



A Symposium Report

Michigan Green Enterprise Zone Initiative
The Engineering Society of Detroit Institute

March 19-20, 2009
Southfield, Michigan

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Acknowledgements

This Symposium Report represents the results of a clean-sheet approach to identify solutions for a sustainable economic recovery in Michigan. Our report is the product of over 60 participants during a two-day period of interactive brainstorming, assessment, reporting, and evaluation of ideas relating to the Michigan Green Enterprise Zone Initiative.¹

The participants represented a wide-range of interests, differing views, and expertise within the public and private sectors.² Top professionals facilitated our symposium to bring out the best ideas of our attendees.³ The participants and facilitators served on a volunteer basis to advance and foster the creative and constructive outcomes that resulted from the work of the Symposium. More importantly, without the support of the staff of The Engineering Society of Detroit (ESD), this Symposium would not have been possible. The ESD Institute gratefully acknowledges everyone's contribution.

About The Engineering Society of Detroit

The Engineering Society of Detroit (ESD) was founded in 1895. Its membership consists of over 5,000 individuals/3,000 corporate members. Through its 79 affiliated technical and 34 construction organizations, ESD's reach extends to over 60,000 technical and scientific professionals. ESD's Board of Directors includes a diversity of leaders in Business, Government, Manufacturing, Engineering/Design, Academia, and Health Care.⁴

ESD collaborates with 100 nonprofit organizations, including Automation Alley, Detroit Regional Chamber, Detroit Renaissance, Michigan Chamber of Commerce, Michigan Economic Development Corporation, NextEnergy, Oakland County, Oakland County Michigan Works!, Society of Automotive Engineers, City of Southfield, and Wayne County and provides professional training, certification and accreditation programs in conjunction with all of Michigan's universities and community colleges.⁵

¹ A summary of the Michigan Green Enterprise Zone Initiative is contained in Appendix A.

² A complete listing of the participants of this symposium may be found in Appendix B.

³ The contribution of our facilitators was invaluable. In addition to facilitating our plenary and breakout workgroups, the facilitators provided narrative summaries of the workgroups. Jeff Hartfield, Director and Mediator of the National Center for Dispute Resolution, served as the facilitator for the Labor/Management Workgroup. Dale Ann Iverson, Mediator & Founder of JustMediation PLC, served as the facilitator for the Legal Innovation Workgroup. Barbara A. Johannessen, President of Mediation Specialists, Inc., served as facilitator for the Sovereign Zone Workgroup and Susan Butterwick, Adjunct Professor of Law at Wayne State University Law School and its Master of Arts in Dispute Resolution Program, served as facilitator for the Near-term Workgroup. Complete biographical information of our facilitators may be found in Appendix C.

⁴ A complete listing of the Board of Directors of The Engineering Society of Detroit is in Appendix D.

⁵ Further information regarding The Engineering Society of Detroit is available at www.esd.org.

About The ESD Institute

The ESD Institute was formed through the unanimous approval of the Board of Directors of The Engineering Society of Detroit through a mega-question facilitation in December 2008 and benefits from seed funding from the Rackham Engineering Foundation. The ESD Board of Directors established the charter of the Institute as follows:

- **ESD Institute Vision:** Finding a sustainable tomorrow with integrity that serves our members and society.
- **ESD Institute Mission:** Fostering greater unity, focus, and choice for the implementation of innovation, maintenance, and attraction of investment capital, and the betterment of society.

The charge of the Institute is to advance through excellence and collaboration the successful implementation of innovation by bridging creative and independent thought with concrete and meaningful action.⁶

About the Process and Outcomes

As a matter of process, the ESD Institute identifies topics for consideration called Initiatives. Individuals are invited to serve as volunteers to examine an Initiative within the context of a workgroup referred to as a Symposium. Usually attendees represent a diverse range of expertise and perspectives. Attendance at a specific Symposium is limited by invitation. Attendees serve as individuals and not as representatives of organizations or interest groups. Each is selected based upon his/her good judgment, experience, and expertise and is asked to disclose any potential sources of bias or conflict of interest that might prejudice the work of the Institute.

A Symposium usually occurs over a two-day period and may be continued for further deliberation if warranted by the Initiative. An internal Institute committee, made up of the directors and assigned staff of the Institute, a select group of ESD Board members, and on occasion representatives from outside organizations, frames the issues through a summary of the Initiative, facilitates the work of the Symposium, and acts as a reporter for the Symposium. The Institute's goal is to provide a meaningful and effective contribution geared toward the application of new ideas that can then be considered and implemented by policymakers.

While attendees should strive for consensus regarding a report, it is not a requirement, nor should it be at the cost of weakening the analysis or conclusions reached during the symposium. Accordingly, it may at times be more valuable to explain the rationale behind areas of disagreement than to issue unanimous conclusions that are so limited they fail to contribute to a better understanding of the issues presented by an Initiative.

⁶ The Co-Directors of the ESD Institute are David A. Skiven, P.E. and Christopher J. Webb, J.D. For further information regarding The ESD Institute, please visit our website at www.esdinstitute.net.

It is important to note that the role of The ESD Institute is to maintain the independence, objectivity, and integrity of the process and not to advance a specific outcome or result. Any report is the collective work product of those attending the Symposium.

Executive Summary

The Michigan Green Enterprise Zone Initiative

The Zone Initiative was selected by the Directors of the Institute as its first symposium due to the current economic climate in Michigan. Its focus was to examine how to maintain and attract new capital and investment without public funds and tax incentives as the primary drivers. Our charge was to consider how sustained competitiveness and prosperity could be achieved through an examination of the root causes of our present economic decline. A complete statement of the Zone Initiative is included with this Report.⁷

Initially, the Zone contemplated a continuous corridor or stand-alone areas running from Saginaw through Flint, Pontiac, Troy, Detroit, Windsor, Romulus, Ann Arbor utilizing the synergies of the Detroit Region Aerotropolis and NAFTA with Ontario. It soon, however, became apparent that a virtual investment zone or “state within a state” deserved examination by the Symposium.

In its original conception, the Zone contained “Five Innovations” for investment that had not been previously combined in Michigan, the United States or any other countries. The Five Innovations consist of (1) Legal Risk Mitigation, (2) Technology & Invention, (3) Labor/Management Relations, (4) Quality of Life and (5) Governmental Sovereignty & Collaboration. Due to the ambitious scope of this Initiative, it was decided that for this Symposium our efforts would be limited to Legal Risk Mitigation, Labor/Management Relations and Sovereign Enterprise. The remaining features of the Zone — Quality of Life and Governmental Collaboration—would be considered in a separate future symposium.

⁷ For more detail, please refer to Appendix A.

Our Mega-Questions & Workgroups

To jump start thought and creativity among our attendees and to accomplish the Institute's mission, we started our Symposium with three "mega" or fundamental questions for each of the three innovations for the Zone. These mega questions were as follows:

- 1. If you were creating a dispute resolution system from scratch, what would it look like and how would you accomplish it?**
- 2. If you were creating a labor/management relationship from scratch, what would it look like and how would you accomplish it?**
- 3. If you were creating a sovereign investment center from scratch, what would it look like and how would you accomplish it?**

To encourage consideration of these fundamental questions, the Symposium presented a diverse set of outside speakers who raised our collective level of awareness. We then asked attendees in our opening plenary session to brainstorm new ideas for each of the mega questions without regard to the harsh realities and obstacles that face the implementation of any new ideas. Our goal was to break through conventional thinking to foster out of the box ideas.

Later, after self-selection by our participants, workgroups were formed to concentrate on each of the three mega questions and our brainstorming efforts continued. These same workgroups carried on their hard work in subsequent sessions geared to assessment and prioritization of specific solutions consisting of Action Plans that are identified in this Report. Importantly, these Action Plans were then analyzed by each workgroup through a RASI evaluation to identify responsible parties, objective, timelines and resources for implementation as discussed below. The Action Plans of each workgroup were then collectively reported out for the benefit of the entire group in our final plenary session at the conclusion of the Symposium.⁸

Labor/Management Workgroup Outcome Synopsis

It was the consensus of this workgroup that its efforts continue with or without the actual formation of a Zone or any form of collaboration with Native American Tribes. This workgroup saw a synergy with other Symposium workgroups particularly the Legal Innovation workgroup. This workgroup concluded that the Zone Initiative offered an opportunity to capitalize on the current historical environment of creativity, candor and openness between management and labor. The speakers and participants in the workgroup were determined to examine new concepts in the areas of seniority, classifications, work

⁸ RASI evaluations are designed to identify responsible persons willing to carry out the recommended action. You will find in this Report that a number of attendees and others were identified as such by our workgroups. Any additional contribution would proceed on a voluntary basis and would be subject to the consent of the identified responsible persons and the ESD Institute.

rules, jurisdictional dispute and worker compensation. In addition, the participants hoped to reach out to other stakeholders in both labor and management, to move forward with additional ideas yet to be formulated, to quantify financial benefits and to achieve the successful implementation of a competitive labor/management relationship to maintain and attract investment to Michigan. The workgroup sets the goal of meeting again in six weeks with the support of the ESD Institute.

Legal Innovation Workgroup Outcome Synopsis

It was the consensus of this workgroup that its efforts generated over the Symposium should continue and that its work could independently occur with or without the creation of a sovereign zone. Creation of a Zone, however, would have advantages for implementation of many of the dispute resolution ideas generated due to its own novelty and a “clean slate” approach. The workgroup identified over 50 areas of legal risk that might benefit from innovation in the field of dispute resolution emphasizing “problem solving” instead of traditional “fault finding” often found at the core of litigation. Subject to further evaluation, preliminary cost savings in the area of legal risk might exceed 10% of an entity’s overhead costs. The members of this workgroup expressed a willingness to work together to achieve a comprehensive dispute resolution system for a variety of conflicts to minimize the number of conflicts, to cut the cost and time for resolution, to achieve greater fairness and transparency in results, and to quantify in terms of dollars and cents resulting benefits to enhance the maintenance and attraction of investment to Michigan.

Sovereign Zone Workgroup Outcome Synopsis

This workgroup examined the dramatic cost and liability reduction attributes of a sovereign immunity, law and regulatory discretion and fiscal/tax powers. The consensus of the Sovereign Zone workgroup was that its efforts should continue and pursue two paths. First, outreach efforts to existing Native American Tribes should be undertaken to determine the potential synergies of collaborating together to maintain and attract investment to Michigan. Achieving sovereign benefits did not turn on a collaboration that required a Tribe to own a majority equity position in the non-tribal entity. Second, since the Zone model would have a dramatic effect on the cost of doing business generally, it was felt that the cost savings should be further quantified in an effort to garner political support for a virtual or geographical sovereign investment zone in Michigan. For example, attendees with financial expertise noted that premiums for comprehensive insurance programs relating to tribal enterprises are 1/10th of the premiums quoted for comparable non-tribal enterprises. The workgroup concluded that the sovereign zone concept could address our current economic decline without public funds or tax/fiscal incentives consistent with the parameters of the Zone Initiative. The members of this workgroup expressed a continuing desire to work together under the auspices of the ESD Institute to implement the ideas that the workgroup generated during the Symposium. It was felt that each of the two avenues — collaboration with existing sovereign nations and creation of a new sovereign zone either by the Federal or State action — should be undertaken on a fast-track basis given the economic and social urgencies facing Michigan in order to assess the potential cost advantages to an enterprise doing business within the Zone.

