



SIRN 20/20 GOVERNANCE RECOMMENDATIONS

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Law, policy and governance for technology interoperability

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I. SUMMARY

In 2016, the Legislative Assembly directed the North Dakota Information Technology Department (ITD) to determine the feasibility and desirability of proceeding with an initiative to deploy a new statewide interoperable radio network (SIRN) for public safety entities. As part of the feasibility determination, ITD contracted with a consulting firm to develop recommendations for SIRN governance. This report provides those recommendations.

The recommendations draw on primary source document research as well as in-depth interviews with a wide variety of individuals with knowledge of and experience in public safety communications governance in North Dakota. The recommendations also draw on the author's own experience and knowledge of governance structures in other states.

The research and interviews produced a number of findings that led to the recommendations in the report. The major findings include:

- SIRN will rely heavily on local jurisdictions for infrastructure as well as subscribers, so it will require deep and broad local support and buy-in.
- Achieving and maintaining such buy-in will require a SIRN governance structure that is authoritative, balanced, and independent.
- Particularly pronounced sensitivity exists in the North Dakota public safety communications community to differences between state- and local-level interests, as well as urban and rural interests.
- The Statewide Interoperability Executive Committee (SIEC) is an existing statutory and generally well-received governance body for statewide public safety communications, but it possesses only advisory authority and lacks structural mechanisms to ensure both SIEC independence and an urban-rural balance in SIEC membership.
- To successfully address public safety communications interoperability in North Dakota, SIRN must also drive interoperability at the local and regional levels, but the state possesses no governance mechanism to do so.
- If it is to proceed with the SIRN project, the Legislative Assembly will require a strong showing of local buy-in.

In light of these findings, the report recommends a number of actions to establish a successful governance structure for SIRN. The recommendations are forward-looking: although they were developed while the feasibility and desirability of deploying SIRN was still under consideration (and thus the need for SIRN governance was not yet confirmed), they are drafted as though the state has made the decision to proceed with the SIRN initiative, including establishment of a SIRN governance structure. The major recommendations for SIRN governance include:

- SIRN governance should be within the SIEC.
- The SIEC Chair should be independent of any entity that manages a major system that the SIEC oversees.
- The SIEC should gain statutory authority to make SIRN policy that is binding upon the entity that manages the SIRN system.
- The SIEC should gain and exercise statutory authority to engage as the level of work requires its own professional staff (whether as employees or contractors) accountable to

the SIEC, including both a manager to perform administrative and policy tasks for the SIEC, as well as two Regional Interoperability Coordinators (RICs) to foster regional and local interoperability and facilitate regional/local communication with the SIEC.

- The SIEC should establish four Coordinated Regional Interoperability Boards (CRIBs) as subcommittees of the SIEC.
 - The four CRIBs correspond geographically to the four regions defined by the Department of Emergency Services for regional emergency response.
 - Each county appoints one member to its CRIB.
 - The CRIB Chair serves for one year, alternating between “urban” and “rural” members.
- The SIEC should create a SIRN Subcommittee.
 - Twelve members evenly divided in thirds among state/tribal, urban, and rural representatives, serving two-year terms.
 - Each CRIB appoints one member.
 - Each of the seven associations represented on the SIEC may nominate a rural member and an urban member; the SIEC appoints four of the nominees, maintaining the requisite urban/rural balance.
 - The SIEC appoints four state/tribal members from among nominees provided by the six state agencies represented on the SIEC.
 - Nominating and appointing entities are urged to coordinate to ensure membership possesses diversity of geography, public safety discipline, relevant professional experience, and relevant skill sets.
 - At least two but no more than four SIRN Subcommittee members must also be SIEC members.
 - Subcommittee originates all SIRN policy measures and proposes them to the SIEC, which must adopt the measure or decline with explanation; the SIEC may not adopt language unless it is submitted by the SIRN Subcommittee.
 - Chair position rotates annually among “state,” “urban,” and “rural” groups.
 - Subcommittee leadership must be independent of the entity that manages SIRN.

The report also recommends the SIEC take three specific actions immediately in order to meet the Legislative Assembly’s request for input to its consideration of the SIRN initiative.

- The SIEC should establish the SIRN Subcommittee now under its own authority; it may re-establish the Subcommittee under new statutory authority at a later time if appropriate.
- The SIRN Subcommittee should propose and the SIEC should adopt a measure identifying an entity to manage the SIRN network.
- The SIRN Subcommittee should propose and the SIEC should adopt a cost-sharing plan to support the SIRN initiative.

II. BACKGROUND

In 2014, the North Dakota Statewide Interoperability Executive Committee (SIEC) sponsored a preliminary study to assess the state of public safety radio communications in North Dakota. Funded by twelve agencies and organizations concerned with effective, interoperable communications for public safety practitioners, the study identified a number of gaps in North Dakota's radio systems, including coverage, capacity, and interoperability issues, that if corrected would strengthen the ability of public safety agencies to protect North Dakotans and their property.¹

Following on that study, the Legislative Assembly directed and funded the North Dakota Information Technology Department (ITD) to undertake a more in-depth study to determine the "feasibility and desirability of implementing a statewide radio interoperability network" in North Dakota.² The Assembly further required ITD to report on its "evaluation of the project, participation by affected entities, and recommendations for proceeding with the project or discontinuing future participation."³

ITD issued a Request for Proposals to support its efforts to meet the Assembly's mandate.⁴ One requirement of the RFP was to provide recommendations for the governance of such a network.⁵ This document provides the required recommendations.⁶

III. METHODOLOGY

The data underlying the findings and recommendations in this report came from two types of sources: (1) original source documents, and (2) in-person and telephone interviews with individuals with knowledge of and experience with the governance of public safety communications in North Dakota. The documents reviewed for this assessment include the following:

North Dakota Century Code § 37-17.1 (Emergency Services)	Senate Bill No. 2016, Sixty-fourth Legislative Assembly of North Dakota
North Dakota Century Code § 37-17.3 (Statewide Interoperability Executive Committee)	Legislative History of North Dakota Senate Bill No. 2353 (2013)
North Dakota Century Code § 54-40.3 (Joint Powers Authority)	Gov. Jack Dalrymple, Executive Order 2012-10 (Sep. 14, 2012)
North Dakota Century Code § 54-59 (Information Technology)	Gov. John Hoeven, Executive Order 2007-17 (Nov. 6, 2007)

¹ Televate, LLC. "North Dakota Statewide Radio Systems Assessment and Evolution Study" (Dec. 15, 2014) (sponsored by the North Dakota Statewide Interoperability Executive Committee).

² North Dakota S.B. No. 2016, Sec. 5.

³ Id.

