

EHB 2508

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THE STATE SENATE
Thursday, March 30, 2000

ENGROSSED
House Bill No. 2508
As Amended

ENGROSSED HOUSE BILL NO. 2508 - By: PERRY, MASS and DEUTSCHENDORF of the House and COFFEE of the Senate.

[**electronic commerce - Electronic Records and Signature Act of 1998 - Uniform Electronic Transaction Act - codification - effective date**]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 308, O.S.L. 1998 (15 O.S. Supp. 1999, Section 960), is amended to read as follows:

Section 960. This act shall be known and may be cited as the "Uniform Electronic Records and Signature Transaction Act of 1998".

SECTION 2. AMENDATORY Section 4, Chapter 308, O.S.L. 1998 (15 O.S. Supp. 1999, Section 961), is amended to read as follows:

Section 961. The purposes of the Uniform Electronic Records and Signature Transaction Act of 1998 are:

- 1. To facilitate ~~and promote commerce~~ electronic transactions by ~~validating and authorizing the use of electronic records and electronic signatures~~ consistent with other applicable law;

1 2. ~~To eliminate barriers to electronic commerce transactions~~
2 ~~resulting from uncertainties relating to writing and signature~~
3 ~~requirements;~~

4 3. ~~To simplify, clarify, and modernize the law governing~~
5 ~~commerce transactions through the use of electronic means;~~

6 4. ~~To promote public confidence in the validity, integrity, and~~
7 ~~reliability of electronic transactions; and~~

8 5. ~~To promote the development of the legal and business~~
9 ~~infrastructure necessary to implement electronic commerce~~

10 ~~transactions~~ be consistent with reasonable practices concerning
11 electronic transactions and with the continued expansion of those
12 practices; and

13 3. To effectuate its general purpose to make uniform the law
14 with respect to the subject of this act among states enacting it.

15 SECTION 3. AMENDATORY Section 5, Chapter 308, O.S.L.
16 1998 (15 O.S. Supp. 1999, Section 962), is amended to read as
17 follows:

18 Section 962. As used in the Uniform Electronic Records and
19 Signature Transaction Act:

20 1. "Agreement" means the bargain of the parties in fact, as
21 found in their language or inferred from other circumstances and
22 from rules, regulations, and procedures given the effect of

1 agreements under law otherwise applicable to a particular
2 transaction;

3 2. "Automated transaction" means a transaction conducted or
4 performed, in whole or in part, by electronic means or electronic
5 records, in which the acts or records of one or both parties are not
6 reviewed by an individual in the ordinary course in forming a
7 contract, performing under an existing contract, or fulfilling an
8 obligation required by the transaction;

9 3. "Computer program" means a set of statements or instructions
10 to be used directly or indirectly in an information processing
11 system in order to bring about a certain result;

12 4. "Contract" means the total legal obligation resulting from
13 the parties' agreement as affected by the act and other applicable
14 law;

15 5. "Electronic" means relating to technology having electrical,
16 digital, magnetic, wireless, optical, electromagnetic, or ~~any other~~
17 ~~form of technology that entails similar capabilities similar to~~
18 ~~these technologies;~~

19 ~~2.~~ 6. "Electronic agent" means a computer program or other
20 electronic or automated means used, ~~selected, or programmed by a~~
21 ~~person~~ independently to initiate an action or respond to electronic
22 records or performances in whole or in part without review by an
23 individual;

1 ~~3.~~ 7. "Electronic record" means a record created, stored, sent,
2 generated, received, or communicated by electronic means, ~~including~~
3 ~~but not limited to a computer program, electronic data interchange,~~
4 ~~electronic or voice mail, facsimile, telex, telecopying, scanning~~
5 ~~and similar technologies;~~

6 ~~4.~~ 8. "Electronic signature" means ~~any signature in an~~
7 electronic ~~form~~ sound, symbol, or process attached to or logically
8 associated with ~~an electronic~~ a record executed or adopted by a
9 person ~~or its electronic agent~~ with intent to sign the electronic
10 record;

11 9. "Governmental agency" means an executive, legislative, or
12 judicial agency, department, board, commission, authority,
13 institution, or instrumentality of the state government or of a
14 county, municipality, or other political subdivision of the state;

15 ~~5.~~ 10. "Information" means data, text, images, sounds, codes,
16 computer programs, software, databases, and the like;

17 11. "Information processing system" means an electronic system
18 for creating, generating, sending, receiving, storing, displaying,
19 or processing information;

