (b) The names, addresses, phone numbers, and occupations of the
6 proposed members of the prosperity district's initial managing board;

7 (c) A statement of the jurisdiction, power, and authority of the district
8 under Article II of this compact;

9 (d) On behalf of the proposed district and deemed effective within the
10 district upon formation:

11 [1] An express adoption and verbatim specification of the malum in
12 se criminal law effective within the area to be encompassed by
13 the proposed district;

14 [2] An express adoption of the common law effective within the area
15 to be encompassed by the proposed district;

16 [3] The express adoption and verbatim specification of any other
17 regulation which is desired by petitioners to be enforced by the
18 district after formation pursuant to [subparagraph a of](#)
19 [paragraph 1 of subdivision c of subsections 2 and 3 of Article II,](#)
20 provided that such regulation was effective within the area to be
21 encompassed by the district as of the enactment date of this
22 member's compact legislation; and initial district bylaws
23 specifying:

24 [a] Procedures for the promulgation, amendment, and repeal
25 of district bylaws, ordinances, policies, procedures,
26 parliamentary rules, and directives for the governance of
27 the district for internal district management and
28 administration (including provisions detailing supervision
29 and coordination of revenue covenant enforcement, as well
30 as the collection and disbursement of revenues to which
31 the district is contractually entitled), the formation of

- 1 committees, subordinate departments and agencies, and
2 the designation and responsibilities of administrative offices
3 and retention of subordinate officials;
4 [b] Managing board member appointment, election, removal,
5 or succession procedures;
6 [c] Municipal bonding terms, issuance, and repayment
7 procedures;
8 [d] Public hearing and notice procedures;
9 [e] Regulation promulgation and enforcement procedures;
10 [f] The public infrastructure and services to be furnished by
11 the district; and
12 [g] The office, authorities, and duties of the district treasurer
13 and secretary;
- 14 (8) For an expansion of an existing prosperity district, the name of the
15 prosperity district to be expanded and the names, addresses, and phone
16 numbers of the members of that district's managing board;
- 17 (9) For a new prosperity district, a recordable revenue covenant to burden the
18 eligible land, which is the subject of the petition, as specified or described in
19 Article III of this compact;
- 20 (10) For an expansion of an existing prosperity district, a recordable revenue
21 covenant to burden the eligible land to be included in the existing prosperity
22 district that mirrors the revenue covenant then running with title to the land
23 in that existing district; and
- 24 (11) ~~(a)~~ A recordable restrictive covenant to burden the eligible land, which is
25 the subject of the petition, prohibiting each landowner and any successor in
26 interest from taking any action to preclude, hinder, or obstruct the expansion
27 of the district to adjacent lands that are outside of the district, if any, or the
28 withdrawal of lands from the district as contemplated in this Article (or
29 pursuant to such additional criteria as specified in the district bylaws for
30 withdrawal of lands).
- 31 ~~(b)~~b. The petition shall be served on each of the following recipients as applicable:

1 ~~[1]~~—(1) Each member of the board of supervisors of each county in which any
2 portion of the new or expanded district is to be located at their offices or
3 through their authorized service of process recipient;

4 ~~[2]~~—(2) The governing body of each affected municipality at its office or through its
5 authorized service of process recipient if the new or expanded district is to
6 include eligible land located within that municipality's jurisdiction; and

7 ~~[3]~~—(3) The managing board of each affected prosperity district at its office or
8 through its authorized service of process recipient if that prosperity district is
9 to be expanded by the inclusion of the eligible land or if a new prosperity
10 district is to be formed within any part of the jurisdiction of that prosperity
11 district.

12 ~~(e)~~c. Within twenty calendar days after receipt of the petition, each recipient
13 designated in ~~paragraph subdivision b of subsection 1 of this Article~~ shall review
14 the petition ministerially for compliance with ~~paragraph subdivision a of~~
15 ~~subsection 1 of this Article~~ and deny any petition that is not compliant. Notice of
16 the denial of a petition shall be given within said time frame in writing to the
17 petitioners stating the specific nature of any deficiency and without prejudice as
18 to the repeated resubmittal of a corrected petition until all such deficiencies are
19 cured. If the petition is not timely denied by any recipient designated in
20 ~~paragraph subdivision b of subsection 1 of this Article~~, the petition shall be
21 deemed compliant with this subsection for all purposes and it may be recorded
22 by the petitioners with the county recorder for each county in which the new or
23 expanded prosperity district is to be located and with each such other official
24 responsible for the public recordation of interests in real property located within
25 the proposed boundaries of the new or expanded prosperity district, if any. Sworn
26 proof of service by United States certified mail, return receipt requested, or
27 equivalently verifiable delivery service shall be sufficient to establish the date the
28 petition was received by a designated recipient or any required notice was given
29 to the petitioners.

30 2. Petition to withdraw. A petition may be brought to withdraw land from a prosperity
31 district's jurisdiction as provided in this section.

- 1 a. The land that is the subject of the withdrawal petition must:
- 2 (1) Be contiguous to land that is outside of the boundaries of the affected
- 3 district;
- 4 (2) Be contiguous to land included in the same petition that is contiguous to
- 5 land that is outside of the boundaries of the affected district;
- 6 (3) Be at least one square mile of contiguous land;
- 7 (4) Be the subject of an enforceable contract governing all landowners and
- 8 qualified electors residing in the affected district that gives consent to the
- 9 withdrawal of such land from the district under such terms and conditions as
- 10 may be specified in that contract; or
- 11 (5) Qualify for withdrawal under criteria otherwise specified in the bylaws of the
- 12 affected district provided that such criteria are uniform for all persons
- 13 domiciled in the district and they do not have the purpose or effect of
- 14 rendering such withdrawal authority a law, privilege, or immunity for a closed
- 15 class of one or more identifiable persons.
- 16 b. The withdrawal petition must:
- 17 (1) State under oath that the petitioners represent one hundred percent of the
- 18 surface land ownership interests in title to the proposed withdrawn land,
- 19 including the same contact information for petitioners as with a petition to
- 20 form or expand a prosperity district;
- 21 (2) State under oath that one hundred percent of all qualified electors residing
- 22 on the affected land have given written consent to the withdrawal of the land
- 23 from the prosperity district's jurisdiction;
- 24 (3) Include a map and legal description of the proposed withdrawn land; and
- 25 (4) Be served on the same officials as a petition to form or expand a prosperity
- 26 district, who must then within twenty calendar days after receipt of the
- 27 petition, review the petition ministerially for compliance with this subsection
- 28 and deny any petition that is not compliant.
- 29 c. Notice of the denial of a withdrawal petition shall be given within said twenty
- 30 calendar day time frame in writing by the same method of notice to the petitioners
- 31 as applicable to a petition to form or expand a district. If the petition is not timely

1 denied by all petition recipients, the petition shall be deemed approved and
2 compliant with this section for all purposes and it may be recorded by the
3 petitioners with the county recorder for each county in which the withdrawn land
4 is to be located and with each such other official responsible for the public
5 recordation of interests in real property located within the proposed boundaries of
6 the withdrawn land, if any.

