STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES

AMERICAN ASSOCIATION OF LAW LIBRARIES
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INTRODUCTION
In 2003, the American Association of Law Libraries (AALL) published the *State-by-State Report on Permanent Public Access to Electronic Government Information* (http://www.ll.georgetown.edu/aallwash/State_PPAreport.htm). Based on a survey of the fifty states by members of AALL, the goal of this ground-breaking report was to research what, if anything, state governments were doing to meet the enormous challenges of ensuring permanency and public accessibility of government information on the Web. The report helped raise national awareness of the need to ensure permanent public access (PPA) and much progress has been made since its publication. New grant funds have become available, and additional research and collaboration by state librarians and state archivists to test and develop “best practices” for PPA and preservation are a reality today.

AALL’s follow-up *State-by-State Report on Authentication of Online Legal Resources* is essentially an answer to another timely question – **How trustworthy are state-level primary legal resources on the Web?** Trustworthiness is fundamental to PPA and inherently a matter of great concern to AALL members and the legal community. This report examines the results of an online state survey that investigated which government-hosted legal resources on the Web are *official* and capable of being considered *authentic*.

The Authentication Survey, completed by AALL Members in 2006, targeted six sources of law: state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions.

The summary answer to the question of their trustworthiness is this: A significant number of the state online legal resources are *official* but none are *authenticated* or afford ready authentication by standard methods. State online primary legal resources are therefore not sufficiently trustworthy.

This report is comprised of the Executive Summary that provides a brief background narrative and short discussion of the six key findings; the Findings section that examines in detail the characteristic features demonstrating the states’ commitment to making their online legal information resources *official* and *authentic*; and the individual reports that answer two basic questions for each state: **Is the state addressing the official status of any of its online legal resources?** **Is the state addressing the authentication of any of its online legal resources?** Current information on permanent public access to the resources is also provided.

As you read the Findings section of the report, we hope you will take advantage of the extensive additional information found in the separate reports for each state (pp. 77-193) and refer to the analytical table in Appendix A which is especially helpful in summarizing the survey findings for all fifty states and DC (pp. 197-208).

The *State-by-State Report on Authentication of Online Legal Resources* raises concerns that need to be addressed by the states both as high-level policy decisions and practical matters. AALL hopes that it will serve as a guide for states to correct smaller-scale deficiencies in their current dissemination of online legal resources and to initiate long-
term progress toward the all-digital legal information environment that will enhance each state’s fundamental interaction with its citizens.

Toward this end, the American Association of Law Libraries is convening a National Summit on Authentication of Digital Legal Information to be held in Chicago on April 20-21, 2007. Approximately fifty delegates from the judiciary, the legal community, state governments and interested organizations, all of whom share AALL’s concern about ensuring the authenticity of digital legal information, have been invited to participate to discuss the findings of the report and to explore legal and technological solutions to ensure that state online legal resources are authenticated and trustworthy.
EXECUTIVE SUMMARY
**Executive Summary**

How trustworthy are state-level primary legal resources on the Web?

The *State-by-State Report on Authentication of Online Legal Resources* is essentially an answer to that question. The report and the Authentication Survey on which it is based investigate which government-hosted legal resources on the Web are *official* and capable of being considered *authentic*.

The Authentication Survey investigated six sources of law: state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions. The summary answer to the question of their trustworthiness is:

A significant number of the state online legal resources are official but none are authenticated or afford ready authentication by standard methods. State online primary legal resources are therefore not sufficiently trustworthy. Citizens and law researchers may reasonably doubt their authority and should approach such resources critically.

The emergence of online *official* legal resources is a positive development, providing that the publications are actually trustworthy. To be trustworthy, digital materials – vulnerable to lapses in management and control, corruption, and tampering – must be equivalent to print *official* legal resources. To be equivalent, they must be *authentic*. Some states cast online legal resources in a facilitative role, intending citizens and law researchers to use such materials as a means to identify law they must take steps to verify elsewhere. This is a misleading and self-defeating role for government information. As fully demonstrated in the detailed findings, some online sources now replace print *official* legal resources. For the states to rely on an approximation of the law – even one “good enough” most of the time – completely fails in its role where the online source is the sole *official* statement of the law and is not authenticated.

**Definition of Online Official Legal Resource**

An online *official* legal resource is one that possesses the same status as a print *official* legal resource. The concept of an *official* legal resource applied to print publications is well established. Print *official* legal resources have generally served as a touchstone for authoritative and reliable statements of the law.

The working definition of *official* legal resource, drawn from the latest editions of *Black’s Law Dictionary* and *Fundamentals of Legal Research* and adopted as a guide to survey participants, reads:
An *official* version of regulatory materials, statutes, session laws, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be. (Instructions for Completing the Survey Form and Summarizing the Situation in your State, reproduced as Appendix D-2.)

This definition is firmly rooted in the print world. Now, however, the survey results make it evident that the very concept of an *official* legal resource fits print much more easily than online sources of law. Insofar as courts and public officials turn to *official* legal resources for authoritative and reliable statements of the law and require citation to such sources in the documents that come before them, the operative element of *authenticity* is implicit in the definition. The fixed nature of the print medium, coupled with the paper publication’s multiple copies and wide distribution, ensures that the print *official* legal resource, as “governmentally mandated or approved by statute or rule,” is an *authentic* resource. An online *official* legal resource offers no such automatic assurance.

**Definition of Online *Authentic* Legal Resource**

The Authentication Survey investigated the *authenticity* of online legal resources as a separate and distinct question – as, indeed, a complete analysis requires. The survey borrowed from the definition of terms contained in the Authentication white paper prepared by the U.S. Government Printing Office to outline that agency’s designs for a federal digital system to replace print government documents (see Appendix C). The Authentication Survey’s working definition of an *authentic* legal resource reads:

An *authentic* text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator. Typically, an *authentic* text will bear a certificate or mark that conveys information as to its certification, the process associated with ensuring that the text is complete and unaltered when compared with that of the content originator. An *authentic* text is able to be *authenticated*, which means that the particular text in question can be validated, ensuring that it is what it claims to be. (Instructions for Completing the Survey Form and Summarizing the Situation in your State, reproduced as Appendix D-2.)

This concept of an *authentic* legal resource is especially suited to the digital world. It contemplates encryption-based authentication methods, especially digital signatures and public key infrastructure. The concept of an *authentic* text as one “able to be *authenticated*” broadens the definition to include technologies or practices beyond digital signatures and public key infrastructure. The definition clearly recognizes that online legal resources are inherently capable of being corrupted or tampered with at the level of
the individual copy. In that respect, online legal resources are fundamentally different from print legal resources.

In the broadest sense, an online legal resource capable of being considered *authentic* is one that is *authenticated* or clearly possesses characteristics that would readily allow it to be *authenticated* by a recognized authentication process. An *authenticated* resource is one shown to be a complete and unaltered version of an approved text.

Appendix B provides definitions for “encryption,” “digital signature,” “public key infrastructure,” “digital watermarking,” and various terms related to computer-based technologies and practices that readily allow online legal resources to be *authenticated*. Going beyond this, the Authentication Survey approached the issue of authentication without preconceptions. The analysis centered on what authentication technologies or practices each state may use or be considering. It also inquired into “chain of custody” information as very basic evidence of procedures for data handling that would contribute to online resources being *authenticated* by other than purely technological means.

One basic prescription appears to be warranted: The approved text of an *authenticated* legal resource on the Web should be the *official* version of the online source. While there may be circumstances where a state would be concerned to preserve *authentic* unofficial versions (e.g., original court slip opinions superseded by the final *official* version), the concept of *authentic* legal resources generally pertains to *official* sources.

### Inductive Approach to Survey

The overall approach of the Authentication Survey has been inductive. Rather than begin by investigating what laws or rules would likely support a court or other formal determination that a particular online resource is *official* or *authentic*, the Authentication Survey collected evidence of what resources officials and others consider *official* or *authentic*. Using deductive methods to start from sources of law that might lead researchers to identify resources that now form an acknowledged category of online materials was not a viable approach.

What is considered *official* or *authentic* formed the starting point leading to further inquiry and analysis as to what statutes, court rules, administrative regulations, and other factors support or inform what is considered *official* and *authentic*.

A number of the states express unequivocally on their Web sites that the online legal resources are *official*. Online sources that now substitute for discontinued print *official* resources typically indicate they have *official* status. Officials responsible for online publications often demonstrated an informed understanding and conviction that particular online sources have *official* status.

At the same time, no definite laws or rules state that particular online legal resources are entitled to judicial notice and other recognition as authoritative statements of the law.
Statutes are sometimes unclear as to whether they apply to both print and online versions of legal resources or to print alone.

Key Findings of the Authentication Survey

Summaries of the six Key Findings of the Authentication Survey follow. A discussion is included of deficiencies in current approaches to state dissemination of legal resources on the Web.

KEY FINDING 1: States have begun to discontinue print official legal resources and substitute online official legal sources.

Ten states, plus the District of Columbia, have deemed as official one or more of their online primary legal resources. This is fully discussed under Key Finding 2. Five of these ten states – Alaska, Indiana, New Mexico, Tennessee, and Utah – have declared the online versions of legal resources a substitute for a print official source. The online resource is, therefore, the sole official statement of the law. This is a very significant concern to law librarians and the legal community. None of the substitute online legal sources is capable of being considered authentic.

The discontinuation of print in favor of online sources has occurred principally with state administrative registers (Alaska, Indiana, Tennessee, and Utah) and state administrative codes (Indiana, Tennessee, and Utah). The first official administrative code for New Mexico is its online publication; the sole print unofficial version is commercially published. The sole official version of the Utah statutes is on the Web.

This section of the detailed findings (pp. 33-37) analyzes the situation in the five states where online versions of legal resources are the sole official source of the information. Official resources demand authenticity. The disappearance of print official legal resources without an authentic online substitute critically erodes the bedrock of trustworthy statements of the law.

KEY FINDING 2: Ten states & D.C. have deemed as official one or more of their online primary legal resources.

Ten states – Alaska, Indiana, Maryland, Michigan, Minnesota, New Mexico, New York, Tennessee, Utah, and Virginia – plus the District of Columbia, have made twenty-three sources of law available in online repositories that are considered official. The analytical table in Appendix A gives a source-by-source account of how the six sources for each state are distributed among separate official repositories.

Online legal resources that unequivocally state they have an official status based on a specific corroborative statute could be said to be official sources about which we are the most confident. We found no such absolutely explicit online official source. Indiana’s
online *official* administrative code and administrative register may be thought to be among the closest contenders. They state they are *official* and their status is based on a corroborative statute. They do not themselves state they are *official* on the basis of that statute, however, and their declaration is not especially prominent on the Web site or in its documentation.

This section of the detailed findings (pp. 37-48) examines the use of the term “official” on state Web sites declaring the official status of online legal resources. It distinguishes between unequivocal representations of that status and statements requiring additional corroboration. The section also examines several resources deemed as official without so stating.

**KEY FINDING 3:** *One or more of the online primary legal sources of eight states have “official traits,” where evidence as to the actual status of the resources is conflicting.*

Eight states – Alaska, California, New Jersey, Ohio, Texas, Utah, Vermont, and Virginia – plus the District of Columbia, are responsible for sixteen sources of law that are inchoate as *official* resources or unresolved as to their official or unofficial status. These inchoate and unresolved sources fall into the category we label “O traits” or “official traits.”

Such resources are vexing to citizens and law researchers. The “O traits” or “official traits” category of online legal resources is contentious. It would be reasonable to assert that any resource that is not *official* is simply unofficial. Nonetheless, recognizing this category helps highlight certain confusing situations we examined that involve “official traits” of legal resources. It signals a need for statutory reform or changes in state policies and practices.

We find the “official traits” category is warranted for resources where a state has intended to create an online *official* legal source but a definite impediment has blocked its realization. Additionally, we find the category is warranted where states have failed to recognize the consequences of steps taken in making a legal resource available on the Web. This characterizes situations where a mismatch exists between applicable statutes and the state’s implementation, or where statutory provisions themselves are ill-coordinated. Intentions of those responsible for the resources may be unclear and steps with confusing consequences may have been taken.

This section of the detailed findings (pp. 48-55) examines the variety of situations where online resources fall into the “official traits” category. In some states, various issues with the statutes that create particular online legal resources are responsible for the “official traits” status. In other states, evidence beyond the underlying statutes is examined. Users tend to be misled or confused by resources falling in the “official traits” category. Online resources within this category deserve the states’ immediate corrective attention.
KEY FINDING 4: States have not acknowledged important needs of citizens and law researchers seeking government information; they have not been sufficiently deliberate in their policies and practices.

The representations and disclaimers made by online legal resources were a starting point for the Authentication Survey’s investigation of official or unofficial status. Online legal resources that disclaim official status often make extensive disclaimers concerning their accuracy and reliability. Online official legal resources also sometimes make such disclaimers. The prevalent use of disclaimers – which may be contrasted with very limited use of disclaimers for official and unofficial print titles – points to fundamental differences between online and print media.