Near Term Workgroup Outcome Synopsis

This workgroup was formed after our first day of deliberations relating to the third mega question of sovereign investment attributes. As noted later in this Report, its efforts were outside the scope of the Zone Initiative. Its examination of presently-available governmental assistance relating to investment, however, served as a complement to the main thrust of the Symposium. After sharing with the plenary group its report and summarizing the ideas generated, the Near Term workgroup concluded that a frictionless, accessible electronic portal for investment was essential. The workgroup felt that it was imperative to continue identifying the existing governmental incentivized resources and personnel available to maintain and attract investment at the federal, state, county and municipal levels. The workgroup reached a consensus that its activities should continue within the context of the ESD Institute and that a continuation of its meetings should occur within the next 60 days after inclusive outreach efforts to attract all interested stakeholders to the workgroup.

Observations and Recommendations of the Institute Directors

Of the hundreds of individuals contacted in advance of the Zone Symposium, no one challenged the importance and timing for an in-depth examination of how Michigan's current economic decline could be reversed on a sustainable basis. The concept of "starting over" was embraced by most attendees. All of the Symposium workgroups expressed the desire to continue their efforts in order to flush out the details of the mega questions presented during the Symposium.

Peer review of this Report generated the vision that Michigan should seek to become "Sur-petitive" — that is, ahead of the competition. Another peer comment summarized the task ahead in a nutshell, "Now that you have the focused creative concepts, let's cast the Zone into a workable form by developing its organizational and administrative structure from a blank canvas." Our observations confirmed the findings of the attendees of the Symposium that an investment zone incorporating innovations in labor/management relations, legal dispute resolution and sovereign attributes will offer significant and sustainable cost and efficiency benefits without the need for public assistance.

Our recommendation is that based upon the findings of the Report and our continuing economic decline, a subsequent symposium should take the conceptual ideas generated from this Symposium into the real world of an actual implementation through the development of a prospectus for the Zone itself. We further recommend that the workgroups relating to Labor/Management, Legal Innovation and Sovereign Zone continue as critical efforts in advance of the subsequent symposium. The Zone Prospectus should spell out the details of how the Zone would operate and be governed. A representative sampling of the important mega questions for the future symposium would include the following:

- Should the Zone be a geographical or virtual “state within a state” allowing organizations and individuals to opt into its benefits and responsibilities?
- For formation purposes, should legislative enactment be on a state or federal level?
- How would the Zone be governed?
- What will be the actual bottom line financial advantages of the various innovations to be enjoyed by those doing business in the Zone?
- How can the organizational structure of the Zone ensure transparency and social/financial accountability?
- What would be the fiscal and service relationship between the Zone and existing governmental entities?

In the end, the Zone Prospectus should serve as the roadmap for investment, intergovernmental collaboration and the quality of life attributes contained in the Zone Initiative. The Zone Prospectus should spell out its advantages to demonstrate the presence of a predictable and competitive environment for those desiring to opt into the Zone. Clearly, a Zone Prospectus incorporating the labor, legal and sovereign advantages examined in this Symposium has not been done before and represents the cutting edge of investment areas within the United States and around the world. As a final note, we see the concept of the Zone as a platform for the Institute’s future symposia relating to the Clean3™ Initiatives of Water, Energy and Transportation.

We extend our thanks to all participants that contributed to the findings of this Symposium and to the ESD Board and staff for their support.

Opening Presentations

As discussed earlier in this report, the opening presentations of the Symposium were designed to raise the general level of awareness and knowledge while setting the stage for the breakout workgroups. Below is a summarized narrative form of the presentations:

“Prospectus Michigan,” Robert A. Ficano, J.D., Wayne County Executive

We are sometimes harder on ourselves than the rest of the world sees us. Internationally, people know three cities in the U.S.: New York, Los Angeles, and the City of Detroit/this region. We are known for our technology and the advancement of technology and our people. Other countries are trying to catch up to us and to the technology we have

in this region. Our universities are known around the world. We have many assets, including mature infrastructure and transportation and shipping access by truck or rail across the United States and into Canada. The Aerotropolis will be a big part of our delivery infrastructure.

Michigan has several areas we are not competitive in, and we have to be ready for investment in these areas. We need to prepare ourselves for investments to happen again. If you wish to start a business in Dubai, they will pull all your permits, build you a warehouse, and have your business up and running near a seaport or airport within 30 days. We must compete with this. We need to create an environment that makes businesses successful when they come to Michigan; an environment that allows the private sector to be successful and grow.

We need to eliminate the things that impede a business's ability to grow and eliminate things that are costly. We cannot live with cities, townships, and counties working in their own silos. We must work together. To compete with countries such as Dubai, the Aerotropolis is signing a memorandum of understanding that you will get all your permits pulled and approved within 60 days. We must create an environment that is business-friendly. We need to leverage the companies who want to locate here to be close to our university research and development centers, which are some of the best in the world.

We are competing in a global economy. China is growing at a rate of 8% and not going to go away. This current growth is a slow down from the normal 11–12% growth. The U.S. is currently at a 0% growth rate.

When Toyota decided to come to the U.S., they chose not to put manufacturing plants in our state, but they did decide to put their number one R & D facility here, close to the University of Michigan. We need to leverage this interest in our state's R&D. Corporations have the same mindset as early immigrants who came to the U.S.: organizations/immigrants will follow where the corporations and investment lead.

The U.S. still remains the best place to sell your product and get premium dollar. We do, however, need to change the tax structure. We need to get rid of surcharges, taxes, etc. The main concern to a prospective company is what the bottom line is going to be, can they make a profit here? We have to change our thinking of how we are doing our tax structure in Michigan; there is competition between states and lower tax burdens in other states. Companies will go where it costs them less to do business.

Engineering drives the companies that are attracted to this area. We still have more engineers per capita than anywhere else in the U.S. There is more technology in the automobile than any other product on the market except for the computer itself. We need to market what we are about and brag about it. We need to market our region. Engineering and technology drive 80% of the companies we talk to who are interested in coming to this region. We need to better connect and leverage this to the companies we wish to attract.

“Assessing the Regional Competitiveness of SE Michigan, Detroit Renaissance Executive Summary,”⁹ John Rakolta, Jr., FESD, Chairman and CEO, Walbridge, Detroit, Michigan

Walbridge is a builder of large industrial projects, as well as research, commercial, and health care projects. Our projects are built around the world. In 2000, Walbridge did \$650 million worth of business; 90% of that business was in Michigan. In 2008, business had grown to be \$1.4 billion, but only 20% of that business was in the State of Michigan. In the future, it may be as little as 5%, possibly even 0%. Walbridge has remained in Detroit to carry out the heritage of its CEO and President. It is questionable whether future generations will retain this same feeling of heritage and the desire to stay anchored in Detroit when their business base is elsewhere.

Detroit Renaissance recently completed a benchmarking study assessing the regional and economic competitiveness of Southeast Michigan. The study was completed in November 2008 by McKinsey Consulting at no cost. The study benchmarked data over an eight-year time period. The findings of the report contain a number of distinctive elements: Michigan’s economic decline has purveyed nearly all job sectors and regions across the State of Michigan and it showed declining growth in 90% of its 300 job sectors. The benchmark report indentified the key inputs and outputs that were compared between Michigan and the following locations:

- | | |
|----------------------------|---|
| • Regions that Transformed | Raleigh-Durham |
| • Knowledge Investment | Chicago, Boston, Raleigh-Durham & San Francisco |
| • Traditional Industry | Montgomery, Tennessee Valley |
| • Talent Competitor | Chicago |
| • Benchmark Region | Chicago |

The inputs included: cost of living and quality of life indicators, workforce characteristics, tax/regulatory environment, infrastructure, energy costs, overall competitiveness, availability of capital, real estate, R & D, and government spending. The outputs included the GDP, employment, productivity, and demographic characteristics.

Three root causes were indentified in the decline of Michigan’s job sectors:

1. The high cost of doing business grounded in higher than average wages and high business, personal, and property/local taxes.
2. A talent base that has a pocket of select expertise, but overall is relatively less educated than peer regions competing to attract growing knowledge-based industries.
3. A quality of life index that is much better than its perception; however, it is hurt by a high crime rate and a perception of a lack of cultural offerings.

⁹ Please find the complete executive summary of the Detroit Renaissance, entitled “Assessing the Regional Competitiveness of Southeastern Michigan,” in Appendix E.

The study identified the following positive points for the state as areas where Michigan should focus its attention:

1. Michigan has a large talent base, particularly in engineering, the largest talent base in the nation, and this can serve as the foundation for attracting specific industries.
2. A “flow” of top-tier university graduates second to none in the nation. Michigan has a fabulous university system.
3. Michigan has an extraordinary advantage level of R&D activity—Michigan is approaching a billion dollars a year in research. Michigan is number two in the U.S. if corporations and university research corridors are combined.

From the benchmark study, the following conclusions can be drawn:

1. Michigan is lacking leadership today to address the key issues
2. Michigan needs to restructure the business tax structure
3. Michigan must attract employment opportunities and retain talent
4. Michigan needs to do a better job of promoting public awareness of its quality of life
5. Michigan needs to build off of its strong engineering capability
6. Michigan needs to build off of the state’s university system
7. Michigan needs to continue to invest in research and development activity

Mr. Rakolta’s personal view of our State’s top three root cause items:

1. Competitiveness of the state is gone
2. We have had an entitlement mentality in our state for too long. Those entitlements are gone.
3. We have a significant race problem; we don’t talk about it and we don’t want to solve it. Until this issue is put on the table, we are going to lag in the nation. The areas of growth in the world are multicultural.

The bottom line in doing business is this: when you purchase something, you make your decision based on cost, design/functionality of the product or service, and the deliverability—if it isn’t there for you to buy, you move on to the vendor you can buy it from. Businesses purchase based upon the same three items.

Mr. Rakolta concluded by challenging symposium participants to:

1. Be bold
2. Be proactive
3. Be honest

“Sovereign Zones: Leveraging Advantages of Indian Country,”¹⁰ Ernest Walker, Esq., Fredericks, Peebles & Morgan, LLP, Louisville, Colorado

What is a Sovereign Territory?