- 7 d. Upon the approval and recordation of the withdrawal petition, the land specified
8 therein shall immediately revert to the jurisdictional status of land outside of the
9 boundaries of the affected prosperity district such that all laws generally
10 applicable outside of the boundaries of that prosperity district shall govern the
11 area of such land as if the district never encompassed the withdrawn land, and all
12 covenants or servitudes running with title to such land as a consequence of any
13 petition to form or expand that district shall be deemed vacated; but all other
14 encumbrances on title to the withdrawn land, including any lien that has attached
15 to such land to secure the payment of any previously accrued and unpaid
16 revenue covenant obligation, shall remain enforceable to the extent consistent
17 with the reverted legal and jurisdictional status of the withdrawn land.
- 18 e. Petitioners of an approved and recorded withdrawal petition may not
19 subsequently petition for the expansion of the prosperity district to include land
20 withdrawn from that district for a period of twelve months without the concurrence
21 of the district's managing board.

22 **ARTICLE V - COMPACT FORMATION, EFFECT, AND AMENDMENT**

- 23 1. Offer and acceptance of interstate compact. By becoming a member, each such
24 member hereby publicly pledges and offers to perform and comply strictly in
25 accordance with this compact's terms and conditions as a binding interstate compact,
26 and has made such pledge and offer in anticipation and consideration of, and in
27 substantial reliance on, such mutual and reciprocal pledge, performance, and
28 compliance by each other member, if any. This pledge and offer shall be deemed
29 accepted and entry into this compact complete and contractually binding on a member
30 as an interstate compact upon that member's receipt of notice of the attainment of
31 member status by any other member; further privity of contract with regard to such

1 interstate compact shall extend to, between, and among any member with notice of
2 the member status of any other member. For purposes of this subsection, notice shall
3 be given to each other member's governor, an official authorized to accept service of
4 process on the governor, and to the compact administrator, if any.

5 2. Effect of compact formation. On acceptance of the pledge and offer to enter into a
6 compact as specified in subsection 1 of this Article, this compact shall be construed
7 and enforced as an interstate compact consisting of a solemn sovereign pledge,
8 agreement, and covenant contractually binding the member in privity to maintain and
9 enforce the provisions of this compact, as they existed on the date that the compact
10 became contractually binding, and to refrain from taking any future action that could in
11 any way or to any degree burden, impair, or interfere with such provisions of this
12 compact, except as otherwise expressly authorized by this compact. Further, upon this
13 compact attaining the status of a sovereign contract between and among its members,
14 the maintenance of and strict compliance with all of its terms, including each and every
15 provision of Article I, II, III, IV, V, VI, VII, and VIII is required of all members in privity.
16 Any impairment of performance, burden on performance, impediment to performance,
17 nonperformance, suspension, deviation from, disregard of, or violation of the terms of
18 this compact of any magnitude imposed by any member in privity is prohibited,
19 including, but not limited to, the passage of parallel legislation that directly or indirectly
20 causes costs or imposes mandates not contemplated by this compact to be incurred
21 by any member or third-party beneficiary as a result of compliance with, performance
22 under, or the enjoyment of the terms of this compact. Any violation of this prohibition of
23 any magnitude or duration is and shall be regarded by all members in privity as a
24 substantial impairment of the obligation of a solemn contract between sovereigns, and
25 is and shall be regarded as a material breach of a solemn sovereign contract, as well
26 as ultra vires and void under United States Constitution, article 1, section 10, clause 1,
27 and, with respect to terms receiving the consent of Congress, under United States
28 Constitution, article VI, clause 2. Every member in privity and third-party beneficiary
29 has the right to the remedy of specific performance of the terms of this compact or
30 injunctive relief to prohibit any deviation from strict compliance with the terms of this

1 compact, subject to the alternative dispute resolution process and venue provisions of
2 subdivision j of subsections 1, 10, and 11 of Article VI.

3 3. Effect of existing consent of Congress. Subject to Article III, and otherwise
4 notwithstanding any law to the contrary, under the authority of United States
5 Constitution, article I, section 10, article VI, clause 2, and the Tenth Amendment to the
6 United States Constitution, when and to the extent that this compact becomes an
7 interstate compact, in accordance with the consent of Congress furnished by 4 United
8 States Code § 112, this compact shall:

9 a. Have equivalent status to a law of the United States to the extent that it enables
10 cooperative efforts and mutual assistance among the states in the prevention of
11 crime, enforcing criminal laws and policies, and establishing desirable agencies
12 for making effective such cooperative efforts and mutual assistance;

13 b. Every prosperity district's exclusive jurisdiction under subdivision e of
14 subsection 2 of Article II shall preclude every agency, branch, department,
15 instrumentality, or political subdivision of every member in privity or the United
16 States government from exercising jurisdiction or authority or superimposing
17 additional governing jurisdictions within district boundaries, as those boundaries
18 may be established from time to time, for purposes of preventing crime, enforcing
19 criminal laws and policies, and establishing desirable agencies for making
20 effective such cooperative efforts and mutual assistance (except as authorized by
21 subdivision d of subsection 2 of Article II); and

22 c. Any dispute between any member in privity, the United States government, and
23 third-party beneficiary regarding cooperative efforts and mutual assistance
24 among the states in the prevention of crime, enforcing criminal laws and policies,
25 and establishing desirable agencies for making effective such cooperative efforts
26 and mutual assistance, shall be subject to alternative dispute resolution pursuant
27 to subsection 10 of Article VI.