Publishing entities, both government and commercial, have long recognized that digital materials are vulnerable to lapses in management and control, corruption, and tampering. Through extensive use of disclaimers, publishers have avoided steps needed to put online legal resources on the same footing as print. This is so even for publishers of online official legal resources. This failure represents a serious neglect of the needs of citizens and law researchers seeking government information. It is axiomatic that persons using legal resources seek trustworthy – official and authentic – government information without reservations concerning how online versions relate to authoritative originals, transcription accuracy, completeness, and currency.

Beyond fundamental problems concerning use of disclaimers, states generally have not been sufficiently deliberate in their policies and practices affecting the authority of online legal resources. States need to deliberate some very practical issues, including:

- Should the title of the online source be identical to the print version?
- What features and formatting of the online publication would best serve applicable citation systems?
- Should formatting of online sources correspond to their print counterpart?
- Should updating for an online source occur more frequently than the print version?
- How are any differences as to currency and other essential features best communicated?
- How is the official or unofficial status of the online source best communicated?

There are some overarching structural concerns as well:

- How might maintenance of online legal resources be integrated into the flow of administrative, legislative, and judicial activity generating the law?
- What systems best reflect the natural life-cycle of legal information?
- What processes ensure permanent public access?
This section of the detailed findings (pp. 55-65) examines the states’ use of formal representations and disclaimers in detail. It also provides a comprehensive list of practical concerns required to make online sources serve as improved or, at least, adequate substitutes for print official legal sources and to meet important needs of citizens and law researchers (pp. 56, 64-65).

**KEY FINDING 5: No state’s online primary legal resources are authenticated or afford ready authentication by standard methods.**

The Authentication Survey analysis found, unfortunately, that it is sometimes difficult to know with certainty whether an online legal resource is official or not. The report examines statutes responsible for online official legal resources. It demonstrates that the concepts of official status and authenticity of online legal sources are inextricably interrelated. Our understanding of the relationship is this: An online official legal resource is one that possesses the same status as a print official legal resource. The essential means to ensure the online legal resource is equal to the print official source is to ensure the online resource is authenticated or affords ready authentication by standard methods.

No state’s online primary legal resources are authentic – meaning that none of those resources are authenticated or afford ready authentication by standard methods. An authentic text “is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator.” It bears a certificate or mark as proof of its certification, “the process associated with ensuring the text is complete and unaltered” from the original. An authentic text is able to be authenticated, “ensuring that it is what it claims to be.”

This section of the detailed findings (pp. 65-69) examines three states – Minnesota, Virginia and Vermont – identified by the state authors as addressing in some way the authentication of online legal resources. These states have a heightened awareness of the need to authenticate online resources but none has implemented a proper means to authenticate digital content. At least eight other states – Alabama, Arkansas, Connecticut, Maryland, Montana, Ohio, South Carolina, and Tennessee – potentially perceive authentication or its absence as a specific concern warranting attention.

**KEY FINDING 6: Eight states have provided for permanent public access (PPA) to one or more of their online primary legal resources.**

Eight states – Alaska, California, Indiana, Minnesota, Ohio, Pennsylvania, Texas, and Utah – have afforded thirteen sources of law permanent public access. Permanent public access (PPA) is a policy and practice that ensures “applicable government information is preserved for current, continuous and future public access.” See Gov’t Relations
For five of these states – Alaska, Indiana, New Mexico, Tennessee, and Utah – the online versions of legal resources substitute for a print *official* source. Where the online source is the sole *official* statement of the law – as it is in these five states – those digital materials demand safeguards that ensure permanent public access. While relatively few online legal resources are afforded PPA, disappearing print has prompted affected states to address PPA.

The analytical table in Appendix A shows that most states that substitute online *official* legal resources for discontinued print have begun to provide for the long-term accessibility and preservation of those online sources. Three of four states – Alaska, Indiana, and Utah – that have discontinued print *official* administrative registers afford PPA for the online resource. Tennessee does not. The situation with discontinued print *official* administrative codes is less optimistic. Utah affords PPA for its online *official* administrative code but Indiana and Tennessee do not. New Mexico does not afford PPA for its sole online *official* administrative code.

This section of the detailed findings (pp. 69-73) describes efforts by these states and several others to enact statutes or implement reasonably secure policies and practices to address the permanent public access of these legal resources.

**Conclusion**

The Authentication Survey’s findings point to a critical need for action on the part of state legislators and government officials. The detailed findings of this report provide guidance for revising existing laws and, at the administrative level, adjusting policies and practices to ensure each state’s publicly available legal resources on the Web are authoritative and reliable. The need is particularly acute for those online legal resources that replace discontinued print *official* sources and are now the sole *official* published source of the information.

The Survey found that online legal resources are increasingly the sole *official* published source. Laws addressing those resources and other online *official* sources are seriously deficient, failing to require certification as to completeness and accuracy for online resources comparable to that required for print *official* sources. Moreover, those laws fail to recognize the authentication linchpin, essential to online *official* sources, tying together their official status, their certification or other formal endorsement, and their judicial and administrative recognition as authoritative and reliable statements of the law.

Official status demands appropriate authentication procedures. Standard methods of authentication may include encryption, digital signatures and public key infrastructure but other methods to adopt best practices are also possible. Certification or other types of formal endorsement of legal resources are a vital link in the “chain of custody” involved
in dissemination, maintenance, and long-term preservation of digital materials. That chain may contain a link to computer technologies that guarantee the very copy delivered to one’s computer screen is uncorrupted and complete or it may be part of other archival methods.

The fundamental trustworthiness of online legal information is not the only concern, however. Fully recognizing the needs of citizens and law researchers related to the authority of online legal resources necessitates that the states take action to make online sources serve as improved or, at least, adequate substitutes for print official legal sources. This means that the states think through a number of practical matters, particularly their use of disclaimers. The detailed findings discuss issues relevant to the authenticity and authority of online legal resources, as measured against print official sources.

The State-by-State Report on Authentication of Online Legal Resources raises concerns that need to be addressed by the states both as high-level policy decisions and practical matters. The American Association of Law Libraries hopes that it will serve as a guide for the states to correct smaller-scale deficiencies in their current dissemination of online legal resources and to initiate long-term progress toward the all-digital legal information environment that will enhance each state’s fundamental interaction with its citizens.
FINDINGS
The State-by-State Report on Authentication of Online Legal Resources is essentially an answer to the question: How trustworthy are state-level primary legal resources on the Web? The report and the Authentication Survey on which it is based investigate which government-hosted legal resources on the Web are official and capable of being considered authentic.

The Authentication Survey investigated six sources of law: state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions. The summary answer to the question of their trustworthiness is: A significant number of the state online legal resources are official but none are authenticated or afford ready authentication by standard methods. State online primary legal resources are therefore not sufficiently trustworthy. Citizens and law researchers may reasonably doubt their authority and should approach such resources critically.

The emergence of online official legal resources is a positive development, providing that the publications are actually trustworthy. To be trustworthy, digital materials – vulnerable to lapses in management and control, corruption, and tampering – must be equivalent to print official legal resources. To be equivalent, they must be authenticated. Some states cast online legal resources in a facilitative role, intending citizens and law researchers to use such materials as a means to identify law they must take steps to verify elsewhere. This is a misleading and self-defeating role for government information. As fully demonstrated in the detailed findings below, some online sources now replace print official legal resources.

For states to rely on an approximation of the law – even one “good enough” most of the time – completely fails in its role where the online source is the sole official statement of the law and is not authenticated.

Definition of Online Official Legal Resource

An online official legal resource is one that possesses the same status as a print official legal resource. The concept of an official legal resource applied to print publications is well established. Print official legal resources have generally served as a touchstone for authoritative and reliable statements of the law.

The working definition of official legal resource, drawn from the latest editions of Black’s Law Dictionary and Fundamentals of Legal Research and adopted as a guide to survey participants, reads:

An official version of regulatory materials, statutes, session laws, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be. (Instructions for Completing the Survey Form
and Summarizing the Situation in your State, reproduced as Appendix D-2.)¹

This definition is firmly rooted in the print world. Now, however, the survey results make it evident that the very concept of an official legal resource fits print much more easily than online sources of law. Insofar as courts and public officials turn to official legal resources for authoritative and reliable statements of the law and require citation to such sources in the documents that come before them, the operative element of authenticity is implicit in the definition. The fixed nature of the print medium, coupled with the paper publication’s multiple copies and wide distribution, ensures that the print official legal resource, as “governmentally mandated or approved by statute or rule,” is an authentic resource. An online official legal resource offers no such automatic assurance.

Definition of Online Authentic Legal Resource

The Authentication Survey investigated the authenticity of online legal resources as a separate and distinct question – as, indeed, a complete analysis requires. The survey borrowed from the definition of terms contained in the Authentication white paper² prepared by the U.S. Government Printing Office to outline that agency’s designs for a


federal digital system to replace print government documents (see Appendix C). The Authentication Survey’s working definition of an authentic legal resource reads:

An authentic text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator. Typically, an authentic text will bear a certificate or mark that conveys information as to its certification, the process associated with ensuring that the text is complete and unaltered when compared with that of the content originator. An authentic text is able to be authenticated, which means that the particular text in question can be validated, ensuring that it is what it claims to be. (Instructions for Completing the Survey Form and Summarizing the Situation in your State, reproduced as Appendix D-2.)

This concept of an authentic legal resource is especially suited to the digital world. It contemplates encryption-based authentication methods, especially digital signatures and public key infrastructure. The concept of an authentic text as one “able to be authenticated” broadens the definition to include technologies or practices beyond digital signatures and public key infrastructure. The definition clearly recognizes that online legal resources are inherently capable of being corrupted or tampered with at the level of the individual copy. In that respect, online legal resources are fundamentally different from print legal resources.

In the broadest sense, an online legal resource capable of being considered authentic is one that is authenticated or clearly possesses characteristics that would readily allow it to be authenticated by a recognized authentication process. An authenticated resource is one shown to be a complete and unaltered version of an approved text.

Appendix B provides definitions for “encryption,” “digital signature,” “public key infrastructure,” “digital watermarking,” and various terms related to computer-based technologies and practices that readily allow online legal resources to be authenticated. Going beyond this, the Authentication Survey approached the issue of authentication without preconceptions. The analysis centered on what authentication technologies or practices each state may use or be considering. It also inquired into “chain of custody” information as very basic evidence of procedures for data handling that would contribute to online resources being authenticated by other than purely technological means.

One basic prescription appears to be warranted: The approved text of an authenticated legal resource on the Web should be the official version of the online source. While there may be circumstances where a state would be concerned to preserve authentic unofficial versions (e.g., original court slip opinions superseded by the final official version), the concept of authentic legal resources generally pertains to official sources. The interrelation between authenticity and official status is further discussed below.
Inductive Approach to Survey

The overall approach of the Authentication Survey has been inductive. Rather than begin by investigating what laws or rules would likely support a court or other formal determination that a particular online resource is official or authentic, the Authentication Survey collected evidence of what resources officials and others consider official or authentic. What is considered official or authentic formed the starting point leading to further inquiry and analysis as to what statutes, court rules, administrative regulations, and other factors support or inform what is considered official and authentic.

As confirmation that a common sense approach was the best means to grasp this special category of online materials, we note that a number of the states express unequivocally on their Web site that the online legal resources are official. Online sources that now substitute for discontinued print official resources typically indicate they have official status. Officials responsible for online publications often demonstrated an informed understanding and conviction that particular online sources have official status. At the same time, we often found no definite laws or rules stating that particular online legal resources are entitled to judicial notice and other recognition as authoritative statements of the law. We sometimes found statutes that were unclear as to whether they applied to both print and online versions of legal resources or to print alone. Using deductive methods to start from sources of law that might lead researchers to identify resources that now form an acknowledged category of online materials was not a viable approach.

An especially notable exception in our findings – a situation where one can point to a source of law that declares an online legal resource is an official, citable authority – is the New Mexico statutes on the Web. Recent legislation provides that:

Upon the certification of the compilation . . . or any supplement by the New Mexico compilation commission, with the advice and approval of the advisory committee of the supreme court, the compilation or supplement shall be in force, and printed and electronic copies thereof shall be received, recognized, referred to and used in all the courts and in all departments and offices of the state as the official compilation of the statutory law of New Mexico and may be cited as [further specified]. Act of July 1, 2006, ch. 70, § 4, 2006 N.M. Adv. Legis. Serv. 480, 483 (codified as N.M. STAT. § 12-1-7) (emphasis added).

This example and the relatively large number of New Mexico online legal resources deemed as official are further discussed below.