- Land owned debt-free by Indian tribe
- Removes the territory from the jurisdiction of the state and puts it under the tribe

Advantage of a Sovereign Territory

- Only tribal and some federal laws are applicable
- A new regulatory environment that limits liability
- Sovereign immunity and limited waivers
- Revised statutes of limitation
- No state/local income taxes
- No property tax
- No workers’ compensation
- Simplified permitting
- Capital available from federal government process to initiate

Process to Initiate

- Can be difficult and long due to gaming issues
- Environmental studies conducted
- If land won’t be used for gaming but for manufacturing and technology, process could be streamlined

Related Comments

- Tribes have super 8 status 8(a)—federal government contracting status and enjoy billions of dollars in contracts
- Tribes can even act as a utility company
- Tribes have significant financial resources. An example is the Native American Bank, which could provide liquidity for struggling enterprises that collaborated with the tribes or through other forms of collaboration.

“Conflict Resolution in the Zone: A Better, Faster, Cheaper Way,”¹¹ Richard L. Braun II, Esq., Past Chair ADR Section, State Bar of Michigan

Mitigating legal risk and designing a new system? Do they really work? Is the present legal system broken when it comes to litigation? Yes and no. It is not broken because there are several very good reasons for due process. Yes it is broken as it is cumbersome, costly, and inefficient. What can we do to fix this? Why is it costly?

We have so much preoccupation with making it a fair fight that we don’t take enough stock in what the parties are looking for. If we focus on a winner and loser only, which our system does, we don’t focus on fair and meaningful results for both sides. Almost

¹⁰ Please find Mr. Walker’s Power Point presentation in Appendix F.

¹¹ An Executive Summary and Position Paper of the ADR Section of the State Bar of Michigan is contained in Appendix G.

all cases resolve before trial, 98% of the cases settle, usually, at the end of the case with mediation or Alternative Dispute Resolution (ADR) process. This is often after a lot of money and time have already been spent. We have a system built around an event that rarely occurs, which is a trial. There are various ADR options available at the beginning of a case, even before a lawsuit is filed or before a trial is set. In North Carolina, all cases go to ADR before they are filed.

The use of ADR collaborative processes to resolve civil disputes and lawsuits has become a key settlement mechanism. A “green zone” presents unique opportunities for a conflict resolution system design that could provide a model for similar endeavors in years to come. Could a panel of neutrals serve disputants of all kinds achieve prompt and fair resolution of conflicts without traditional litigation? The answer in my view is “Yes” and ADR is the answer.

“Benefits of ADR: The MASCO Experience,” Richard Hurford, Esq., Director of Litigation

Alternative Dispute Resolution (ADR) does not produce revenue, but you will find a return on your investment as you reduce expenses. MASCO has found the ratio of attorney fees vs. settlement fees to be three times in attorney fees for every dollar spent in settlement. Simply put, MASCO was paying \$3 in attorneys’ fees for every \$1 paid out to claimants, which reflects the national average.

Getting to a trial happens in only 1.8 % of all cases filed. Unlike fine wine, litigation does not get better with time. From a project management point of view, the end game to reach is resolve/or assess disputes prior to pushing the case forward. If it is not a case you want to prosecute to trial, then early resolution is a quick and effective answer. In all MASCO contracts with employees, customers, suppliers, and stockholders, it requires that the first step before a lawsuit is a mediation session. It is valuable to add contractual provisions that commit parties to mediation. The savings are in transactional costs. If you want to design a system that is fair for all constituents, the current system based upon litigation would not be the choice.

“Toward a New Model of Labor Relations: A Neutral Perspective,”¹² Jeff Hartfield, Mediator & Director of Elections, National Center for Dispute Settlement (NCDS)

Where are labor management relations now and where do we need to be if we are going to survive and reinvent ourselves? The top two issues in contract negotiations are health care costs and retirement pension changes. It is not constructive to point fingers and lay blame. Mistakes have been made and opportunities lost. Today is a relationship with shared responsibility and accountability; we need to move past these mistakes and move forward. We now need to confront our problems and address them.

Here are the problems currently facing our labor unions and their employers:

¹² The submission of the National Center for Dispute Settlement is at Exhibit H.

1. The need to switch our focus from rights to interests; we have lost focus as to what may be in the best interests, as well as the interests of the ultimate customer.
2. The need for flexibility; work rules need to be examined against criteria for competitiveness, safety, and quality.
3. The entitlement mentality. We need to move from the entitlement mentality; labor is going to have to tackle sacred cows such as double and triple overtime pay.
4. Rethinking contract negotiation:
 - We cannot wait for expiration dates in order to make critical changes and have negotiations.
 - Bargaining process; the threat of the strike or lock is antiquated and counterproductive.
 - Interest-based approaches can and should be applied to negotiations, grievance resolution, and strategic problem-solving.
5. Recognition that the enemy is not sitting across the table. This equally applies to both labor and management.
6. Rethinking contract administration, third-party arbitrators have created problems; we need to solve disputes earlier in the procedure.
7. The need to create on-going forums to address problems. Revisit the old practice of joint problem-solving groups. We need to meet on a regular basis to share data, issues, and concerns.

This will involve hard work and huge commitment by all parties. Changing the mindset of the rank and file will be difficult, but we can do it. It is altogether fitting and proper that this effort should be led by Michigan, home to some of the nation's brightest and most visionary leaders. We need unions, employers, government, and industry to recognize we have far more in common than we differ on. Our very future and the future of our children and grandchildren will depend on what we do.

“Beyond the Right to Work State,”¹³ Doug Buckler, Executive Secretary/Treasurer of the Michigan Regional Council of Carpenters and Millwrights

Mr. Doug Buckler provided an overview of how a new labor/management relationship could be created in the Zone that would tap the strength of our skilled and experienced workforce in Michigan. At the same time, we would compete with any other state in maintaining and attracting investment capital to Michigan without the need for public funds or tax incentives. Mr. Buckler's remarks highlighted the following:

- Michigan is currently 23–24% union.
- Michigan has the best skilled workers.
- Let's fix together the business taxation burden in Michigan.
- Let's fix together our broken workers' compensation system.
- Unions can do a lot to make the Enterprise Zone successful.

¹³ Mr. Buckler's remarks occurred on Day 2 of our Symposium during the Labor/Management Workgroup session.

- The Zone concept allows us to use a “clean-sheet” approach with business.
- A collaborative group led by The ESD Institute can successfully approach Lansing for change that will enhance our competitiveness for employers and create jobs.
- Pick one or two items to pursue.
- Right to Work status for a state is not an issue in the pursuit of investment.
- Before venturing into relationships with Indian tribes, understand the tribe’s situation and determine its needs.
- ESD is on track pursuing new sources of energy.
- Michigan needs to support the development of trade jobs in parallel with college degrees.
- Opportunities exist to use the construction trades for maintenance assignments in addition to construction.
- The Zone concept offers a unique opportunity for labor and management to think out of the box and create a new partnership for the future.
- Labor is ready to come to the table with an open mind to turn things around for employers and for our members.

**“Technology and Invention to Electrify the Automobile: Michigan’s Opportunity,”¹⁴
Terry J. Woychowski, PhD, General Motors Corporation, Executive Director North
American Regional Chief Engineers**

First a little background about me. My family has worked in the auto industry for over 75 years. My father asked me to pursue an engineering degree so I could one day be his boss. I was the first in my family to go to college. My first job with GM was working in the laboratory and I became my father’s boss.

Now here are some automotive realities:

Auto Industry Progress to date:

- Reduced emissions by 99%
- Improved fuel emissions by 130/75%
- Reduced fatal crashes by 70%
- Improved affordability by 40%

A New Automotive DNA:

- Electrically Driven
- Energized by electricity and hydrogen
- Powered by electric motors
- Controlled electronically
- “Connected” vehicle systems are all highly integrated

¹⁴ Dr. Woychowski’s power point presentation can be found in Appendix I.

Displacing Petroleum through Energy Diversity:

- There will be 1.1 billion vehicles in the world
- 15% ownership rate
- The majority of people on this planet have never been in a car

The Michigan Green Enterprise Zone offers potential solutions for electrifying the automobile of today and the future. As GM's Advanced Propulsion Strategy, the hybrid and electric programs continue and the Volt is the real "game changer" vehicle for GM. The Volt is one of a new set of vehicles, the extended range electric vehicle (EREV):

- Beyond 40 miles, your engine generator starts and powers the vehicle.
- Under 40, it is run by battery, no petroleum consumption.
- The Volt vehicle will be made in Michigan.
- The lithium ion pack is where all of the technology resides in the EREV.
- LG Chem will be the supplier of the ion pack.
- GM will build the battery in Michigan.
- Creation of the largest test facility in the U.S.

The Value Chain Strategy supports the economy: electricity is a low-cost fuel and is 1–2 cents per mile, while petroleum is 7–13 cents per mile. There is a great need for collaboration in this race; there must be sources of electricity. Electricity must be accessible, reliable, convenient, and low-cost. We must educate the public about electric vehicles. Electric Vehicles will help us realize environmental benefits.

The power grid will have to be done collaboratively; the infrastructure will have to keep up with the demand. We will need to create plug-in facilities to recharge your vehicles. To achieve this, transformed partnerships and collaborations are required. Energy diversity creates competition, innovation, and choice/value for the customer. Energy independence/security protects us from geo-political events and energy market volatility. Technology leadership and innovation will solve our generation's challenges and create global business opportunities. The Chevy Volt Electrifies the Nation: we will stimulate the economy when we create value and solve tough problems. Let's hope it can be designed and built in a competitive Michigan!

“A Better Approach to Medical Malpractice Claims? The University of Michigan Experience,”¹⁵ Richard C. Boothman, Chief Risk Officer, University of Michigan Health System

The root cause of medical malpractice claims are deeper and closer to home than most in the medical community care to admit. The University of Michigan Health System's experience suggests that a response by the medical community more directly aimed at what drives patients to call lawyers would more effectively reduce claims without compromising meritorious defenses. More importantly, honest assessments of medical care give rise to clinical improvements that reduce patient injuries.

¹⁵ Mr. Boothman's remarks are based upon an article in the *Journal of Health & Life Sciences Law*, Vol. 2, No. 2 found in Appendix J.

Mr. Booth relayed a story of a 28-year-old man who had been ill and came to the emergency room. He had been coughing up blood in his sputum and no one knew he had an embolism in the lungs; it broke up and he died within four seconds. This was a horrible experience for the family, who was waiting outside with medical staff going in and out of his room. The family became very distraught upon his death and started doing physical damage to the hospital. The hospital had to call law enforcement officials to have the family removed from the facility.