⁴ State North Dakota Information Technology Department. "Statewide Interoperability Radio Network Study," RFP 112-1513 (Sep. 29, 2015).

⁵ Id.

⁶ Televate, LLC and The Interoperability Group teamed to respond to the ITD RFP. Televate is the prime contractor; The Interoperability Group, as subcontractor to Televate, performed the governance research, developed the findings and recommendations, and produced this document.

North Dakota Century Code § 57-40.6 (Emergency Services Communications Systems)	Statewide Interoperable Radio Network Feasibility Study Charter (Oct. 28, 2015)
	North Dakota Statewide Radio Systems Assessment and Evolution Study (Dec. 15, 2014)

ITD identified a number of knowledgeable individuals to interview for this assessment; once interviews began, the list grew as interviewees suggested additional names. The following 16 people were interviewed for this report (“interviewees”):

Name	Title and Affiliation
Becky Ault	Director of Grand Forks Public Safety Answering Point/911
Jerry Bergquist	Emergency Manager and 9-1-1 Coordinator for Stutsman County
Russ Buchholz	Director, Information Technology Division, North Dakota Department of Transportation
Mike Dannenfelzer	Communications Director, Central Dakota Communications Center (CenCom)
Scott Davis	Executive Director, North Dakota Indian Affairs Commission
Karla Germann	Emergency Manager, Bowman County
Ron Gronneberg	Chief Information Officer, City of Fargo
Karen Kempert	Cavalier County Emergency Manager and 9-1-1 Coordinator
Mike Lynk	Director, North Dakota Division of State Radio
Mike Reitan	Chief of Police, West Fargo
Gary Sanders	Sheriff, Emmons County
Dan Schaefer	Operations Director, Metropolitan Area Ambulance Service
Duane Schell	Director, Network Services Division, North Dakota Information Technology Department
Bob Timian	Chief Game Warden / Enforcement Division Chief, North Dakota Game and Fish Department
Terry Traynor	Assistant Director of Policy & Programs, North Dakota Association of Counties
Greg Wilz	Director, North Dakota Homeland Security Division; State Homeland Security Advisor

This report contains findings and recommendations based upon the above-described documentary research and interviews, as well as the author’s own experience and knowledge of public safety communications governance structures and processes in other states. The findings and recommendations are those of the author and are not necessarily shared by a particular individual or organization named in this report. Although the feasibility and desirability of deploying SIRN is still under consideration and thus the need for SIRN governance is not yet confirmed, the report is drafted as though the state has made the decision to proceed with the SIRN initiative, including establishment of a SIRN governance structure.

IV. FINDINGS

The documentary research and interviews for this report revealed a strong overall level of support for SIRN’s mission: to provide a modern, interoperable mission-critical voice communications capability statewide. Though state and local interviewees generally expressed strong engagement with and buy-in

for the SIRN initiative, a few indicated that they were withholding judgment, preferring to wait and see how the effort proceeds before providing views or suggestions on any aspect of the project, including governance.

Because SIRN's purpose is primarily to provide service and interoperability for state, local and tribal users statewide, it will rely heavily on local jurisdictions for infrastructure to ensure adequate coverage and subscribers to achieve financial sustainability. Generating and maintaining the necessary support and engagement will require an effective SIRN governance mechanism.

A. REQUIREMENTS FOR SIRN GOVERNANCE

Though SIRN as a statewide network will rely upon infrastructure owned by various entities at all levels of government, it will need to be managed by a single entity, an entity charged at least with operating the network core, managing authorized subscribers, and coordinating network coverage and capacity build-out. This entity—most interviewees presumed it would be a state-level agency—will be responsible for the day-to-day management of the network, perhaps contracting with state, local, tribal, or non-governmental organizations to support that work. It will need the ongoing support and buy-in of its subscriber agencies at all levels of government, and that buy-in will require a measure of involvement and influence over the management of the network.

In order to generate and maintain that critical buy-in, the SIRN governance mechanism must be authoritative, balanced, and independent—more so than the SIEC is today. The interviewees expressed pronounced sensitivity in North Dakota to differences between state- and local-level interests as well as urban and rural interests. The current public safety communications governance mechanism would be insufficient to bridge these differences and support SIRN because it possesses only advisory authority and lacks structural mechanisms to ensure both SIEC independence and an urban-rural balance in SIEC membership.

1. Authority to Set SIRN Policy

When diverse parties rely upon a shared network, they must know that they can influence the management of that network, that they have a substantive say in the policies that guide network usage and operations. Particularly if the network is state-managed, local support often weakens if local participants feel disenfranchised in network governance. To ensure that SIRN policies reflect the will of the full public safety community as manifested in the SIRN governance process, the governance body must have authority to set SIRN policy that is binding upon the entity that manages the network.

2. Balanced Representation

In a successful governance mechanism, all segments of its diverse constituency accept the body's decisions as the work of a known group of people following a trusted and approved process in which each segment's views were represented and appropriately considered, even if those views do not necessarily prevail. SIRN's constituency can be segmented according to a number of distinguishing factors, such as public safety discipline or size of jurisdictional budget, but the most marked lines of separation in North Dakota are those between state and local agencies, and between urban and rural jurisdictions. The SIEC today is comprised of 13 members representing statutorily designated state agencies and professional

associations of local-level public safety officials; its membership balance is six state agency representatives and seven association representatives, as follows:

State agency representatives	Association representatives
The director of state radio or a designee;	A representative of the North Dakota sheriff's and deputies association;
The director of the division of homeland security or a designee;	A representative of the North Dakota emergency managers association;
The superintendent of the highway patrol or a designee;	A representative of the North Dakota fire chiefs association;
The adjutant general or a designee;	A representative of the North Dakota emergency medical services association;
The director of the department of transportation or a designee; and	A representative of the North Dakota police chiefs association;
The North Dakota chief information officer or a designee.	A representative of the North Dakota peace officers association; and
	A representative of the North Dakota 911 association.

Statutory Membership of the SIEC⁷

Though the SIEC would appear to be reasonably balanced between state and local interests (even weighted slightly in favor of local jurisdictions), some interviewees believed the membership skewed toward state agency representation. In any event, there is no provision to address balance in the SIEC among urban and rural interests. The SIRN governance structure should establish a more appropriate balance than today's SIEC structure requires.

3. Independence

As noted above, a successful network governance mechanism appropriately considers the views of every segment of its constituency, and every segment must play a role in a meaningful, impactful result: the creation of policy binding upon the entity that manages the network. If a segment of that constituency feels that the governance body is overly controlled by the very entity that would be bound by the body's decisions, some of its members may cease to participate in the governance process and may even become less actively supportive of the network itself. The absence of governance body independence—whether real or only perceived—can lead to such a sense of disenfranchisement and contribute to a downturn in network support.