Generally, one is more likely to find in the case of print official resources a statute or rule that directly states a particular resource is official, citable, and prima facie evidence of the law, entitled to judicial notice and other recognition. Links to judicial and administrative recognition are a hallmark of official status. The existence of statutes and rules making such links contributes to our understanding of what makes a resource official, even
though an express, direct connection between official status of a source and prescribed judicial notice and other recognition cannot be found in every case of an official resource.

Our further inquiry into the online legal resources considered official and authentic sometimes led us to vexing situations. In some cases the evidence of official status was inconclusive, inconsistent, or even contradictory. This prompted us to introduce the concept of “official traits,” where a source with such traits may share some of the characteristics of an official legal resource without being official. The analytical table in Appendix A shows what resources are official or have “official traits”. The Authentication Survey’s methodology set forth in Appendix D-1 discusses our overall approach for categorizing online legal resources. The evidence set forth in Key Findings 1, 2, and 3 shows the basis for categorizing particular resources.

The reality of the situation is this: For the print world, one finds no master set of statutes, court rules, and administrative regulations controlling the question of official status. Since official status may turn on the degree of control the government exercises in publishing the print legal resource itself or authorizing another, official status is sometimes established or repudiated on the basis of the government’s practices and usage over time. Deductive methods alone are insufficient to understand the print world. Less so can such methods be used to understand the entire picture for online official legal resources. If the print world is lacking some rigor in this regard, the digital is lacking even more, and is much more susceptible to rapid change.

The representations and disclaimers of a particular online legal resource are especially valuable as a starting point for investigating their official or unofficial status. This is particularly so in a world where courts have not adjudicated questions of which online legal resources are official or authentic, and are unlikely to do so. Deductions from existing statutes, court rules, or administrative regulations concerning which online resources are official are often uncertain. A direct representation by an online legal resource that it is official is a substantial, if not determinative, indicator of its official status.

Characteristic Features in States Committed to Online Official Legal Resources

New Mexico, Utah, and Tennessee are among the states most committed to making online official legal resources available to citizens and others. They have designated as official a substantial number of their online sources. This section of the report examines these states closely to identify whether common features characterize their commitment to online official legal resources. We begin with an inventory:

New Mexico. Its official online New Mexico Administrative Code is the state’s first and only official administrative code. New Mexico’s online administrative register and court opinions are official, as are its online statutes, at least the particular version available on
the New Mexico Compilation Commission Web site. The administrative code and administrative register directly state on the Web that they are official.

**Utah.** The state’s online official statutes and administrative rules publications substitute for discontinued print official resources. One of the state’s two online versions of the statutes directly states it is official. Utah’s online administrative register and administrative code explain in detail their official status.

**Tennessee.** Its online official administrative code and administrative register substitute for discontinued print publications. The state’s online session laws are also official. Only the administrative rules publications directly state that they are official.

The number of each state’s official resources online is significant. So is the extent to which each state has discontinued print official sources. Beyond these raw measures, however, there are few common features in the New Mexico, Utah, and Tennessee approaches to official status of legal resources on the Web.

### a. No Common Approach in Key Areas

It is instructive to consider the adoption and implementation by the states of universal citation systems (also known as medium-neutral or public domain citation systems). The *AALL Universal Citations Guide*, which was developed by AALL’s Citation Formats Committee, is an example of such a system. Like such systems generally, the *AALL Universal Citation Guide* (ver. 2.1 2002, at http://www.aallnet.org/committee/citation/ucg/) requires use of citation forms capable of referencing the text of a legal resource regardless of its publisher and its print or digital form. How a state implements a universal citation system shows what role it gives online legal resources. The implementation may be viewed as a gauge of the state’s integration of legal resources on the Web. As more fully discussed below, the findings on this account for New Mexico, Utah, Tennessee, and the states as a whole fail to show a pattern. The committed states do not approach universal citation systems the same way.

In addition, our findings reveal no general pattern in statutory requirements or policies and practices addressed to the committed states’ online official legal resources. A criterion relevant in such an assessment is the extent to which a state designates official status by requiring some form of certification as to the legal publication’s completeness and accuracy. Coupled with a prescribed procedure for such certification, states may tie official status to judicial and other recognition of such resources, designating them as citable and authoritative statements of the law. As more fully discussed below, the findings for the committed states reveal no deliberate solution, much less a model approach, to designating as official their online legal resources. The committed states are a little different from those states with fewer official online sources. The overall failure of states to follow deliberate policies and practices affecting the authority of legal resources on the Web is the subject of Key Finding 4.
The lack of a common approach makes this an area ripe for statutory reform. Indeed, we find there is a serious need for such action as the legal information environment becomes increasingly digital. An agenda for statutory reform would cover legal specifications for procedures certifying the completeness and accuracy of online official legal resources. In addition, recognizing a crucial concern that has escaped state attention, certification procedures should be coupled with measures ensuring the authentication and long-term integrity of online sources. Statutory specifications addressing such measures would properly extend recognized principles for designating legal resources as official and acknowledge the special vulnerabilities of digital materials.3

A more detailed account of the foregoing conclusions follows. We examine more closely the online official legal resources of New Mexico, Utah, and Tennessee.

b. Approaches to Universal Citation Systems

Thirteen states – Louisiana, Maine, Mississippi, Montana, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Vermont, Wisconsin, and Wyoming – have adopted universal citation systems. See generally The Bluebook: A Uniform System of Citation T.1, 198-239 (Columbia Law Review Ass’n et al. eds., 18th ed. 2005).4 Inasmuch as universal citation systems are intended to allow users to rely on any source of legal information, official or unofficial, a state’s adoption of such a system is not tied to any recognition of its online resources as official. Universal citation systems

3 McCormick on Evidence is a source for further discussion of models for statutory reform in this area. See 2 MCCORMICK ON EVIDENCE § 335 (Kenneth S. Broun ed. 6th ed. 2006). McCormick’s description of the practical approach of judges in taking judicial notice of law is relevant to the Authentication Survey’s efforts to understand the role of authenticated online official legal resources. “The heavy-footed common law system of proof by witnesses and authenticated documents is too slow and cumbrous for the judge’s task of finding what the applicable law is.” Usually the law is already familiar or, if not, the judge relies on sources cited by counsel. “[T]he normal method then is by informal investigation of any sources satisfactory to the judge.” Id. at 458. Consistent with McCormick, the Authentication Survey finds that the common sense approach in the increasingly digital world is to ensure that judges have authoritative and reliable materials close at hand to facilitate the informal processes of judicial notice of the law. The existing “hodgepodge” of laws that, in piecemeal fashion, prescribe judicial notice for certain resources and ignore others (see id. at 466-7) is unsatisfactory. So are over-technical rules of evidence. Note that McCormick’s analysis is consistent with the approach of the advisory committee responsible for the Federal Rules of Evidence, which have been widely adopted at the state level. That committee’s “Note on Judicial Notice of Law” makes clear that a premise of the rules – in particular Rule 201 addressing judicial notice – is that “the manner in which law is fed into the judicial process is never a proper concern of the rules of evidence…” Rules of Evidence for United States Courts and Magistrates, 56 F.R.D. 183, 207 (1972). It may rightly be a concern of the rules of procedure and their notice or pleading requirements. Id. We return to general evidentiary issues in Key Finding 5, where we discuss Federal Rules of Evidence Rule 902(5) addressing the “self-authentication” of official publications.

4 The Bluebook omits Vermont without explanation. See Peter W. Martin, Neutral Citation, Court Web Sites, and Access to Case Law, 99 LAW LIBR. J. (forthcoming 2007)(text also published as Cornell Legal Studies Research Paper No. 06-047 at http://ssrn.com/abstract=950387 (states adopting universal citation systems discussed on page 6, n.27)).
principally address the dominance of particular commercial publishers. Nevertheless, they are also a basic means to enhance citizens’ use of government-hosted Web resources. Depending on their specific citation requirements and the conditions of their implementation, universal citation systems may free users from the need to consult any resource other than the appropriate government-hosted online legal source in preparing paperwork acceptable to the state court system.\(^5\)

The Wyoming Supreme Court, for example, adopted its universal citation system expressly “in recognition of the increasing level of legal research being conducted via the Internet and other electronic resources” and acknowledged the need for “a public domain, neutral-format citation which [supports] use of legal sources in both the traditional book and electronic formats.” Wy. Sup. Ct., Order Adopting Public Domain or Neutral-Format Citation (Oct. 2, 2002), at http://courts.state.wy.us/LawLibrary/univ_cit.pdf. This rationale is most likely representative of other states, even though Wyoming is just one of two states that allow use of universal citation forms without requiring an additional citation to a print reporter. Eleven of the thirteen states with universal citation systems require some form of additional citation to at least one specified print reporter. In ten of the eleven states, the print official reporter must be cited. Louisiana, which has no official reports, is the only exception here.

The mandatory print citations serve in some capacity as a counter pressure to any tendency of universal citation systems to undermine the bedrock of authoritative and reliable statements of the law ensured by the official status of print legal resources. Even where the particular implementation of the citation system (e.g., North Dakota and Oklahoma) actually frees users from consulting any print sources, the print versions of legal resources must still be cited at least once. So cited, they are “kept in reserve” as authoritative and reliable sources in case of doubt. The court system thus remains dependent upon them. True fulfillment of universal citation systems’ functions demands online official legal resources capable of being considered authentic.

**New Mexico’s Universal Citation System.** The state’s implementation requires users to cite opinions of the New Mexico Supreme Court or the New Mexico Court of Appeals (which have print and online official versions) with the prescribed universal citation form, as well as a citation to the print official reporter. The user may elect also to cite the relevant regional reporter published by Thomson West. Pinpoint citations are to be made to numbered paragraphs and, unless it is an older case without such numbering, a citation to the page of the print official reporter is not needed. Insofar as each online official court opinion provides parallel citations to both the print official reporter and the regional reporter, and gives the opinion a unique Web citation and numbered paragraphs, it is possible to use the state’s online official opinions alone without consulting any other

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\(^5\) Our analysis in this section draws on work of Professor Peter W. Martin, Cornell Law School, who has investigated provisions of universal citation systems as adopted by states and the conditions of their implementation. While most states require some form of parallel citation to print sources, two states – Mississippi and Wyoming – do not. Id. at 13. North Dakota, Oklahoma, and other states provide parallel citation information, as well as numbered paragraphs, in their publicly accessible online court opinions. Thus, in accord with applicable rules, their court opinions may be given pinpoint cites without any need to consult other resources. See id.
source. New Mexico’s system further provides for a single specified universal citation for references to the state statutes (which have print and online official versions) and the state administrative code (which has an online official version only). See N.M. S. Ct. R. 23-112.

**Utah’s Universal Citation System.** The initial citation of an opinion of the Utah Supreme Court or Utah Court of Appeals must include the prescribed universal citation form, as well as a citation to the relevant regional reporter published by Thomson West, the official publisher for the state. The state’s pinpoint citation rule is similar to that of New Mexico. Its online court opinions do not provide parallel citations to the print official regional reporter and it is not possible to use the online opinions alone without consulting other versions. Utah’s universal citation system addresses the citation of opinions of Utah courts only. See Utah S. Ct. Standing Order No. 4.

**Tennessee Has Not Adopted a Universal Citation System.** The state bar association unsuccessfully petitioned the Tennessee Supreme Court to adopt such a system in 1997. See TENN. SUP. CT., IN RE PETITION OF TENN. BAR ASSOC. FOR APPROVAL OF CITATION SYSTEM FOR TENN. APP. DEC. (2000), at http://www.tsc.state.tn.us/opinions/tsc/pdf/003/TBA.pdf.

There is no intrinsic connection between a state’s having a universal citation system and its commitment to online official legal resources. Still, the particular implementation of such a system may reinforce the use of such resources by citizens and others. Where Utah’s implementation remains grounded in a commitment to print official sources, New Mexico’s citation system facilitates use of the state’s online official court opinions, statutes, and administrative code. The situation in Tennessee is not comparable since Tennessee has not adopted a universal citation system.

c. **Approaches to Certification and Judicial and Other Recognition**

It is rare for states to designate the official status of an online legal resource in the same manner as a print official source. The official status of a print legal resource is often predicated on a formal certification of the text by a designated official. The state may tie that status to judicial and administrative recognition of the resource by courts and government officials, often designating the source as prima facie evidence of the law. New Mexico’s online statutes, discussed above, are a notable exception where a statute specifies the official status of the online and print sources together, treating them identically.

It was beyond the scope of the Authentication Survey to systematically identify statutes and other sources of law that create print official resources. But a number of state authors discuss such statutes in their state summaries. Oregon law addressing the official status of its print statutory compilation is a good example:
(1) When any edition of the statutes, or part or supplement designed to replace parts of or to supplement a previous edition and to bring such edition up to date, is published by the Legislative Counsel Committee, the Legislative Counsel shall cause to be printed in the edition, part or supplement a certificate that the Legislative Counsel has compared each section in such edition, part or supplement with the original section in the enrolled bill or, if the enrolled bill is stored in a computer or similar device, with any printout or other output readable by sight, shown to reflect the enrolled bill accurately, and that, [with certain editing] and other changes specifically authorized by law, the sections in the published edition, part or supplement are correctly copied.