Ten days after the above situation, both sides/parties met and came together for a mediation of sorts to discuss the events that had ensued. It was agreed that the hospital provided reasonable medical care, and that his death was due to an unforeseen medical condition, not due to a medical mistake.

In the University of Michigan Hospitals mediation guidelines, it agrees to the following: if there is unreasonable medical care on the part of U of M, the hospital owes compensation to the patient/family. If reasonable care was provided, then the hospital needs to stand behind its staff and support them in mediation. If you have made a mistake, they strive to ante up to it and apologize to the family, make assurances it won't happen again, and in some cases make restitution. We have a human need to deny. Health care is a very personal world and staff strives to talk to people, no matter how difficult the circumstances.

The hospital strives to learn from any mistakes by using the services of its Risk Management Division. When Mr. Boothman took over, there were over 300 cases pending, more than half of those were already in litigation. Today, they have 63 claims; only half are in lawsuits. People need a way to be heard and if you don't talk to them, they will take it to the courthouse. They believe the courts should be a last resort. Litigation takes away time from the doctors and also causes strain. You get better medical care when you have a doctor who is not worried about a malpractice suit.

When Mr. Boothman arrived at U of M Hospital, it was spending \$300 million a year on lawsuits; it now spends \$60 million, a huge drop.

Risk management is changing the hospital's culture to pay more attention to patient safety and misdiagnosis. The Department of Risk Management is improving patient safety and communication and providing the assurance that the hospital is taking steps to make sure mistakes will not happen to others. Avoiding litigation where error is not involved is very important. Risk management identifies mistakes vs. medical complications and information is shared across the system. Reports are generated and data is shared on a daily, weekly and monthly basis. Risk management supports staff 24 hours a day to secure evidence and information. U of M has taken the lead nationally in open disclosure with patients. They believe you must take the time to speak to human beings who have problems with you.

“Sovereign Zones: A Clean Sheet Approach of Native American Attributes,” Dennis J. Whittlesey, Esq., Dickinson Wright PLLC, Washington, D.C.

Dennis sits on both sides of the table representing both parties in complicated tribal issues and cases. He works in the development of comprehensive documents that are often gleaned through difficult negotiations. Dennis notes that if “people are still talking and working together after your negotiations have ended, then you have gotten to the right spot in the process.” Dennis also notes that things can move very slowly through the Bureau of Indian Affairs.

Sovereign immunity was explained in detail and upheld most recently in the U.S. Supreme Court case of *Kiowa Tribe*, 523 US 751 (1998), with Justice Kennedy writing for the majority. Chief Justice John Marshall spelled out the foundation for the tribal sovereign immunity doctrine 200 years ago when he described the Cherokee Tribe of Georgia as a sovereign nation and dependent sovereign.

The Indian Commerce Clause gives the U.S. Congress plenary power over Indian affairs. Congress does have the ability to take away Indian sovereignty under the Indian Commerce Clause. Tribal sovereignty is attached to land. The ESD Zone could seek a Federal Tribal Reservation or State Reservation. A major question in developing the Enterprise Zone is what would the governance body be for this zone? This is the bear in the woods question! We would need to develop a system for managing the Zone; the system can be governed by federal and/or state laws. Cross jurisdictional agreements between tribal, government, and federal departments are common.

The Zone analogy of the Indian country is applicable and good as presented. Once the raw questions are answered as to what we would like the Zone to look like as a group, the hard work is then in the details. We shouldn't be afraid to start with a blank page. This is a desperate time requiring creative solutions. Don't be afraid to write what has never been done before. It is in our destiny and our control to create a zone in Michigan. Out of our hardships now we can create something incredibly creative that will lower our structural cost of doing business.

“The New ADR: Panels of Neutrals for the Zone,”¹⁶ Thomas Aldrich, Esq., Senior Consultant, International Institute for Conflict Prevention & Resolution, New York, New York

How can we be more creative in expanding the pie in the ADR Business? Conflict Prevention & Resolution's mission is to spearhead innovation and promote excellence in public and private dispute resolution and to serve as a primary multinational resource for avoidance, management, and resolution of business-related and other disputes.

CPR is the leading proponent of self-administered ADR and serves as an appointing authority for parties in need of neutrals. In 1984, CPR created a means by which corporations and law firms commit to trying DR procedures before moving to full-scale

¹⁶ An executive summary of CPR's contribution to the Zone Symposium may be found in Appendix K.

litigation. The CPR ADR Pledge, clearly articulated and broadly communicated, can be an effective way to initiate processes to resolve conflicts in straightforward and constructive ways, to yield better resolutions, and to control risks and expenditures of time and money.

Through the course of its existence, CPR has also maintained its own Panels of Neutrals with highly distinguished, trained mediators and arbitrators from throughout the world in various forms of ADR. ESD's proposal to create Panels of Neutrals to offer early alternative dispute resolution to mitigate legal risk and adverse collateral affects arising from conflicts traditionally resolved through litigation is sound. ESD's Green Zone industrial base supports ADR. ESD's proposed initiative identifies several industry groups that have traditionally supported ADR: automotive industry, construction, defense, and the Franchise Mediation Program.

“Resolving Disputes Fairly & Effectively,”¹⁷ Jan Holdinski, Vice President, American Arbitration Association

In the State of New York alone, 50–75,000 cases are processed on an annual basis. Half of these cases are resolved in the first step and the other half move to the next level. The State of Minnesota has a smaller case load and trained neutrals help settle 75% of the cases before they go any further.

New York, Connecticut, and Massachusetts have opted to test an arbitration method in medical-related disputes. They are bringing these cases to an arbitration process and are starting to settle them. Groups using this process never would have considered it in the past and are now seeing great success.

Brown & Root, an employer, realized that as an employer there had to be a better way to take care of employee disputes without spending a lot of time and money. It also carries the ADR process into general business disputes. It has set an example for a lot of other companies by showing there is a way to resolve disputes. Many companies are using mediation as the first step. It is cheaper, it is more effective and it is working to resolve disputes.

We need to pass the information on to the public that there are other alternatives; there are other options out there that should be used before going to trial. Neutral third-party perspectives can help keep things out of arbitration and litigation. Catastrophe disputes as of late, such as those related to Hurricane Katrina, have become a huge burden on the courts and insurance industry. ADR is a cost-effective way to deal with this huge volume of disputes. Neutrals come in and meet with the homeowner and the insurance company and have reduced 82% of the disputes.

Industries such as construction view ADR as the only way to go. Many are using mediation as the first step, and many even look forward to going before an expert to present the facts. Many companies are looking at the ADR option. Right now, however, there is a lot of fear based on misunderstanding and lack of knowledge about the process. Many fear they will lose control of the case, but in reality, they will have more control in the end as they

¹⁷ The Symposium Submission of the American Arbitration Association may be found in Appendix L.

have input in the final contract to resolve the dispute. In the 2003-04 case study “About the Perceptions of ADR,” it was found that the primary reason 254 companies opted to use ADR was to save money. Of those companies, they confirmed savings of cost, time, and money.¹⁸

Plenary Session

Armed with the advanced material submissions and the information provided by the various speakers who opened the Symposium, our task turned to an initial brainstorming meeting with all of the attendees in plenary session. The goal of this effort was to produce a wide variety of ideas bearing upon the Zone Initiative and its three mega questions. Here is a sampling of the many ideas generated during this session that later were used by the workgroup in breakout sessions for further review and analysis.

Labor Zone

- How do we change traditional thinking to model new behavior?
- How do we build trust between management and labor to have a better relationship?
- How do we undo a culture of entitlements?
- How do we maintain the positive aspects of our dispute resolution system?
- How do we change the perspective of companies and employers?
- Labor needs a new business model.
- How do we rethink labor/management concept?
- How do we as labor and management sell what we are doing to constituents?
- How do we capture the current collaboration around I/B past the auto crisis and for all labor sectors?
- How do we obtain Economic Survival and Prospering in this new economy?
- How do we set the table to bounce back and be at the nation’s front?
- How do we keep politics/bipartisanship out of these processes?
- How do we make Michigan more competitive than Right to Work states?
- How do we address entrepreneurship into the zone by addressing restrictions of tenure?
- How can we together best sell Michigan?

Sovereign Zone

- How do we deal with conflict between a sovereign zone and the rest of the state?
How do we have collaboration between the Zone and the rest of the state?
- Use of cooperative and collaborative law within the zone.

¹⁸ The value of legal reform and innovation is discussed in the Final Report on the Joint Project of The American College of Trial Lawyers Task Force on Discovery and The Institute for the Advancement of the American Legal System published March 11, 2009, and is contained in Appendix M.

- Through what channels would sovereign zone/sovereign green zone have to pass? Indians? Others?
- Less to legal issues than meets the eye.
- Permits, financing, land, ADR system in place as framework. Quick, easy, profitable. Economic survivability. How to put in place so Michigan can bounce back and be the best?
- How to keep politics and bipartisanship out of process?
- Education of entrepreneurs and unleash entrepreneurs in zone. Right to Work of entrepreneurs.
- How to create a health care system in the Zone that would make the rest of the world want to come into the Zone.
- Sharing indirect resources within the Zone?
- How to convince those outside the Zone that it's not a limited pie or redistribution?
- Can entire state of Michigan be a sovereign zone?
- Can sovereign zone demand an early ADR system?
- Limitations on liabilities in the Zone?
- A dispute resolution system that gives appropriate compensation to injured-interest based?
- How to attract businesses by creating more freedoms in marketplace to attract capital? (in sovereign zone?)
- What do we do to create a sovereign enterprise zone?
- How would a virtual sovereign zone look?
- How do we have our cake and eat it?
- What are mutual obligations owed by members within the Zone to one another?
- How to take investments and transfer them to those within the Zone?
- Redefining corporate/entity responsibility in the Zone.

Dispute Resolution Systems

- Why are there disputes?
- How can we better accomplish prevention of disputes?
- Are conflict resolution training processes in the workplace the best approach?
- What is the goal of dispute resolution and is money the only end point?
- Identifying issues in advance of disputes.
- System to capture problems as they develop.
- Put business owners in charge of resolving their disputes.
- Triage for legal disputes?
- Holistic vs. right/wrong approach?
- Create climate of safety so people can come forward with confidence that concerns will be addressed with honesty and shared purpose.
- Making a dispute resolution system responsive to transfer and availability of innovation.
- How do we assure social justice in new system?
- Build financial incentives for early processes and resolutions (the "business case").
- Get clients to make business case to lawyers for early resolution.
- Making good lawyering "leaders" in dispute resolution.