Fostering and maintaining the necessary support for SIRN and its managing entity will require a lastingly independent SIRN governance mechanism. The governance must be free—both in perception and reality—to take issue with the management of the network and to impose properly adopted policies even if those policies are opposed by a significant constituency, including the entity managing the network.

⁷ N.D.C.C. § 37-17.3-02.2.

B. THE SIEC TODAY

Today, according to interviewees, the SIEC is a generally well-regarded body that could serve as a home for governance of SIRN. As described below, however, the SIEC would require certain changes to ensure that it becomes and remains sufficiently authoritative, balanced, and independent to provide the governance SIRN would require.

C. LOCAL AND REGIONAL INTEROPERABILITY

Coordination and open communication among public safety officials in neighboring towns and counties are critical to interoperability, but they are often lacking in North Dakota. The SIEC has long held statewide purview, but the state lacks a governance mechanism to foster interoperability at the local and regional levels, where interoperability issues arise on a far more frequent basis. In order to truly address public safety communications interoperability in North Dakota, SIRN governance must also provide a mechanism for local and regional interoperability governance.

D. LEGISLATIVE ASSEMBLY REQUIRES BUY-IN

In Senate Bill 2016, the Legislative Assembly made clear its intent that if, as a result of the SIRN feasibility study, ITD “finds it feasible and desirable to proceed with the project,”⁸ ITD should indicate strong local jurisdiction support for and interest in participating in SIRN. The legislature requested an indication of “roles and responsibilities of each entity to implement the project,” as well as “estimated future project costs to be paid by each entity.”⁹ In short, if SIRN is to proceed, it will require a strong showing of local buy-in.

V. RECOMMENDATIONS

The following recommendations draw on the above findings to propose a SIRN governance mechanism designed to generate and maintain both active participation and broad support for the network, even as the participants themselves change over time. The recommendations, while borrowing in some ways from successful governance structures elsewhere, are nonetheless specific to public safety communications governance in North Dakota, taking into account its history, its legal status, and its own particular strengths and weaknesses.

A. PLACE SIRN GOVERNANCE WITHIN THE SIEC

Since 2007, whether pursuant to executive order or statute,¹⁰ the SIEC has been the recognized statewide body for governance of public safety radio communications in North Dakota. As explained above, it has not always enjoyed widespread support, but the individuals interviewed for this report almost

⁸ North Dakota S.B. No. 2016, Sec. 5.

⁹ *Id.*

¹⁰ See Gov. John Hoeven, Executive Order 2007-17 (Nov. 6, 2007); see also Gov. Jack Dalrymple, Executive Order 2012-10 (Sep. 14, 2012); see also N.D.C.C. § 37-17.3-02.2.

without exception embraced the prospect of SIRN governance residing within the SIEC and under SIEC authority.

With the changes proposed below (particularly relating to SIEC policymaking authority, the creation of the new SIEC subcommittees, and a limited SIEC ability to review and adopt SIRN policy proposals), the SIEC would be a fitting body for governance of SIRN. The absence in its structure of a mechanism to balance rural and urban interests can be mitigated by providing such balance in a SIRN Subcommittee, as described below.

B. SIEC-LEVEL CHANGES

Much of this document pertains to the details of new bodies under the SIEC. The recommendations in this subsection, however, apply to the SIEC itself.

1. Protect the Independence of the Chair

As explained above, interviewees report that support for the SIEC suffered during the period when the SIEC Chair represented the same entity (DES/State Radio) that managed the network the SIEC was overseeing (the State Radio Communications System). The Chair is in a position to exert substantial influence in identifying the issues the SIEC addresses and over the outcomes of its consideration; whether the Chair exercises that influence or not, simply the ability to do so can reduce participation and buy-in. The entity that manages SIRN will likely enjoy substantial deference on many subjects—the managing entity should not also control the Chair and the SIEC’s agenda. Accordingly, the SIEC should amend its bylaws to prohibit from serving as Chair any employee or contractor of an entity that manages (or controls management) of a major system overseen by the SIEC. If more than one entity can be said to manage such a system, the SIEC should be careful to limit this prohibition to encompass only the one or two primary managing entities in order to avoid disqualifying an unreasonable number of member organizations from providing an individual to serve as Chair. The SIEC should exercise similar judgment in determining whether a system is “major” and thus triggers this provision.

2. Clarify Authority to Create Subcommittees

In order to implement those recommendations below that include creation of standing SIEC subcommittees, the SIEC should request legislative clarification of its authority to create those subcommittees. Such clarification would be useful because the SIEC statute is silent on its authority to create subcommittees,¹¹ and the most recent executive order (which pre-dates the statute) provides for the use of subcommittees in connection with specifically enumerated tasks.¹² Thus, the SIEC’s authority to create the recommended subcommittees is unclear. For the long-term security of the recommended structure, the SIEC should ensure the ability to create and rely upon standing subcommittees as the SIEC deems appropriate.

¹¹ N.D.C.C. § 37-17.3-02.2.

¹² Gov. Jack Dalrymple, Executive Order 2012-10 (Sep. 14, 2012).

3. Obtain Authority to Make SIRN Policy

SIRN will depend upon diverse stakeholders at all levels of government statewide to ensure adequate subscribership, sharing of costs, and agency contribution of telecommunications infrastructure for use in the network. The SIRN governance structure will be central in creating and maintaining the necessary policy alignment among these stakeholders. But agreement upon and support for negotiated SIRN policy will be of little value to stakeholders without certainty that such policy will be followed by the entity that manages the network.

There are at least two primary approaches to creating such certainty: a contractual approach, and a statutory one. In a contractual approach, the network managing entity contractually commits to stakeholders to be bound by SIRN policy; such policy is specifically provided in the agreement itself or left to be created under a governance structure described in the agreement. In a statutory approach, the legislature defines and authorizes a governing body and requires the managing entity to comply with policies adopted by that body. Because the managing entity is likely to be a state government agency, the subject matter is mission critical public safety communications for which success will depend upon broad stakeholder buy-in and support, and the SIEC already exists as a creature of state law, the statutory approach seems a better fit for SIRN governance.

Accordingly, the SIEC should seek and obtain from the legislature statutory authority to make SIRN policy that is binding upon the entity charged with SIRN management. This authority does not include operation or SIRN or day-to-day operating decisions; rather, the SIEC would formulate policy to which SIRN must conform, much as a corporation's board of directors determines a corporation's direction, strategy, and overall policy. To ensure appropriate consideration of recommendations from the SIRN Subcommittee described below, the SIEC's authority to make SIRN policy should be limited as described in Section V.D.2.a. The legislature should also permit the SIEC to delegate some of its policymaking authority to the SIRN Subcommittee, as described in Section V.D.2.b, below.