20 ~~6.~~ 12. "Person" means an individual, corporation, business
21 trust, government or governmental unit or agency, political
22 subdivision, estate, trust, partnership, limited liability company,
23 association, joint venture, or any other legal or commercial entity;

1 ~~7. 13.~~ "Record" means information that is inscribed on a
2 tangible medium or that is stored in an electronic or other medium
3 and is retrievable in perceivable form;

4 ~~8.~~ "Rule of law" means a statute, regulation, ordinance,
5 common-law rule, or other law relating to a transaction and enacted,
6 established, or promulgated by this state, any agency, commission,
7 department, court, or other authority or political subdivision of
8 this state;

9 ~~9.~~ "Sign" means the execution or adoption of a signature by a
10 person or the person's electronic agent;

11 ~~10.~~ "Signature" means any symbol, sound, process, or encryption
12 of a record in whole or in part executed or adopted by a person or
13 the person's electronic agent with intent to identify the person and
14 to either:

15 ~~a.~~ adopt or accept a term or record, or

16 ~~b.~~ establish the informational integrity of a record or
17 term that contains the signature or to which a record
18 containing the signature refers;

19 ~~11.~~ "Term" means that portion of an agreement which relates to
20 a particular matter; and

21 ~~12.~~ "Writing" includes printing, typewriting, or any other
22 intentional reduction to tangible form. "Written" has a
23 corresponding meaning

1 14. "Security procedure" means a procedure employed for the
2 purpose of verifying that an electronic signature, record, or
3 performance is that of a specific person or for detecting changes or
4 errors in the information in an electronic record. The term
5 includes a procedure that requires the use of algorithms or other
6 codes, identifying words or numbers, encryption, or callback or
7 other acknowledgment procedures; and

8 15. "Transaction" means an action or set of actions occurring
9 between two or more persons relating to the conduct of business,
10 commercial, or governmental affairs.

11 SECTION 4. AMENDATORY Section 6, Chapter 308, O.S.L.
12 1998 (15 O.S. Supp. 1999, Section 963), is amended to read as
13 follows:

14 Section 963. A. Except as otherwise provided in subsection B
15 of this section, the Uniform Electronic Records and Signature
16 Transaction Act applies to electronic records and electronic
17 signatures ~~generated, stored, processed, communicated, or used for~~
18 ~~any purpose and in any~~ relating to a transaction. ~~Nothing in this~~
19 ~~act shall be construed to require any person to use or permit the~~
20 ~~use of electronic records or electronic signatures.~~

21 B. This act shall not apply to a transaction to the extent it
22 is governed by:

1 1. ~~Rules of A law relating to governing the creation or~~
2 execution of a will, codicil, or testamentary trust;

3 2. ~~Rules of law relating to the creation, performance, or~~
4 enforcement of an indenture, declaration of trust, or power of
5 attorney;

6 3. ~~Rules of law relating to mortgages, conveyances, surface and~~
7 mineral leases, rights-of-way, and easements of real property;

8 4. ~~Rules of law, as specified by Section 475.1 et seq. of Title~~
9 59 of the Oklahoma Statutes relating to persons licensed as
10 professional land surveyors or professional engineers, and Section
11 46.1 et seq. of Title 59 of the Oklahoma Statutes relating to
12 persons licensed as architects or licensed landscape architects;

13 5. ~~Rules of law which expressly require a written record when~~
14 the application of this act would cause a result which is
15 inconsistent with the intent as expressed by the rule of law.
16 ~~Provided, a requirement by the rule of law that the information be~~
17 in writing, printed, signed, or the like shall not in and of itself
18 establish an inconsistency The Uniform Commercial Code, other than
19 Sections 1-106 and 1-206 of Title 12A of the Oklahoma Statutes and
20 Article 2 and Article 2A of Title 12A of the Oklahoma Statutes which
21 are provisions of the Uniform Commercial Code; and

22 3. Other laws, if any, identified by the state.

1 C. This act applies to an electronic record or electronic
2 signature otherwise excluded from the application of this act under
3 subsection B of this section to the extent it is governed by a law
4 other than those specified in subsection B of this section.

