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WORKPLAN REPORT TO THE LEGISLATURE
January 15, 2001



Electronic Real Estate Recording Task Force



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WORKPLAN REPORT
ELECTRONIC REAL ESTATE TASK FORCE

Submitted January 15, 2001

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Minnesota Electronic Real Estate Recording Task Force

Certificate of Approval

We, the undersigned members of the Minnesota Electronic Real Estate Recording Task Force, hereby approve the Report to the Legislature as presented to us and as amended today, December 14, 2000 and direct its presentation to the Legislature by the chair and the vice-chair of the Task Force pursuant to the resolution passed by the Task Force today, December 14, 2000.

(NOTE: See Appendix 2 for member address information)



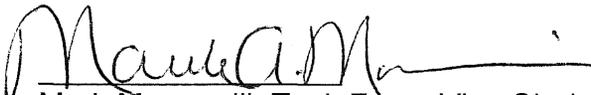
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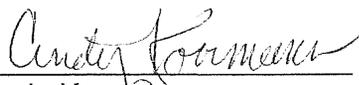
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Rep. Kris Hasskamp



Mark Monacelli, Task Force Vice Chair



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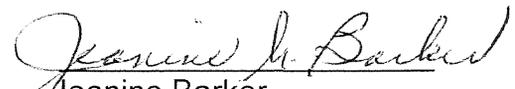
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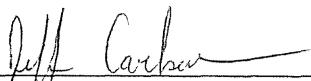


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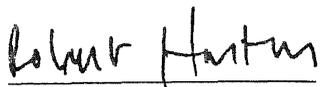


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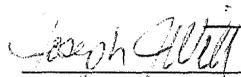
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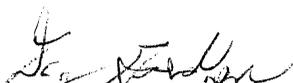


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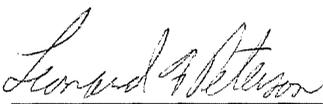
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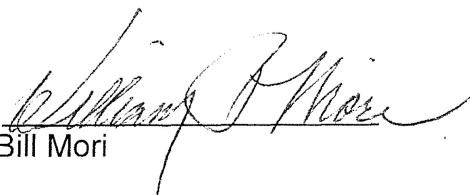
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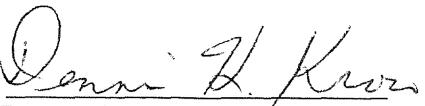
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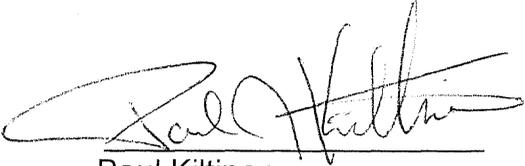

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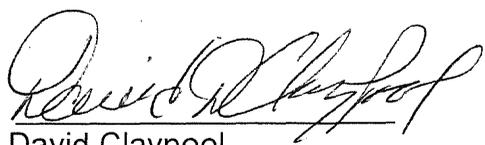

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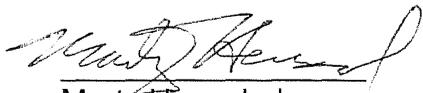

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REPORT TO THE MINNESOTA LEGISLATURE
Electronic Real Estate Recording Task Force
January 15, 2001

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ELECTRONIC REAL ESTATE RECORDING TASK FORCE
REPORT TO THE MINNESOTA LEGISLATURE

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I. Introduction

Everyone uses and relies on the real estate record. Home ownership is the single biggest investment of most Minnesota families. Mortgages are a critical component of the financial industry. The property tax system relies on the real estate record to determine ownership of parcels that are subject to taxation. The interests of citizens, the mainstay of the economy, and the operation of government all depend on the real estate record.

County recorders and registrars of title throughout Minnesota work very hard to operate their offices efficiently and cost-effectively, and to date they have succeeded. However, as presently equipped, Minnesota recording offices can accept only paper documents for recording. Increasingly, the real estate, lending, title insurance, and consumer communities as well as the secondary mortgage market are urging Minnesota recorders and registrars to accept and record documents electronically. State and federal laws, such as the Uniform Electronic Transactions Act and E-Sign, mandate that government prepare for electronic recording. At present, however, neither the technical infrastructure at the county level nor laws at the state level can accommodate that development.

In light of the fact that electronic real estate recording is a possibility—or more accurately, an inevitability—county recording systems, as well as state real estate and other laws, must change. That evolution is unavoidable in light of improved information technology; public demand; the explosion of e-commerce; the influence of E-sign and other federal legislation; and the exponential increase in use of personal computers, the Internet, and the worldwide web.

Given the broad constituency of the Minnesota Electronic Real Estate Recording (ERER) Task Force, it is not surprising that the ERER Task Force has generated many ideas about how best to address the introduction of electronic real estate recording in Minnesota. The ERER Task Force welcomed all of those ideas, and organized them into the Work Plan that is Appendix C to this Report.

The ERER Task Force recognizes that between the date that the Legislature funds this project and June 30, 2003, when the ERER Task Force expires, we will have to consider carefully all of the ideas that are set forth in the Work Plan. We will rank them in order of priority, and then focus our time and energy on assessing those ideas that we recognize as crucial to establishing an electronic real estate recording system in Minnesota.

II. Definition of *Electronic Real Estate Recording System*

For purposes of this Report, *electronic real estate recording system* means a publicly owned and managed county system, defined by statewide standards, that does not require paper or “wet” signatures, and under which real estate documents may be electronically:

- Created, executed, and authenticated;
- Delivered to and recorded with, as well as indexed, archived, and retrieved by, county recorders and registrars of title; and
- Retrieved by anyone from both on- and off-site locations.

III. Benefits of Electronic Real Estate Recording

At the start-up stage, the financial and temporal costs for an electronic real estate recording system will undoubtedly be high. However, once an electronic real estate recording system is in place, the following public benefits and others will greatly exceed those costs.

A. Benefits to Recordors and Registrars. An electronic real estate recording system will make it possible for county recorders and registrars of title to serve their customers even more effectively and efficiently than the present paper-based system allows. With electronic filing, recorders' and registrars' turn-around time for documents may be measured in minutes or hours, not days or weeks. By reducing the time they currently must spend processing documents, electronic recording may also give recorders and registrars the opportunity to improve and expand upon other services.

Uniform recording practices, an indispensable element of any electronic real estate recording system, may drastically reduce the present document rejection rate of 10-15%. An electronic real estate recording system may allow the capture and recapture of data for reuse in recording office indexes and other databases to enhance data integrity by reducing or eliminating spelling errors and other problems associated with paper-based systems.