4. Obtain Necessary Authority, and Engage Staff

This subsection recommends that the SIEC engage individuals as staff members—one person as direct SIEC support staff, and two as Regional Interoperability Coordinators (RICs). Because it may take time for the work to ramp up sufficiently to require full-time staff, the support staff and RICs may start off as part-time positions with an expectation that they may become full-time as responsibilities evolve and the work grows; if authorization is required, the SIEC should obtain authority allowing it to engage either full-time or part-time staff. The recommendation is only that the SIEC obtain any authority it may need to engage staff and that it use that authority to the extent the level of work requires; the intent here is not to weigh the various mechanisms the SIEC could use to engage such staff such as term employment, contracting, or other approaches.

a. SIEC Support Staff

Active, effective governance bodies require work: the logistical work of setting up and facilitating meetings of the body and its subgroups, the administrative work of managing agendas and providing materials for member consideration, and the program work of drafting policy proposals and documenting body proceedings and decisions. Typically, this work (if it is done at all) falls to personnel drafted by the body's chairperson from his or her own agency, thus increasing the burden on that agency for its

willingness to take a leadership role in the governance process. Also, because the chairperson changes periodically, the staff support—and the institutional knowledge it has gained—starts anew as well. To perform the myriad tasks associated with supporting, maintaining, and helping drive the governance body, the SIEC should obtain the necessary authority and engage a professional staff member, whether called a coordinator, a manager, or some other wide-ranging title.

Just as the Chair is in a position to exert strong influence upon the agenda and decisions of the SIEC, so too is the support staff, even in cases where staff tasks are considered largely ministerial. By virtue of its deep involvement with SIEC issues, SIEC staff will develop a substantial level of expertise and members will rightly look to staff for advice and counsel. For these reasons, the SIEC staff should be engaged directly by the SIEC and be accountable to the SIEC as an independent body. In the event that it is unable to engage its own staff and must rely on contribution of personnel from member entities, the SIEC should ensure that any SIEC staff, like the SIEC Chair, is independent of any entity responsible for the management of a major system overseen by the SIEC. If more than one entity can be said to manage such a system, the SIEC should be careful to limit this prohibition to encompass only the one or two primary managing entities in order to avoid disqualifying an unreasonable number of member organizations from contributing personnel to serve as staff, if the SIEC is not able to hire or contract its own independent staff as recommended. The SIEC should exercise similar judgment in determining whether a system is “major” and thus triggers this provision.

b. Regional Interoperability Coordinators (RICs)

As noted above, North Dakota today possesses no mechanism to support public safety communications interoperability at the critical local and regional levels. The Coordinated Regional Interoperability Boards (CRIBs) recommended below will help provide that mechanism. To support the CRIBs and to serve as SIEC liaison to local, regional, and tribal entities, the SIEC should engage two RICs.

The States of Minnesota and Wisconsin both rely upon RICs to support their governance structures. The RICs maintain relationships and communications with officials at the local level, providing information and expertise for the regional public safety communications governance bodies. They carry concerns to the statewide body and ensure local and regional players are aware of and engaged in statewide issues. RICs will likewise benefit North Dakota’s governance structure.

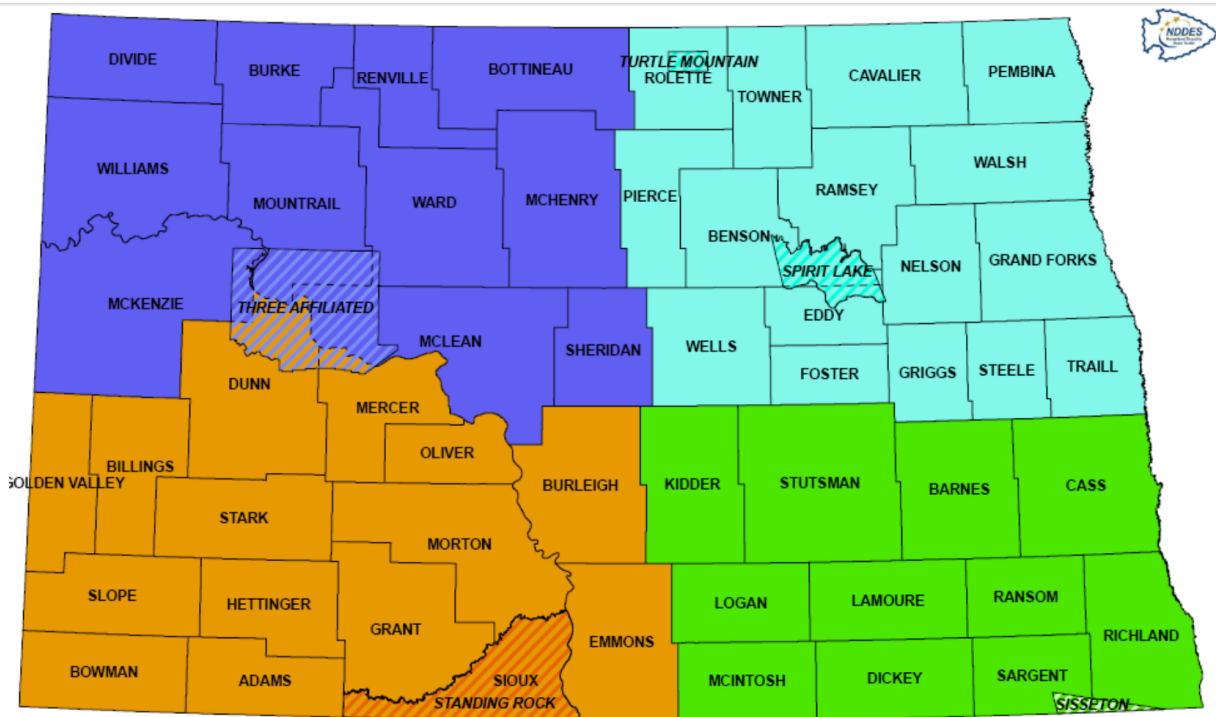
The SIEC should engage two RICs, each covering two regions, corresponding to the four CRIBs. As the face of the SIEC at the local and regional levels, the RICs, like the Chair and the SIEC support staff, must be independent, both in reality and perception. Accordingly, they should be engaged directly by the SIEC and held accountable by the SIEC as an independent body. In the event the SIEC is unable to engage the RICs directly and must rely on contribution of personnel from member entities, the SIEC should ensure that the RICs, like the SIEC Chair, are independent of any entity responsible for the management of a major system overseen by the SIEC. If more than one entity can be said to manage such a system, the SIEC should be careful to limit this prohibition to encompass only the one or two primary managing entities in order to avoid disqualifying an unreasonable number of member organizations from contributing personnel to serve as RICs. The SIEC should exercise similar judgment in determining whether a system is “major” and thus triggers this provision.