5 D. A transaction subject to this act shall also be subject to:

6 1. ~~Any other applicable rules of law relating to consumer~~
7 ~~transactions or which have the purpose of consumer protection; and~~

8 2. ~~The Uniform Commercial Code as enacted in this state.~~

9 D. ~~In the case of a conflict between this act and a rule of law~~
10 ~~referenced in subsection C of this section, the rule of law shall~~
11 ~~govern.~~

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 963.1 of Title 15, unless there
14 is created a duplication in numbering, reads as follows:

15 The Uniform Electronic Transaction Act shall apply to any
16 electronic record or electronic signature created, generated, sent,
17 communicated, received, or stored on or after the effective date of
18 this act.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 963.2 of Title 15, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Uniform Electronic Transaction Act shall not require a
23 record or signature to be created, generated, sent, communicated,

1 received, stored, or otherwise processed or used by electronic means
2 or in electronic form.

3 B. This act applies only to transactions between parties each
4 of which has agreed to conduct transactions by electronic means.
5 Whether the parties agree to conduct a transaction by electronic
6 means is determined from the context and surrounding circumstances,
7 including the parties' conduct.

8 C. A party that agrees to conduct a transaction by electronic
9 means may refuse to conduct other transactions by electronic means.
10 The right granted by this subsection may not be waived by agreement.

11 D. Except as otherwise provided in this act, the effect of any
12 of its provisions may be varied by agreement. The presence in
13 certain provisions of this act of the words "unless otherwise
14 agreed", or words of similar import, does not imply that the effect
15 of other provisions may not be varied by agreement.

16 E. Whether an electronic record or electronic signature has
17 legal consequences is determined by this act and other applicable
18 law.

19 SECTION 7. AMENDATORY Section 7, Chapter 308, O.S.L.
20 1998 (15 O.S. Supp. 1999, Section 964), is amended to read as
21 follows:

22 Section 964. A. A record or signature shall not be denied
23 legal effect, ~~validity,~~ or enforceability solely because it is in

1 ~~the electronic form of an electronic record. If a rule of law~~
2 ~~requires a record to be in writing, or provides consequences if it~~
3 ~~is not, an electronic record satisfies that rule of law. Persons~~
4 ~~may agree to their own requirements regarding the method of~~
5 ~~generating, storing, and communicating electronic records with each~~
6 ~~other~~

7 B. A contract shall not be denied legal effect or
8 enforceability solely because an electronic record was used in its
9 formation.

10 C. If a law requires a record to be in writing, an electronic
11 record satisfies the law.

12 D. If a law requires a signature, an electronic signature
13 satisfies the law.

14 SECTION 8. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 964.1 of Title 15, unless there
16 is created a duplication in numbering, reads as follows:

17 A. If parties have agreed to conduct a transaction by
18 electronic means and a law requires a person to provide, send, or
19 deliver information in writing to another person, the requirement is
20 satisfied if the information is provided, sent, or delivered, as the
21 case may be, in an electronic record capable of retention by the
22 recipient at the time of receipt. An electronic record is not
23 capable of retention by the recipient if the sender or its

1 information processing system inhibits the ability of the recipient
2 to print or store the electronic record.

3 B. If a law other than the Uniform Electronic Transaction Act
4 requires a record to be posted or displayed in a certain manner, to
5 be sent, communicated, or transmitted by a specified method, or to
6 contain information that is formatted in a certain manner, the
7 following rules apply:

8 1. The record must be posted or displayed in the manner
9 specified in the other law;

10 2. Except as otherwise provided in paragraph 2 of subsection D
11 of this section, the record must be sent, communicated, or
12 transmitted by the method specified in the other law; and

13 3. The record must contain the information formatted in the
14 manner specified in the other law.

15 C. If a sender inhibits the ability of a recipient to store or
16 print an electronic record, the electronic record is not enforceable
17 against the recipient.

18 D. The requirements of this section may not be varied by
19 agreement, but:

20 1. To the extent a law other than this act requires information
21 to be provided, sent, or delivered in writing but permits that
22 requirement to be varied by agreement, the requirement under
23 subsection A of this section that the information be in the form of

1 an electronic record capable of retention may also be varied by
2 agreement; and

3 2. A requirement under a law other than this act to send,
4 communicate, or transmit a record by first-class mail, postage
5 prepaid and regular United States mail, may be varied by agreement
6 to the extent permitted by the other law.

7 SECTION 9. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 964.2 of Title 15, unless there
9 is created a duplication in numbering, reads as follows:

10 A. An electronic record or electronic signature is attributable
11 to a person if it was the act of the person. The act of the person
12 may be shown in any manner, including a showing of the efficacy of
13 any security procedure applied to determine the person to which the
14 electronic record or electronic signature was attributable.

15 B. The effect of an electronic record or electronic signature
16 attributed to a person under subsection A of this section is
17 determined from the context and surrounding circumstances at the
18 time of its creation, execution, or adoption, including the parties'
19 agreement, if any, and other as provided by law.