With an electronic real estate recording system, it may be easier for recorders and registrars to maintain customer accounts, and for customers to pay with credit cards or on-line payment services. Reduced paper traffic may also reduce postage and stationery costs for county recorders and registrars as well as their customers.

B. Benefits to Customers. By providing a secure, cost-effective means of conducting and memorializing real estate transactions, an electronic real estate recording system will provide greater value for homeowners, commercial interests, and government agencies.

C. Other Benefits. Introduction of an electronic real estate recording system will lead to reconsideration and improvement of many aspects of the present paper-based real estate recording system. For example, the legislature may develop innovative ways to pay for electronic real estate recording systems in all counties, or conclude that the tract index rather than the grantor-grantee index should be the official state real estate index. An electronic real estate recording system could also facilitate public and private sector compliance with state and federal laws pertaining to electronic signatures and e-commerce.

Because electronic real estate recording has the potential to increase the secondary value of the information collected and recorded by a system, many citizens and organizations stand to benefit from an electronic real estate recording system. Paper record keeping systems are usually designed to facilitate one specific function; properly designed electronic record keeping systems can facilitate many. Geographic information systems (GIS) have demonstrated just how important different data sets can become when they are combined with other data sets in comparable formats. Because of their permanent historical value and their comprehensive reach, real estate records can be an especially important resource. In an electronic format, they can be used by many different groups of researchers, for a wide variety of purposes, from studying the economic history of a town or region to writing a family history.

IV. History of Land Record Systems

A. Recording in Colonial America. Recording acts are a uniquely American institution. They have no counterpart in England, although that country was the source of most of colonial America's real property laws. The original settlers of Plymouth and Massachusetts Bay Colonies created the first land record systems in the early seventeenth century, shortly after their arrival in the New World. Massachusetts Bay Colony enacted the first recording statute in 1640. Among other reasons, the American colonies created recording systems because the colonies themselves, as agents of the European governments that sponsored them, were the original source of title to the lands located within their boundaries.

The colonies maintained their land records as part of their official records, and typically assigned responsibility for accepting, authenticating, and recording written evidence of land transfers to the clerks of the local courts. Just as they organized their court records by the names of plaintiffs and defendants, the clerks organized their land records by the names of the parties to the conveyance, i.e., the grantor and the grantee. When more and more settlers arrived and the volume of land records increased, the colonies separated their land records from their court records, and assigned responsibility for the former to the newly created office of register of deeds. Registers of deeds continued to organize the land records by the names of the parties to the conveyance, a practice that persists in the grantor-grantee indexes that are maintained today in all 50 states.

B. Recording in Minnesota. In Minnesota and throughout America, land record systems were originally maintained by hand. In every Minnesota county, clerks in the office of the register of deeds copied conveyances and other instruments that were presented for recording into large volumes, and indexed them by hand in ledgers organized by the names of the parties to the transaction. That system of manual recording and indexing worked well for many decades, when Minnesota's population was low and land transactions were relatively few. However, as Minnesotans moved from agricultural communities to cities and cities burgeoned in size, the number of land transactions increased dramatically and manual recording and indexing became increasingly cumbersome.

The introduction of the typewriter temporarily alleviated the strain on Minnesota's recording offices. In the 1970s and early 1980s, some Minnesota counties with large populations replaced their typing pools with mainframe computerized record-keeping systems, but the high cost of those systems meant that most counties could not afford them. Computerized land record systems were more widely available by the late 1980s, and optical imaging systems followed soon thereafter. Beginning in the mid-1990s, increasing numbers of Minnesota counties introduced personal computers, wide- or local-area networks, and document imaging systems in their recording offices. In recent years, increased reliance on geographic information systems (GIS), contemporary measurement systems, and the Internet has further affected Minnesota's land record system.

In 1991, the Minnesota Legislature established an equipment fund for recorders and registrars. In 1997, Minnesota's county recorders and registrars sponsored legislation that established statewide formatting standards for recordable documents. They also proposed legislation to balance the fees that county recorders and registrars of title charge throughout the state. That bill passed in both the House of Representatives and the Senate, but the governor vetoed it. In the last decade, Minnesota's county recorders and registrars supported legislation that has clarified or updated many of Minnesota's real estate and land record statutes.

Despite those piecemeal improvements, major changes in land development practices, mortgage financing, and conveyancing have increased the volume as well as the complexity of the documents that are pre-

sented today in record numbers in county recording offices throughout Minnesota. Here are some of the most significant changes affecting land records in Minnesota today:

- Land that was once unimproved is now being subdivided or platted at a record pace. In many urban centers, owners sell land by the square foot. Throughout the state, land parcels are often subdivided vertically as well, with air rights or subsurface rights sold separately from the surface estate. Timeshares, cooperatives, condominiums, and common-interest communities are further manifestations of landowners' increasing willingness to think about property rights in new and creative ways.
- With all of those changes, legal descriptions are becoming more complex. The process of drafting legal descriptions has been improved by global positioning satellites (GPS), lidar (an acronym for *light detection and ranging*), laser (an acronym for *light amplification by stimulated emission of radiation*), and other contemporary methods of measurement that help land surveyors locate section corners and other monuments with great speed and accuracy. However, a legal description that is prepared based on those very precise modern methods of measurement often conflicts with the legal description in recorded documents and with as-built conditions.
- For most of Minnesota's history, local banks originated real estate loans in their communities and retained landowners' mortgage notes in their own investment portfolios. With the emergence of the secondary mortgage market, however, the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and other secondary market participants now purchase residential loans soon after closing, pool them with other loans originated throughout the US, and sell interests in those loan pools to individual and institutional investors throughout the world. That means that the average number of recordable documents associated with a single residential purchase and sale transaction has more than doubled, and that many documents that are presented for recording in Minnesota actually originated in locations throughout the nation and the world.
- Just as the number of recordable documents per transaction has increased, the volume of real estate transactions has also risen dramatically in recent years. A strong economy and low interest rates have spawned record numbers of home sales and other real estate transactions in Minnesota. Low interest rates have also precipitated a record amount of mortgage refinancing, further increasing the volume of documents that banks, lawyers, title companies, consumers, developers, and others present for recording in Minnesota's land record offices.

Today, stakeholder demand to speed up the recording process exacerbates the great pressure that the above-listed and similar trends in land development, mortgage financing, and conveyancing have imposed on Minnesota's county land record offices in recent years. The paper-based system that is currently in place in Minnesota's county land record offices, itself a vestige of colonial recording practices that are almost 400 years old, simply cannot keep pace with twenty-first century developments.