(2) Any edition, part or supplement certified as provided in [the preceding subsection] shall constitute prima facie evidence of the law in all courts and proceedings, and any section in such edition, part or supplement may be amended or repealed by amending or repealing such section of the edition, part or supplement without reference to the legislative Act from which it was derived. No compilation of the statute laws of Oregon not bearing such certificate, or a similar certificate of the Reviser of Statutes, shall be admissible as evidence of the law in any court or proceeding. Or. Rev. Stat. § 171.285(1) & (2).

States with similar laws addressing their print official statutes include Minnesota (MINN. STAT. §§ 3C.11(1) & 3C.13), Missouri (MO. REV. STAT. § 3.090), and Wisconsin (WIS. STAT. §§ 35.18(2) & 990.07). States with such laws addressing their official administrative codes and administrative registers include Minnesota (MINN. STAT. §§ 14.47(4) & 14.37(2)) (print administrative code); Indiana (IND. CODE § 4-22-9-3(a) & (b)) (print and electronic versions of administrative code and register); and Tennessee (TENN. CODE ANN. § 4-5-221(b)) (contemplating print but applied to online versions of administrative code and register).

We find that New Mexico, Utah, and Tennessee, the states most committed to making online official resources available, have not followed any particular statutory template or common mechanism for designating online legal resources as official. The approaches taken by committed states have not been completely deliberate.

New Mexico’s Approach to Official Status Online. As indicated above, New Mexico is a noteworthy example of a state that predicates the official status of its online statutes on certification and ties that status to judicial recognition. See Act of July 1, 2006, ch. 70, § 4, 2006 N.M. Adv. Legis. Serv. 480, 483 (codified as N.M. STAT. § 12-1-7).

In contrast to the situation with its statute law, the official status of New Mexico’s online administrative code and administrative register is based on indefinite statutes that mandate the publication of such resources without specifying the particular medium, whether print or online. The New Mexico State Records Administrator is empowered to promulgate regulations “prescribing the format and structure of the [administrative]
The official status of online opinions of the New Mexico Supreme Court and the New Mexico Court of Appeals (as published in two separate repositories) is based on the Supreme Court’s system of updating online slip opinions that have become final and authorized for print official publication. The New Mexico Compilation Commission is responsible for publishing the “bound volumes . . . known as the New Mexico reports” (N.M. STAT. § 34-4-2) and is empowered “to publish, distribute or sell and keep current automated legal databases of publications” including the “New Mexico reports” (id. § 12-1-3.1). The Supreme Court and the New Mexico Compilation Commission are jointly involved in publishing the online official court opinions.

**Utah’s Approach to Official Status Online.** The official status of Utah’s online statutes is based on section 36-13-1 of the **Utah Code Annotated**, which makes the Utah State Legislature broadly responsible “for printing, storing, and distributing . . . the Utah Code Annotated.” The state does not publish its own version of the **Utah Code Annotated** and responsible state officials do not consider any commercially published versions official.

The official status of Utah’s online administrative code is based on the existing statutory mandate directing the Department of Administration, Division of Administrative Rules, to “compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it.” **Utah Code Ann.** § 63-46a-10(e). The division “repeals” and “reenacts” the administrative code, utilizing public notice and review; it may require individual agencies responsible for codified rules to review the administrative code and initiate needed substantive changes. **See id.** § 63-46a-10.5(1) & (2). Judicial notice is tied to the official administrative code, but not on account of a specific official certification of that text. **See Utah Code Ann.** § 63-46a-16. The official status of the online administrative register is based on existing law requiring the division to “publish all proposed rules, rule analyses, notices of effective dates, and review notices” in the **Utah State Bulletin**. **Utah Code Ann.** § 63-46a-10(d). The statutes cited here were the basis for the state’s print official administrative code and administrative register, which were discontinued due to budgetary constraints.

**Tennessee’s Approach to Official Status Online.** The Secretary of State is required to “publish a monthly administrative register” (Tenn. Code Ann. § 4-5-220(a)) and “compile and publish or cause to be published all the effective rules of each agency in an official compilation of rules” (id. § 4-5-220(b)). The statutes base the official status of the administrative rules publications on proper certifications by the Secretary of State, who is required to compare “the text of each rule printed or appearing in each volume or issue” Id. § 4-5-221(b). As certified, the publications are expressly *prima facie* evidence
of the administrative rules and regulations. *Id.* § 4-5-221(c). Under applicable rules of evidence, judicial notice of such sources is either mandatory or optional, depending on the existence of statutes addressed to particular rules or regulations. *See* Tenn. R. Evid. 202(a)(4) & (b)(2). The statutes contemplate print publications and, as discussed by the state author, information on the Web site of the administrative register and administrative code somewhat confusingly describe the online resources as print publications. Print versions of the rules publications are no longer published.

The *official* status of Tennessee’s session laws is based on section 12-6-116(a) of the *Tennessee Code Annotated* permitting the Tennessee Secretary of State to publish “the text of the public acts in electronic form by use of the Internet” instead of distributing required printed pamphlets.

### Authentication Linchpin

States are missing the *authentication* linchpin. Online *official* legal resources are different from print *official* sources in one fundamental respect: They demand a separate assurance that they are complete and unaltered statements of the law. *Authentication* is what gives that assurance. *Authentication* ties together the *official* status, certification, and recognition of online legal sources. It supplies for the digital world what is automatic for the print. It allows online *official* legal resources to function in law and everyday use just as print *official* legal resources do.


The *Authentication* white paper defines two levels of authentication: one level is “authentic” and a second, higher level is “official.” GPO acknowledges that its use of the latter term is somewhat different from that of the legal community. *See AUTHENTICATION WHITE PAPER* at 4, n.1 (2005). The agency regards the government documents on *GPO Access* (at http://www.gpoaccess.gov) as “official,” *i.e.*, “published by the Federal Government, at Government expense, or as required by law.” In connection with its two levels of authentication:

GPO defines “authentic” as content that is verified by GPO to be complete and unaltered when compared to the version received by GPO [as the
government’s printing office. “Official” content is content that is approved by, contributed by, or harvested from an official source in accordance with accepted program specifications. There may be instances . . . where GPO will harvest information that cannot be confirmed as official by the content originating agency. An example is a publication harvested from the Internet Wayback Machine. This content will be considered authentic but not official by GPO. AUTHENTICATION WHITE PAPER at 4-5.

Thus, recognizing that official information is the most trustworthy information, GPO’s definitions collapse the distinction we make in the Authentication Survey using language of the legal community. According to GPO, official information is always authenticated information, but not all authenticated information is official. The federal approach – which we would endorse for online official legal resources – ensures that official materials are fully authenticated materials having a demonstrated connection to their original official source.6

Giving online official legal resources the same, highest level of authentication requires certification and a level of reliability that warrants judicial notice and other recognition as authoritative statements of the law.

Summary Findings on Official Status, Authentication, and Related Concepts

The Authentication Survey is a groundbreaking inventory of online official legal resources. It is unique as the first known effort to help establish for online legal resources what has developed for print sources over time: an understanding, captured in the literature of legal bibliography as a whole, of which resources are official or

6 In GPO’s response to public comments on the draft version of the Authentication white paper, GPO noted that “the Administrative Committee of the Federal Register has stated that both the online and print versions of the Code of Federal Regulations and the Federal Register are ‘Official,’ while the Supreme Court and the Law Revision Counsel of the U.S. House of Representatives have stated that the online versions of Supreme Court Slip Opinions and the U.S. Code, respectively, are not ‘Official’ for purposes of legal citation.” AUTHENTICATION WHITE PAPER at 9-10. GPO then reaffirmed its position that “all of these online titles are official Federal Government information in the sense of that term as used in this document. GPO is currently working on language to address this discrepancy.” Id. at 10.

Consistent with AALL’s stance on the draft Authentication white paper, articulated during that publication’s initial public review, we would ask that GPO make the certification of official status a responsibility of the official source of the information. When GPO actually implements appropriate authentication measures, the discrepancies concerning the official status of certain federal online legal resources will largely be obviated. That should certainly be so in the case of the online United States Code. Interim Supreme Court slip opinions, however, might still be authenticated without being considered official insofar as they are eventually superseded by final, official versions. Authenticated online versions certified as official by the official source of the information will be equivalent to, and interchangeable with, the print official versions. That affects GPO’s fundamental plan.
considered as such. That understanding includes an appreciation of which resources are in some critical sense inchoate or unresolved as *official* sources. The existence of such resources, which fall under the category we label “O traits” or “official traits” is fully discussed in Key Finding 3. Understanding which resources are inchoate or unresolved as *official* sources brings us a far way toward improving the dissemination of legal resources on the Web. With very little effort and expense, states might eliminate confusions and deficiencies of current approaches and better serve citizens and law researchers.

**Official Status.** The analytical table in Appendix A shows what resources are *official* or have “official traits” only. Greater detail supporting the conclusions for particular resources is set forth in Key Findings 1 and 2.

**Authentication.** The analytical table in Appendix A shows that no states provide resources capable of being considered *authentic* according to the broad definition of this report. The table indicates that Minnesota’s online administrative register is *authenticated* (as well as *official*). This anomalous finding requires some discussion.

Minnesota appreciates the fundamental connection between *official* status and authentication. *Official* status is not meaningful without authentication, since *official* status is achieved when the resource can serve as a touchstone for accurate and complete statements of the law. As described by the Minnesota author (pp. 127-129):

> The Revisor of Statutes is aware of [authentication] issues and has discussed digital signatures, watermarks, and other technologies . . . but there is no process in place to certify Web text as complete and unaltered. The online *State Register* is [nonetheless] considered *authenticated* insofar as the material submitted for publication is properly endorsed.

As noted above, it was beyond the scope of the Authentication Survey to systematically identify sources of law responsible for formal certification and recognition of legal resources designated as *official*. The preceding section of the report touched on Minnesota statutes (MINN. STAT. §§ 14.47(4) & 14.37(2)) that tie the *official* status of its print administrative code to certification and judicial notice. In the case of Minnesota’s administrative register, state agencies must endorse duly adopted notices of hearing, rules or changes submitted for publication. See MINN. STAT. § 14.46(3). According to the state author, text so endorsed is considered under state law to be an *authenticated* source.

We consider certification and other types of formal endorsement of legal resources to be vital links in the “chain of custody.” As more fully discussed in Key Finding 5, such information is crucial in authentication of online legal resources but not, by itself, sufficient to establish them as *authentic*. Digital materials endorsed according to the Minnesota statute are still vulnerable to lapses in management and control, corruption, and tampering after the fact.\(^7\)

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\(^7\) Note that Minnesota’s online administrative register is published as a PDF. Implications for the *authenticity* of resources so published are addressed under Key Finding 5.
It appears online legal resources in other states may have similar formal endorsements that are not reflected in the analytical table. The Authentication Survey’s methodology captures the Minnesota anomaly and acknowledges the state’s approach. Unfortunately, the form of authentication for the Minnesota administrative register must be qualified as not conforming to the broad standard of this report. The Minnesota example contains an important lesson for other states, especially those that have discontinued a print official source.


The report now turns to the Key Findings of the Authentication Survey, which include a discussion of deficiencies in current approaches to state dissemination of legal resources on the Web.

| KEY FINDING 1: States have begun to discontinue print official legal resources and substitute online official legal sources. |

Ten states, plus the District of Columbia, have deemed as official one or more of their online primary legal resources. Five of these ten states – Alaska, Indiana, New Mexico, Tennessee, and Utah – have declared the online versions of legal resources a substitute for a print official source. The online resource is, therefore, the sole official statement of the law. This is a very significant concern to law librarians and the legal community. None of the substitute online legal sources is capable of being considered authentic.

The discontinuation of print in favor of online sources has occurred principally with state administrative registers (Alaska, Indiana, Tennessee, and Utah) and state administrative codes (Indiana, Tennessee, and Utah). The first official administrative code for New Mexico is its online publication; the sole print unofficial version is commercially published. The sole official version of the Utah statutes is on the Web.

The creation of new online legal resources where a print official source had not existed attests to the significant potential of the Web. Still, any official resource demands authenticity. The disappearance of print official legal resources without an authentic online substitute critically erodes the bedrock of trustworthy statements of the law.
Alaska’s Administrative Register. The Alaska Online Public Notice System substitutes for the former official print Alaska Administrative Journal. The latter was eliminated in 2000 pursuant to statutory provisions creating the notice system. By statute, the Alaska Online Public Notice System contains notices of proposed actions adopting, amending or repealing administrative regulations and a variety of other official notices. ALASKA STAT. § 44.62.175(a).