5. Travel Reimbursement

As SIRN activities increase, so too will the amount of work falling to members of the SIEC and its SIRN-related subcommittees. To help alleviate some of this burden, the SIEC should request authority to reimburse travel expenses for members of the SIEC and its subgroups, if funding permits. Governance participants should contribute their time without expectation of compensation.

C. CREATE REGIONAL SUBCOMMITTEES

To provide a standing mechanism to identify and address local and regional interoperability issues, as well as to ensure local and regional input to and involvement in statewide governance, a number of states have implemented regional interoperability bodies. Minnesota's seven regional boards (mostly known as Regional Emergency Services Boards) and Maryland's five Interoperability Regions are well-respected examples of this model. Likewise, in North Dakota, the SIEC should create four Coordinated Regional Interoperability Boards (CRIBs) as SIEC subcommittees. The CRIBs should be designated Northwest, Northeast, Southwest, and Southeast, following the same geographic boundaries as the four Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) resource management areas designated by the North Dakota Department of Emergency Services.¹³



North Dakota Department of Emergency Services CBRNE Regions¹⁴

¹³ See <<http://www.nd.gov/des/homeland/regional-response-coordinators/>>. A number of interviewees suggested that SIRN governance include various aspects of the four-region approach adopted by DES.

¹⁴ North Dakota Department of Emergency Services, available at <<http://www.nd.gov/des/uploads/resources/23/regionalresponse-map-contacts.pdf>>.

Each CRIB subcommittee will provide an ongoing forum for localized and regional interoperability issues, including, for example, the design and use of SIRN and broadband systems, as well as data sharing among public safety entities. The CRIBs will foster inter-county coordination and understanding among emergency response communications professionals, and as SIEC subcommittees they will make recommendations to the SIEC and the other SIEC subcommittees as appropriate, at the discretion of each CRIB. Though they will certainly be deeply involved in SIRN governance, over time the CRIBs also will serve an important role in the wide variety of issues to come before the SIEC; their role should not be viewed as limited to SIRN matters.

1. CRIB Membership

Each CRIB is comprised of a member duly appointed by the county commission of each county in the designated region; as a result, all CRIBs will not have the same number of members. Each CRIB member serves for a term of two years except that the first term of half of the original members (as determined by the CRIB) expires after only one year, thus staggering the terms thereafter. At the expiration of a member's term, the member's seat is vacated and remains empty until the relevant county commission takes affirmative action to either re-appoint the member or appoint a different individual to the seat. Each individual serving as a county representative on a CRIB must be carefully selected, not only for his or her own qualities and qualifications, but also to ensure that the CRIB's membership is well-balanced. Accordingly, county commissions in each region coordinate their appointments, striving to appoint individuals who bring diversity of public safety discipline (police, fire, EMS, PSAP/911), relevant professional experience, and relevant skill sets (for example, a volunteer fire fighter who is also a county commissioner with financial expertise). In addition, county commissions endeavor to appoint people who will put in the time and effort to prepare for and attend all CRIB meetings. Finally, in order to facilitate coordination with the SIEC and statewide public safety communications programs, each CRIB also includes as permanent, non-voting members the appropriate RIC, the North Dakota statewide interoperability coordinator (SWIC), and the ITD Public Safety Programs Manager.

2. CRIB Process

As a general rule, each CRIB establishes its own process for conducting meetings and making decisions. To maintain a minimum level of commonality among the regional bodies, however, each CRIB follows at least these broad parameters, which the SIEC memorializes in a resolution creating the CRIB Subcommittees:

- The first meeting of each CRIB is called and presided over by the SIEC Chair. The SIEC Chair sends to each county commission notice of these meetings sufficiently in advance to permit every commission to appoint a CRIB member.
- At the first meeting of each CRIB, CRIB voting members elect a Chair for a one-year term. After electing the Chair, the CRIB elects one Vice-chair from among individuals who do not have the same "urban" or "rural" designation as the Chair, as those terms are defined below in connection with the SIRN Subcommittee.¹⁵ Upon expiration of the Chair's term,

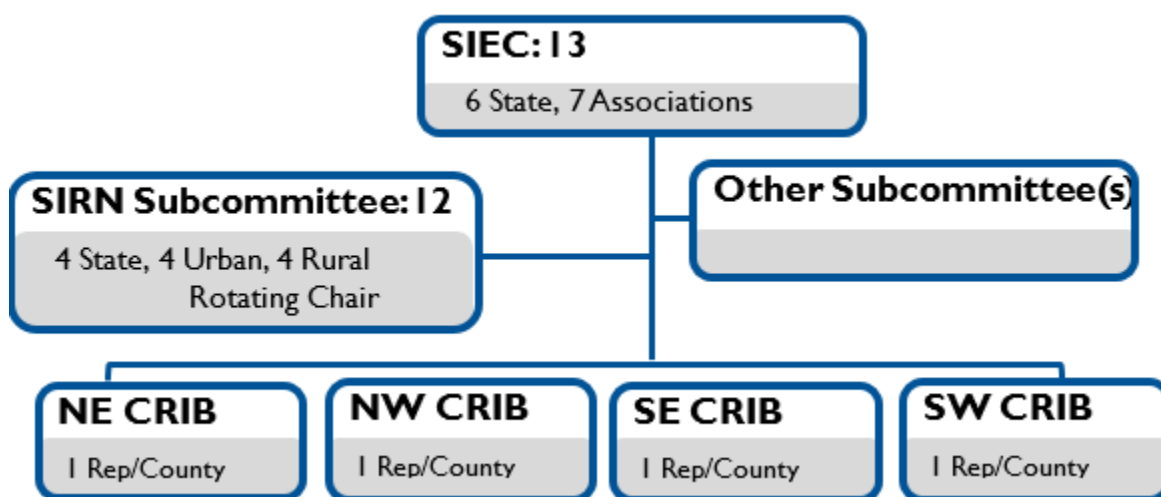
¹⁵ See Sec. V.D.1.a, below.

the Vice-chair becomes Chair for a new one-year term and the CRIB elects a new Vice-chair.

- Each voting member of a CRIB has one vote to cast on any given measure, all votes are of equal weight, a majority of voting members constitutes a quorum required for a CRIB to adopt a measure, and a measure must receive a simple majority of votes cast to be adopted.
- Each CRIB meets at least quarterly at a time and place set by the Chair with reasonable notice to members of meeting time, place and agenda.