V. Minnesota's Land Record Systems

Minnesota has two separate, mutually exclusive systems of land records: The *recording system*, also referred to as the *abstract system*, and the *registration system*, also referred to as the *Torrens system*. All 87 counties in Minnesota have recording systems, and many have Torrens systems as well. Unless an owner takes affirmative steps to register land, land is *abstract property* and all records that relate to it are in the office of the *county recorder*. If the owner registers a parcel, then it is *registered* (i.e., *Torrens*) *land*, and all records relating to it are in the office of the *registrar of titles*.

A. The Recording (Abstract) System.

1. Definition, purpose, and effect of recording. *Recording* is the act of entering deeds, mortgages, easements, and other written instruments that affect title to real property into the public record. Minnesota's recording act requires that "every conveyance of real estate shall be recorded in the office of the county recorder of the county where such real estate is situated." In every Minnesota county, the county recorder's office is in effect a library of all of the conveyances and other instruments affecting title to land in the county that have been recorded since 1849, when the Minnesota Territorial Legislature first established the office of register of deeds.

In Minnesota and all other American jurisdictions, the purpose of recording is to give notice, to anyone who is interested, of the various interests that parties hold in a particular tract of land. Recording determines the legal priority of instruments that affect title to a particular tract. For example, the status of multiple lenders who hold mortgage liens on a single tract is determined by the sequence in which they record their mortgages, the first to record being the first mortgagee, the second to record being the second mortgagee, and so on. In the case of a landowner, O, who conveys the same property twice—first to A and later to B, a good-faith purchaser without notice of the O-A conveyance—recording laws determine who, as between A and B, will be regarded as the owner of O's land. Under Minnesota's recording act, whichever party is first to record the deed from O will be regarded as the new owner of O's land.

2. The mechanics of recording. When a deed or other document is presented for recording in Minnesota, the county recorder stamps it with the date and time of presentment and assigns it a document number. The recorder then copies the document and makes an entry regarding it in the grantor-grantee index and, in those Minnesota counties that have them, the tract index. The copy of the document and both indexes are public records, so anyone who wants to know who currently owns a particular parcel of property, or wishes to trace its history of ownership, may do so by searching the indexes and then examining the documents located through the search.

a. The grantor-grantee index. Under Minnesota law, the grantor-grantee index is the official index for abstract property. All Minnesota counties have grantor-grantee indexes. The grantor-grantee index permits a title searcher to trace the title of a particular parcel through the names of its present and past owners. The title searcher can trace title from its current owner back to the original source of title (through the grantee index), and then determine whether any owner impaired the title while holding it (through the grantor index).

b. The tract index. Minnesota law provides that counties *may* establish and maintain tract indexes, but they are not required to do so. Most, but not all, Minnesota counties have tract indexes. The tract index permits a title searcher to trace the title of a particular parcel through its legal description. The tract index, which is separate from the grantor-grantee in-

dex, contains a page for each tract of land in the county (e.g., a quarter-section, a subdivision block) on which the recorder enters every recorded instrument that affects title to the tract. A title searcher who uses the tract index can trace the title of a particular parcel by examining the single page or group of pages that pertain to that parcel.

B. The Registration (Torrens) System.

1. **Definition, purpose, and effect of registration.** The *title registration system*, or *Torrens system* as it is commonly known in Minnesota, is a system in which the district court or registrar of titles, upon a landowner's application and after conducting statutorily prescribed proceedings, directs issuance of a certificate of title that is evidence of the applicant's ownership (much like the certificate of title to a car).

In contrast to the recording system, the premise of the registration system is that government should certify the current state of the title to a particular parcel of land, rather than simply maintaining a library of documents concerning it. The purpose and effect of registering title to land is to establish conclusively an indefeasible title to land, subject to just a few very limited exceptions, so that anyone may deal with that land with the assurance that the only rights or claims of which such person must take notice are those that appear on the certificate of title.

2. **The mechanics of registration.** When a landowner registers title *with* judicial proceedings pursuant to Minnesota Statutes Chapter 508, the certificate is conclusive evidence of the applicant's ownership. When a landowner registers title *without* judicial proceedings pursuant to Minnesota Statutes Chapter 508A, the certificate of possessory title (CPT) represents the examiner of titles' determination regarding the status of title to the landowner's tract. The examiner's determination will become conclusive unless a party claiming an adverse interest successfully challenges it within the time period and in the manner prescribed by Chapter 508A.

a. **Registration of title with court proceedings.** A landowner may change abstract property into Torrens property by initiating a lawsuit in the district court in the county in which the land is located. Mortgagees, easement holders, and anyone else with a recorded interest in the land is named and served as a defendant in the suit. The lawsuit culminates in the court adjudicating title to be in the plaintiff landowner subject to any mortgage, easement, or other interest the court finds to exist. All other claims to the land are extinguished. This adjudicated state of the title is officially registered on a conclusive certificate of title, also known as a Torrens certificate, which is stored and available for public examination in the office of the registrar of titles for the county in which the land is located.

When registered land is transferred, the registrar issues a new certificate after making a substantive review of what has happened to the title since the last certificate was issued. That information is documented on a new certificate of title in favor of the transferee, and the registrar cancels and archives the old certificate of title.

b. **Registration of title without court proceedings.** Minnesota authorized registration of title without court proceedings in 1982. Upon written recommendation of the county recorder, a county board may adopt a resolution authorizing the registration of possessory titles. Most of the metropolitan counties and several counties in greater Minnesota have authorized registration without court proceedings.

If an examiner of titles reviewing a landowner's application for a certificate of possessory title (CPT) determines that the application meets all of the statutory requirements, the examiner issues a directive to the registrar of titles to issue the CPT. Anyone claiming an interest in the subject property that is not reflected on the CPT must challenge the CPT in district court within five years of the examiner's issuance of the directive to the registrar. If no such action is commenced or succeeds, the examiner directs the registrar to cancel the CPT and issue a certificate of title (1) upon the landowner's request, or (2) after any transfer of ownership of the land described in the CPT.

VI. The EREER Task Force

A. Preliminary Efforts. Since 1998, the Minnesota County Recorders' Association (MCRA) has focused on the effect that recent trends in land development, mortgage financing, conveyancing, and other areas are having on Minnesota's land record system, and on the opportunities that electronic real estate recording presents to address many of the challenges. At its winter 1999 conference, the MCRA passed a resolution that called for creation of a broad-based group to study and suggest means to address the increasingly complex relationship that exists among modern land transfer practices, county recording office procedures, and state real estate and recording laws. In June 1999, the MCRA forwarded its resolution to the Ventura Administration and urged it to take action.