- Default to “Doberman”: altering the first choice/resort to advocacy/lawyers.
- How can we set up a system where collaborative law model is used in all civil matters? (commitment to settle case by collaborative lawyers, reserving right to litigate with others)
- Use of “cooperative law”: attorneys focused on settlement but ethically/contractually prohibited from trying a case.
- Adopting statutes mandating mediation in a broader range of disputes.
- Get businesses advice on all options early on to address disputes.
- Create disincentive for using dispute resolution system as oppressive economic tool.
- Keep politics and bipartisanship out of system.
- How do we select neutrals who are truly neutral (and create incentives to do that).
- How to get information early on and limited to relevant info (in dispute resolution processes)?
- Who will pay for neutrals in the zone?
- Get courts to mandate early referrals to mediation.
- Make mediators case managers.
- Reduce disputes by creating more freedom for investment, business.
- How do we change to third-party decision makers where the key value is self-determination?
- A dispute resolution system that promotes economic survival and advancement, making Michigan the most attractive state in world for investment. Make a framework.
- Focus on (the presumption) of resolution first, then steps following, including arbitration.
- Building into a system of early resolution.
- Focus on “what do you want to become?”; develop metrics; incentivize sought after conduct.
- Stay away from limits; focus on appropriate compensation based on interests.
- Alternate fee and case handling assignments, including “bundling.”
- How can we reward candor and collaboration early in processes of government policies/incentives?
- How can tax policies reward early dispute resolution processes?
- How do we maintain positive aspects of our current system?
- Implications/innovations for law schools and collaboration with litigation community for matters that go to trial; there needs to be swift decision making.
- Reduce legal and structural friction to move technological ideas to fruition.

Catch All Other

- Marketing plan for Michigan/Zone benefits
- Where do innovation and technology fit into these groups?
- Reduce the friction and structural costs to transfer tech/research/assets
- Maintain social justice
- Educational component to align people with new culture
- Building desire for self-determination

- Education in entrepreneurship taught by entrepreneurs (removal of education tenure barriers)
- Protection of intellectual property of investors into the Zone

The above ideas represented the collective effort of our 60 participants representing a diverse cross-section of professionals in the public and private sectors. Taking these ideas, our participants then broke into their self-selected workgroups for continued idea creation, then assessment and evaluation.

Our Workgroups

As described earlier, the work of the Symposium is conducted by workgroups that follow the ideas generated by the attendees in the preceding plenary session. What follows is a description of these efforts. Attendees self-selected the workgroup of their choice for this purpose and each workgroup was led by one of our facilitators following the process of the Institute.¹⁹

Labor/Management Workgroup

The Labor Group, consisting of local unions and entrepreneurs/owners from around Michigan, came together to tackle what it felt were the most pressing issues surrounding bringing new ventures into Michigan. As a lens to this endeavor, the group used what a prospective entrepreneur might view as the most important question needed to be answered by labor: “If you could create a labor/management relationship from scratch, what would it look like and how would you accomplish it?”

The Symposium provided an exciting and perhaps unprecedented opportunity for workgroup members to hear from business leaders, labor leaders, and higher education about their values, goals, and objectives for a labor/management relationship system that would attract and retain investment in Michigan. The workgroup was especially sensitive to listening carefully throughout the plenary sessions. The projects ultimately prioritized by the workgroup were the culmination of extensive work to discern consensus expressed in brainstorming from the plenary and workgroup sessions.

¹⁹ Appendix A identifies the attendees for each workgroup. Originally, three workgroups were anticipated for the two-day Zone Symposium. During the course of the Symposium, however, some attendees suggested the need for a fourth workgroup to consider near-term governmental investment incentives. Although outside the scope of the Zone Initiative, the Institute recognized the importance of the Symposium being responsive to the needs of its participants. As a result we are pleased that this Report includes the contribution of the fourth workgroup identified as the “Near-term” workgroup.

Brainstorming

The Plenary session yielded questions for the group to consider in its discussions. Some of those topics included: building trust between labor and management, making Michigan more competitive than Right to Work states, undoing the culture of entitlement, how do we sell the new model to our constituents, how do we get Labor's buy-in, how do we construct a labor/management relationship that survives the current people at the table (institutionalize the trust).

This brainstorming effort challenged conventional thinking with regard to dispute resolution, grievance procedures, jurisdictional restrictions, seniority, labor classifications, and the like. No idea was rejected because of a predetermination that today's barriers or obstacles would effectively block implementation. The consensus was that the urgencies of today's economic distress, including the dramatic drop in work for union members, operating losses of employers, and decline in our tax basis, required out-of-the-box approaches to achieve labor/management cooperation and harmony that only a few years ago would have been viewed as unattainable. The workgroup ultimately determined that it had to work from a mission statement for the new labor/management relationship. The group started with the question: Perception or Reality?

The workgroup ultimately determined that it had to work from a mission statement for the new labor/management relationship. The group started with the following:

Perception or Reality?

- Michigan is not attracting new investment because it is not a Right to Work state
- Unions have an entitlement mentality
- Michigan needs to improve labor/management relations

A mission statement was initially captured as follows after extensive discussion:

The mission of the labor/management relationship is to make Michigan more competitive than a Right to Work state and the location of choice through:

*Sharing of rewards
Lowest cost in the industry
Managing the image
Conflicts resolved quickly
Fair compensation that reflects skill and productivity
Education and training*

Distinctive features of an effective labor/management relationship would include:

- Building trust between labor and management with:
 - Sharing of reliable critical information
 - Regular meetings with all vested constituents
 - Framework where stakeholders interests are met through a consensus fashion
- Creation of an “Enterprise Zone Umbrella Agreement” between parties
- Development of a totally new labor/management model

The workgroup identified from the brainstorming sessions 10 general areas of concern that should be addressed in the design and administration of an effective labor/management relationship:

1. Changing the traditional thinking
2. Undoing the culture of entitlements
3. Maintaining the positive aspects of the current system
4. Understanding the competitive aspects of the Right to Work states
5. Identifying the elements of a successful labor/management business model
6. Identifying what will be required to move Michigan to the position of leadership
7. How does the business model maintain fairness?
8. What could be offered that would be a benefit to the employees who work under the business model or within the enterprise zone?
9. How is this planning different from the discussions that have taken place over the last 30–40 years?
10. Identifying what marketing will be required to let the world know what is going on in improving labor/management relations and addressing a perceived Michigan shortfall.

Assessment

Workgroup members were encouraged by *opportunities* in the current landscape that can and do favor and support labor/management relations. These included:

1. The opportunity to significantly reduce labor costs
2. The opportunity to eliminate uncompetitive work rules
3. The opportunity to implement a risk/reward compensation system
4. An enterprise zone would enable the pooling of indirect labor costs
5. The opportunity to eliminate or reduce the number of classifications
6. The opportunity to quickly resolve conflicts below the radar screen
7. Unprecedented openness to change as a result of Michigan’s desperate situation, providing a clearer mandate for looking forward, problem-solving approaches, and accountability
8. If done correctly, everyone would choose to work there.

Workgroup members also took note of *obstacles* in the current landscape that can and do make labor/management relations difficult. These include:

1. The ability to implement change within the workforce
2. Erasing the dividing line between labor and union representation
3. Bringing all unions on board
4. Changing the perception that the unions are out to “get the company”
5. Constant turnover in management leadership makes it difficult to develop a level of trust
6. Addressing disputes early will be difficult when the workforce is accustomed to the existing process
7. Working with many of the Indian tribes can be difficult
8. Defining what would and would not be included in a zone will be difficult
9. Is it realistic to think that a labor/management utopia can be developed?
10. Defining the next steps in the process will be difficult
11. There are many layers of union and management leadership that must be brought on board
12. Will there be a willingness to develop an evergreen contract? (Contracts in which parties would not have to wait to the expiration of the agreement to amend the contract)
13. Lack of leadership on labor/management relations “at the top”

The workgroup then decided to try and identify, by way of a “T” chart, some of the important qualities necessary to the parties for them to move forward into a new labor/management relationship for the Zone.

<u>Union</u>	<u>Management</u>
Sharing of rewards and risks Fair compensation reflective of skills Cross-training Mentoring Pooling indirect costs Using evergreen contracts Social contracts (health care/job security) Ability to join a union Ability to pull Andon cord	Lowest cost in the industry Stable, quality work force Safe environment Supportive government Workers qualify to get in/stay in Code of excellence State-of-the-art technology/infrastructure Zone is the employer Lowest average weekly employee cost Flexible workforce

The group felt that when this initiative is brought to Lansing, it must be a collaboration made up of labor and management. If only labor brings it forward, the group felt it would not be viewed fairly or taken seriously.

- Settle all jurisdictional disputes with unions/labor. The Green Zone will need collaborative relations. It needs an inter-disciplinary collaborative environment.
- The Green Zone must be a management/union utopia. Create a new system for workers compensation insurance and save employers money. We can eliminate waste if we work together, we must share the risk and reward equally between labor and management.
- Whatever we do in this zone has to be institutionalized because of the constant change. Constant turnover in management and the image of union make it difficult. It takes several years to build trust and there is continuous change in management and union leadership that makes it difficult to maintain the relationship and trust. The owner base must be a part of our zone labor management.

One of the “Lightening Bolt” options suggested from labor was around compensation. They discussed ways in which an employee would opt into the Zone and possibly work at a 94% scale and have tiered ways in which that employee could earn 104% or better. They could incentivize the pay by giving, for example, 1% for perfect attendance, perhaps another 2% for bringing the job in ahead of schedule, and job safety, no rework, and no loss of tools could all bring additional compensation that adds value to the owner and the workforce.

Reporting

For its reporting, the workgroup prioritized the attributes of an effective labor/management relationship for a Green Enterprise Zone.

- 1) Sharing of rewards: (Can't share rewards without shared risk)
 - Incentive-based compensation, as shown below
 - Safety
 - Absenteeism
 - Productivity
 - Completing job ahead of schedule
 - Quality
 - Property security
 - Profit on the job
- 2) Incentive-based compensation: a suggested 60% base and 60% incentivized based on above criteria, with 120% potential. If enterprise fails, there is no entitlement. Management is included in the program.
- 3) Lowest cost in the industry

- 4) Manage the image: Strategic Communication Plan
 - PR
 - Advertising
 - Branding
 - Imaging
 - Pro industry vehicle
 - The Labor Headline
 - The Success Model
 - Needs a face/identity to promote as a model developed by engineers

- 5) Conflicts quickly resolved: in this zone there is a need to be nimble and make change fast via
 - Training in conflict resolution
 - Have conflict taken care of at the lowest level
 - Have a collaborative process and mindset
 - Zone Alternative Dispute Resolution Neutrals/Conflict

- 6) Labor agreement would have an evergreen (no expiration) component
- 7) Use an escalation protocol with accountability and a gatekeeper for process
- 8) Feedback loop

RASI Evaluation

EVALUATION KEY:

- **R**—Responsible party
- **A**—Authority to decide with accountability
- **S**—Support
- **I**—Inform

One of the basic fears of the workgroup was that it did not have all the necessary people at the table. As a result, it was concluded that a summit or symposium of all labor groups should occur.