20 SECTION 10. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 964.3 of Title 15, unless there
22 is created a duplication in numbering, reads as follows:

1 If a change or error in an electronic record occurs in a
2 transmission between parties to a transaction, the following rules
3 apply:

4 1. If the parties have agreed to use a security procedure to
5 detect changes or errors and one party has conformed to the
6 procedure, but the other party has not, and the nonconforming party
7 would have detected the change or error had that party also
8 conformed, the conforming party may avoid the effect of the changed
9 or erroneous electronic record;

10 2. In an automated transaction involving an individual, the
11 individual may avoid the effect of an electronic record that
12 resulted from an error made by the individual in dealing with the
13 electronic agent of another person if the electronic agent did not
14 provide an opportunity for the prevention or correction of the error
15 and, at the time the individual learns of the error, the individual:

- 16 a. promptly notifies the other person of the error and
17 that the individual did not intend to be bound by the
18 electronic record received by the other person,
19 b. takes reasonable steps, including steps that conform
20 to the other person's reasonable instructions, to
21 return to the other person or, if instructed by the
22 other person, to destroy the consideration received,

1 if any, as a result of the erroneous electronic
2 record, and
3 c. has not used or received any benefit or value from the
4 consideration, if any, received from the other person;

5 3. If neither paragraph 1 nor paragraph 2 of this section
6 applies, the change or error has the effect provided by other law,
7 including the law of mistake, and the parties' contract, if any; and

8 4. Paragraphs 2 and 3 of this section may not be varied by
9 agreement.

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 964.4 of Title 15, unless there
12 is created a duplication in numbering, reads as follows:

13 If a law requires a signature or record to be notarized,
14 acknowledged, verified, or made under oath, the requirement is
15 satisfied if the electronic signature of the person authorized to
16 perform those acts, together with all other information required to
17 be included by other applicable law, is attached to or logically
18 associated with the signature or record.

19 SECTION 12. AMENDATORY Section 9, Chapter 308, O.S.L.
20 1998 (15 O.S. Supp. 1999, Section 966), is amended to read as
21 follows:

22 Section 966. In ~~any legal~~ a proceeding, ~~the admissibility into~~
23 evidence of ~~an electronic~~ a record or ~~electronic~~ a signature shall

1 ~~be determined by rules of law relating to evidence and the Oklahoma~~
2 ~~Evidence Code~~ not be excluded solely because it is in electronic
3 form.

4 SECTION 13. AMENDATORY Section 11, Chapter 308, O.S.L.
5 1998 (15 O.S. Supp. 1999, Section 968), is amended to read as
6 follows:

7 Section 968. A. If a ~~rule of~~ law requires that ~~certain~~
8 ~~documents, records, or information~~ a record be retained, that
9 requirement is met by retaining electronic records ~~if~~ of the
10 information ~~contained in the electronic record remains accessible.~~
11 ~~The electronic record shall be retained in the format in which it~~
12 ~~was generated, stored, sent or received or in a format that can be~~
13 ~~demonstrated to reflect accurately the information as originally~~
14 ~~generated, stored, sent or received. Also, the information, if any,~~
15 ~~shall be retained in a manner that enables the identification of the~~
16 ~~source of origin and destination of an electronic record and the~~
17 ~~date and time it was sent or received. Nothing in this section~~
18 ~~shall preclude any government or governmental unit, agency, or~~
19 ~~political subdivision from specifying additional requirements for~~
20 ~~the retention of records, either written or electronic, that are~~
21 ~~subject to its jurisdiction~~ which:

1 1. Accurately reflects the information set forth in the record
2 after it was first generated in its final form as an electronic
3 record or otherwise; and

4 2. Remains accessible for later reference.

5 B. A requirement to retain a record in accordance with
6 subsection A of this section shall not apply to any information the
7 sole purpose of which is to enable the record to be sent,
8 communicated, or received.

9 C. A person may satisfy subsection A of this section by using
10 the services of another person if the requirements of that
11 subsection are satisfied.

12 D. If a law requires a record to be presented or retained in
13 its original form, or provides consequences if the record is not
14 presented or retained in its original form, that law is satisfied by
15 an electronic record retained in accordance with subsection A of
16 this section.

17 E. If a law requires retention of a check, that requirement is
18 satisfied by retention of an electronic record of the information on
19 the front and back of the check in accordance with subsection A of
20 this section.