In April 1999, Senator Steve Kelley asked Secretary of State Mary Kiffmeyer to convene a group of persons interested in Minnesota's land record system, to study the possibility of electronic real estate transactions. Senator Kelley believed that their experience with information technology as well as with county recorders and registrars made the Office of the Secretary of State and Secretary Kiffmeyer uniquely qualified to organize and guide the group.

B. The Electronic Recording Study Group. In summer 1999, Senator Kelley and Secretary Kiffmeyer met to discuss the study group in detail. They formed the discussion group, and it met for the first time in October 1999. At its first meeting, the discussion group agreed that electronic real estate transactions warranted further study. They also decided to invite more stakeholders to its next meeting in November 1999.

The original discussion group, expanded by the addition of other stakeholders, met from November 1999 through July 2000 to discuss the introduction of information technology in the process of filing, recording, storing, and retrieving real estate records in Minnesota's 87 county recording offices. Secretary Kiffmeyer convened and chaired the group, and its meetings were open to the public. The group included representatives from government, the real estate industry, the real estate bar, academia, and other public- and private-sector interest groups, as well as legislative staff.

In late 1999, the group agreed that in order to be effective, it required formal status. The group decided to propose legislation during the 2000 session that would constitute it as an advisory task force. The group drafted legislation that defined its membership, organization, and responsibilities, and recruited chief authors for it. Senator Kelley carried the task force legislation in the Senate. In the House, Majority Leader Tim Pawlenty was Chief Author.

C. The Electronic Real Estate Recording (ERER) Task Force. The Minnesota Legislature enacted the statute that authorized creation of the Electronic Real Estate Recording (ERER) Task Force as Laws 2000, Chapter 391, with an effective date of August 1, 2000. A copy of the statute is attached to this report as Appendix A. The EREER Task Force's initial charge is to present a work plan and budget for conducting its study to the Legislature by January 15, 2001. The EREER Task Force Work Plan, which is Appendix C to this Report, fulfills that mandate. Thereafter, the EREER Task Force is to study the six items listed in subdivision 2 of the statute.

In summer 2000, Secretary Kiffmeyer solicited applications for appointment to the new EREER Task Force. She made the appointments in August 2000. The EREER Task Force membership, which is larger and more diverse than that of the original study group, is listed in Appendix B.

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Continuing the practice of the original study group, the EREER Task Force has met monthly since August 2000. Many of its members also belong to one or more of these three subcommittees, all of which have contributed to this Report.

- The Framework Committee, which has provided the structure for this Report.
- The Legal Committee, which has identified legal issues to be examined during the study.
- The Technology Committee, which has studied the operational aspects of electronic real estate transactions.

The EREER Task Force expires June 30, 2003. It expects to deliver written proposals, including draft legislation, to the Legislature prior to the 2003 Legislative session.

VII. EREER Project Schedule

The time line for the EREER Task Force defines the critical path that the project must follow to be successful. It has four primary phases.

1. Analysis of the current environment: The Task Force will survey current practices and technologies in Minnesota county recorders' offices; evaluate electronic real estate recording systems in other jurisdictions; and develop a high-level model of public and private real estate recording processes in Minnesota.

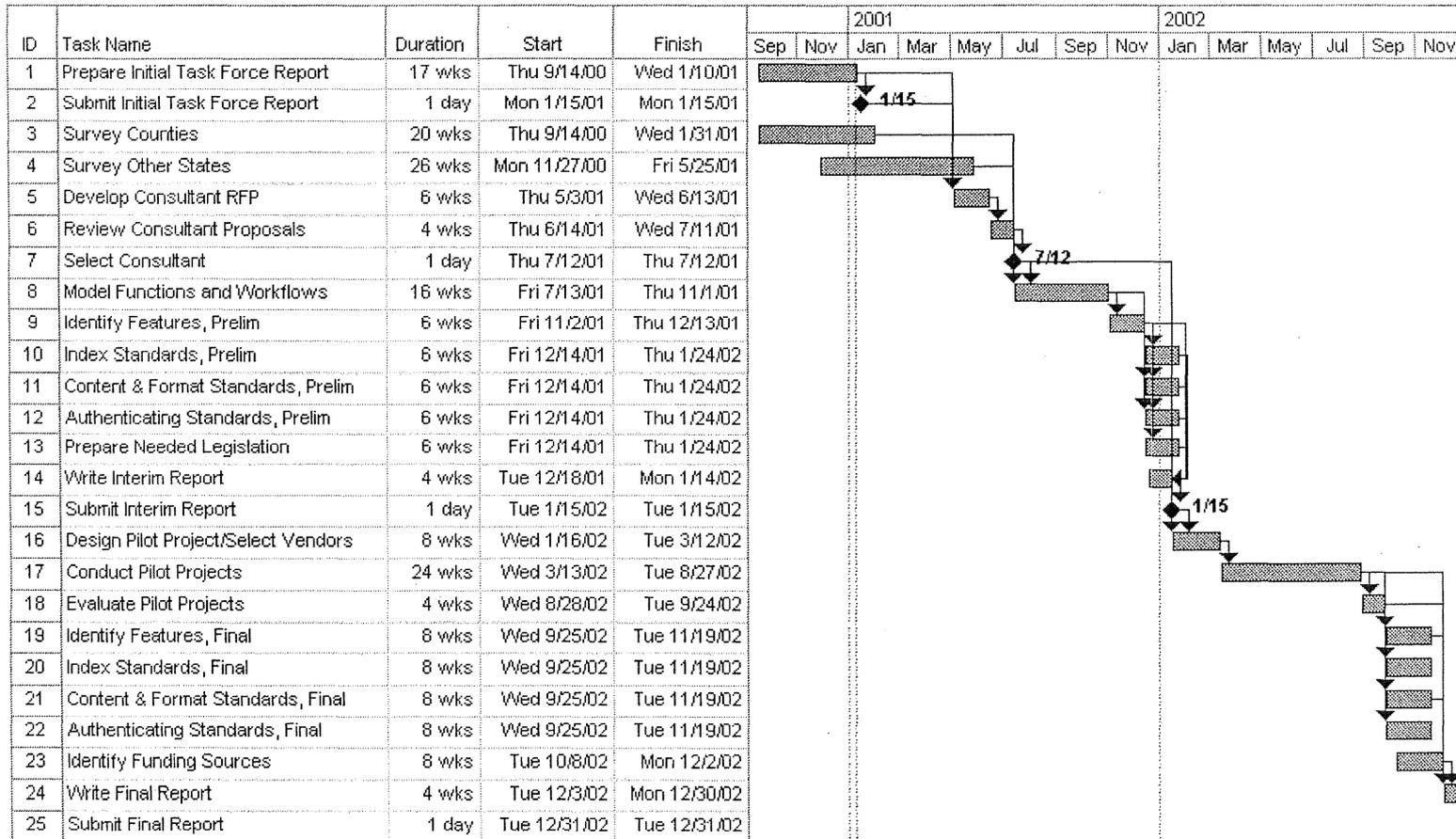
2. Determination of appropriate features and standards: The Task Force will establish the business rules for an electronic real estate recording system, with a definition of the legal, technological, operational, and functional context for making a system work.