28 4. Effect of additional consent of Congress. Subject to Article III and any stipulation,
29 condition, or exception to such additional consent of Congress, and otherwise
30 notwithstanding any law to the contrary, under the authority of United States
31 Constitution, article I, section 10, article VI, clause 2, and the Tenth Amendment to the

1 United States Constitution, when and to the extent that this compact becomes an
2 interstate compact and has received the consent of Congress in addition to that
3 furnished by 4 United States Code § 112:

4 a. This compact shall have equivalent status to a law of the United States;

5 b. Every prosperity district's exclusive jurisdiction under [subdivision e of](#)
6 subsection 2 of Article II shall preclude every agency, branch, department,
7 instrumentality, or political subdivision of every member in privity or the United
8 States government from exercising jurisdiction or authority or superimposing
9 additional governing jurisdictions within district boundaries or fining, penalizing,
10 prosecuting, regulating, taxing, or otherwise addressing through government
11 action any condition, state of affairs, person, entity, service, property, action, or
12 omission located, committed, or occurring within the boundaries of any prosperity
13 district, as those boundaries may be established from time to time (except as
14 authorized by [subdivision d of](#) subsection 2 of Article II and as nongovernmental
15 persons may otherwise agree in adopting a venue selection clause or choice of
16 law provision in a valid contract between them);

17 c. The actions or omissions of any prosperity district or that of any third-party
18 beneficiary within the boundaries of any prosperity district as they may be
19 established from time to time shall not prejudice or otherwise adversely affect
20 compliance by any member in privity with federal mandates or conditions of
21 maintaining or securing federal primacy or federal grants;

22 d. Surface land owned or held in trust by the United States government, which is
23 outside of the boundaries of national forests and national parks existing on the
24 effective date of such consent of Congress, and outside of any native American
25 reservation, shall qualify as eligible land under subsection 5 of Article VII of this
26 compact, and the United States government in its proprietary or trustee capacity,
27 as applicable, may be regarded as consenting to and joining in any petition
28 required by Article IV for the formation or expansion of, or withdrawal from, a
29 prosperity district encompassing such real property provided that all other criteria
30 unrelated to the ownership or trustee interest of the United States are fulfilled;

31 and

- 1 e. The United States government shall be deemed to consent to the inclusion of any
2 otherwise eligible land in any petition to form, expand, or withdraw from a
3 prosperity district under Article IV notwithstanding any encumbrance on such
4 land, such as any lien, gas, mineral, or water right, it owns or holds in trust; and
5 f. Any dispute between any member in privity, the United States government, and
6 third-party beneficiary regarding the foregoing shall be subject to alternative
7 dispute resolution pursuant to Article VI.

8 5. Reciprocity, freedom of access, cross-border prosperity districts. Subject to Article III,
9 upon this compact attaining the status of an interstate compact, any activity lawfully
10 undertaken and any service lawfully performed within any prosperity district located
11 within this member or any other member in privity shall be reciprocally recognized as
12 lawful within the boundaries of every other prosperity district located within this
13 member and any other member in privity on the same terms unless otherwise
14 prohibited by the enforcement of constitutional provisions, interstate compacts, malum
15 in se criminal law, common law, and any regulation promulgated or enforced in
16 accordance with Article II of this compact. Further, every prosperity district located
17 within this member or any other member in privity shall allow direct ingress and egress
18 of any person lawfully allowed ingress to and egress from any other prosperity district
19 located within this member or any other member in privity unless prohibited by the
20 enforcement of existing property or contractual rights. Furthermore, a prosperity
21 district may be formed and expanded across state lines between members in privity
22 provided that the petition required by subsection 1 of Article IV:

- 23 a. Specifies the malum in se criminal law and common law that shall be in effect
24 within the district;
25 b. Is served on the governor of each affected member at their offices or through
26 their authorized service of process recipients in addition to other petition
27 recipients required by subsection 1 of Article IV; and
28 c. Compliance is made with all other terms of subsection 1 of Article IV, whereupon
29 the approval process specified therein shall be construed as referencing the
30 governor of each affected member in addition to such other officials holding
31 approval power.

1 6. Amendment. After this compact becomes an interstate compact, each member in
2 privity reserves the right to amend this compact exclusively by repealing all or any part
3 of the provisions set forth in Article III of this compact which that member included in
4 its original compact legislation, or by amending such provisions of Article III with such
5 additional terms or provisions respecting that member as are consistent with
6 subsection 6 of Article VIII of this compact and prospective in effect, at any time
7 through ordinary legislation, provided that such repeal or amendment shall not have
8 the purpose or effect of:

9 a. Delegating powers or authorities to any prosperity district (in addition to those
10 expressly delegated to the district by [subdivision c of](#) subsection 2 of Article II of
11 this compact as specified in that member's original compact legislation and as
12 modified, if at all, by the terms of Article III as they existed immediately prior to
13 this compact becoming an interstate compact);

14 b. Creating or expanding the jurisdictions of any governmental unit within the
15 boundaries of any prosperity district (in addition to that which is expressly
16 permitted under [subdivision d of](#) subsection 2 of Article II of this compact as
17 specified in that member's original compact legislation and as modified, if at all,
18 by the terms of Article III as they existed immediately prior to this compact
19 becoming an interstate compact);

20 c. Eliminating the text or authority of any revenue covenant that otherwise would
21 satisfy the petition requirement under [paragraph 9 of subdivision a of](#)
22 subsection 1 of Article IV (as specified in that member's original compact
23 legislation and as modified, if at all, by the terms of Article III as they existed
24 immediately prior to this compact becoming an interstate compact);

25 d. Disqualifying real property as eligible land which would have otherwise qualified
26 as eligible land (as specified in that member's original compact legislation and as
27 modified, if at all, by the terms of Article III as they existed immediately prior to
28 this compact becoming an interstate compact);

29 e. Impairing the legitimate investment-backed expectations of any third-party
30 beneficiary which are founded on vested property or contractual rights; or

1 f. With respect to any prosperity district formed prior to the effective date of the
2 respective repeal or amendment:

3 (1) Preventing the expansion of that prosperity district in accordance with the
4 terms of this compact as they existed upon that district's formation;

5 (2) Preventing the withdrawal of land from that prosperity district in accordance
6 with the terms of this compact as they existed upon that district's formation;

7 (3) Directly or indirectly promulgating or enforcing any regulation within that
8 prosperity district in addition to that which was authorized by the terms of
9 this compact as those terms existed upon that district's formation unless
10 such regulation:

11 (a) Is subject to the defense afforded by subsection 4 of Article II (in
12 accordance with the original terms of that member's compact
13 legislation and as modified, if at all, by the terms of Article III as they
14 existed immediately prior to this compact becoming an interstate
15 compact); and

16 (b) [1] Either is not effective until it is promulgated and enforced within
17 that district in strict compliance with subsection 3 of Article II (in
18 accordance with the original terms of that member's compact
19 legislation and as modified, if at all, by the terms of Article III as
20 they existed immediately prior to this compact becoming an
21 interstate compact); or

22 [2] Replaces or modifies regulation previously authorized by
23 Article III of this compact such that the resulting overall
24 framework of regulation within the affected prosperity district is
25 less restrictive and less burdensome on the exercise of the
26 individual rights to life, liberty, and property, and more likely to
27 protect the exercise of the individual rights to life, liberty, and
28 property, without impeding any activity or market competition that
29 would otherwise be lawful within the district;

1 (4) Authorizing, levying, imposing, or enforcing any tax within that district in
2 addition to that which was authorized by the terms of this compact as those
3 terms existed upon that district's formation; and

4 (5) Authorizing or enforcing any exercise of eminent domain within that district
5 in addition to that which was authorized by the terms of this compact as
6 those terms existed upon that district's formation.