What could we do that would represent a game change for Michigan and labor? What are the next moves? What things do we need to do at the grassroots level before we bring this to the next level? The key was to change the paradigm and figure out how we get everyone together to do this without criticism killing the notion of fundamental change.

Coming back to the question we were asked to do: if you could create a labor management relationship from scratch, what would it look like? Although we fully recognize that we are a long ways away from implementing an answer, our workgroup concluded that it is an answer within our reach and an answer we need to find. It will be necessary to go

from the grassroots up so that the pitfalls and problems are identified early to build the necessary trust for successful implementation. Our RASI evaluation resulted in the following:

1. Set up a follow-up meeting to take development to the next level
 - R–ESD Institute: Dave Skiven and Chris Webb
 - A–Doug Buckler, Joe Abdo, and John Hamilton
 - S–ESD Board of Directors
 - I–ESD staff and Rackham Foundation, Michigan Economic Development Corporation, Detroit Renaissance

2. Convene a meeting of stakeholders to include: national and local labor leadership, building contractors, and trade associations. Invite Associated General Contractors (AGC) and ask them to bring their key contractors. Invite MCA, NICA, CAM, and their major contractors to be scheduled no later than April to meet by mid-May.
 - R–Joe Abdo, Doug Buckler, Molly Forward, Rick Haller, John Hamilton
 - A–Local Union Leadership and Top Association Leadership
 - S–ESD Institute to make invitations
 - I–ESD Institute, as well as stakeholders, including potential private blog site

3. Pilot for project management process/design development
 - R–ESD 4M Task force: Chris Webb and David Skiven
 - A–ESD Institute
 - S–ESD Task force staff
 - I–MEDC, M.U.S.T., Zone Stakeholders, local and state government agencies

Legal Innovation Workgroup

The Zone Initiative posed this macro question for attendees and the Legal Innovation Workgroup:

If you could create a dispute resolution system from scratch, what would it look like and how would you accomplish it?

The Symposium provided an unprecedented opportunity for alternative dispute and collaborative law practitioners to share their values, goals, and objectives for a conflict management and dispute resolution system with skilled litigators and judges and for the opportunity to share their efforts with other Symposium workgroups.

Brainstorming

The workgroup ultimately determined that it had to work from a mission statement for the new conflict management and dispute resolution system. This mission statement was initially captured as follows:

The Mission of the Zone's Conflict Management and Dispute Resolution System is to foster innovation, fairness, continuous improvement, and social justice by managing relationships and conflict effectively through:

Stakeholder control
Collaboration
Education and training
Early identification of issues
Honesty and candor
Promptness and efficiency

Hallmarks of the system would include:

- Availability of timely, predictable, accountable, and cost-effective dispute resolution mechanisms
- “Right sizing” of conflict management and dispute resolution techniques to ensure lowest cost appropriate to the issue
- Help businesses limit risk by managing it better
- Limited and appropriate use of the current litigation system
- Fair risk allocation and accountability, best characterized as, “If you control it, you own it.”

The workgroup also identified 10 general areas of concern that should be addressed in the design and administration of a new conflict management and dispute resolution system:

1. The system should ensure social justice.
2. The system design should reflect the values that should form the foundation of the Zone, including fairness, honesty, candor, innovation, flexibility, continuous improvement, and cost-effectiveness.
3. The system should help manage conflict “to the positive” to prevent protracted disputes, with conflict and disputes surfaced and addressed early and properly to create a healthy and productive climate for business.
4. The system should promptly identify and apply the earliest and least evaluative mechanism for management or resolution, and progress to more evaluative and directive mechanisms as needed.
5. The system should develop and use incentives to encourage or require early ADR.
6. The system should enhance self-determination in dispute resolution for participants.

7. The system should reduce the legal and structural friction necessary to bring technology to fruition.
8. Lawyer concerns should be understood and addressed to ensure the success of the new system.
9. System design should include some consideration for methods by which qualified providers of conflict management and dispute resolution services will be identified for the Zone.
10. The system should operate from a different cultural approach to conflict and disputes, with a goal of responding to a global perception that the U.S. legal system is an overwhelming obstacle to doing business.

Assessment

Workgroup members were encouraged by opportunities in the current landscape that do and can favor and support legal innovation. These included:

1. Cost savings through reduced process costs over a broad range of transactions and disputes.
2. Expansion of the Zone through contracts to entities beyond any contemplated geographic borders.
3. The improved predictability of risk and costs will reduce fear created by perceptions of the American legal system.
4. Changes in workplace culture could reduce disputes and their intensity.
5. Existing judicial systems can support certifications for those utilizing Zone conflict management and dispute resolution mechanism, including contracts.
6. Current level of awareness and top-down support for alternative dispute resolution in Michigan courts.
7. Unprecedented openness to change as a result of Michigan's desperate situation, providing a clearer mandate for looking forward, problem-solving approaches, and accountability.
8. Current proven models for cost savings through alternative approaches to conflict and disputes that use company-wide support for ADR through incentives, benchmarking, study, scrupulous documentation, and appropriate crediting for results.
9. Visionary leadership at the top of some companies or within divisions.
10. Education of business leaders on advantages of ADR through in-house legal staff.

Workgroup members also took note of obstacles in the current landscape that can and do make legal innovation difficult. These include:

1. The contracts and interests of insurance carriers.
2. The driving quest for the legally correct or best result in an overwhelming number of cases.
3. Unequal negotiating power among contracting businesses that can force unfair risk allocation on less powerful companies.
4. Unlimited consequential damage provisions in law and contracts.
5. Likely limits on the protection conferred across varied relationships by participation in the Zone's conflict management and dispute resolution system.
6. Current proposed legislation to vitiate pre-dispute employment dispute resolution techniques.
7. The existing judicial system.
8. Different approaches to alternative dispute resolution among state circuit courts.
9. Dissatisfaction among lawyers about early alternative dispute resolution.
10. Continued efforts by lawyers to forsake a problem-solving approach and pursue the most extreme advantage for their clients through use of partisan ADR service providers.
11. "Litigation light"—the preeminence of arbitration in some parts of the state over other suitable conflict management strategies and dispute resolution options.
12. Methods by which businesses, including insurance carriers, assess cost savings attributable to alternative dispute resolution do not adequately describe the business case for legal innovation.
13. The limited attention span and cyclical focus by businesses on alternative dispute resolution.
14. Internal organizational politics that interfere with, distort, and misrepresent the business case for alternative dispute resolution.
15. Lack of leadership on legal innovation at the top.
16. Difficulty of developing and implementing useful metrics to track the business case for alternative dispute resolution in businesses.
17. Lack of education of business leaders on the advantages of alternative dispute resolution.
18. Misperception of business leaders on advantages of resolving disputes through litigation.

Reporting

For its reporting, the workgroup prioritized the design and administration of a "Zone Compact on Conflict Management and Dispute Resolution" intended to apply to relationships among Zone Partners and relationships among Zone Partners and others not part of the Zone. It was envisioned that this compact is not dependent on sovereign status for the Zone, and Zone Partners are not necessarily limited to those organizations, businesses, and others within a specific geographic area. Zone Compact members would agree to use, and would be provided:

1. Dispute resolution training, bottom to top within their organizations.
2. Template contracts and policies in areas including human resources and customer service that uphold the mission and hallmarks of the Zone Compact on Conflict Management and Dispute Resolution.
3. Conflict management and dispute resolution processes and professionals to be supplied and administered by the Zone Compact, and to include a menu of processes intended to right-size the process to the dispute.
4. A conflict management/dispute resolution advisor appropriate to a Zone Partner's needs for consultation on appropriate conflict management and dispute resolution options.

RASI Evaluation

EVALUATION KEY:

- **R**—Responsible Party
- **A**—Authority to decide with accountability
- **S**—Support
- **I**—Inform

The RASI analysis for each of these follows:

1. Conflict management and dispute resolution training top to bottom:
 - R—Jan Holdinski, Zena Zumeta, Dave Meynell (project management)
 - A—ESD Institute/Zone
 - S—ESD, Joint Commission for the Accreditation of Healthcare Organizations, Project Management Institute, American Arbitration Association, International Institute for Conflict Prevention and Resolution, Institute for Continuing Legal Education, Community Dispute Resolution Centers, Master of Arts Dispute Resolution Program, Michigan Department of Civil Rights, ADR, Intellectual Property, Business and other interested Sections of the State Bar of Michigan, MASCO (for due diligence checklist), AON (risk management), Federal Mediation and Conciliation Service, National Center for Dispute Settlement, Symposium Labor/Management workgroup
 - I—ESD Symposium Legal Innovation Workgroup/Zone
2. (a) Template contracts and policies that uphold the mission and hallmarks:
 - R—Jerome Rock, John Sier
 - A—Open

- S–OESA, Consensus Docs, Michigan Hospital Association, Michigan Public Employer Labor Relations Association (MPELRA), Society of Human Resource Management, American Institute of Architects, CPR, Recreational Vehicle Industry Association (RVIA), American Society of Civil Engineers (ASCE), Michigan Society of Professional Engineers (MSPE)
- I–ESD Symposium Legal Innovation Workgroup

2. (b) Develop Compact Hallmarks:

- R–Tony Braun, Dick Hurford, Val Washington
- A–Open
- S–Symposium Labor/Management Workgroup, Symposium Sovereign Workgroup, OESA
- I–ESD Symposium Legal Innovation Workgroup

3. and 4. Compact conflict management and dispute resolution process and administration and advisor:

- R–Jim Vlastic, Toni Raheem, ADR Section, Howard Lischeron
- A–Open
- S–Dave Meynell, CPR, AAA, National Association of Manufacturers, Michigan Manufacturers Association, Tony Braun, design experts
- I–ESD Symposium Legal Innovation Workgroup

Sovereign Zone Workgroup

We began our breakout group recognizing that we needed to expand our fundamental knowledge of the principles of sovereign status. We learned that there are two existing methods for collaborating with tribal nations to access the benefits of their status. The first is a simple partnership with a tribe involving a grant of at least 51% ownership control in an organization. This form of partnership would entitle the entity to access the Super 8a preference in federal contracts. The second relationship involves transferring the land in question to a tribe and requesting the land be transferred into Trust for the individual tribe. Transfers of land into Trust require the approval of the appropriate government (state or federal) authority and are a permanent transfer of the land into Trust.