3. Testing the system: The Task Force will translate the business rules into a working pilot project.

4. Final evaluation: The Task Force will review the pilot project and finalize its definition of the necessary features and standards for electronic real estate recording systems in Minnesota.

At the end of phases 2 and 4, the Task Force will produce and submit a progress report to the Legislature. Those reports will describe the work done on the project and recommend whatever further actions the Task Force considers necessary.

ELECTRONIC REAL ESTATE RECORDING TASK FORCE PROJECT SCHEDULE (Gantt Chart)



ELECTRONIC REAL ESTATE RECORDING TASK FORCE PROJECT SCHEDULE

Task ID	Task Description	Estimated Task Duration	Estimated Start Date	Estimated End Date
1	Prepare Initial Task Force Report	17w	9/14/00	1/10/01
2	Submit Initial Task Force Report	1d	1/15/01	1/15/01
3	Survey Counties	20w	9/14/00	1/31/01
4	Survey Other States	26w	11/27/00	5/25/01
5	Develop Consultant RFP	6w	5/3/01	6/13/01
6	Review Consultant Proposals	4w	6/14/01	7/11/01
7	Select Consultant	1d	7/12/01	7/12/01
8	Model Functions and Workflows	16w	7/13/01	11/1/01
9	"Identify Features, Prelim"	6w	11/2/01	12/13/01
10	"Index Standards, Prelim"	6w	12/14/01	1/24/02
11	"Content & Format Standards, Prelim"	6w	12/14/01	1/24/02
12	"Authenticating Standards, Prelim"	6w	12/14/01	1/24/02
13	Prepare Needed Legislation	6w	12/14/01	1/24/02
14	Write Interim Report	4w	12/18/01	1/14/02
15	Submit Interim Report	1d	1/15/02	1/15/02
16	Design Pilot Project/Select Vendors	8w	1/16/02	3/12/02
17	Conduct Pilot Projects	24w	3/13/02	8/27/02
18	Evaluate Pilot Projects	4w	8/28/02	9/24/02
19	"Identify Features, Final"	8w	9/25/02	11/19/02
20	"Index Standards, Final"	8w	9/25/02	11/19/02
21	"Content & Format Standards, Final"	8w	9/25/02	11/19/02
22	"Authenticating Standards, Final"	8w	9/25/02	11/19/02
23	Identify Funding Sources	8w	10/8/02	12/2/02
24	Write Final Report	4w	12/3/02	12/30/02
25	Submit Final Report	1d	12/31/02	12/31/02

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VIII. Resources for ERE Task Force Study

The Work Plan contains thirty-seven issues to be investigated. While some are interdependent, that still leaves over thirty separate avenues of investigation to be reviewed in a short timeframe. Many of the issues require disparate, high-level skills. Those skills fall into three separate areas: legal; technological; and operational (government/land records administration).

The volume of issues, coupled with the short period of time within which the study must be conducted, dictates that one person will not be able to handle the work. The fact that widely disparate, high-level skills are required reinforces that need. Accordingly, the ERE Task Force proposes to complete its work as described below.

A. Personnel Costs.

The Task Force discussed at length the possibility of hiring individuals, either as employees or as independent contractors, for the duration of the study. Due to the compressed timeframe, however, and particularly the aggressive schedule proposed for the first six months of the study, it would be almost impossible for one, two, or even three professionals to complete the tasks outlined in the Work Plan on time. The Task Force therefore rejected hiring its own staff in favor of retaining consulting firms that can assign multiple persons to complete the necessary tasks simultaneously.

The Task Force proposes to use consulting services, and to hire a coordinating executive director/project manager to oversee and manage the consultants and provide an interface between the Task Force and the consultants. Using consultants will allow the report to be completed in a shorter period, because a consultant may be able to supply more individuals to work on a project at any specific time. On the other hand, there may be more fragmentation, as any one individual is less likely to work with an entire subject area.

Many of the investigations can proceed simultaneously. There are enough different paths requiring sufficiently different areas of expertise that contracting with more than one consulting firm may be necessary and/or desirable.

Staff or consultants would also have to be available during the legislative session following the conclusion of the study, to provide expert testimony in support of the potentially sweeping changes that the Task Force might propose. Consultant time during the legislative session could be minimized by having the coordinating executive director/project manager provide most of the required information through personal testimony, and having Task Force members and representatives of other interested groups testify as well.

Using a consultant will likely require one or more consultants or consulting firms for an estimated 4000 hours of consulting time, plus a coordinating executive director/project manager position at \$50,000 salary plus \$8,000 to \$10,000 benefits per year for two years. The salary and benefits would total of \$120,000 for the two years, and the executive director should stay on through the legislative session of 2003.

Consulting fees for professional-level work easily average \$175/hour, so a consulting expense of \$700,000 would not be surprising.

B. Staff and Consultant Expenses.

The coordinating executive director/project manager, and perhaps the consultants, will need some or all of these items:

- Office Space
- Office Furniture
- Office Supplies and Equipment
- Computing Equipment and Services
- Telecommunications Equipment and Services
- Mileage, Travel, and Other Expenses for Research

The consultants will include their overhead costs in their contract amounts. Here are the estimated expenses for the coordinating executive director/project manager:

1. **Office Space:** 250 square feet of office space at \$20/year, which is the average rate for space in the capitol area, for two years: Cost \$10,000. It may be difficult to obtain such a small space, and it may be necessary to seek shared space with other agencies.
2. **Office Furniture:** \$ 4,500 for modular cube and chairs for the coordinating executive director/project manager.
3. **Office Supplies and Equipment:** Legal pads, pens, other paper—\$40 per month. Copying Machine: Average of 30 pages per member per meeting, plus regular office use for two years, for a total of 60,000 copies. \$300 per month for copy machine rental.
4. **Computer Equipment and Services:** \$2,000 for computer, printer, and monitor; \$650 for software for the coordinating executive director/project manager.
5. **Telecommunications Equipment and Services:** One telephone: \$800 plus monthly line charges of \$35 per month, plus long distance charges.
6. **Mileage, Travel, and Other Expenses for Research:** \$1,500 per year for on-site demonstrations and other travel.