Indiana’s Administrative Code and Administrative Register. Indiana Public Law 215-2005 (Act effective July 1, 2005, Pub. L. No. 215-2005, §§ 13-14, 2005 Ind. Acts 3365, (codified as IND. CODE §§ 4-22-8-2 & 4-22-8-5)) requires, effective July 1, 2006, the electronic-only distribution of the Indiana Register and the Indiana Administrative Code. At the time of this writing, the means by which this statutory change will be effected are still unclear. Under applicable statutes, as amended, the publisher – the state’s Legislative Services Agency – “may meet the requirement to publish the Indiana Register electronically by permanently publishing a copy of the Indiana Register on the Internet.” IND. CODE § 4-22-8-2(c). Similarly, the publisher “may meet the requirement to publish the Indiana Administrative Code electronically by permanently publishing a copy of the Indiana Administrative Code on the Internet.” Id. § 4-22-8-5(d).

Tennessee’s Administrative Code and Administrative Register. In Tennessee, “the administrative code and register no longer have print official versions.” By statute, the Tennessee Secretary of State is required to “publish a monthly administrative register,” with specified contents. TENN. CODE ANN. § 4-5-220(a). The Secretary is further required to “compile and publish or cause to be published all the effective rules of each agency in an official compilation of rules,” with supplements at least every three months. Id. § 4-5-220(b). The Tennessee Administrative Register Web site indicates that its text “is an official publication of the Tennessee Department of State” but somewhat confusingly refers to the availability of a print subscription, which does not exist, since its print version ceased in 2004. The Official Compilation Rules and Regulations of the State of Tennessee Web site states that “the following rules and regulations are current and official rules and regulations presented as the official compilation."

The applicable statutes generally contemplate the print publication of the administrative register and administrative code. They explicitly tie official status for the publications to certification; the certified text is prima facie evidence of the regulatory law. TENN. CODE ANN. § 4-5-221(b).
This table shows states where repositories of online official legal resources substitute for print official resources that have been discontinued or have lapsed. One state (New Mexico) never had a print official equivalent of its current online official administrative code. The table also shows what resources are afforded permanent public access and notes the status of the other online repositories. "O" designates official legal resources on the Web. "O traits" indicates that relevant evidence as to the official or unofficial status of the resource on the Web is inconclusive. "PPA" designates resources safeguarded for current and future public access.

The table is a simplified reformatting of certain information from the analytical table in Appendix A. Each block represents a separate repository for an online legal resource. All repositories designated as official or possessing “official traits” are represented; there are actually many more unofficial repositories than represented here. Blocks colored blue (or medium grey, when printed in greyscale) indicate that the type of legal resource represented is currently published in one or more print official resources.

<table>
<thead>
<tr>
<th>Administrative code</th>
<th>Administrative register</th>
<th>Statutes</th>
<th>Session laws</th>
<th>High court opinions</th>
<th>Intermediate appellate court opinions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Alaska</strong></td>
<td></td>
<td><strong>O, PPA</strong> discontinued official print</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Indiana</strong></td>
<td><strong>O</strong> discontinued official print</td>
<td><strong>O, PPA</strong> discontinued official print</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>New Mexico</strong></td>
<td><strong>O, PPA</strong></td>
<td></td>
<td><strong>O</strong></td>
<td></td>
<td><strong>O</strong></td>
</tr>
<tr>
<td><strong>Tennessee</strong></td>
<td><strong>O</strong> discontinued official print</td>
<td><strong>O</strong> dispersed official print</td>
<td></td>
<td><strong>O</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Utah</strong></td>
<td><strong>O, PPA</strong> dispersed official print</td>
<td><strong>O, PPA</strong> dispersed official print</td>
<td><strong>O</strong> dispersed print lapsed in past</td>
<td></td>
<td><strong>PPA</strong>, <strong>O traits</strong></td>
</tr>
</tbody>
</table>
**Utah’s Administrative Code and Administrative Register.** The Utah Department of Administrative Services, Division of Administrative Rules, is required to “publish all proposed rules, rule analyses, notices of effective dates, and review notices” in the *Utah State Bulletin*. UTAH CODE ANN. § 63-46a-10(d). The agency is also required to “compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it.” *Id.* § 63-46a-10(e). The *Utah Administrative Code* “shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the administrative law of the state of Utah and as an authorized compilation of the administrative law of Utah.” *Id.* § 63-46a-16. “All courts shall take judicial notice of the code and its provisions.” *Id.*

The Division of Administrative Rules Web site states the agency “no longer sponsors paper editions of administrative rules publications” since relevant funding ceased in 2003. Since then, the state treats the Web versions of those publications as *official*. The *Utah State Bulletin* Web site states that the resource “is an official publication of the Division of Administrative Rules, mandated by” section 63-46a-10 of the statutes. The *Utah Administrative Code* Web site similarly states it is an *official* publication, mandated by that section. The Division of Administrative Services construed the statutes to permit either print or electronic publication of those titles.

**Utah’s Statutes.** The Utah State Legislature “is responsible for printing, storing, and distributing . . . the Utah Code Annotated.” UTAH CODE ANN. § 36-13-1. The applicable statutory provision, as amended, was first enacted in 1953. Currently, the state does not publish its own version of the *Utah Code Annotated* and the Utah State Legislature, Office of Legislative Research and General Counsel, does not consider the two versions available from commercial publishers to be *official*. Rather, only those statutes published on the legislature’s Web site are *official*. A notice on the “simple numerical list” version states: “The Utah Code consists of laws of the state that are codified. This Web version is an official publication of the Utah State Legislature.” The searchable version has no similar notice. Under the circumstances, the “simple numerical list” version is *official*; the other is considered to have “official traits.” The “official traits” of the later version are further examined in Key Finding 3.

**New Mexico’s Administrative Code.** The State Records Administrator, who heads the State Records Center and Archives, Commission of Public Records, is required to “create and have published a New Mexico Administrative Code, which shall contain all adopted

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8 Information available from the Utah History Research Center suggests that the chain of print *official* versions of statutes published under the authority of section 36-13-1 of the *Utah Code Annotated* was broken at some point in the history of that title. *Compare* the archival description of record series 1052 for the *Utah Code Unannotated* (1988-[ongoing]) (at http://historyresearch.utah.gov/inventories/1052.html) *with* the description of record series 83238 for the *Utah Code Annotated* (1851-[ongoing]) (at http://historyresearch.utah.gov/inventories/83238.html). Series 83238, which continues to date, is said to be “the official version of the codified laws and contains historical and legal annotations as well as the laws themselves.” However, this statement should be qualified, inasmuch as the actual archival holdings have various gaps. Lee Warthen and William Logan of the S.J. Quinney Law Library, University of Utah, are thanked for identifying this archival information.
rules.” N.M. STAT. § 14-4-7.2. The administrator is empowered to promulgate regulations “prescribing the format and structure of the code,” among other things. Responding to new technologies, the Commission of Public Records updated regulations in 2000 to facilitate publication of the administrative code on the Internet. The current Web version is published on “The Official Site of the New Mexico Administrative Code,” which states that the code “is the official compilation of current rules filed by state agencies.” After the Commission of Public Records completed its compilation of the code in January 2002, the agency placed it online. New Mexico has never had a print official version of its administrative code.

It cannot be said of the New Mexico administrative code that a print official version was discontinued in favor of the online official source. Nonetheless, the consequence of having an online publication as the sole official source of the law is fundamentally the same, regardless of whether a discontinuation occurred or no print source ever existed. If the sole official legal resource is not capable of being considered authentic, one finds no bedrock of trustworthy statements of the law.

KEY FINDING 2: Ten states & D.C. have deemed as official one or more of their online primary legal resources.

Ten states – Alaska, Indiana, Maryland, Michigan, Minnesota, New Mexico, New York, Tennessee, Utah, and Virginia – plus the District of Columbia, have made twenty-three sources of law available in online repositories that are considered official. The six sources investigated in the Authentication Survey – state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions – are the units counted in our total of twenty-three sources; official high court opinions published in two separate official repositories are, for example, counted as one instance of an official source of law available in official online repositories. Most state repositories of court opinions combine the opinions of courts from different levels. Counting the online repositories and not the separate sources they contain, twenty-two repositories are considered official.

The number of official sources of law is close to the number of official repositories, even though they represent two different things, because the states tend to publish final official court opinions in separate duplicate repositories, one for the opinion in its original format and another for the opinion as reformatted (and sometimes edited) and deposited in a database system. The analytical table in Appendix A gives a source-by-source account of how the six sources for each state are distributed among separate official repositories.

The twenty-two official repositories may be said to represent separate publication titles. The repositories for administrative codes, administrative registers, statutes, and session laws have easily recognized corresponding print publication titles. But, because the repositories of court opinions combine the opinions of courts from different levels, such
TABLE SHOWING STATES WITH OFFICIAL (O) LEGAL RESOURCES ON WEB, WITH NOTATION AS TO WHETHER SOURCE DECLARES ITSELF OFFICIAL

This table shows the states where repositories of online legal resources have been designated as official. Information concerning the basis for that status is given. The table also shows what resources are afforded permanent public access and notes the status of the other online repositories. "O" designates official legal resources on the Web. "O traits" indicates that relevant evidence as to the official or unofficial status of the resource on the Web is inconclusive. "PPA" designates resources safeguarded for current and future public access.

The table is a simplified reformatting of certain information from the analytical table in Appendix A. Each block represents a separate repository for an online legal resource. All repositories designated as official or possessing "official traits" are represented; there are actually many more unofficial repositories than represented here. Blocks colored blue (or medium grey, when printed in greyscale) indicate that the type of legal resource represented is currently published in one or more print official resources. The block with a slash through it indicates that the state's court system has no intermediate appellate court.
<table>
<thead>
<tr>
<th>State</th>
<th>Administrative code</th>
<th>Administrative register</th>
<th>Statutes</th>
<th>Session laws</th>
<th>High court opinions</th>
<th>Intermediate appellate opinions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>O, PPA STATUS NOT DECLARED; BASED ON STATUTE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District of Columbia</td>
<td>O STATUS DECLARED (IMPERFECTLY)</td>
<td>O STATUS DECLARED (IMPERFECTLY)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>O STATUS DECLARED</td>
<td>O, PPA STATUS DECLARED</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>O STATUS DECLARED</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td></td>
<td></td>
<td></td>
<td>O STATUS DECLARED (IMPERFECTLY)</td>
<td>O STATUS DECLARED</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>O STATUS DECLARED (IMPERFECTLY)</td>
<td></td>
<td>PPA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>O STATUS DECLARED</td>
<td>O STATUS DECLARED</td>
<td>O STATUS NOT DECLARED; BASED ON STATUTE</td>
<td></td>
<td></td>
<td>O STATUS NOT DECLARED; BASIS OTHER THAN STATUTE</td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>O STATUS DECLARED (IMPERFECTLY)</td>
</tr>
<tr>
<td>Tennessee</td>
<td>O STATUS DECLARED</td>
<td>O STATUS DECLARED</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>O, PPA STATUS DECLARED</td>
<td>O, PPA STATUS DECLARED</td>
<td>O, PPA STATUS DECLARED</td>
<td></td>
<td></td>
<td>PPA</td>
</tr>
<tr>
<td>Virginia</td>
<td>O STATUS NOT DECLARED; BASED ON STATUTE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>O traits</td>
</tr>
</tbody>
</table>

Status: O, PPA
repositories do not always correspond to court opinions as organized into print official publications.

Online legal resources that unequivocally state they have an official status based on a specific corroborative statute could be said to be official sources about which we are the most confident. We found no absolutely explicit online official source. Indiana’s online official administrative code and administrative register may be thought to be among the closest contenders. They state they are official and their status is based on a corroborative statute. They do not themselves state they are official on the basis of that statute, however, and their declaration is not especially prominent on the Web site or in its documentation.

Indiana’s online rules publications, which are discussed above as resources that substitute for discontinued print official resources, warrant closer examination. The controversy that has surrounded the online resources prompted the state’s Legislative Council to publish an online User’s Guide to the -IR- Database (at http://www.in.gov/legislative/iac/faqs.pdf). This guide, which addresses the online Indiana Administrative Code, as well as the Indiana Register (the “IR” referred to in the title), unequivocally represents that both of the newly official online administrative rules publications are official. The guide explains:

The Indiana Register is an official publication of the state of Indiana. The Indiana Legislative Council publishes the full text of proposed rules, final rules, and other documents, such as Executive Orders and Attorney General’s Opinions, in the Indiana Register in the order in which the Indiana Legislative Council receives the documents.

The Indiana Administrative Code is an official publication of the state of Indiana. It codifies the current general and permanent rules of state agencies in subject matter order. Id. at 11.

This unequivocal representation is based on the statute, amended in 2005, designating the administrative rules publications as sole official substitutes for the discontinued print. The wording of the amendment is instructive as an example of language creating online official legal resources from an existing law on print official sources. Amendments are set forth in italics:

[Section 4-22-8-2 of the Indiana Code is amended to read:] (a) The publisher shall publish a serial publication with the name Indiana Register at least six (6) times each year.