21 F. A record retained as an electronic record in accordance with
22 subsection A of this section satisfies a law requiring a person to
23 retain a record for evidentiary, audit, or like purposes, unless a

1 law enacted after the effective date of this act specifically
2 prohibits the use of an electronic record for the specified purpose.

3 G. This section shall not preclude a governmental agency of
4 this state from specifying additional requirements for the retention
5 of a record subject to the jurisdiction of that agency.

6 SECTION 14. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 969 of Title 15, unless there is
8 created a duplication in numbering, reads as follows:

9 In an automated transaction, the following rules apply:

10 1. A contract may be formed by the interaction of electronic
11 agents of the parties, even if no individual was aware of or
12 reviewed the electronic agents' actions or the resulting terms and
13 agreements;

14 2. A contract may be formed by the interaction of an electronic
15 agent and an individual, acting on the individual's own behalf or
16 for another person, including an interaction in which the individual
17 performs actions that the individual is free to refuse to perform
18 and which the individual knows or has reason to know will cause the
19 electronic agent to complete the transaction or performance; and

20 3. The terms of the contract are determined by the substantive
21 law applicable to it.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 970 of Title 15, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Unless otherwise agreed between the sender and the
5 recipient, an electronic record is sent when it:

6 1. Is addressed properly or otherwise directed properly to an
7 information processing system that the recipient has designated or
8 uses for the purpose of receiving electronic records or information
9 of the type sent and from which the recipient is able to retrieve
10 the electronic record;

11 2. Is in a form capable of being processed by that system; and

12 3. Enters an information processing system outside the control
13 of the sender or of a person that sent the electronic record on
14 behalf of the sender or enters a region of the information
15 processing system designated or used by the recipient which is under
16 the control of the recipient.

17 B. Unless otherwise agreed between a sender and the recipient,
18 an electronic record is received when:

19 1. It enters an information processing system that the
20 recipient has designated or uses for the purpose of receiving
21 electronic records or information of the type sent and from which
22 the recipient is able to retrieve the electronic record; and

23 2. It is in a form capable of being processed by that system.

1 C. Subsection B of this section shall apply even if the place
2 the information processing system is located is different from the
3 place the electronic record is deemed to be received under
4 subsection D of this section.

5 D. Unless otherwise expressly provided in the electronic record
6 or agreed between the sender and the recipient, an electronic record
7 is deemed to be sent from the sender's place of business and to be
8 received at the recipient's place of business. For purposes of this
9 subsection, the following rules apply:

10 1. If the sender or recipient has more than one place of
11 business, the place of business of that person is the place having
12 the closest relationship to the underlying transaction; and

13 2. If the sender or the recipient does not have a place of
14 business, the place of business is the sender's or recipient's
15 residence, as the case may be.

16 E. An electronic record is received under subsection B of this
17 section even if no individual is aware of its receipt.

18 F. Receipt of an electronic acknowledgment from an information
19 processing system described in subsection B of this section
20 establishes that a record was received but, by itself, does not
21 establish that the content sent corresponds to the content received.

22 G. If a person is aware that an electronic record purportedly
23 sent under subsection A of this section, or purportedly received

1 under subsection B of this section, was not actually sent or
2 received, the legal effect of the sending or receipt is determined
3 by other applicable law. Except to the extent permitted by the
4 other law, the requirements of this subsection may not be varied by
5 agreement.

6 SECTION 16. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 971 of Title 15, unless there is
8 created a duplication in numbering, reads as follows:

9 A. In this section, "transferable record" means an electronic
10 record that:

11 1. Would be a note under Article 3 of Title 12A of the Oklahoma
12 Statutes or a document under Article 7 of Title 12A of the Oklahoma
13 Statutes, which are provisions of the Uniform Commercial Code, if
14 the electronic record were in writing; and

15 2. The issuer of the electronic record expressly has agreed is
16 a transferable record.

17 B. A person has control of a transferable record if a system
18 employed for evidencing the transfer of interests in the
19 transferable record reliably establishes that person as the person
20 to which the transferable record was issued or transferred.