C. Task Force Expenses.

There are also overhead expenses for the Task Force. The Task Force expects to meet monthly to hear reports from the staff or consultants on various issues, and to make policy recommendations based on those reports. Task Force meetings may be held at various locations around the state, resulting in in-state mileage costs for members who attend in person, and teleconferencing costs for members who do not. Many Task Force members will apply for per diem payments. There will also be costs for publication and distribution of the interim (exposure draft) and final Task Force reports, in both electronic and printed formats. The Task Force should maintain a public website to keep interested persons apprised of its progress.

Here are the estimated expenses for the Task Force:

1. **Meetings:** \$250 per meeting location outside the Capitol, if not held in public buildings, for up to 24 monthly meetings. Teleconferencing (when necessary) - \$300 per meeting.
2. **Website:** Creation and maintenance - \$5,000
3. **Publication and distribution of Task Force reports:**
 - a. On the Task Force website – no additional expense
 - b. On diskette - \$150.00 for diskettes, plus postage
 - c. On paper – \$300.00
 - d. Postage for diskettes and paper copies — \$900.00
4. **Per Diem:** 24 possible meetings x 45 task force members x \$55 = approximately \$60,000
5. **Mileage (in-state only):** \$25,000

D. Pilot Project Costs.

The Task Force also recommends that pilot projects be implemented during the Task Force study. The Task Force will form a pilot project committee of its county recorder members and others to design and implement the pilot projects in consultation with the legal committee and under the supervision of the Task Force. The pilot projects will consist of these bulleted items, and proceed along the lines outlined in items 1 through 8.

- A basic transmission module that can be used in all counties to transmit documents electronically from the customer to the Recorder's Office, and
 - Several applications to record, index, and maintain documents that are suitable for a county's existing technology
1. Create basic standards for system and testing procedures; create a process for evaluating and selecting test counties and customers; create a process for evaluating test results.
 2. Develop the basic module for transmission of real estate documents from customer to Recorder's Office.
 3. Select test counties and customers. There will be a mix of test counties that vary in geographic size and location, land use, and population, as well as in organizational structure and number of documents recorded per year.

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4. Test counties will each develop an application that can be used in the counties depending on their technology level to process transmitted documents.
5. Install test system in counties; complete testing using sample documents; and evaluate the system.
6. Based on the test results, make appropriate adjustments to the test systems and modify as needed.
7. Obtain approval for systems to be used by Recorders for recording documents.
8. Go live with project system.

The Minnesota County Recorders Association estimates that it will cost up to \$500,000 to complete the pilot projects.

IX. Two-Year Budget for ERER Task Force Study

A. Personnel Costs

Staff Costs up to \$ 120,000
Consultant Fees up to \$ 700,000

Subtotal: up to \$ 820,000

B. Staff and Consultant Expenses

Office Space \$10,000
Office Furniture \$ 4,500
Office Supplies and Equipment \$ 8,160
 General Supplies \$ 960
 Copying Costs \$ 7,200
Computer Equipment and Services \$ 2,650
Telecommunications Equipment, Services \$ 1,640
Mileage, Travel, Other Expenses \$ 3,000

Subtotal: \$ 29,950

C. Task Force Expenses

Meetings \$13,200
 Meeting Room Rent \$ 6,000
 Teleconferencing \$ 7,200
Web Site \$ 5,000
Publication and Distribution of Reports \$ 1,350
Per Diem \$60,000
Mileage (in-state only) \$25,000

Subtotal: \$ 104,550

D. Pilot Projects

up to \$ 500,000

GRAND TOTAL

\$1,454,500

Note: This is the *maximum* amount requested. For example, if consultant costs are lower than estimated, the grand total will decline accordingly.

APPENDIX A
ERER Task Force Legislation

Minnesota Session Laws - 2000

Key: ~~language to be deleted...~~ new language Change language enhancement display.

Legislative history and Authors

CHAPTER 391-S.F.No. 3346

An act relating to real property; requiring the secretary of state to establish a task force to study and make recommendations on electronic filing of real estate documents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [ELECTRONIC FILING OF REAL ESTATE DOCUMENTS.]

Subdivision 1. [TASK FORCE; MEMBERSHIP.] The secretary of state shall establish a task force to study and make recommendations for the establishment of a system for the electronic filing and recording of real estate documents. The task force must include:

(1) two members of the senate appointed by the subcommittee on committees of the committee on rules and administration and two members of the house appointed by the speaker of the house;

(2) representatives of county recorders and other county government officials;

(3) real estate attorneys, real estate agents, and public and private land surveyors;

(4) representatives of title companies, mortgage companies, and other real estate lenders;

(5) a representative of the Minnesota historical society and other state and local government archivists;

(6) technical and industry experts in electronic commerce and electronic records management and preservation;

(7) representatives of federal government-sponsored enterprises active in the real estate industry;

(8) the commissioner of revenue; and

(9) other members appointed by the secretary of state.

Subd. 2. [STUDY AND RECOMMENDATIONS.] The task force shall study and make recommendations regarding implementation of a system for electronic filing and recording of real estate documents and shall consider:

(1) technology and computer needs;

(2) legal issues such as authenticity, security, timing and priority of recordings, and the relationship between electronic and paper recording systems;

(3) cost-effectiveness of electronic recording systems;

(4) timetable and plan for implementing an electronic recording system, considering types of documents and entities using the system and volume of recordings;

(5) permissive versus mandatory systems; and

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(6) other relevant issues identified by the task force.

The task force shall submit a report to the legislature by January 15, 2001, outlining a proposed work plan and budget for consideration by the legislature. The task force expires June 30, 2003.

Presented to the governor April 11, 2000

Signed by the governor April 14, 2000, 2:09 p.m.