D. CREATE A SIRN SUBCOMMITTEE

Interviewees stressed that governing SIRN through procurement, design, deployment, operations, and evolution will require knowledgeable, dedicated people willing and able to put in the time and effort required—especially in the early years. They also suggested that SIRN governance will require structure and discipline as the SIRN governance body takes on some of the critical, foundational issues that will impact the project for the next decade. Accordingly, the SIEC should create a subcommittee focused solely on SIRN, a body with the balance, buy-in, and expertise necessary to guide the network through its lifecycle. The following diagram depicts the SIRN Subcommittee as within the broader governance structure recommended in this report:



1. SIRN Subcommittee Membership

In suggesting the optimal number of members for the SIRN Subcommittee, interviewees proposed a range of sizes from five to 19. Balancing the amount of work and the breadth of issues that will confront the Subcommittee against the need to maintain a manageable size and the three-way balance recommended below, a total of 12 voting members seems most appropriate.

Among the many categories into which SIRN's constituency could be divided and balanced, the most marked lines of separation in North Dakota's public safety communications community are those separating state and local agencies, and urban and rural jurisdictions. Accordingly, the 12 voting members on the SIRN Subcommittee are divided into three equal groups of four members each: a group

representing state agencies, a group representing local urban jurisdictions, and a group representing local rural interests.

a. Defining “State,” “Urban,” and “Rural”

In order to ensure that individuals counting toward the “state” third, the “urban” third, or the “rural” third of the SIRN Subcommittee membership do indeed represent the interests of their respective designations—and thus effectuate the membership balance intended here, it is important to define all three terms. For purposes of clarity, each group is exclusive of each of the other two. As a result, once two of the three groups are defined, the third group is defined as “all members that are not members of the other two groups.” The approach recommended here is to define “state” members and then “urban” members, leaving the remainder of members as comprising the group of “rural” members, which would otherwise be the most difficult to define of the three.

State. An individual serving as a “state” member must be employed by or under contract to a state agency that is represented on the SIEC.

Urban. A SIRN Subcommittee member is an “urban” member if any of the below is true:

- the individual resides in a city or town with a population of over 10,000 (the 2014 census estimates nine such jurisdictions¹⁶),
- the individual is affiliated with a public safety agency that maintains an “emergency services zone” that includes a city or town with a population of over 10,000, or
- the individual resides within an “emergency services zone” that includes a city or town with a population of over 10,000.

Rural. A “rural” member is neither a “state” member nor an “urban” member.

b. Tribal Interests

Despite the sweeping nature of the definition of “rural”—effectively anybody who is neither “state” nor “urban”—there is an important exception. Tribal jurisdictions are not subdivisions of the State, so their representatives are neither “rural” local nor “urban” local. They also are not state agencies.

The statute enumerating the entities represented on the SIEC does not currently include a position for a representative of tribal interests.¹⁷ The SIEC has taken steps to gain tribal participation, and it may in the future be able to formalize that participation in the form of statutory tribal representation. In the meantime, the state agencies represented on the SIEC should endeavor to appoint one or more members of the SIRN Subcommittee to represent tribal interests; such a member would count toward

¹⁶ United States Census Bureau, 2014 Census Estimates. Available via <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

¹⁷ See the table in Sec. IV.A.2, above, citing N.D.C.C. § 37-17.3-02.2.

the “state” third of the SIRN membership. This approach should be revisited if the Legislative Assembly provides for formal tribal representation on the SIEC.

c. Membership Selection

The following approach to SIRN Subcommittee member selection is designed to achieve a number of goals, including direct regional representation and Subcommittee diversity of geography, public safety discipline, professional experience, and skill set. Subcommittee member selection is accomplished by the CRIBs, the SIEC-represented associations, the SIEC-represented state agencies, and the SIEC itself, as follows:

- To enable direct regional representation, each CRIB appoints one member of the SIRN Subcommittee. The CRIB-appointed members are either “urban” or “rural” in designation; thus, any number of the four members in either the “urban” or “rural” group may be directly appointed by the CRIBs.
- Each of the seven associations represented on the SIEC (not the SIEC members themselves), nominates one “urban” and one “rural” candidate. The SIEC then appoints four of those candidates to fill the remaining “urban” and “rural” seats on the SIRN Subcommittee.
- The SIEC appoints members to fill the four “state” seats from among nominees provided by the state agencies represented on the SIEC. As noted above, any number of those four “state” seats may be filled by individuals representing tribal interests regardless of whether they meet the definition of a “state,” “urban,” or “rural” member.

Thus, as described above, there are a total of four “urban” members on the SIRN Subcommittee. There also are four urban communities—North Dakota’s four largest cities—designated to provide services as “anchor communities” under the state’s Homeland Security Program. During interviews for this report, the suggestion arose that anchor communities expect to carry a substantial burden of the cost associated with SIRN and therefore may each require a seat on the SIRN Subcommittee. Dedicating a seat for each anchor community would either prevent membership for smaller “urban” jurisdictions or else require increasing the size of the Subcommittee. The recommendation here does not assure anchor communities a seat on the Subcommittee; rather, to the extent an anchor community believes its interests cannot be adequately represented by members from other urban areas, it may work to ensure that the appropriate CRIB selects the city’s representative as the CRIB’s appointee to the Subcommittee. If the CRIB, which is majority-rural, appoints a rural member to the Subcommittee, the city may work with the nominating associations and the SIEC to ensure its representative becomes a Subcommittee member. Each of the four anchor communities, by virtue of its financial role in SIRN, including the number of subscribers it puts on the network, and its importance among the nominating associations, possesses sufficient influence to obtain representation on the Subcommittee if membership is a high enough priority. This recommendation places importance on maintaining balance among urban, rural, and state/tribal members, and upon maintaining a smaller membership in order to encourage more engaged and committed participation. If the SIEC determines that each anchor community should be assured a seat on Subcommittee, the SIEC may wish to consider an 18-member Subcommittee with six state/tribal members, six rural members, and six urban members of which the anchor communities appoint four.

Like the county commissions appointing members to their respective CRIBs, the entities nominating and appointing members to the SIRN Subcommittee coordinate with others engaged in those

activities and together strive to nominate and appoint individuals who bring diversity of geography, public safety discipline (police, fire, EMS, PSAP/911), relevant professional experience, and relevant skill set. They also are careful to nominate only those who will endeavor to prepare for, attend, and actively participate in all Subcommittee meetings. Despite an individual's discipline, experience, or skill set, however, each SIRN Subcommittee member's duty is to represent the interests of his or her designated constituency: they must represent either urban, rural, or state (or tribal) interests.