21 C. A system satisfies subsection B of this section, and a
22 person is deemed to have control of a transferable record, if the

1 transferable record is created, stored, and assigned in such a
2 manner that:

3 1. A single authoritative copy of the transferable record
4 exists which is unique, identifiable, and, except as otherwise
5 provided in paragraphs 4, 5 and 6 of this subsection, unalterable;

6 2. The authoritative copy identifies the person asserting
7 control as:

8 a. the person to which the transferable record was issued,
9 or

10 b. if the authoritative copy indicates that the
11 transferable record has been transferred, the person to
12 which the transferable record was most recently
13 transferred;

14 3. The authoritative copy is communicated to and maintained by
15 the person asserting control or its designated custodian;

16 4. Copies or revisions that add or change an identified
17 assignee of the authoritative copy can be made only with the consent
18 of the person asserting control;

19 5. Each copy of the authoritative copy and any copy of a copy
20 that is readily identifiable as a copy which is not the
21 authoritative copy; and

22 6. Any revision of the authoritative copy is readily
23 identifiable as authorized or unauthorized.

1 D. Except as otherwise agreed, a person having control of a
2 transferable record is the holder, as defined in the Uniform
3 Commercial Code, Section 1-201 of Title 12A of the Oklahoma
4 Statutes, of the transferable record and has the same rights and
5 defenses as a holder of an equivalent record or writing under the
6 Uniform Commercial Code, including, if the applicable statutory
7 requirements under Sections 3-302, 7-501, or 9-308 of Title 12A of
8 the Oklahoma Statutes, which are provisions under the Uniform
9 Commercial Code, are satisfied; the rights and defenses of a holder
10 in due course; a holder to which a negotiable document of title has
11 been duly negotiated; or a purchaser, respectively. Delivery,
12 possession, and endorsement are not required to obtain or exercise
13 any of the rights under this subsection.

14 E. Except as otherwise agreed, an obligor under a transferable
15 record has the same rights and defenses as an equivalent obligor
16 under equivalent records or writings under the Uniform Commercial
17 Code.

18 F. If requested by a person against which enforcement is
19 sought, the person seeking to enforce the transferable record shall
20 provide reasonable proof that the person is in control of the
21 transferable record. Proof may include access to the authoritative
22 copy of the transferable record and related business records
23 sufficient to review the terms of the transferable record and to

1 establish the identity of the person having control of the
2 transferable record.

3 SECTION 17. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 972 of Title 15, unless there is
5 created a duplication in numbering, reads as follows:

6 Each governmental agency of this state shall determine whether,
7 and the extent to which, it will create and retain electronic
8 records and convert written records to electronic records.

9 SECTION 18. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 973 of Title 15, unless there is
11 created a duplication in numbering, reads as follows:

12 A. Except as otherwise provided in Section 968 of Title 15 of
13 the Oklahoma Statutes, each governmental agency of this state shall
14 determine whether, and the extent to which, it will send and accept
15 electronic records and electronic signatures to and from other
16 persons and otherwise create, generate, communicate, store, process,
17 use, and rely upon electronic records and electronic signatures.

18 B. To the extent that a governmental agency uses electronic
19 records and electronic signatures under subsection A of this
20 section, the governmental agency giving due consideration to
21 security, may specify:

1 1. The manner and format in which the electronic records shall
2 be created, generated, sent, communicated, received, and stored and
3 the systems established for those purposes;

4 2. If electronic records must be signed by electronic means,
5 the type of electronic signature required, the manner and format in
6 which the electronic signature must be affixed to the electronic
7 record, and the identity of, or criteria that must be met by, any
8 third party used by a person filing a document to facilitate the
9 process;

10 3. Control processes and procedures as appropriate to ensure
11 adequate preservation, disposition, integrity, security,
12 confidentiality, and auditability of electronic records; and

13 4. Any other required attributes for electronic records which
14 are specified for corresponding nonelectronic records or reasonably
15 necessary under the circumstances.

16 C. Except as otherwise provided in Section 968 of Title 15 of
17 the Oklahoma Statutes, this act does not require a governmental
18 agency of this state to use or permit the use of electronic records
19 or electronic signatures.

20 SECTION 19. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 974 of Title 15, unless there is
22 created a duplication in numbering, reads as follows:

1 The governmental agency of this state which adopts standards
2 pursuant to Section 18 of this act may encourage and promote
3 consistency and interoperability with similar requirements adopted
4 by other governmental agencies of this and other states and the
5 federal government and nongovernmental persons interacting with
6 governmental agencies of this state. If appropriate, those
7 standards may specify differing levels of standards from which
8 governmental agencies of this state may choose in implementing the
9 most appropriate standard for a particular application.

10 SECTION 20. REPEALER Sections 8 and 10, Chapter 308,
11 O.S.L. 1998 (15 O.S. Supp. 1999, Sections 965 and 967), are hereby
12 repealed.

13 SECTION 21. This act shall become effective November 1, 2000.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-28-00 - DO
15 PASS, As Amended.