Either form of relationship would require at least two contractual relationships between the entity (whether an individual business or a collection of businesses such as envisioned by the Green Zone Initiative) and the tribe or tribes. The first is the management agreement, which would need to be at least 51% in the authority of the tribe in order to access federal contracting preference or could be in any percentage of authority with the tribe should federal preference not be necessary or desirable. The second is the profit-sharing agreement, which would determine how proceeds from the venture would be

distributed between the tribe and the business partner(s) or entity. It is important to note that a tribal ownership of less than 50% with a non-tribal entity on tribal lands can enjoy most sovereign investment attributes except for certain tax and minority preferences.

A third possible methodology for accessing sovereign status was discussed and it would involve application to and approval from the United States Congress to create a new form of sovereignty in the Green Zone Initiative. While there was recognition of receptivity to pilot projects designed to assist states out of existing dire circumstances, the group believed this route would not only take the longest amount of time to accomplish, but would also meet with significant resistance.

Brainstorming

With a greater understanding of the fundamental principles of sovereign status, the group began to develop ideas that might make the Green Zone Initiative appealing to business, investment, community, or government. Over 40 ideas were generated. With the meta question of “How do we retain and attract investment into Michigan without the use of public funds,” the group developed the attributes that it felt would be essential to the success of the Green Zone Initiative. Eleven attributes emerged that provided a framework for considering the previously generated ideas. The three attributes specifically intended to attract and retain investment included: frictionless, maximize return on investment, and differentiated/unique selling proposition. The seven attributes specifically responsive to interests of Michigan included: clear win/win/win/win; green; strategic; focus in distressed areas; collaboration; leveraging existing systems; relief from traditional taxes and regulations; high trust infrastructure; and job creation. Below are many of the ideas generated during this phase of our efforts:

Frictionless

- Permit processing (part of existing Zones)
- Early dispute system (e.g., mediation, arbitration, collaborative law) leads to problem-solving
- Simplification of land re-use
- Frictionless business—lower restrictions to engage
- Insurance advantages without litigation threat
- Credit flow
- Alignment of goals within Zone
- One-stop shopping for assistance program
- One-stop shopping for any requirements within Zone
- Oversight vs. government regulation. (if proper oversight, then you don't need regulation)
- Freedoms mean no barriers to enterprise
- Common sense

Maximize Return on Investment

- Double+ return on investment
- Tax abatement
- Return on investment
- Maximize cost savings of nation status
- Zones own rating (bonds, etc.)
- Model: Native American bank
- Sell stock shares, float bonds, etc., to make attractive incentives for investment
- Credit flow
- Bulk purchasing
- MI trade exchange, trade of services concepts for any services with Zone
- Pick and choose the best features from all models
- ZSOP–Profit-sharing in Zone

Differentiate/Unique Selling Proposition

- Create a virtual entity into which fiefdoms will want to participate
- Virtual tribe
- Marketing plan

Clear Win/Win/Win/Win

- Early dispute system (e.g., mediation, arbitration, collaborative law) leads to problem-solving
- Pro-growth jurisprudence
- Collaborative transfer of technology
- Inducements for the arts (incentives) tax, space, etc.
- Mechanisms to keep the people satisfied, NOT disenfranchised, leading to a sense of control by people; thus meeting their interests
- Affordable housing
- Create a virtual entity into which fiefdoms will want to participate
- Environment conducive to cultural diversity
- No taxes! (State or Local)

Green

- Environmentally sound
- Energy sound

Strategic

- Access to affordable health care
- Strategic transportation plan
- Create desirable spaces
- Incentivize to keep students from Michigan schools in Michigan
- Business models —> affordable housing, employment, resources
- Privatize services —> at beginning of the process
- Alignment of goals within Zone
- Strategic land use plan

Depressed Areas (within Michigan)

- Target most depressed areas for most help

Collaborative

- Collaborative transfer of technology from universities to business
- Collaborative transfer of technology
- Collaboration between entities
- “Communitarianism”
- Create a virtual entity into which fiefdoms will want to participate

Leverage Existing System and Resources

- Strategic leveraging (Business plan —> innovation)
- Education
- Access federal preference incentives
- Affordable housing
- Economically developed job credit
- 21st century job training
- Capitalize on our existing resources (fresh water)— how best to use it IN the state?
- Capitalize on engineers, high-tech, agriculture, metro airport, research-university, health care, culture, international proximity, empty factories, buildings
- Availability of skilled workforce at all levels

Relief from Traditional Taxes and Regulation

- Simplified permitting
- Start-over regulations
- Payment in lieu of taxes
- No property tax
- No state income tax
- No workers comp
- No city income taxes

High-Trust Infrastructure

- Mechanisms to keep the people satisfied, NOT disenfranchised, creating a sense of control by people; thus meeting their interests
- Bulk purchasing
- MI trade exchange, trade of services concept for any services with Zone
- Transparency, interdependency built into systems
- Alignment of goals within Zone
- IT infrastructure to implement communication covering all sectors
- Code of ethics drives CR processes in the tribal Zones
- Oversight vs. government regulation. (if proper oversight, then no need for regulation)
- Trust infrastructure
- “7 Generation”—three back, current, three forward
- Freedom with responsibility
- Environment conducive to cultural diversity

Jobs

- Incentives to hire now workers/create jobs
- A free market approach to incentivize vs. governmental interdependability approach to incentivization

Assessment

Two possible obstacles to implementation of a virtual or actual Sovereign Zone surfaced early in the discussion. The first is constitutional issues that could not only delay implementation, but also serve as a permanent roadblock. The second is the tax-free status of a sovereign zone. The group discussed the sources of tax-free status that include no real and personal property tax, no sales tax, and no income tax for enterprise on sovereign land. Additionally, the fact that sovereign lands are exempt from certain state and federal laws

limits the liability of enterprises on such land. While the tax-free and limited liability status of such enterprises would be beneficial to the enterprise, the group recognized that such status would give not only local and state governments but also surrounding communities concern. State and local governments are currently implementing incentivization schemes; however, there is a limit to what any one government entity can offer in incentives.

Any enterprise involving a relationship with a tribal community would require an understanding of the specific tribal culture and would need to provide for some measurable benefit to the tribe. Additionally, the group learned that not all tribes are created equal in that certain tribal forms of governance can be cumbersome or can result in breaches of the contract by the tribe. Further, because tribal culture often reveres the counsel of its elders, the level of sophistication among the leaders of any particular tribe may not be comparable to the norms of the local business community.

Engaging with more than one tribe could provide stability to the overall venture; however, it is unclear whether more than one tribe could hold the same land in trust. Therefore it is unclear whether a virtual or actual sovereign enterprise zone could involve more than one tribe.

Since many businesses are distressed and in need of immediate capital, consideration would have to be given to sources of capital that are public funds. Some tribes have money for capital investment; however, many tribes prefer their investments be for projects on tribal lands. A newer source of investment capital is a bank with a group of tribal investors.

A listing of sovereign barriers and advantages consisted of the following:

Barriers

- NEPA? But if no substantial change in use such as with existing factory
- BIA can take a long time unless non-gaming
- Can multiple tribes do same land-trust?
- Requires understanding of tribal culture
- Municipalities worry about losing land to trust, but sovereign zone pays for public safety and service and employs people AND may share in profits (not as taxes). Federal legislation much more cumbersome than state legislation (all current evidence to the contrary)
- Super 8a preference requires tribe to have 51% ownership
- How do you manage control issues? Ensure that relationship benefits the tribe
- Lack of sophistication in some tribal councils, but some tribes are creating economic development corporations and retaining sophisticated managers
- Once land goes into trust, it CAN'T come out!
- Though federal legislation is tough, Michigan reps in D.C. is an approach to take
- As a business owner, I don't want to lose control of my own business.

- Radical change in tribal governance could cause possible breach of contract
- Localities can only offer so much at some point have to get state incentivitation
- People and businesses don't know what is already available
- Short-term rather than long-term planning by government bodies; need to shift perspective to three generations out
- Where are the conflicts in tribal contracts decided? Dependency on contract, so consider how to build in ADR and state court

Advantages

- Ask Congress to create new “animal” is good possible solution, instead of land in trust.
- Ask for state litigation to create some kind of collaborative private model enterprise zone, not sovereign, tribal, etc.
- What does this animal look like?
- Aerotropolis model —> virtualized as starting point?
- How to entice local units of government? Zone sets criteria for its members (with incentives to come in early).
- Pick and choose tribe(s)—solid government
- Multiple tribes leads to a partnership between them indicates stability
- Can multiple tribes take one piece of land?
- Can own multiple pieces and agree to govern equally; sublease to other tribes (mitigation to risk of tribal government)
- Political fallout from partnering with tribes?
- Enforceable contracts can be written with tribes and can be resolved outside tribal court
- Tax/revenue loss made up by addition of revenue from business and other services
- 51% owned by trust if claiming Indian preference in business. Not for zoning
- Wholly owned tribal companies
- Native American banks want to lend
- Develop framework to change distressed communities
- Show advantages and connect the benefits through the zone
- Bring people from outside into the city

Reporting

As the group continued its contemplation of the sovereign zone concept, it became clear that the elephant in the room was the NO TAXES concept. There was concern that the enterprise could not be a “zero-sum” game whereby the benefits within the Zone came at the expense of those outside the Zone.

The group received further education regarding how to make sovereign status more palatable to effected governments and communities. Sovereign enterprises usually enter into compacts with local government units to share in the proceeds of the operation and to pay outright for traditional government services, such as public safety services. These payments and schemes for profit-sharing were discussed by the group as payments in lieu of taxes.

The group engaged in a discussion challenging the very premise of the mega question requiring that the Zone not use public funds. For many in the group, attempting to create a Zone that would be sovereign and therefore not subject to taxes was arguably no different than creating a Zone that would receive specific grants of tax and other incentives. And if the sovereign zone would have to enter into compacts for payment in lieu of taxes, some wondered how this would, in fact, sustainably lower structural costs within the Zone. Given a strong feeling within the group that there were really two ways to pursue the mega question (i.e., leveraging existing systems for incentivizing enterprise without utilizing sovereign status versus creating a new system that exploits the features of sovereign status), the group broke into two subgroups to continue discussion of implementation. Before separating into subgroups, a list of six stakeholders was identified.

Those who desired to focus their attention on the possibility of an actual or virtual sovereign enterprise zone began their implementation efforts by establishing this mission statement:

Create a sovereign zone to retain and attract sustainable investment into Michigan without public funds.

Then the group refined the 11 attributes of the prior day to six overarching attributes. The sovereign zone has the following attributes:

- Relief from traditional taxes and regulation
- High-trust infrastructure
- Maximize return on investment
- Green/environmentally friendly
- Attractive for all major stakeholders
- Initially targeted in Michigan’s distressed communities

Our group attempted to diagram the model of the sovereign zone enterprise and identified The ESD Institute as a possible deal broker between the tribes and the interested businesses or enterprises.