Finally, in order to foster the necessary cooperative relationship between the SIRN Subcommittee and the SIEC, the SIEC must ensure that at any given time, at least two but no more than four members of the SIRN Subcommittee are also sitting SIEC members; entities nominating Subcommittee members accommodate this requirement when selecting nominees. If the number of SIEC members on the Subcommittee drops below two, the next nominee(s) approved to join the Subcommittee must be SIEC members.

d. Term of Membership

Each SIRN Subcommittee member serves for a term of two years except that the first term of half of the original members of the Subcommittee expires after only one year, thus staggering by one year the expiration of terms for half of the membership thereafter. Those members serving only one year in their first terms are selected by the SIEC after consulting with the CRIBs and the nominating entities. In order to ensure that members enjoy the ongoing engagement and support of nominating and appointing entities, at the end of each member's term, the member's seat is vacated until a new member is appointed or the prior member is re-appointed.

e. Removal of Subcommittee Member

The above member selection process is designed to ensure a balanced, diverse, and engaged SIRN Subcommittee. The most extensive the efforts of the nominating and appointing entities, however, will be for naught if members do not fulfill their roles appropriately. On rare occasions, it may become necessary to remove a member from the SIRN Subcommittee and appoint an adequately engaged individual.

The SIEC retains the authority to remove a SIEC-appointed member of the SIRN Subcommittee for failure to participate in the work of the Subcommittee. If the SIEC exercises this authority, it promptly fills the empty seat from among recent nominees or from among a new set of nominees it requests from the nominating entities at its discretion. Each CRIB retains similar authority to remove a CRIB-appointed member of the SIRN Subcommittee and promptly appoint a replacement. In appointing the new member, the SIEC and the CRIBs endeavor to select an individual who will best maintain the Subcommittee's diversity of geography, public safety discipline, relevant professional experience, and relevant skill set.

2. Authority of the SIRN Subcommittee

This document has already recommended a statutory amendment providing the SIEC authority to make SIRN policy that is binding upon the entity that manages the network.¹⁸ As the designated SIEC body with subject matter expertise, the SIRN Subcommittee plays a central role in shaping that policy. Further, pursuant to the above recommendations regarding its membership, the Subcommittee is more appropriately balanced among state, urban, and rural interests than the SIEC itself and should thus enjoy strong buy-in, particularly among local jurisdictions. Accordingly, the SIEC explicitly authorizes the SIRN Subcommittee to develop and recommend SIRN policy measures to the SIEC for SIEC consideration.

Policy development, particularly with regard to some of the potentially contentious foundational policies that must be addressed early on, often requires negotiation and compromise, resulting in a cohesive package of inter-dependent policies. Though the SIRN Subcommittee possesses only advisory authority, its recommendation to the SIEC carries substantial weight.

a. SIEC Consideration of SIRN Subcommittee Recommendations

In order to protect the output of the SIRN Subcommittee's policy development process and to ensure the SIEC gives the Subcommittee's recommendations appropriate weight, the SIEC's authority to make SIRN policy carries the following limitations:

- All SIRN policy measures considered by the SIEC must originate in the SIRN Subcommittee;
- The SIEC must either adopt a SIRN policy measure recommended by the Subcommittee or provide the Subcommittee its reasons for declining to adopt the measure. The SIEC may request the Subcommittee to revise and resubmit a recommendation, but it must not revise a measure submitted by the Subcommittee—the measure must be adopted or declined as presented; and
- The SIEC must consider and either approve or disapprove a policy measure recommended by the SIRN Subcommittee at one of the next two meetings of the SIEC after receiving the recommendation, but in no event later than four months after the SIRN Subcommittee submits the recommendation to the SIEC.

These limitations are designed to encourage governance participants to work together and reach broad agreement, not only among diverse interests, but also among governance bodies. The SIEC must explain to the SIRN Subcommittee its reasons for disapproving a recommendation, and the Subcommittee, if it considers the matter important enough to revisit, will address the SIEC's feedback. The two or more SIEC members on the SIRN Subcommittee will help facilitate this process, even to the point that the Subcommittee should know before sending a proposal to the SIEC whether and why it will receive substantial opposition, thus mitigating the likelihood of an extended cycle of proposal and disapproval. If a matter is so controversial that a majority of the SIEC opposes it despite support from a majority of the

¹⁸ See Sec. V.A.3, above.

Subcommittee, its adoption would likely weaken overall SIRN buy-in; the Subcommittee should make every effort to resolve such divisive issues before sending a recommendation to the SIEC.

b. SIEC Delegation of Authority to the SIRN Subcommittee

Under the above recommendation, the limited authority to make SIRN policy resides in the SIEC, not the SIRN Subcommittee, thus requiring the SIEC to approve Subcommittee recommendations in order for a measure to become policy. As the Subcommittee begins its work and the SIEC becomes familiar with the type and volume of policy recommendations that emanate from the Subcommittee for the SIEC to adopt as an exercise of its authority, the SIEC may identify certain categories of policy decisions that could reasonably be delegated to the SIRN Subcommittee. Accordingly, the Legislative Assembly should authorize the SIEC to delegate, at its discretion, some of its authority to the SIRN Subcommittee to make certain defined policy decisions without presentation to or approval by the SIEC itself. The SIEC may revoke such delegated authority at any time.

c. Authority to Use Work Groups

The work of the SIRN Subcommittee may require capabilities that the Subcommittee itself does not possess, whether specific skill sets or simply the capacity to perform a high volume of work in a limited period of time. Whatever the subject or reason, the SIEC authorizes the SIRN Subcommittee to establish and make strong use of advisory work groups comprised of individuals who may, but need not, be members of the Subcommittee or the SIEC. The structure, membership, and tasking of such work groups is left to the Subcommittee's discretion.

3. SIRN Subcommittee Process

The SIEC Chair convenes and presides over the first meeting of the SIRN Subcommittee until a SIRN Subcommittee Chair has been elected. The SIEC Chair provides adequate notice to all nominating and appointing entities so that there is sufficient time to identify and appoint all members of the SIRN Subcommittee.

a. Voting

Each member of the SIRN Subcommittee may cast one vote on any given measure, and all votes are of equal weight. A majority of members constitutes a quorum required for the Subcommittee to adopt a measure, and a measure must receive a simple majority of votes cast to be adopted.

b. Chair and Vice-chairs

At its first meeting, the SIRN Subcommittee elects its Chair to a one-year term. After the Chair has been elected, the Chair calls for election of the First Vice-chair to a one-year term. Eligibility to be First Vice-chair is limited to SIRN Subcommittee members who do not share the same group designation

(“state,” “urban,” or “rural”) as the Chair.¹⁹ After the First Vice-chair is elected, the Chair calls for election of the Second Vice-chair. Eligibility to be Second Vice-chair is limited to SIRN Subcommittee members who share the same group designation as neither the Chair nor the First Vice-chair.