**APPENDIX B
ERER Task Force Membership Roster (12/15/00)**

Name	Representing	Address	Telephone	FAX	E-MAIL
Sen. Steve Kelley	Minnesota Senate	321 Capitol, St. Paul MN 55155	651-297-8065		sen.steve.Kelley@senate.leg.state.mn.us
Sen. Warren Limmer	Minnesota Senate	25 State Office Building, St. Paul MN 55155	651-296-2159		sen.warren.limmer@senate.leg.state.mn.us
Rep. Jim Seifert	Minnesota House	577 State Office Building, St. Paul MN 55155	651-296-7807		rep.jim.seifert@house.leg.state.mn.us
Rep. Kris Hasskamp	Minnesota House	353 State Office Building, St. Paul MN 55155	651-296-4333		rep.kris.hasskamp@house.leg.state.mn.us
Gail Marie Miller	Renville County Recorder	500 E. Depue Ave, Floor 2, Olivia MN 56277	320-523-3630		Gail_M@co.renville.mn.us
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Mike Cunniff	Hennepin County Recorder	A-803, Government Center, Mpls. MN 55487	612-348-3893	612-348-4948	Michael.Cunniff@co.hennepin.mn.us
Mark Monacelli	St. Louis County Recorder	100 N. 5 th Ave. W., Duluth, MN 55801-0157	218-726-2675	218-725-5052	monacellim@co.st-louis.mn.us
Cindy Koosmann	Washington County Recorder	P.O. Box 6, Stillwater MN 55082	651-430-6758	651-430-6753	koosmann@co.washington.mn.us
Jeanine Barker	Lyon County Recorder	607 West Main St., Marshall MN 56258	507-537-6722		barker@co.lyon.mn.us
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Susan Dioury	Minnesota Realtors	5750 Lincoln Drive, Edina MN 55436-1697	612-912-2661	612-935-3815	sdioury@mnrealtor.com
Marty Henschel	Edina Realty	6800 France Ave. S. #230, Edina MN 55435	612-928-5475	612-928-5199	martyhenschel@edinarealty.com
David Claypool	Ramsey County Surveyor	50 W. Kellogg Blvd, St. Paul MN 55102	651-266-2620		david.claypool@co.ramsey.mn.us
Paul McGinley	Loucks & McLagan	643 White Birch Dr., Shoreview MN 55126	651-457-3645		pmcginley@loucksmclagan.com
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Joseph Witt	Minnesota Bankers Association	7601 France Ave. S. Edina MN 55435	612-835-3900	612-896-1100	joew@minnbankers.com
Robert Horton	Minnesota Historical Society	345 Kellogg Blvd W., St. Paul MN 55102-1906	651-215-5866	651-296-9961	robert.horton@mnhs.org
Charles Krueger	IT, Hennepin Co	3315 Bryant Ave. N., Anoka MN 55303-1454	612-348-5140		chuck.krueger@co.hennepin.mn.us
Don Goedken	Dept. of Transportation	395 John Ireland Blvd, MS 632, St. Paul MN 55155	651-296-3372		don.goedken@dot.state.mn.us
David Arbeit	LMIC/State Planning	658 Cedar St., St. Paul MN 55155	651-296-1209	651-296-1212	david.arbeit@mnplan.state.mn.us
Carmelo D. Bramante	Fannie Mae	4250 Conn Ave N.W., 3 rd Fl. Washington D.C. 20016	202-752-1188	202-752-0734	carmelo_d_bramante@fanniemae.com
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Leonard Peterson	Department of Revenue	600 N. Robert St., St. Paul MN 55165	651-297-2532		Leonard.Peterson@state.mn.us
John L. Jones	American Society of Notaries	P.O. Box 18878, Tampa FL 33679	813-254-0055		jjones@arionzoe.com
Deborah Thaw	National Notary Association	P.O. Box 2402, Chatsworth CA	818-739-4000		dthaw@nationalnotary.org
Richard Little	Hennepin County Title Exam.	A-701 Government Center, Mpls., MN 55487	612-348-2317	612-348-3872	sandy.iveron@co.hennepin.mn.us
Bill Mori	TriMin Systems	3030 Centre Pointe Drive, Ste. 100, Roseville MN	651-604-3603		bill.mori@triminsystems.com
Jeff Carlson	US Recording	2925 Country Drive, St. Paul MN 55117	651-482-7731	651-482-1364	jeff@usrecordings.com
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Stephen Behrenbrinker	City Assessor	400 2 nd Street South, St. Cloud, MN 56301	320-650-3352	320-255-7205	sbehrenb@ci.stcloud.mn.us
Michael Carlson	Faegre & Benson	4250 Valley View Road Edina MN 55424	612-336-3392		mcarlson@faegre.com
Dennis A. Distad	Freeborn County Auditor	411 Broadway Avenue South, Albert Lea MN 56007	507-377-5121		dennis.distad@co.freeborn.mn.us
J. Bonnie Rehder	Clay County Recorder	P.O. Box 280, Moorhead MN 56561	218-299-5031		bonnie.rehder@co.clay.mn.us
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APPENDIX C
ERER Task Force Work Plan

Introduction

This Work Plan requires the Electronic Real Estate Recording (ERER) Task Force:

- I. To consider what process the ERER Task Force should follow in developing its recommendations.
- II. To consider what features are important for any electronic recording technology that it recommends.
- III. To consider what statewide standards, if any, to recommend for electronic real estate record indexes.
- IV. To consider what statewide standards, if any, to recommend for the content and format of electronic real estate records.
- V. To consider what statewide standards, if any, to recommend for authenticating, securing, and determining the recording priority of instruments that are recorded electronically.
- VI. To consider ways to pay for any electronic real estate recording initiatives that the ERER Task Force recommends.

I. In deciding what process to follow in developing its recommendations, the ERE Task Force shall:

1. Consider studying existing system configurations, hardware types, outsourcing practices, and vendor choices.
2. Consider estimating the extent to which existing systems will require modification or replacement to accommodate any changes that the ERE Task Force recommends.
3. Consider updating the results of the county-by-county survey regarding tract indexes, Torrens, and other matters that the county recorders are currently conducting.
4. Consider inventorying the major categories of land-related records that counties currently maintain, including, for example, zoning maps, building permit files, wetland and other natural resource inventories, and property tax records.
5. Consider using its website to keep public-sector employees, private-sector users, and the general public informed of the ERE Task Force's progress, as a way of evaluating its ideas and building support for its final recommendations.
6. Consider conducting pilot studies of different types of electronic recording technology in a small cross-section of counties including, for example, rural as well as metropolitan counties, before recommending any such technology for statewide use.
7. Consider modeling the major public- and private-sector functions and workflows associated with real estate recording, both inside and outside of government, in order to identify tasks that are affected by real estate recording.
8. Consider studying (i) what other states have done with respect to authenticating, securing, and determining the recording priority of recordable instruments, and (ii) how U.S. systems other than real estate recording systems (for example, UCC filings, state and federal court filings) address those concerns.
9. Consider explaining how the ERE Task Force will produce its work, including, for example, through subcommittees, by supervising the work of a new ERE Task Force staff, by retaining consultants, or through a combination of those approaches.
10. Consider preparing a timeline for future ERE Task Force work.