We established a list of 10 “To-Do” Steps, which included:

1. Establish the regulations within the Zone.
2. Establish the template of management relationship between the Zone entity and the tribe(s) considering both Super 8a and non-Super 8a status.
3. Establish the template of the profit-sharing relationship between the Zone entity and the tribe(s) considering three distinct enterprises: the start-up, the distressed business, and the financial investor.
4. Establish the template of the compact between the Zone entity and government units.
5. Establish the template for the conflict management and dispute resolution system in the Zone (for this we seek the work of another symposium workgroup).
6. Establish the template for the modern operating agreement (formerly known as a labor/management agreement) in the Zone (for this we seek the input of another symposium workgroup).
7. Establish the template for the zone participant agreement (i.e., the rules for joining the zone, operating in the Zone, etc.).
8. Identify pilot group to establish a success story for the Zone land-to-trust opportunity.
9. Learn more about Indian law and sovereign status, refer to 25 Code of Federal Regulations.
10. Complete the identification of “the sizzle”—strategic selling points—of each of the six attributes for the sovereign zone.

RASI Evaluation

EVALUATION KEY:

- **R**–Responsible Party
- **A**–Authority to decide with accountability
- **S**–Support
- **I**–Inform

For our RASI evaluation, we recognized the potential of the sovereign zone idea and the urgency with which the “To-Do” steps would need to be completed in order for the sovereign zone to be pursued within the next 12 months. As a result, the subgroup determined that the typical approach of monthly meetings with individuals agreeing to complete an action step or two would be woefully inadequate. Essentially, the subgroup believed that the only way to bring the sovereign zone (actual or virtual) to fruition was using the following RASI model:

RESPONSIBILITY: A short-term (6–12 months), full-time individual (the group acknowledged that this service will require compensation unless a business that could be interested in the model would be willing to comp that employee’s services for this task or someone currently between jobs would want to volunteer)

AUTHORITY: Chris Webb/Dave Skiven/ESD Institute/ESD Board of Directors

SUPPORT: Individual members of the workgroup subgroup, ESD staff, turnaround consulting specialists, experts in design evaluation, experts in crafting deals with Tribes, experts in crafting compacts with government authorities

INFORMED: Rackham/ESD Board of Directors

Near-term Zone Workgroup

A portion of the workgroup evaluating the potential for a sovereign zone determined on the second day of the Symposium that several of the sovereign zone group members were not in accord with the sovereign zone proposal.

At this point the Sovereign workgroup decided that it would be more productive to follow two tracks simultaneously with one track assigned to consider ideas for what could be created in the near future and the other track of the workgroup to continue flushing out the details of a sovereign zone proposal.

Although the initial concept was that this subgroup of the Sovereign Workgroup would concentrate on a short-term plan that could be a bridge to the longer term plan of a sovereign zone, many in this subgroup in separate session expressed a concern that it should not focus on collaboration with sovereign zone. This concern was based upon the belief that the sovereign plan could not be achieved through collaboration with Native American Tribes or through stand-alone Federal legislation.

In addition, the workgroup desired to examine investment avenues relating to public funding and/or tax or fiscal incentives outside the scope of the Zone Symposium's Initiative.²⁰

Brainstorming

When the near-term planning group convened, it began by asking “what resources does Southeast Michigan have in place now that could be tapped to attract new economic development and create jobs starting right now?” The group identified the following resources:

The Michigan Economic Development Corporation (MEDC) has multiple resources that are project-focused and match geographic boundaries to fit needs, such as: renaissance zones that offer abatement of real property tax, tax on local business personal property located in the zone, and state education tax levy (SET), in addition to some state, local, and residential tax abatements.

MEDC also offers mega credits for job retention, job creation, battery and new technology (refundable and some assignable), Brownfield tax credits (with local jurisdictional approval), and agricultural and high-tech incentives. MEDC also has an investment fund of \$114 million, a 21st century job trust fund, state equity or loans to commercialize technology, grants to fund for-profit companies' state partnerships, centers for energy excellence, defense contract coordination center, funding sources for federal contracts for technology, and economic development job training grants.

The Detroit Region Aerotropolis was discussed as a model for regional cooperation to create new opportunities for a Zone. The Aerotropolis has 60,000 acres of land with transportation available nearby, controlled by one authority; it is designed to be industry-specific and has centralized attributes, with logistics in place to leverage the airport, rail, trucking, and river shipping transportation. It offers fast-track permits, development, and has funding authorized by statute.

²⁰ First and foremost, the process model of the ESD Institute places an importance on the self-determination of attendees in the examination of any initiatives identified for consideration. For this reason, the Institute welcomed the formation of a fourth workgroup to explore other means of maintaining and attracting investment to Michigan although this effort was outside the scope of the Zone Initiative

Assessment

The near-term workgroup discussed the pros and cons of programs currently in place and some members raised the less-than-positive experiences they have encountered in attempting to access currently available resources (e.g., phones not being answered, being referred to multiple additional contacts to obtain information and have questions answered, confusion about how to identify and get connected with needed resources and services).

It was noted that it would be important to develop consensus among representatives with a variety of expertise in order to develop a Zone. One suggestion was that local units of government could be used as lobbyists for such a plan to expedite the process.

At least one member of our workgroup remained unconvinced that any sort of development Zone was necessary. However, most members of the near-term planning group thought that a Zone could be useful, but that a near-term solution may or may not necessarily serve as a bridge to development of a sovereign zone. Some group members thought that if the near-term solution proved effective, there may not be a need for the creation of a sovereign zone; in other words, the near-term solution might become the long-term solution.

The workgroup identified the basic pillars or characteristics of an economic zone that would be needed and then went on to identify the kind of information and expertise that was missing from the group in order to design a Zone with the requisite characteristics. The group determined that another meeting (or series of meetings) should be convened to bring in the necessary expertise and information. From there, the group developed a RASI plan for information gathering to execute a near-term plan.

Reporting

After brainstorming the existing resources and services and a brief assessment of the effectiveness of these resources based on the experiences of the group members, the group concluded that there remains a significant amount of missing information. The near-term planning group determined the following pillars would be needed to create a Zone that would attract new and existing businesses:

- Flexibility and frictionless access: expediency for new businesses is the priority
- Immediate and permanent tax advantages in order to attract businesses and demonstrate why the Zone would be cost-effective and cheaper than other alternatives
- Strategic attributes: the Detroit area has logistics in place for a transportation hub and industry

- Businesses should be able to contract into ADR processes for resolving conflicts in the Zone
- The Zone should have enough “shiny,” attractive attributes in order to create a competitiveness for businesses wanting to opt in
- The use of the threat of land to trust in the sovereign model could be used to sell this model instead of the sovereign model
- Longer term would be the need to legislate a Michigan business tax that would attract new business and keep existing businesses here

The group determined that more information is needed in order to move forward with developing a short-term plan that meets the above characteristics. The group identified the following questions:

- Who wants to work on gathering additional information?
- Who needs to be involved who isn’t here?
- What kinds of experts are needed, such as tax experts, incentive experts?
- How could we best identify expertise to quantify economic value and determine what has greatest impact short-term?
- How could expertise with the concept/development of hub zones be identified?
- What tools are available?
- Who are the stakeholders?
- How many pilots/projects are already in place? How do they work?

It was decided that the next step would be to convene a group to pull ideas together, see what’s missing, and learn what we do and don’t know. Several community stakeholders and resources were identified to invite to the next meeting of the group. It was determined that the objective or mission for the near-term planning workgroup would be to “Build an accessible, frictionless portal for business development and employment in Southeast Michigan.”

RASI Evaluation

EVALUATION KEY:

- **R**–Responsible Party
- **A**–Authority to decide with accountability
- **S**–Support
- **I**–Inform

The **RASI** steps were as follows:

Identify group participant responsible for achieving the “Do” step:

Group Participant

Rick Haller
Rick Haller
Terry Gonda
Bob Ackerman
Steve Selander

Jennifer Nelson
Deirde Golden

Contacting

Detroit Renaissance–Doug Rothwell
DEGC Detroit–George Jackson
Department of Defense/U.S. Army
Wayne State Personnel
MICHauto
Dept. of Energy, Labor and Econ. Growth
MEDC Individuals
Detroit Chamber
U of M Urban Studies
Automation Alley
Michigan Chamber of Commerce
Wayne County
Oakland County
Macomb County
Washtenaw County
Tech Town
Lansing officials
Economic experts
Tax experts
Municipal experts
Industry experts
Transportation experts
Hub Zone experts

Participants would contact any additional resources that may be needed to achieve the “Do” step. If ESD identifies other stakeholders to invite beyond this list, it should invite them. The facilitator reported to the Symposium the workgroup’s invitation to other attendees who were not part of this workgroup to join the group, if interested.

Anticipated completion date for “DO STEPS”:

Within three weeks the group participants will make their contacts to invite to the meeting. Meeting should be set up by ESD within 60 days, at a date to be determined by ESD.

Authority– ESD Institute

Support–Committee and ESD

Inform–ESD

Describe how this group might best coordinate with other organizations in achieving its “Do” steps:

Members of the group have designated contacts they will make within the next three weeks to convene a meeting at ESD within the next 90 days. Group has made a non-exhaustive list of the people who need to be invited to the meeting; it is hoped ESD will add to the list.

Describe the support the group will require from The ESD Institute to achieve its “Do” Steps:

ESD will contact people on the list who have not been assigned to other group participants. ESD will identify any other people it thinks should be included and invite them. ESD will set a time to convene the meeting in 60 days to pursue this effort.

Closing Symposium Remarks

Each of our four workgroups reported to the plenary group of attendees its findings over the course of the two-day Symposium. An overview of each workgroup’s remarks may be found in the Executive Summary contained at the beginning of this Report.

Director David A. Skiven set the stage for the events that would occur after the close of the Symposium. In keeping with the ESD Institute’s process model, attendees were advised that a draft of the Report of the Zone Symposium would be circulated to each participant for comment after which a broad peer review of the Report would occur. Upon the completion of this two-stage review process, the Directors of the Institute would report their observations and recommendations to Board of Directors of The Engineering Society of Detroit and to The Rackham Engineering Foundation. Such recommendations would address issues such as final publication of the Report, media events and coverage,

workgroup continuation through ESD Institute sponsorship or through others either in whole or in part, and future related symposia.

Using a “clean-sheet” approach, the attendees of the Symposium successfully advanced breakthrough solutions to achieve economic prosperity by the examination of the root causes of our current decline. The ESD Institute gratefully acknowledges the creative work of those in attendance and offers this Report to leaders in the private and public sectors with the expectation that the solutions generated in this Symposium will be implemented on an expedited basis for the betterment of our state and country.