7 **ARTICLE VI - COMPACT COMMISSION**

8 1. Commission. When at least two members are contractually bound to this compact as
9 contemplated in subsections 1 and 2 of Article V, the prosperity states compact
10 commission ("commission") shall be thereby established. The commission initially
11 consists of three unpaid commissioners each serving solely a single six-year term. It
12 has the power and duty:

- 13 a. To designate a location within the jurisdictional boundaries of the United States
14 court of appeals for the fifth circuit for its principal place of business;
- 15 b. To appoint and oversee a compact administrator that maintains its principal place
16 of business within the jurisdictional boundaries of the United States court of
17 appeals for the fifth circuit;
- 18 c. To guard against cronyism and special interest capture of this compact by
19 encouraging new states to adopt this compact and Congress to consent to the
20 compact without exceptions, stipulations, or limitations through educational
21 efforts;
- 22 d. To coordinate the performance of obligations under this compact, which shall
23 include the issuance of advisory interpretations of this compact;
- 24 e. To oversee and direct the defense and enforcement of the compact in
25 appropriate legal venues;
- 26 f. To request and accept funds from prosperity districts and to disburse those funds
27 to support the operations of the commission and compact administrator;
- 28 g. To make public and open for inspection or observation by any person at all
29 reasonable times all governing instruments, records, proceedings, and accounts
30 of the commission and compact administrator subject to executive session
31 procedures or privileges specified in the commission's bylaws, the adoption of

- 1 which shall be conducted by public hearing and shall supersede any conflicting
2 law or regulation of any member;
- 3 h. To cooperate with any person that shares a common interest with the
4 commission and engages in policy research, public interest litigation, or lobbying
5 in support of the purposes of the compact;
- 6 i. To establish a process of transparent, open competitive bidding in order to secure
7 an annual contract with one or more reputable outside alternative dispute
8 resolution services, which may, but is not required to include, adjudicative
9 services offered by a judicial branch of a state or the United States government,
10 to furnish binding arbitration of disputes;
- 11 j. To direct the final resolution and settlement of all disputes involving, between or
12 among any member, prosperity district, or any agency or department of the
13 United States government to which the consent of Congress for this compact can
14 be ascribed, if such consent has been given, with all sovereign immunities, if any,
15 deemed waived with respect to any such proceeding, final resolution, and
16 settlement, through the use of the commission's contracted outside alternative
17 dispute resolution service, or such other alternative dispute resolution service
18 which all disputants agree to use (which may, but is not required to include,
19 adjudicative services offered by a judicial branch of a state or the United States
20 government);
- 21 k. To exercise only such incidental powers as are essential to carrying out the
22 foregoing express powers and duties, in no event shall the commission be
23 construed as possessing eminent domain, taxation or police powers, or any other
24 power that is functionally equivalent to the same, whether incidentally or
25 principally; and
- 26 l. To adopt and publish corresponding bylaws, policies, and procedures.
- 27 2. Commissioner appointment. The commission initially consists of three unpaid
28 commissioners each serving solely a single six-year term. Commissioner positions
29 shall be assigned to appointees in the order in which their respective appointing state
30 became members. Once at least one prosperity district has been formed and exists
31 within its boundaries, and until all commissioner positions are filled, or whenever there

1 is a vacancy, each member in the order in which it became a member may appoint
2 one commissioner through its governor by appropriate executive action as determined
3 by the laws of the respective member, subject to disapproval by official notice of any
4 prosperity district located within such member that is received by the office of its
5 governor or such person who is authorized to receive service of process on behalf of
6 said governor within ten calendar days of such appointment. Timely disapproval shall
7 have the effect of requiring a new appointment until such time as a timely disapproval
8 is not received.

9 3. Commissioner removal. A commissioner representing a given member may be
10 removed from his position at any time and for any reason by the official action of at
11 least two-thirds of the governing boards of all prosperity districts located within the
12 jurisdiction of that member. Any commissioner representing any member shall be
13 removed from his position at any time by the official action of at least two-thirds of all
14 prosperity districts. To be effective, notice of the foregoing official action of removal
15 must be received by the office of the governor of the appointing member or such
16 person as is authorized to receive service of process on behalf of said governor. Upon
17 removal, the vacant position shall be filled as provided in subsection 2 of this Article.

18 4. Commission action. The commission shall meet at least once a year, and may meet
19 more frequently. Each commissioner is entitled to one vote. The commission shall not
20 act unless a majority of its appointed commissioners is present, and no action shall be
21 binding unless approved by a majority of the appointed commissioners. However,
22 two-thirds of all prosperity districts may override and nullify any action of the
23 commission, including a direction to use alternative dispute resolution, by official
24 notice given to the commission or the compact administrator within thirty calendar
25 days after such action.

26 5. First order of business. The commission shall at the earliest possible time elect from
27 among its membership a chairperson, determine a principal place of doing business
28 within the jurisdictional boundaries of the United States court of appeals for the fifth
29 circuit, and appoint a compact administrator.

30 6. Funding. The commission and the compact administrator's activities shall be funded, if
31 at all, exclusively by prosperity districts, on an annual basis as follows:

- 1 a. The commission shall propose an annual budget in accordance with its bylaws;
- 2 b. Two-thirds of all prosperity districts must approve the commission's annual
- 3 budget by official notice given to the compact administrator in order for the
- 4 commission's budget to become authorized;
- 5 c. If and when the commission's budget is authorized, the compact administrator
- 6 shall establish and/or maintain an account to receive and disburse funding for the
- 7 commission and shall also periodically request by notice given to all prosperity
- 8 districts a specific total amount of money needed to fund the commission's
- 9 operations under the authorized budget;
- 10 d. Upon receipt of such notice, every prosperity district shall pay into the
- 11 commission account the lesser amount of an equal share of the compact
- 12 administrator's funding request or one percent of gross revenue in the
- 13 immediately preceding fiscal year; and
- 14 e. If there is a funding shortfall, the compact administrator shall request further
- 15 funding from every prosperity district until the shortfall is closed or the
- 16 commission shall adjust its authorized budget to the level of the available
- 17 funding.
- 18 7. Compact administrator. The compact administrator serves at the pleasure of the
- 19 commission and must keep the commission seasonably apprised of the performance
- 20 or nonperformance of the terms and conditions of this compact. Any notice sent by a
- 21 member to the compact administrator concerning this compact shall be adequate
- 22 notice to each other member provided that a copy of said notice is seasonably
- 23 delivered by the compact administrator to each other member's respective governor or
- 24 chief executive officer. The compact administrator has the power and duty:
- 25 a. To organize and direct the logistical operations of the commission;
- 26 b. To maintain an accurate list of all members, including contact information;
- 27 c. To formulate, transmit, and maintain all official notices, records, and
- 28 communications relating to this compact; and
- 29 d. Such incidental powers as are essential to carrying out the foregoing express
- 30 powers and duties, in no event shall the compact administrator be construed as

1 possessing eminent domain, taxation, or police powers, or any other power that
2 is functionally equivalent to the same, whether incidentally or principally.