(b) Notwithstanding any law, after June 30, 2006, the publisher shall publish the Indiana Register in electronic form only. However, the publisher shall distribute a printed copy of the Indiana Register to each federal depository in Indiana.
(c) The publisher may meet the requirement to publish the Indiana Register electronically by permanently publishing a copy of the Indiana Register on the Internet.

[Section 4-22-8-5 of the Indiana Code is amended to read:] (a) The publisher shall compile, computerize, and print a codification of the general and permanent rules of the agencies with the name Indiana Administrative Code.

(b) The publisher shall establish a system to maintain, supplement, and recompile the Indiana Administrative Code . . . .

(c) Notwithstanding any law, after June 30, 2006, the publisher shall publish the Indiana Administrative Code in electronic form only. However, the publisher shall distribute a printed copy of the Indiana Administrative Code to each federal depository library in Indiana.


These amendments were effective July 1, 2005. The statute was further amended in 2006 to eliminate the provision of the 2005 legislation that had preserved limited access to the print resources at specified depository libraries. Note that Indiana law here ties the official status of legal resources to certification and judicial notice. The 2005 amendments addressed relevant provisions of the existing law as follows:

[Section 4-22-8-8 of the Indiana Code is amended to read:] (a) Before an edition or supplement of the Indiana Administrative Code is printed or (after June 30, 2006) published in electronic form, the publisher shall deliver an affidavit to the secretary of state attesting that the text to be published in the edition or supplement has been compared with the preceding edition, the preceding supplement (if applicable), and the appropriate original versions of recently adopted rules and been found to be correct and complete. Id.

Separate amendments in 2006 addressed existing law relevant to judicial notice:

[Section 4-22-9-3 of the Indiana Code is amended to read:] (b) Subject to [provisions relating to the original creation of the initial compilation of the administrative code], the official publication of a rule in the Indiana Register or the Indiana Administrative Code, including the official publication of rules published only in electronic format after July 1, 2006, shall be considered prima facie evidence that the rule was adopted in conformity with IC 4-22-2 and that the text published is the text adopted. Act of July 1, 2006 Pub. L. 123-2006, § 24, 2006-2 Ind. Code Ann. Adv. Legis. Serv. P.L. 296, 319 (LexisNexis).
Thus the online Indiana Administrative Code and Indiana Register are noteworthy as examples of well-grounded official resources on the Web. We leave for later the discussion of characteristics that have come under fire by lawyers and law librarians. The state author spells out a number of reservations on this account (pp. 107-109).

Fifteen Online Legal Resources State They Are Official

Of the twenty-two online repositories deemed as official, fifteen express in some manner, either in an introductory description or statements within the resource itself, that they are official. For eleven of the fifteen resources, the expression is an unequivocal representation that the resource is official. The representations of four of the fifteen resources are not conclusive without examining other evidence of their official status. The intent to declare their official status may be reasonably inferred, but shortcomings in the wording of the representations or manner of presentation warrant corrective attention.

Apt examples of situations requiring such attention come from Minnesota and Michigan. The problem with Minnesota’s administrative register could be solved with very little fuss. The statement found only inside the PDF copy of the Minnesota Register – which would therefore, without more explanation, paradoxically appear to be a statement about the print version of the resource – expresses that the register is official. Problems with Michigan’s online court opinions are only slightly more difficult. Its two repositories for court opinions are not sufficiently coordinated to enable users to recognize, with complete confidence, the official status of every official opinion, despite representations as to that status. A fuller explanation of this follows.

**Michigan’s High Court and Intermediate Appellate Court Opinions.** Slip opinions for the Michigan Supreme Court and the Michigan Court of Appeals are collected in a repository maintained by the court system. A separate repository of final opinions of those courts is maintained by Thomson West, the official publisher of the print Michigan Reports and Michigan Appeals Reports. The repository of slip opinions satisfactorily describes which slip opinion texts are final and official. The site maintained by Thomson West, however, is equivocal in its wording and presentation.

The court system Web site providing links to Michigan court opinions describes the process whereby texts of slip opinions of the Michigan Supreme Court and the Michigan Court of Appeals are determined to be final opinions and designated official. Newly issued opinions “are reviewed by the Editor’s Office and forwarded to the official publisher of the Michigan Reports and Michigan Appeals Reports.” When the opinion is determined to be final, any later version of the slip opinion is uploaded to the Web site and the final text is flagged as official with an “open book” icon. The separate repository of final opinions of Michigan courts available for no-fee access from Thomson West styles itself as “Michigan Official Historical Reports.” The official status of the opinions available on the site is declared merely through the inclusion of the word “official” in the title given to the resource by the commercial publisher.
The eleven online legal resources identified by this report as unequivocally representing their official status are analyzed in subsection (a) below. The four online legal resources identified as representing imperfect representations as to their official status are analyzed in subsection (b) below.

a. Resources Making Unequivocal Representations as to Their Official Status

Typically, unequivocal representations of official status provide an explanation or justification for their declaration. Contrary to what might be expected, except for Indiana’s online administrative rules publications, the unequivocal representations we found are not based on fully corroborative statutes. In the case of Utah’s administrative code and administrative register, which have no print equivalents, the statutes cited by the resources themselves as authority for their official status do not mention electronic versions of the titles. The agency responsible for the administrative rules publications construed the statutes to permit print or electronic publication. The statutory basis for the official status of Maryland’s online administrative register is also problematic.

Our count of the eleven resources identified as unequivocally representing their official status includes Indiana’s administrative code and administrative register, as described above. The count includes the repository containing Michigan Supreme Court and Michigan Court of Appeals slip opinions – not the Thomson West “Michigan Official Historical Reports” – as described above. Our count also includes several other resources which have already been given full descriptions. These are Tennessee’s administrative code and administrative register, Utah’s administrative code and administrative register, Utah’s statutes, and New Mexico’s administrative code. The following additional resources are counted.

Maryland’s Administrative Register. The Secretary of State, Division of State Documents, is responsible for compiling, editing, publishing, and distributing the Maryland Register as well as the Code of Maryland Regulations (COMAR). Md. Code Ann., State Gov’t § 7-204. Statutory provisions describing the Maryland Register refer to print characteristics of the resource, including page numbers and issue dates turning upon its deposit in the United States mail. See id. § 7-206. But other provisions require the Division of State Documents to make available to the public no-fee “direct on-line searching of” the administrative code and the administrative register. Id. § 7-206.2. The division treats the online version of the Maryland Register as official and its Web site states “[t]his is an official publication of the State of Maryland.” By statute, the text of documents published in the Maryland Register is official until incorporated into the Code of Maryland Regulations. Id. § 7-217(a).

New Mexico’s Administrative Register. The State Records Administrator must “provide for publication of the New Mexico register at least twice a month.” N.M. Stat § 14-4-7.1. “The New Mexico register shall be the official publication for all notices of rule makings and filings of adopted rules, including emergency rules, by agency.” Id.
The statute does not mention electronic publication, but directs the administrator to “adopt and promulgate rules necessary for the implementation and administration of” the section. \textit{Id.} Applicable regulations do not address the electronic version, except to specify fees for electronic copies of the publication. The Web version of the \textit{New Mexico Register} states that it is “[t]he official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico.” \textit{Id.} All issues of the administrative register since August 2001, when the Commission of Public Records assumed responsibility for in-house publication of the title, are available on the Web site.

\textbf{b. Resources with Imperfect Representations as to Their Official Status}

Four of the fifteen resources that indicate they are \textit{official} fail to make conclusive representations. These resources may label themselves \textit{official} without giving an explanation as to their status. With the exception of Minnesota’s administrative register, which merely states in the PDF copy of its print version that it is \textit{official}, the resources that make imperfect representations as to their \textit{official} status merely label themselves \textit{official}. Two of the resources are court opinions. As reported by the relevant state authors, all four resources are decisively considered \textit{official} by officials responsible for their publication.

The equivocal labeling of the online Thomson West “Michigan Official Historical Reports” is discussed above. This publication is counted as a resource with an imperfect representation as to its \textit{official} status. So are the following online resources:

\textbf{New York’s High Court and Intermediate Appellate Court Opinions.} The New York State Law Reporting Bureau edits and prepares opinions of the Court of Appeals and the Appellate Division. Through an agreement with the state’s \textit{official} publisher, Thomson West, the Law Reporting Bureau’s Web-based “New York Official Reports Service” provides electronic access to all opinions published in the print version of the \textit{official} reports, from January 2000 through the latest advance sheet. Annotations provided in the print version are not given.

The Thomson West component gives no account as to the \textit{official} status of the online opinions. The “New York Official Reports Service” declares its \textit{official} status by including the word “official” in the title of the resource. The basis for the \textit{official} status of the resource published by Thomson West is more fully discussed in Key Finding 4.

\textbf{Minnesota’s Administrative Register.} The \textit{Minnesota State Register} is published in electronic and print formats. The electronic version is a PDF document, a copy with the same text, formatting, and layout as the print version. Each issue prominently states that “Judicial Notice Shall be Taken of Material Published in the \textit{State Register}. The \textit{State Register} is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in \textit{Minnesota Statutes} § 14.46.” Among other specifications, section 14.46 provides that the Department of Administration “must make an electronic version of the State Register available on the Internet free of charge through
the North Star information service,” the state’s Web portal. Significantly, the state has begun to limit print distribution in favor of the Web. Since July 1, 2004, printed copies are no longer available by subscription; the State Register continues to be distributed to depository libraries as specified by statute (see Minn. Stat. § 14.46(4)) and print versions are available for individual sale.

District of Columbia’s Statutes. The District of Columbia Council has contracted with Thomson West to provide the full, official online version of the District of Columbia Official Code. Thompson West is also the publisher of the print official version of the code, since 2001. The Web site for this resource identifies itself as “the online source for District of Columbia Official Code.” It sets forth no disclaimer information.

Seven Other Online Legal Resources are Deemed as Official Without So Stating

In addition to the fifteen online legal resources that state they are official, seven are considered to be official even without their making representations as to their status. Paradoxically, resources stating they are official generally are not based on fully corroborative statutes indicating the resources are official; those that do not state they are official generally are based on such statutes.9

a. Resources Deemed as Official Based on Statute

As already detailed in the description of the online official resources provided under Key Finding 1, the status of Alaska’s administrative register is based on statute. The following additional online legal resources are also deemed official based on statute.

Maryland’s Statutes. The “Code of Public General Laws, as compiled, updated and maintained by the Department of Legislative Services” is evidence of the state’s laws.” Md. Code Ann., Cts. & Jud. Proc. §10-201(c). The Department of Legislative Services is required to “maintain in the form of a statutory database, a code comprising the public general laws of the State.” Md. Code Ann., State Gov’t § 2-1243(c). Maryland maintains no print version of the statutes. Its online version of the statutory code, produced by the Department of Legislative Services, indicates that “[i]t is the actual words of the codified law as enacted by the Maryland General Assembly” and does not contain copyrighted annotations and other material as found in the alternative official print versions published by LexisNexis and Thomson West.

9 Issues involved in determining the status of online legal resources that do not state they are official are sometimes very subtle. We discuss our approach in determining which online legal resources are official in Appendix D-1, which addresses the Authentication Survey’s methodology. We closely examine our reasoning for two states – Kentucky and New Jersey – where we determined online versions of statutes were not official despite provisions of laws that potentially deem them so. Because of the subtleties that must be considered, we strongly urge states to take steps to make the status of online legal resources clear to users.
New Mexico’s Statutes. Chapter 70 of the New Mexico Laws of 2006 (Act of July 1, 2006, ch. 70, § 4, 2006 N.M. Adv. Legis. Serv. 480, 483 (codified as N.M. STAT. § 12-1-7)) amended certain statutory provisions concerning the composition and powers of the New Mexico Compilation Commission. Under section 2 of the law, the commission, acting on the advice and approval of an advisory committee appointed by the New Mexico Supreme Court, is empowered to “provide for official, annotated compilations of the New Mexico Statutes, including court rules governing practice and procedure in the state courts. . . .” N.M. STAT. § 12-1-4. Section 4 of the law provides that upon the “certification” of such a compilation and acting with its advisory committee, “the compilation or supplement shall be in force, and printed and electronic copies thereof shall be received, recognized, referred to and used in all the courts and all departments and offices of the state as the official compilation of the statutory law of New Mexico.” Id. § 12-1-3. Section 3 of the law empowers the commission to “publish, distribute or sell and keep current automated legal databases,” including “publications of law and court . . . rules of this state.” Id. § 12-1-3.1. It is not clear that the electronic version of the statutes linked to from the home page of the New Mexico Compilation is “certified” as official. The resource does not state it is official; however, in assurances to the state author, the Commissioner of the New Mexico Compilation Commission reports that the electronic version of the statutes is official.