II. In deciding what features are important for any electronic recording technology that it recommends, the ERER Task Force shall:

11. Consider emphasizing the overriding importance of identifying features that will both (i) facilitate or enhance county recorders' numbering, indexing, recording, payment, verification of receipt, certification, return of documents, and on- and off-site customer-access services, and (ii) foster procedures and policies that promote uniform, secure, accessible, and user-friendly electronic creation, transmission, recording, storage, retrieval, and preservation of, as well as payment for, real estate documents.

12. Consider requiring that any technology-based improvements to existing systems that it recommends provide for long-term maintenance and development of electronic real estate recording, including the migration, conversion, and preservation of data over time.

13. Consider how to build a framework for sharing and communicating information that would rely on existing, recognized policies and standards for technology, metadata, or data, and that would best support and improve procedures for recording, gaining access to, searching, preserving and retrieving real estate records.

14. Consider developing performance standards for electronic management of real estate records that do not specify particular hardware or software applications.

15. Consider the implications of integrating existing paper, microfilm, microfiche, and optical methods of storing real estate documents with any digital, encrypted, or other document formats that the ERER Task Force recommends, to help make access to and searches of the real estate recording system as seamless and uniform as possible.

16. Consider the many ancillary functions that are part of the real estate recording process, including for example (i) collection of deed and mortgage registry taxes; recording, well and conservation fees; special assessments and past-due real estate taxes; and Green Acres amounts, (ii) disclosure of information regarding wells and waste disposal systems, (iii) subdivision of land and lot-splitting, (iv) filing of Affidavits of Purchaser and Examiner's Directives in the Torrens system, and (v) with respect to real estate conveyances, verification of the tax parcel number; determination of the assessed value of the real estate; and disclosure of the name and address of the new taxpayer.

17. Consider ensuring that any electronic real estate recording system that the ERER Task Force recommends accommodates citizens' statutory rights to privacy and confidentiality of sensitive data and information as well as lawful uses of the real estate record, and supports units of government that are authorized to (i) revise, supplement, or oth-

erwise modify certificates of real estate value (CRVs) and other documents that part of the real estate recording process, (ii) search and compile such data for purposes unrelated to real estate recording, and (iii) require an audit trail of particular real estate transactions.

18. Consider requiring that any enhancements or changes to existing applications that the ERER Task Force recommends be designed to be developed in phases and adaptable to various systems.

III. In deciding what statewide standards, if any, to recommend for real estate record indexes, the ERER

Task Force shall:

19. Consider whether a tract index should be mandatory in all counties, and if so, whether it should replace the grantor-grantee index as the official index.

20. Consider recommending the creation, evaluation, and revision of uniform indexing standards to facilitate computerized searches, for example, by clarifying whether "John Smith Truck Co." will be indexed as *Smith, John, Truck Co.* or as *John Smith Truck Co.*, and whether a name that starts with "Saint" be indexed as *Saint, St.*, or *St.*

21. Consider whether use of any uniform indexing standards should be mandatory; whether such use should be prospective only; and if indexing standards are to be used retrospectively as well as prospectively, how far back in time existing indexes should be amended.

IV. In deciding what statewide standards, if any, to recommend for the content and format of electronic real estate records, the ERER Task Force shall:

22. Consider defining the term "real estate records," including, for example, clarifying whether probate records and judgments are included.
23. Consider studying the costs and benefits of linking real estate records with other layers of public data including, for example, data regarding transportation, hydrology, topography, and political boundaries, as part of the statewide geographic information system (GIS).
24. Consider creating a simplified platting process that would facilitate reference to real estate parcels that are subject to metes and bounds or other complex legal descriptions.
25. Consider recommending the inclusion of parcel identification numbers (PINs), geographic information system (GIS) identifiers, or other unique labels in recordable instruments to foster cross-referencing among real estate records and other layers of public data such as city assessor's records and Minnesota Department of Revenue records.
26. Consider identifying the entity(ies) that will be responsible for developing and updating standards for the content and format of electronic real estate records.

V. In deciding what statewide standards, if any, to recommend for authenticating, securing, and determining the recording priority of instruments that are recorded electronically, the EREER Task Force shall:

27. Consider making user-friendly, reliable, and convenient on- and off-site public access to real estate records an important goal of any authentication, security, and recording-priority standards that it proposes.
28. Consider identifying the legal issues involved in determining the recording priority of instruments filed in person, by mail, and electronically.
29. Consider surveying the Uniform Electronic Transactions Act, Data Practices Act, Official Records Act, Records Management Act, Torrens statute, recording act, laws concerning notarial acts, and all other Minnesota statutes and regulations (i) to determine which should be amended or repealed in response to the introduction of electronic technology into the real estate recording system, and (ii) to identify any new legislation that may be required.
30. Consider studying who should bear the financial risk of breaches in security and other problems that might arise with the introduction of electronic technology into the real estate recording system.

VI. In suggesting ways to pay for any electronic real estate recording initiatives that the EREER Task Force recommends, the EREER Task Force shall:

31. Consider estimating the costs and benefits of (i) operating the real estate recording system in its current form, and (ii) implementing and maintaining any technology upgrades or other changes that the EREER Task Force recommends.
32. Consider the appropriateness and feasibility of making recording and similar fees, as well as copying and certification charges, uniform in all counties.
33. Consider public and private funding alternatives, Internet advertising, new user access fees, a new statewide technology trust fund, and allowing counties to retain current mortgage registry and deed taxes and the recording surcharge as possible revenue sources, in order to assure that every county can pay for any technology upgrades or other electronic real estate recording initiatives that the EREER Task Force recommends.
34. Consider proposing that the legislature offer counties financial or other incentives (1) to adopt uniform indexing standards prospectively, and (2) to amend existing indexes to comport with them.
35. Consider protecting, to the extent feasible, the significant public- and private-sector investments in real estate record systems that have been made to date.
36. Consider proposing educational, financial, or other incentives to encourage those in the public and private sector that currently use the real estate record system to participate in any electronic recording initiatives that the EREER Task Force recommends.
37. Consider whether it is appropriate and feasible for counties to collect filing fees and other revenues associated with the real estate recording process electronically.

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Estate Recording Task

KFM 5527 .M55 2001
Minnesota. Electronic Real
Estate Recording Task
Workplan report to the

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