3 8. Notice of key events. On the occurrence of each of the following described events, or
4 otherwise as soon as possible, the compact administrator shall immediately send the
5 following notices to the governor of each member and the managing boards of each
6 prosperity district, if any, together with certified conforming copies of the chaptered
7 version of this compact as maintained in the statutes of each member:

8 a. Whenever any state becomes a member, notice of that fact shall be given;

9 b. Whenever any prosperity district is formed or expanded, notice of that fact shall
10 be given;

11 c. Once Congress consents to this compact as contemplated herein, notice of that
12 fact shall be given; and

13 d. Whenever any portion of this compact is proposed to be amended or is actually
14 amended, notice of that fact shall be given.

15 9. Cooperation. The commission, members, prosperity districts, and the compact
16 administrator shall cooperate with each other and give each other mutual assistance in
17 enforcing this compact.

18 10. Alternative dispute resolution procedure. As soon as practicable after receipt of a
19 notice of a demand for alternative dispute resolution by a member, prosperity district,
20 third-party beneficiary, or the United States government (if the requisite consent of
21 Congress has been given), the commission shall consolidate all such demands which
22 relate to the same transaction or operative facts and direct the identified disputants to
23 reach a final resolution and settlement on all of the related causes of action, defenses,
24 and issues using alternative dispute resolution as contemplated in [subdivision j of](#)
25 subsection 1 of this Article, whereupon each member, prosperity district, and the
26 United States government (if the requisite consent of Congress has been given), if
27 applicable, shall comply with such direction unless it is first nullified as provided in
28 subsection 4 of this Article. The commission's direction to use alternative dispute
29 resolution as aforesaid may be enforced by any disputant third-party beneficiary,
30 member, prosperity district, or the United States government (if the requisite consent
31 of Congress has been given), against any other such disputant (except that a

1 third-party beneficiary cannot be compelled to use alternative dispute resolution as
2 aforesaid) in a court of competent jurisdiction, with all litigation expenses to be
3 assessed jointly and severally against each such noncompliant disputant. In the case
4 of any dispute over the existence of a district externality, the burden of proof by clear
5 and convincing evidence shall be on the disputant asserting the existence of the
6 district externality. An arbitration award may include equitable remedies, such as
7 specific performance and injunctive relief, and a judgment on any arbitration award
8 may be entered in a court having competent jurisdiction. A disputant may also seek in
9 a court of competent jurisdiction ~~provisional~~:

10 a. ~~Provisional~~ or ancillary remedies against any disputant member, prosperity
11 district, or the United States government (if the requisite consent of Congress has
12 been given), including preliminary injunctive relief, pending the outcome of an
13 arbitration proceeding, ~~or permanent~~; or

14 b. ~~Permanent~~ injunctive relief against any such disputant to enforce an arbitration
15 award. Alternative dispute resolution awards shall not be precedential.

16 11. Venue. Subject to strict compliance with the alternative dispute resolution process
17 required by section 10 of this Article and the exercise of such original or appellate
18 jurisdiction of the United States Supreme Court that is required by the United States
19 Constitution, upon the designation of the compact administrator, any legal action
20 concerning or implicating the legality of this compact shall only be conducted:

21 a. As to original proceedings either in: the municipal court, if any, established
22 pursuant to ~~paragraph 3 of subdivision c of~~ subsection 2 of Article II within the
23 jurisdiction of any prosperity district in which a substantial part of the cause of
24 action arose; or a court of competent jurisdiction located in the same state in
25 which the principal place of business of either the commission or the compact
26 administrator is located; or

27 b. Otherwise within the jurisdiction of the United States court of appeals for the
28 circuit in which the principal place of business of either the commission or the
29 compact administrator is located.

30 **ARTICLE VII - DEFINITIONS.**

1 The following definitions shall govern the construction of this compact, unless the context
2 clearly requires otherwise.

- 3 1. "Common law" is a descriptive term used for convenience to reference English
4 judge-made law, including such acts of parliament as overrode judge-made law,
5 administered by the King's courts and the English courts of chancery, which purports
6 to be derived from ancient custom and usage, as adopted or adapted and deemed
7 precedential by this member and pronounced as governing law through its judiciary
8 through adjudications of specific disputes and fact patterns so as to furnish rules for
9 dispute resolution in the categories of agency, business associations, conflict of laws,
10 contracts, contracts for deeds, judgments, land sales, property, restitution, security,
11 torts, trusts, equity, and remedies. The term also includes:
- 12 a. The judge-made law of other states in the foregoing categories which this
13 member has adopted or adapted and deemed precedential through
14 pronouncements of its judiciary;
- 15 b. Statutory law as of the enactment date of this member's compact legislation to
16 the extent (i) the ascertainment of a rule of governance in the foregoing
17 categories is intelligible only by such reference, (ii) this member has adopted
18 tribal law, Roman, Spanish, or French civil law or otherwise not adopted or
19 adapted English judge-made law in the foregoing categories, or (iii) this member
20 has codified English judge-made law in the foregoing categories; and
- 21 c. Interstitial common law arising from the adjudication of malum in se criminal law
22 or any regulation adopted pursuant to [items 1 and 3 of subparagraph d of](#)
23 [paragraph 7 of subdivision a of subsection 1 of Article IV](#), and effective provisions
24 of this member's constitution and the United States Constitution. However, it does
25 not otherwise include statutory law, administrative law, executive orders,
26 ecclesiastical law, nor the body of decisional law developed by the federal
27 judiciary of the United States government. Where not inconsistent with the
28 precedential adjudications of this member as of the enactment date of this
29 member's compact legislation, the term may be construed as incorporating the
30 relevant governing rules published in the First Restatement of the Law of Agency,

1 Conflict of Laws, Contracts, Judgments, Property, Restitution, Security, Torts, and
2 Trusts, as approved by the American Law Institute in May 1942.

3 2. "Compact" is a descriptive term used for convenience to reference the entirety of the
4 text of the prosperity states compact advanced hereby, including all of its sections and
5 Articles regardless of whether they initially only have the status of statute law, serve to
6 manifest an intent to enter into an interstate compact, or furnish the terms of a binding
7 interstate compact.