Tennessee’s Session Laws. The Secretary of State is responsible for distributing the “unbound, printed pamphlets containing the public acts of the general assembly.” TENN. CODE ANN. § 12-6-116(a). The Secretary may fulfill this responsibility “by publishing the text of the public acts in electronic form by use of the Internet.” The “welcome” page for the public and private acts does not state it is an official site. Rather, it cites section 12-6-116 of the Tennessee Code Annotated as its authority. The slip laws that were previously bound into session laws are now only available online. Bound volumes of official session laws continue to be printed and distributed.

Virginia’s Administrative Register. The Virginia Code Commission’s Registrar of Regulations is required to “publish every two weeks a Virginia Register of Regulations” that includes proposed and final administrative regulations and other specified content. VA. CODE ANN. § 2.2-4031(A). The Virginia Register of Regulations “shall be published by posting the Register on the Virginia Code Commission’s Web site.” In addition, it may be printed. Id. § 2.2-4031(D).

The description of the Virginia Register of Regulations found on the Virginia General Assembly Web site leaves the viewer some doubt as to whether it describes only the print or both the print and online versions. The page titled “About The Virginia Register of Regulations” reads: “An official publication of the Virginia Code Commission, the Register is distributed every other week throughout the year. Indexes are published quarterly and are cumulative for each volume.” The page leading to the online issues of the administrative publication is titled “Virginia Register Online” and refers to the electronic issues as the “Virginia Register,” not the “Virginia Register of Regulations.”
Nonetheless, since the statute makes the Web version of the *Virginia Register of Regulations* primary, the online resource is considered official.

**b. Resources Deemed as Official on a Basis Other than Statute**

Two separate resources constituting the online collection New Mexico court opinions are discussed in this section. Generally, it may be said the judiciary independently possesses the authority to make such designations. Moreover, it would appear courts naturally recognize the authority of their own resources; inherent if not statutorily express powers underlie their formal designation of official reports.

**New Mexico’s High Court and Intermediate Appellate Court Opinions.** The New Mexico Supreme Court Web site provides a link to an “infobase” containing Supreme Court and Court of Appeals opinions from 1995 to 2005. It also provides other links to “Prior Year Opinions” and “Current Year Opinions” (for the Supreme Court and Courts of Appeals) and “Slip Opinions” (for the Supreme Court). According to information from the Web site and the state author’s contacts with appropriate state officials, the “infobase” and the “Prior Year Opinions” and “Current Year Opinions” are considered official once they become final.

The Supreme Court slip opinions are not considered official because each contains the notice: “These electronic slip opinions may contain computer-generated errors or other deviations from the official opinion. Moreover, a slip opinion is replaced within a few months when it is formally released by the Clerk of the Supreme Court for publication. In case of discrepancies between a slip opinion and the opinion published on the Supreme Court Web site, www.supremecourt.nm.org under ‘Current Year Opinions’, the opinion posted under the ‘Current Year Opinion’ link controls. The ‘Current Year Opinions’ is regularly updated to include all revisions.”

The New Mexico Court of Appeals Web site links to the “Prior Year Opinions” and “Current Year Opinions” (for the Supreme Court and Courts of Appeals) found on the Supreme Court Web site. The page contains unique links to Court of Appeals’ “Slip Opinions,” which are not considered official.

The New Mexico Supreme Court’s relationship to the state’s Compilation Commission prompts the statement on its home page: “The New Mexico Supreme Court Web site is jointly maintained by the New Mexico Supreme Court and the New Mexico Compilation Commission. The site is maintained to provide public access to New Mexico Supreme Court and Court of Appeals opinions, court forms and uniform jury instructions.” Significantly, the New Mexico Compilation Commission is responsible for publishing the “bound volumes . . . known as the New Mexico reports” (N.M. STAT. § 34-4-2) and is empowered “to publish, distribute or sell and keep current automated legal databases of publications” including the “New Mexico reports” (id. § 12-1-3.1).
Before turning to Key Finding 3, it is worth noting that four of the six states with two or more online official legal resources – Maryland, New Mexico, Tennessee, and Utah – are inconsistent in stating whether or not their online titles are official. Indiana’s online administrative code and administrative register are alike insofar as both publications now state (as of August 2006) that they are official. The two resources constituting Michigan’s online official high and intermediate appellate court opinions also both state they are official, although there are other problems with coordination as previously mentioned. The fact that so many of the states with multiple online official resources are inconsistent in their approach to basic descriptive information indicates that states do not follow sufficiently deliberate policies and practices in disseminating primary legal resources on the Web. The report explores weaknesses of state policies and practices in Key Finding 4.

**KEY FINDING 3: One or more of the online primary legal sources of eight states and D.C. have “official traits,” where evidence as to the actual status of the resources is conflicting.**

Eight states – Alaska, California, New Jersey, Ohio, Texas, Utah, Vermont, and Virginia – plus the District of Columbia, are responsible for sixteen sources of law that are inchoate as official resources or unresolved as to their official or unofficial status. These sixteen sources are contained in thirteen separate repositories. As explained under Key Finding 2, the six sources investigated in the Authentication Survey – state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions – are the units counted in our total of sixteen sources; high court opinions and intermediate appellate court opinions, counted as two sources, may be combined in one repository. These inchoate and unresolved sources fall into the category we label “O traits” or “official traits.”

Such resources are vexing to citizens and law researchers. The “O traits” or “official traits” category of online legal resources is contentious. It would be reasonable to assert that any resource that is not official is simply unofficial. We acknowledge this, but at the same time wish to highlight certain confusing situations that involve “official traits” of legal resources and signal a need for statutory reform or changes in state policies and practices. We find the “official traits” category is warranted for resources where a state has intended to create an online official legal source but a definite impediment has blocked its realization. Additionally, we find the category is warranted where states have failed to recognize the consequences of steps taken in making a legal resource available on the Web. This characterizes situations where a mismatch exists between applicable statutes and the state’s implementation or where statutory provisions themselves are ill-coordinated. Intentions of those responsible for the resources may be unclear and steps with confusing consequences may have been taken. Users tend to be misled or confused by resources falling within the “official traits” category. Online resources within this category deserve the states’ immediate corrective attention.
Vermont’s Statutes. The online statutes are a noteworthy example of a state’s efforts to create an online official resource without adequate implementation to make it a reality. Vermont statutes direct the Vermont General Assembly, Legislative Council, to “maintain official computerized databases of the Vermont Statutes Annotated.” VT. STAT. ANN. TIT. 2, § 425 (2005). The section specifies, among other things, that the Legislative Council “shall post these databases, along with a seal of authenticity, on the worldwide Web site of the Vermont general assembly.” The online version of the statutes, published on the General Assembly’s Web site, sets forth a notice: “The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated, provided as a convenience. It has NOT been edited for publication. The ‘official’ version of the Vermont Statutes Annotated is online at LexisNexis Publishing.” The LexisNexis version “makes no statement that it is official, although the print version is produced by the same company and is required by statute (VT. STAT. ANN. TIT. 2, § 423(a) (2005)) to contain a certificate of authenticity by the Council.” Under the circumstances, the LexisNexis version has “official traits” only.

Virginia’s High Court and Intermediate Appellate Court Opinions. The state has not recognized the confusing consequences of steps taken in labeling these resources. Opinions of the Virginia Supreme Court and Virginia Court of Appeals are uploaded to the judiciary Web site on the day they are released. “No notice is given to users regarding the official or unofficial status of the opinions or their accuracy.” The opinions are currently published online in PDF and ASCII text formats; several years earlier they were published in DOC (Microsoft Word) and ASCII text formats. “The Web site refers to the PDF and the ‘word-processed’ versions – distinguished from the ASCII text version – as official, since the opinions in these formats contain the court’s original footnotes and layout.” The state author points out that the “Web site’s use of the word ‘official’ here appears to have a broader meaning than the word as used in the phrase official reporter.” It is a confusing use of language inasmuch as the state has “no process in place to assure this slip opinion is the same as the final opinion published in the official bound Virginia Reports” reflecting subsequent editing.

The situation in Virginia is a subtle but truly mischievous confusion that creeps into the subtext of Web sites for legal resources in other states. For example, returning to Vermont and examining a situation involving the publication of Vermont Supreme Court slip opinions, the state author there describes the court system’s labeling practices. Current opinions and current entry orders of the Vermont Supreme Court are initially posted on the Web without being identified as official or unofficial. But “[a]fter the opinions and published entry orders appear in the print official reporter, the opinions and published entry orders are removed from the ‘Current List’ and arranged on [new] Web pages according to their print volume number. Links to those Web pages name the volume number and are [then] labeled as unofficial.”

The author identifies the quandary: “Since slip opinions and slip entry orders are first labeled as unofficial after they are removed from the ‘Current List’ and identified by their print official reporter volume number, one might ask whether the slip opinions and slip entry orders are initially considered to be official. . . . According to the Vermont Reporter
This table shows states where repositories of online legal resources are in some critical sense inchoate as official sources or unresolved as to their official or unofficial status. Information concerning the basis for such conclusions is given. The table also shows what resources are afforded permanent public access and notes the status of the other online repositories. "O traits" indicates that relevant evidence as to the official or unofficial status of the resource on the Web is inconclusive. "O" designates official legal resources on the Web. "PPA" designates resources safeguarded for current and future public access.

The table is a simplified reformatting of certain information from the analytical table in Appendix A. Each block represents a separate repository for an online legal resource, unless a block contains "N/A," which indicates that no current government-hosted repository is available. All repositories designated as official or possessing "official traits" are represented; there are actually many more unofficial repositories than represented here. Blocks colored blue (or medium grey, when printed in greyscale) indicate that the type of legal resource represented is currently published in one or more print official resources. Blocks with a slash through them indicate that the state’s court system has no intermediate appellate court.
<table>
<thead>
<tr>
<th></th>
<th>Administrative code</th>
<th>Administrative register</th>
<th>Statutes</th>
<th>Session laws</th>
<th>High court opinions</th>
<th>Intermediate appellate opinions</th>
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<tbody>
<tr>
<td>Alaska</td>
<td>O, PPA</td>
<td></td>
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<td>O traits POLICY AMBIGUITY</td>
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<tr>
<td>California</td>
<td>O traits POLICY AMBIGUITY</td>
<td>O traits STATUTE AND IMPLEMENTATION MISMATCHED</td>
<td>PPA</td>
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<td>O traits POLICY AMBIGUITY</td>
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<tr>
<td>District of Columbia</td>
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<tr>
<td>New Jersey</td>
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<td>N/A</td>
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<tr>
<td>Ohio</td>
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<td>PPA</td>
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<tr>
<td>Texas</td>
<td>O traits STATUTES NOT COORDINATED</td>
<td>O traits STATUTES NOT COORDINATED</td>
<td>PPA</td>
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<td></td>
<td>PPA</td>
</tr>
<tr>
<td>Utah</td>
<td>O, PPA</td>
<td>O, PPA</td>
<td></td>
<td></td>
<td></td>
<td>O traits, PPA STATUTE AND IMPLEMENTATION MISMATCHED; LABELING ISSUE</td>
</tr>
<tr>
<td>Vermont</td>
<td>N/A</td>
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<tr>
<td>Virginia</td>
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<td>O traits LABELING CONFUSION</td>
</tr>
</tbody>
</table>
of Decisions, such online slip opinions and slip entry orders may be recognized as official – just as a decision published in the print official reporter – at least for some limited purposes”.

This conundrum concerning the official status of slip opinions is resolved somewhat differently in other states. For example, as described by the state authors, systems for New York and Illinois courts carefully distinguish online slip opinions from final opinions published either online (New York has both online and print official publications) or print only (Illinois).

Ambiguous Status of Six Online Legal Resources Stems from Underlying Statutes

The resources described in this subsection are placed in the “official traits” category because they involve a mismatch between the provisions of applicable statutes and the state’s implementation (California, New Jersey, and Utah, especially), the description and labeling of the resource are not coordinated with the resource’s statute-defined functions (Ohio), or the underlying statutes themselves are not seamlessly coordinated (Texas).

California’s Statutes. California does not publish a print official version of the state’s statutory codification, the California Codes. The Legislative Counsel is required to make the California Codes “available to the public in electronic form.” CAL. GOV’T CODE § 10248(a). The applicable statute specifies that “the electronic public access provided by way of the [Internet] . . . shall be in addition to other electronic or print distribution of the information.” Id. Thus the legislature contemplated something other than a mandate designating the online version as official. Under the circumstances – where no other state-hosted version of the California Codes exists – it still cannot be said definitely that the resource is official.