The Chair and Vice-chair positions proceed on a rotating basis as follows:

- At the expiration of the Chair’s term,
 - the First Vice-chair becomes the new Chair for a one-year term,
 - the Second Vice-chair becomes the First Vice-chair for a one-year term, and
 - the Subcommittee elects a new Second Vice-chair from among its members who share the same group designation as neither the Chair nor the First Vice-chair.
- The positions similarly rotate to fill a mid-term vacancy for the Chair, First Vice-chair, or Second Vice-chair position for the remainder of the vacated term.

In order to ensure the independence of the SIRN Subcommittee, individuals employed by or contracted to the entity that manages (or controls management of) the SIRN network are ineligible for the positions of SIRN Subcommittee Chair, First Vice-chair, and Second Vice-chair.

VI. IMMEDIATE TASKS

This report is part of an overall feasibility study requested from ITD by the Legislative Assembly. Within that legislation, the Legislative Assembly requires ITD to provide certain findings and recommendations, including both a cost-sharing proposal and a showing of local support. Understandably, local jurisdictions will be hesitant to support SIRN unless they are willing to accept their share of SIRN costs, and developing a cost-sharing approach that receives broad buy-in will require effective governance. In short, SIRN needs governance now to do specific tasks in advance of ITD’s response to the Legislative Assembly. This section recommends tasks the SIEC and the SIRN Subcommittee should undertake immediately.

A. CREATE A SIRN SUBCOMMITTEE

Acting under its own authority, the SIEC should create a SIRN Subcommittee that adheres as much as practicable within applicable time constraints to the membership, authority, and process described in Section V.D of this document. The SIEC is authorized under the 2012 Executive Order “as required, [to] establish sub-committees and/or working groups.”²⁰ In addition, the SIEC’s Charter includes a provision for “sub-committees and or working groups to assist the basic workings or sub tasks of the committee’s work.”²¹ Though neither the SIEC nor the SIRN Subcommittee will have authority to make binding SIRN policy until the Legislative Assembly acts to provide it, the SIEC may create the

¹⁹ See Section V.D.1.a, above. For purposes of Vice-chair eligibility, the tribal representatives is considered as falling within the “state” designation.

²⁰ Gov. Jack Dalrymple, Executive Order 2012-10 (Sep. 14, 2012) at 2.

²¹ Statewide Interoperable Radio Network Feasibility Study Charter, Sec. 5(e) (Oct. 28, 2015).

Subcommittee, the Subcommittee may develop a policy recommendation, and the SIEC may endorse that recommendation, as described below.

If the Legislative Assembly provides clarification or specific statutory authority regarding the SIRN Subcommittee or the SIEC's ability to create and use subcommittees generally, the SIEC may wish at that time to disband and re-establish the SIRN Subcommittee or take other action to ensure compliance with the new legislation.

B. PROPOSE AN ENTITY TO MANAGE THE NETWORK

The SIEC should also adopt a measure recommending to the Legislative Assembly an entity to manage the SIRN network. If the Legislative Assembly provides the SIEC statutory authority to make binding SIRN policy as recommended in Section V.B.3 of this document, the entity named in this measure as SIRN manager will be bound by the SIRN policies adopted by the SIEC.

Consistent with the process contemplated in Section V.D.2 above, the measure adopted by the SIEC naming the SIRN managing entity should originate in the SIRN Subcommittee and be adopted by the SIEC. Depending upon the entity designated by the SIEC, the measure also should propose appropriate statutory changes to update the Century Code and accommodate the new network, being careful to avoid any confusion between the current “state radio system”²² managed by the Division of State Radio within DES and the “statewide integrated radio system”²³ that would be managed by the entity named by the SIEC under this recommendation. Such statutory changes also should clarify any distinctions and commonalities in governance and operation, ownership, and management among the existing State Radio Communications System and the new SIRN network.

C. DEVELOP AND RECOMMEND A SIRN COST-SHARING PLAN

As noted earlier, ITD is obligated, if it determines that proceeding with the SIRN project is both feasible and desirable, to “delineate the roles and responsibilities of each entity to implement the project” including “estimated future project costs to be paid by each entity.”²⁴ This information should be included in a cost-sharing plan to fund and operate the SIRN network. The cost-sharing plan, like the measure designating the SIRN managing entity, should be developed in the SIRN Subcommittee following the process described above in Section V.D.2. Upon receiving and considering the plan, the SIEC should either:

- approve the recommendation and propose the cost-sharing plan to the Legislative Assembly, or
- send the recommended plan back to the SIRN Subcommittee with specific comments and a request for a revised recommendation that addresses the SIEC's comments.

²² N.D.C.C. § 37-17.3-08 (the director of State Radio shall “establish the appropriate fees for access to the state radio system”).

²³ N.D.C.C. § 37-17.3-02 (the SIEC “shall prepare recommendations regarding a statewide integrated radio system with due consideration for all stakeholders reliant upon a radio communication system”).

²⁴ Senate Bill 2016, Sec. 5.

Perhaps second only to governance, an equitable, broadly supported cost-sharing plan may be the most important foundational element impacting the future success of the SIRN initiative. Though the SIEC could develop and recommend a cost-sharing plan itself, the SIRN Subcommittee's more appropriately balanced membership should lead to greater buy-in for the plan and, ultimately, the SIRN initiative itself.

VII. CONCLUSION

A successful governance mechanism must withstand change: people, policy preferences, and economic realities all vary over time. The governance mechanism must provide basic rules that bring the stakeholders together to reach agreement but at the same time accommodate change. This combination of structure and flexibility lies at the heart of governance.

Though there were some differences of opinion, the individuals interviewed for this report displayed notable agreement on the potential value of a new statewide interoperable radio network and the importance of a robust, active, and broadly supported governance structure to generate and maintain the buy-in the project will need to succeed. In their comments, the interviewees as a rule quickly focused on the balance between structure and flexibility, weighing the risk and value of potential procedural requirements. The recommendations in this document draw heavily on the ideas and comments of the interviewees, particularly with regard to balanced representation and governance body independence.

Like the interviewees, North Dakota as a state has been very deliberate in its approach to determining whether to pursue the SIRN initiative, undertaking a preliminary assessment in 2014 and then legislatively requiring and funding a full feasibility study in 2015. If it proceeds with the SIRN project, the state should be equally deliberate in establishing a SIRN governance structure that will both drive and buttress the initiative. This document recommends steps the SIEC should take to help implement such a governance structure.

Because of the Legislative Assembly's requirements, two major tasks for the SIRN governance structure should take place promptly, before the Legislative Assembly will have an opportunity to act to affect governance structure changes itself: the identification of an entity to manage the SIRN network and the development of a network cost-sharing plan. As a result, the SIEC should act under its current authority to promptly implement the SIRN governance structure described in this document so that it may do the work necessary to identify the SIRN managing entity and develop the cost-sharing plan.