8 3. "Consent of Congress" means any act of the Congress of the United States or any
9 action of the United States government which was authorized by Congress, including
10 any statute, appropriation, joint resolution, concurrent resolution, administrative rule, or
11 regulation, that expressly or impliedly consents to this compact before or after it
12 becomes an interstate compact such that the compact attains equivalent status to a
13 law of the United States when it becomes an interstate compact. An act or action
14 giving such consent to this compact shall be regarded as the consent of Congress
15 even if it includes stipulations, conditions, and exceptions that limit the extent to which
16 ordinary federal law is repealed or held for naught under the terms of this compact;
17 and all such stipulations, conditions, and exceptions, if any, shall be honored by the
18 member governed thereby until and unless they are repealed or amended.

19 4. "District externality" means any condition, state of affairs, action, or omission occurring
20 outside of the boundaries of a prosperity district that violates ordinary member law,
21 ordinary federal law, malum in se criminal law, or the common law in effect outside of
22 the boundaries of the district, which was proximately caused by a condition, state of
23 affairs, person, entity, service, property, action, or omission located, committed, or
24 occurring within the boundaries of a prosperity district.

25 5. "Eligible land" means land that fulfills the following criteria:

26 a. It either consists of at least one square mile of contiguous land or consists of any
27 quantity of contiguous land adjacent to an existing prosperity district to expand
28 that district (including any quantity of land that is contiguous to land that is
29 adjacent to the district to be expanded and included in the same expansion
30 petition) (the "land");

- 1 b. Title to the land is held either free from any recorded valid and enforceable
2 security interests, rights of way, easements, or restrictive covenants (collectively
3 "encumbrance interests"), or subject to encumbrance interests provided that all
4 nongovernmental persons holding any such encumbrance interest (or the right to
5 enforce such encumbrance interests) and who are identifiable in the chain of title
6 to the land, consent in writing to the classification of the land as eligible land
7 under this compact;
- 8 c. The land either is outside of the jurisdiction of an existing prosperity district or
9 otherwise within the jurisdiction of an existing prosperity district provided that the
10 following entities consent in writing to the classification of the land as eligible land
11 under this compact:
- 12 (1) All bondholders of each such existing prosperity district; and
13 (2) Any other person or entity holding a valid and enforceable security interest
14 secured by the existing prosperity district's rights under an existing revenue
15 covenant;
- 16 d. The land either is outside of the jurisdiction of a special taxing district as of the
17 enactment date of this member's compact legislation, or otherwise within the
18 jurisdiction of a special taxing district provided that the following entities consent
19 in writing to the classification of the real property as eligible land:
- 20 (1) All bondholders of the respective special taxing district; and
21 (2) Any other person or entity holding a valid and enforceable security interest
22 secured by the district's taxing authority;
- 23 e. The land either is outside of the territorial and extraterritorial jurisdiction (provided
24 that such extraterritorial jurisdiction does not span more than six miles from the
25 boundary of the territorial jurisdiction) of a municipality as of the enactment date
26 of this member's compact legislation, or otherwise within such territorial and
27 extraterritorial jurisdiction of a municipality provided that the governing body of
28 the municipality consents by local law to the classification of the real property as
29 eligible land under this compact; and
- 30 f. The land was not acquired by any landowner in its chain of title within the five
31 years preceding the inclusion of the land in any petition to form or expand a

1 prosperity district through the exercise of eminent domain or civil forfeiture for
2 alleged criminal acts and omissions that did not result in a conviction.

3 6. "Landowner" means the owner of the freehold estate, also known as fee-simple
4 estate, as appears by the deed record, and shall not include reversioners,
5 remaindermen, trustees (other than persons owning the freehold estate as of deed
6 record), or mortgagees.

7 7. "Malum in se criminal law" means those laws that prohibit under penalty of
8 imprisonment or punitive fines acts or omissions that injure or threaten injury to
9 another person or another person's property by a person who possesses evil intent,
10 such as laws against assault, burglary, child abuse, fraud, kidnapping, murder, rape,
11 robbery, and theft;

12 8. "Member" means a state that has passed legislation that enacts, adopts, and agrees
13 to be bound to this compact or in which a measure having the same force and effect
14 as such legislation has been passed by popular ballot initiative (collectively "compact
15 legislation"). For any state to be regarded as a member in privity with regard to any
16 other state, each such state must have passed substantively identical compact
17 legislation as aforesaid and manifested mutual consent to be bound by this compact
18 as provided in subsection 1 of Article V of this compact. Such legislation shall be
19 deemed substantively identical notwithstanding material differences among such
20 states in regard to terms or provisions set forth in Article III of this compact within the
21 categories authorized by subsection 6 of Article VIII of this compact ("authorized
22 statewide tailoring"), provided that all other terms of such legislation are substantively
23 identical. Terms or provisions set forth in Article III of this compact that are not
24 categories of authorized statewide tailoring are void ab initio, shall be held for naught,
25 and shall not obstruct the formation of an interstate compact between the respectively
26 enacting member and any other member, provided that all other terms of the compact
27 legislation are substantively identical.

28 9. "Municipality" means a political subdivision of a state which has general local
29 governing authority and an elected governing body, such as a city or town; the term
30 does not include special taxing districts or prosperity districts.

- 1 10. "Ordinary federal law" means any treaty, statute, agreement, regulation, or executive
2 order, as well as any other similar act or action that has the force of law or the effect of
3 substantively changing the status of legal rights and obligations, that is lawfully and
4 constitutionally ratified, enacted, adopted, consented to, or otherwise promulgated by
5 the government of the United States, or any of its agencies, instrumentalities, or
6 political subdivisions, that is under the authority of, and subordinate to, the United
7 States Constitution and that is subject to amendment, repudiation, or repeal by a
8 legislative act or resolution that has the same ultimate passage requirements as the
9 legislation or resolution giving consent of Congress to this compact, if any; excepting
10 only: (i) any act or action that furnishes consent of Congress for all or any portion of
11 this compact; and (ii) any treaty, statute, regulation, ordinance, or executive order that
12 is essential to enforcing, strictly performing, or complying with this compact or the
13 consent of Congress in accordance with its terms.
- 14 11. "Ordinary member law" means any measure, statute, regulation, ordinance, or
15 executive order, as well as any other similar act that has the force of law, that is
16 enacted, adopted, or otherwise promulgated by the government of this member or any
17 of its agencies, instrumentalities, or political subdivisions, that is under the authority of,
18 and subordinate to, the United States Constitution and the constitution of this member,
19 and that is subject to amendment or repeal by a legislative act that has the same
20 ultimate passage requirements as the respective member's compact legislation;
21 excepting only:
- 22 a. The compact legislation;
23 b. Any measure, statute, regulation, ordinance, or executive order that is essential
24 to enforcing, strictly performing, or complying with this compact in accordance
25 with its terms;
26 c. The malum in se criminal law of this member; and
27 d. The common law of this member.
- 28 12. "Person" means a natural person and any entity, organization, or association that
29 possesses some or all of the rights and powers of a natural person.

- 1 13. "Prosperity district" means a governing unit and political subdivision of this member
2 that is formed pursuant to Article IV of this compact and strictly limited to the powers
3 and authorities specified in this compact.
- 4 14. "Regulation" means a rule of governance for the general public within the jurisdiction
5 of the regulator that is compulsory and enforceable through legal sanction, liability,
6 penalty, direct or indirect physical coercion or violence, or under the threat of such,
7 without the actual and concurrent express consent of the person against whom the
8 rule is applied. The term includes both civil and criminal rules of governance; however,
9 the term excludes the district bylaws, directives, policies, or procedures that limit the
10 power and jurisdiction of a prosperity district's managing board or otherwise that are
11 applicable to the internal management and administration of the district's authorized
12 powers and authorities by its managing board, contractors, and employees, if any, in
13 their capacity as agents or servants of the prosperity district rather than as members
14 of the general public.
- 15 15. "Revenue covenant" means an agreement entered to pay certain specified revenues
16 to one or more designated recipients that encumbers title to identified land as a
17 covenant and passes with title to such land from owner to owner so that the land
18 cannot be conveyed to a new owner without the covenant.
- 19 16. "State" means one of the several states of the United States and includes all of the
20 state's branches, departments, agencies, instrumentalities, political subdivisions, and
21 officers, employees, and representatives acting in their official capacity.
- 22 17. "Subsidy to private enterprise" means an economic benefit, direct or indirect, granted
23 by a governmental unit or an instrumentality or agency of a governmental unit with the
24 primary purpose or predominate effect of encouraging or maintaining particular or
25 specific classes of ventures, in which private persons have a substantial financial or
26 ownership interest, including, but not limited to, cash; cash-equivalents; goods;
27 property or services given or contributed to or invested in such ventures for less than
28 equivalent fair market value in exchange; gratuitous bailouts of actual or anticipated
29 economic losses sustained by such ventures; gratuitous loan or liability guarantees
30 benefiting such ventures; insurance at below market rates or terms against investment
31 losses by such ventures; loans or extensions of credit given to such ventures at below

1 market rates or terms or without recourse; gratuitous forgiveness of debts or liabilities
2 owed by such ventures; compensation in excess of fair market value for goods,
3 services, or property furnished by such ventures; and the promulgation or enforcement
4 of regulations or fees that restrict competition directly or indirectly to the benefit of
5 such ventures. Economic benefits to private enterprise from the following shall not be
6 considered a subsidy to private enterprise:

7 a. The prosperity district's performance of any authorized municipal service in
8 compliance with Article II;

9 b. The retention of private enterprise to perform any authorized municipal service in
10 compliance with Article II for fair market value;

11 c. The procurement of supplies and services from private enterprise for the
12 prosperity district's internal management and administrative operations for fair
13 market value; and

14 d. The relaxation or repeal of regulations.

15 18. "Tax" refers to any compulsory contribution to the revenue, property, goods, or
16 services received by any governmental unit (or any other recipient designated by any
17 governmental unit) directly or indirectly from any person, and any obligation to make
18 any such compulsory contribution (including, but not limited to, any excise, impost,
19 duty, or tariff) directly or indirectly imposed on any person, which is collected,
20 demanded, levied, or imposed by any governmental unit (or at the direction of any
21 governmental unit) on any property or source of revenue, goods, or services, and
22 which is enforceable through legal sanction, liability, penalties, direct or indirect
23 physical coercion or violence (or under the threat of such). The term does not include
24 any obligation or contribution made pursuant to an agreement, enforceable contract,
25 or covenant entered into voluntarily or otherwise voluntarily assumed or undertaken
26 with the actual consent of the person against whom the obligation is imposed or the
27 contribution is to be exacted, such as a revenue covenant.

28 19. "Third-party beneficiary" means any nongovernmental person petitioning for the
29 formation or expansion of a prosperity district, petitioning for withdrawal of land from a
30 prosperity district, contributing real property to, residing or domiciled within, owning

1 real property within, or lawfully doing business within a prosperity district, either on
2 formation of the district or after formation or expansion.

3 **ARTICLE VIII - MISCELLANEOUS**

4 1. Nature of enactment and effective date. Articles I, II, III, and IV; subsection 1 of
5 Article V; Article VII; and subsections 1 through 7 of Article VIII of this compact shall
6 have the effect and authority of statute law in this member upon passage of its
7 compact legislation regardless of whether at such time a conforming interstate
8 compact has been formed embracing this member as contemplated by subsection 1 of
9 Article V, and their effective date as such is the earliest date permitted by law, subject
10 to their express terms, which effectiveness is not to be delayed until the formation of
11 an interstate compact embracing them. The effective date of subsections 2 through 6
12 of Article V and Article VI of this compact is the earliest date permitted by law, subject
13 to their express terms, upon the formation of an interstate compact embracing this
14 member as contemplated in subsection 1 of Article V. Any violation of any effective
15 provision of this compact is void ab initio.

16 2. Legislative drafting. This compact shall be liberally construed so as to effectuate its
17 purposes. To the extent that the effectiveness of this compact or any of its provisions
18 requires the alteration of local legislative rules, legislative drafting policies, or statutes,
19 or parliamentary procedure to be effective, the enactment of compact legislation shall
20 be deemed to waive, repeal, supersede, or otherwise amend and conform all such
21 rules, policies, statutes, or procedures to allow for the effectiveness of all provisions of
22 this compact according to their terms and conditions to the fullest extent permitted by
23 the constitution of any affected member, consistent with the prohibition on states
24 impairing the obligation of contract under United States Constitution, article I,
25 section 10, clause 1.

26 3. Severance. If any phrase, clause, sentence, or provision of this compact, or the
27 applicability of any phrase, clause, sentence, or provision of this compact to any
28 government, agency, person, or circumstance, is declared in a final judgment by a
29 court of competent jurisdiction to be contrary to the United States Constitution,
30 contrary to the state constitution of any member, subject to the prohibition on states
31 impairing the obligation of contract under United States Constitution, article I,

1 section 10, clause 1, or is otherwise held invalid by a court of competent jurisdiction,
2 such phrase, clause, sentence, or provision shall be severed and held for naught, and
3 the validity of the remainder of this compact and the applicability of the remainder of
4 this compact to any government, agency, person, or circumstance shall not be
5 affected. Furthermore, if this compact is declared in a final judgment by a court of
6 competent jurisdiction to be entirely contrary to the state constitution of any member,
7 violative of the prohibition on states impairing the obligation of contract under United
8 States Constitution, article I, section 10, clause 1, or otherwise entirely invalid as to
9 any member, such member shall be deemed to have withdrawn from the compact, and
10 the compact shall remain in full force and effect as to any remaining member. Finally, if
11 this compact or any amendment thereto is declared in a final judgment by a court of
12 competent jurisdiction to be wholly or substantially in violation of article I, section 10,
13 clause 3, of the United States Constitution (the "compact clause"), then it shall be
14 construed and enforced solely as reciprocal legislation enacted by each of the affected
15 member with none of the provisions of Articles V and VI of this compact being in effect
16 until such time as the legal deficiency prompting such judgment is cured.

17 4. Notice. All notices required by this compact shall be by United States certified mail,
18 return receipt requested, or an equivalent or superior form of notice, such as personal
19 delivery documented by evidence of actual receipt.

20 5. Third-party beneficiary and vested rights. Every third-party beneficiary has a vested
21 property right to strict compliance with this compact's provisions by all governmental
22 units that are governed by it.

23 6. Authorized statewide tailoring. Article III of this compact may only include provisions
24 that clarify, modify, supplement, or supersede provisions of this compact in the
25 following categories:

26 a. Conforming the compact to a member's respective local political structure, usage,
27 and style;

28 b. Modifying the definition of "eligible land" with respect to the respectively enacting
29 member provided that such modifications do not have the purpose or effect of
30 rendering the authority to form or expand or withdraw from a prosperity district a
31 law, privilege, or immunity for a closed class of one or more identifiable persons;

- 1 c. Modifying the petition process for the formation or expansion of or withdrawal
2 from prosperity districts provided that such modifications do not:
- 3 (1) Include land within the boundaries of a prosperity district or impose a
4 covenant on any land without the voluntary and written consent of each
5 affected landowner; and
- 6 (2) Have the purpose or effect of rendering the authority to form or expand or
7 withdraw from a prosperity district a law, privilege, or immunity for a closed
8 class of one or more identifiable persons;
- 9 d. Furnishing authority for one or more revenue covenants with respect to the
10 respectively enacting member;
- 11 e. Specifying existing interstate compacts, constitutional provisions, laws, (statutory,
12 common, and civil), regulations or policies, or prosecution or administrative or
13 enforcement actions or agency, political subdivision, or instrumentality
14 jurisdictions that will or will not continue to exist, have effect or the force of law in
15 a prosperity district within the respectively enacting member and to what extent;
- 16 f. Limiting or modifying the effect of any provision of this compact as necessary to
17 furnish greater due process of law, transparency in government, or to enforce the
18 respectively enacting member's constitution or the United States Constitution;
- 19 g. Limiting or modifying the effect of any provision of this compact as necessary to
20 enforce federal primacy, federal mandates, or conditions on the receipt of federal
21 grants as to the respectively enacting member;
- 22 h. Limiting or modifying reciprocity with respect to the recognition of activities
23 deemed lawful in prosperity districts located within the respectively enacting
24 member;
- 25 i. Requiring insurance, performance bonding, or sureties to indemnify the member
26 and any political subdivision, in which any part of a proposed new or expanded
27 prosperity district is to be located, from damages, liabilities, and costs incurred by
28 them as a result of:
- 29 (1) Any district externality;
- 30 (2) A default under a revenue covenant applicable to lands within the new or
31 expanded district;

- 1 (3) Structure maintenance costs or costs incurred from enforcement of external
2 public health, safety, and sanitation laws in foreclosed or withdrawn district
3 lands; or
- 4 (4) The abandonment of the district;
- 5 j. Furnishing authority for political subdivisions (other than prosperity districts)
6 within the respectively enacting member to further modify, limit, and condition the
7 terms of this compact by local law with such provisions as fall within the
8 categories of subdivisions a, b, c, e, g, and I of subsection 6 of this Article with
9 respect to prosperity districts formed or expanded within their territorial and
10 extraterritorial jurisdictions (provided that such extraterritorial jurisdiction does not
11 span more than six miles from the boundary of the territorial jurisdiction) provided
12 that any such local law:
- 13 (1) Shall be uniform for each prosperity district to be formed or expanded within
14 each respective jurisdiction;
- 15 (2) May not impose unique conditions or requirements for the formation or
16 expansion of any particular prosperity district; and
- 17 (3) Does not have the purpose or effect of rendering the authority to form,
18 expand, or withdraw from a prosperity district a law, privilege, or immunity
19 for a closed class of one or more identifiable persons;
- 20 k. Including national security, international travel, regulatory, taxing, interstate
21 commerce, international commerce, and immigration policies governing
22 prosperity districts within the respectively enacting member that shall have effect
23 upon the compact becoming an interstate compact and receiving the consent of
24 Congress;
- 25 l. Modifying the definitions used in the compact to allow a native American
26 community located within the respectively enacting member and recognized as
27 sovereign by the government of the United States to qualify as a member under
28 this compact on the compact becoming an interstate compact and receiving
29 consent of Congress, if necessary;
- 30 m. Specifying terms and conditions under which the enacting member may
31 terminate or withdraw from this compact;

- 1 n. Specifying terms and conditions under which the governor of each member or his
2 nominee may negotiate and enter into separate contractual arrangements to
3 protect the investment-backed expectations of any third-party beneficiary that
4 prosperity districts, once formed, shall operate as herein contemplated;
5 o. Specifying uniform rules of construction and limitations on the subject matter,
6 duration, or enforceability of any servitude burdening title or restrictive covenant
7 running with title to land within the jurisdiction of prosperity district located within
8 the enacting member;
9 p. Authorizing specific continuing appropriations for statewide tax relief or
10 expenditures from revenues received pursuant to any revenue covenant; and
11 q. Specifying a statute of repose or limitations for any claim or cause of action
12 arising from the passage of this compact or prosperity district formation,
13 expansion, and withdrawal.
14 7. Preservation of person status for artificial persons. A corporation, trust, company,
15 association, organization, or other non-natural person entity ("artificial person") that
16 enjoys or is capable of enjoying certain duties, rights, and powers of a natural person
17 under law existing outside of the boundaries of a prosperity district, such as the right to
18 sue or be sued, contract or own property in its own name, shall be recognized as
19 enjoying the corresponding duties, rights, and powers, if any, of a natural person within
20 the boundaries of a prosperity district upon giving notice in such form and with such
21 content as may be specified in the district's bylaws to the managing board of the
22 district of its intent to conduct operations, do business, or establish a place of business
23 or domicile within the prosperity district. Further, the articles of incorporation, certificate
24 of formation, articles of organization, charter, bylaws, operating agreement, or
25 equivalent governing instrument of a foreign artificial person, if any, shall be
26 recognized as contractually binding the trustees, owners, officers, managers, agents,
27 beneficiaries, and employees, as the case may be, of such foreign artificial person
28 within the boundaries of a prosperity district. However, an artificial person shall
29 otherwise be governed by the law and regulations, if any, existing within the
30 boundaries of a prosperity district.