New Jersey’s Statutes. Under applicable statutes, the New Jersey Legislative Services Commission, Office of Legislative Services, a non-partisan legislative agency responsible for research, bill-drafting and administrative services, is required to “make available to the public and maintain in electronic form . . . the most current available compilation of the official text of the statutes of New Jersey.” N.J. STAT. ANN. § 52:11-78. Despite this mandate, the status of the electronic version of the statutes available on the New Jersey legislature Web site is ambiguous. As discussed by the state author, “[t]he database does not explicitly indicate whether it is official or not. Nor does the database contain any disclaimer directing users to the ‘official’ print version.” The site contains a “caution,” warning that the “statutory database is unannotated and as such may include laws that have not become operable due to unmet conditions, have expired, have been ruled inoperative by a court, or have otherwise become inoperable. Effective dates are not typically included.” The state author points out that this warning addresses the appropriate use of the resource; “it is not a disclaimer concerning ‘official’ status of the Web site.” The resource “leaves the user unsure whether it is official or not.”
Ohio’s Administrative Register. The online-only Register of Ohio has distinct official functions and its description of itself uses somewhat ambiguous language that stops short of stating the resource is official. According to a statement on the Web site directed to administrative agencies, “[t]he Legislative Services Commission recognizes the official notice and information functions performed by the Register of Ohio, and makes every effort to publish all documents in the Register free of error.” The Web site states that the Register of Ohio – which was first published on July 3, 2000 by the Ohio Legislative Service Commission – is “an electronic publication that functions as a gazette to which members of the public may readily resort for notice of and information about rule-making processes.” By statute, the Register must be updated weekly, with documents purged when their “display no longer serves the public notice and information functions performed by the register.” OHIO REV. CODE ANN. § 103.051. The Register was created as part of a comprehensive revision to administrative rule-making procedures affording greater public participation and establishing an electronic-only system for agency rule-filing. It is a companion to the official print-only Ohio Monthly Record, which publishes in chronological order the state’s administrative regulations.

Texas’ Administrative Code and Administrative Register. The status of the Web versions of the Texas administrative rules publications is not clear. In 1993, the legislature declared that the Texas Administrative Code and the Texas Register are prima facie evidence of the text of the of the administrative rules they contain. Act of Sept. 1, 1993, ch. 268, §§ 2002.054 & 2002.022, 1993 Tex. Gen. Laws 583, 754-755 (enacting TEXAS GOV’T CODE §§ 2002.054 & 2002.022). The same legislation provided that, in the event of conflict, the official text of an administrative rule is the text the agency filed with the Secretary of State, not the text of the Texas Register. In 1995, the legislature directed the Secretary of State to make the Texas Administrative Code and the Texas Register available on the Internet. TEXAS GOV’T CODE §§ 2002.057 & 2002.0151. Nothing on the Secretary of State’s Web site, including its disclaimer, addresses the question of the official or unofficial status of the Web version of the Texas Administrative Code and the Texas Register. In describing the Texas Administrative Code and the Texas Register and discussing their role in open government and the administrative rule making process (at http://www.oag.state.tx.us/AG_Publications/txts/2002adminlaw4.shtml0), the Texas Attorney General appears to treat the print and electronic versions of those resources as equivalent, except he advises users to consult the Texas Register when researching a rule, since the Web version of the Texas Administrative Code is not updated as frequently as the Texas Register.

Utah’s Statutes. Of two online versions of the state’s statutes – one a “simple numerical list” and the other a searchable version contained within a database system – the latter lacks the declaration and notice as to official status given by the former. The state author reports that “technical issues make it difficult to add . . . language” comparable to that of the version of the statutes mounted as a numerical list. Nonetheless, the absence of such language on one of two versions of statutes throws into sharper contrast their possible differences. The resulting uncertainty – easily removed by means of an appropriate descriptive statement – warrants an “official traits” label for the searchable version.
Five Other Online Legal Sources Have Unresolved Characteristics as to their Status

**Alaska’s High Court and Intermediate Appellate Court Opinions.** In Alaska, “the court system has negotiated an agreement with Thomson West, its *official* publisher, to make all appellate opinions, 1960 to date, available electronically as well as in print.” The Web site for Alaska Appellate Court Slip Opinions and Memorandum Opinions alerts users that the print *official* appellate opinions – the *Pacific Reporter* and the offprint for Alaska published under the title *Alaska Reporter* – are available at Alaska Court System law libraries. Thomson West’s *Alaska Case Law Service*, however, states nothing about the official or unofficial status of its opinions, except it identifies opinions not reported in the *Pacific Reporter* as “unpublished.” The underlying concern to have authoritative materials available on the Web – a policy particularly important in a state with a widely disbursed population – is evidently at odds with policies on print *official* legal resources. The unofficial status of the online legal resources is not perfectly clear.

**California’s Administrative Code.** Thomson West was required to provide online access to administrative regulations as a condition for being awarded the contract to publish the print *official* version of that material. According to the California Code of Regulations Web site, the contract requires that “[t]he Contractor shall ensure that the [Web version] is consistent with the most recent updated [print version], accurately reflects what is filed with the Secretary of State; and that it is complete and contains all the material defined as part of the official [Code].” The Web version makes no representation as to its official or unofficial status. It states the “Official California Code of Regulations is available” from the publisher “in looseleaf printed format.”

**California’s High Court and Intermediate Appellate Court Opinions.** Similarly, LexisNexis was required to provide online access to the court opinions as a condition for being awarded the contract to publish the *official* print version of that material. The “Official Reports” site (also identified as “Searchable Opinions 1850 – Present”) draws directly from the LexisNexis database. It is integrated into the California Courts homepage, which also provides a set of links for current slip opinions, superseded slip opinions, and short-term unpublished opinions of the California Supreme Court and Courts of Appeal. LexisNexis pages provide extensive disclaimers and limitations of liability. To gain access to the “Official Reports,” a user is required to check mark a box acknowledging that he or she has read extensive “Terms and Conditions” and agrees to them. One paragraph of the “Terms and Conditions” states that “Provider does not represent or warrant that the Web Site will be error-free . . . . Provider does not warrant or represent that the information available on or through the Web Site will be correct, accurate, timely, or otherwise reliable.” Another paragraph states:

> THIS WEB SITE IS PROVIDED ON AN “AS IS” BASIS. PROVIDER EXPRESSLY DISCLAIMS ALL WARRANTIES . . . . PROVIDER DISCLAIMS ALL RESPONSIBILITY FOR ANY LOSS, INJURY,
CLAIM, LIABILITY, OR DAMAGE OF ANY KIND RESULTING FROM, ARISING OUT OF OR ANY WAY RELATED TO (A) ANY ERRORS IN OR OMISSIONS FROM THIS WEB SITE AND THE CONTENT, INCLUDING BUT NOT LIMITED TO TECHNICAL INACCURACIES AND TYPOGRAPHICAL ERRORS . . . (at http://www.lexisnexis.com/clients/CACourts/ (all caps in original)).

Such representations and disclaimers leave questions as to the status of the materials. Those questions are unanswered where the online resource’s representation as to its status consists solely in the word choice for the title of the database, a title not used consistently throughout the resource. Additional analysis of “as is” representations and disclaimers is given in Key Finding 4.

District of Columbia’s High Court Opinions. A representative of the District of Columbia Court of Appeals, the district’s highest court, indicated that the opinions posted on the court’s Web site are considered official. However, a disclaimer on each opinion states: “This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.” In addition, the Court’s Citation Guidance Memorandum, which needs updating in several respects, sets forth rules that appear to contradict the conclusion that opinions on the Web site are official. Paragraphs 3 and 5 of the memorandum indicate that the Atlantic Reporter is the source to cite for published opinions of the court. Statements applicable to the Web site as a whole indicate that “[t]he content and function of the Web site are provided to you ‘as is,’ without warranties of any kind, either express or implied, including, but not limited to, warranties of title, merchantability, fitness for a particular purpose or use, or currency.”

Texas’ Session Laws. The Secretary of State obtains the “bills that have become law” (TEX. GOV’T CODE ANN. § 405.014) and is charged to make them available (see TEX. GOV’T CODE ANN. § 405.011). PDF copies of original documents constituting the enrolled bills of the current legislature, including signatures, are available on the Secretary of State’s Web site. Insofar as the Secretary of State is responsible for authenticating legislation and other legal sources, the posting of PDF copies of the original documents may be thought to represent an unperfected form of an official legal source. It is not clear whether the PDF version is intended to be an official or unofficial publication.

KEY FINDING 4: States have not acknowledged important needs of citizens and law researchers seeking government information; they have not been sufficiently deliberate in their policies and practices.

The representations and disclaimers made by online legal resources were a starting point for the Authentication Survey’s investigation of official or unofficial status. Online legal
resources that disclaim \textit{official} status often make extensive disclaimers concerning their accuracy and reliability. Online \textit{official} legal resources also sometimes make such disclaimers. The prevalent use of disclaimers – which may be contrasted with very limited use of disclaimers for official and unofficial print titles – points to fundamental differences between online and print media.

Publishing entities, both government and commercial, have long recognized that digital materials are vulnerable to lapses in management and control, corruption, and tampering. More importantly, publishers simply have not taken extra steps needed to put online legal resources on the same footing as print. This is so even for publishers of online \textit{official} legal resources. This failure represents a serious neglect of the needs of citizens and law researchers seeking government information. It is axiomatic that persons using legal resources seek trustworthy – \textit{official} and \textit{authentic} – government information without reservations concerning how online versions relate to authoritative originals, transcription accuracy, completeness, and currency. Citizens and law researchers seek authoritative online information; they reasonably, if uncritically, use the government-prepared or government-hosted information they find on government Web sites.

The fundamental trustworthiness of online legal information is not the only concern, however. Fully recognizing the needs of citizens and law researchers related to the authority of online legal resources necessitates that the states take action to make online sources serve as improved or, at least, adequate substitutes for print \textit{official} legal sources. The states need to deliberate a number of practical issues, including:

- Should the title of the online source be identical to the print version?
- What features and formatting of the online publication would best serve applicable citation systems?
- Should formatting of online sources correspond to their print counterpart?
- Should updating for an online source occur more frequently than the print version?
- How are any differences as to currency and other essential features best communicated?
- How is the official or unofficial status of the online source best communicated?

There are some overarching structural concerns as well:

- How might maintenance of online legal resources be integrated into the flow of administrative, legislative, and judicial activity generating the law?
- What systems best reflect the natural life-cycle of legal information?
- What processes ensure permanent public access?

Generally, the states have neglected needs of citizens and law researchers and have failed to develop sufficiently deliberate policies and practices affecting the authority of online
legal resources. This section of the report first examines the states’ use of formal representations and disclaimers in detail. Afterwards, it identifies a number of issues relevant to states now entering an all-digital world of legal information. These are issues the states should address in making legal resources available on the Web. Our focus is the authority of online legal resources, as measured against print official sources.

Two Basic Forms of Disclaimer Information

One form of disclaimer information states, in its purest version, that a resource is not official. (This is opposed to a representation that the resource is official.) We call this form of disclaimer information the official-unofficial type. The second form that representations and disclaimers take may make no mention of the official or unofficial status of a resource and, in its purest version, states that the text is offered “as is.” It usually disclaims any warranties and specifically limits the publisher’s liability. We call this second basic form of disclaimer information the “as is” type.

The official-unofficial type corresponds to conventions in legal publishing established in the print world. Simple convention may account for why the meaning of an official or unofficial designation is rarely spelled out within the print resources themselves. Just as likely, their meaning is rarely made express – at least for unofficial resources – because print unofficial resources are sold on a true on inspection basis. Making extensive representations and disclaimers suggesting a resource is not reliable would be commercially unwise. One might compare the marketing of print legal resources with the electronic. Electronic resources make boilerplate representations and disclaimers with few serious marketing consequences. Electronic resources are regularly fitted with “I agree” check-off hurdles, forbidding access unless a purchaser or user agrees to extensive boilerplate limitations of the publisher’s liability. The “as is” form of disclaimer information arises out of such contracts of adhesion; it is a phenomenon of the digital world. The use of “as is” representations and disclaimers has troubling consequences for government-hosted online official legal resources published by commercial vendors and made available for no-fee public access.

Yet another type of disclaimer information may be added to the list including the official-unofficial and “as is” types. This third type is somewhat hazier in outline than the others. It is associated with certain resources produced or distributed with the assistance of commercial vendors who enter into public-private partnerships responsible for statewide government portals or one-stop gateways to all government information and services. This type in its purest version would make few representations and disclaimers. The resources available on the portal – sometimes by subscription and with per-search fees – would be silent as to their status (unless they are official) and make few statements diminishing their reliability and authority. Kansas’ online legal resources, available through an official portal created by a public-private venture (Kansas.gov at http://www.kansas.gov), are silent about their official or unofficial status. As spelled out in the Kansas state summary, the disclaimers have a distinctively lighter touch:
A disclaimer on the interface for the statutes (both free and fee-based) states that the text “is provided with the permission of the Revisor of Statutes.” A disclaimer on the interface for the session laws states that the Information Network of Kansas creates an “electronic representation of the Session Laws” derived from “electronic-readable material provided by the Kansas Division of Printing.” A disclaimer on the interface for the Kansas Administrative Regulations states that the text “is derived from electronic-readable material provided by the . . . Division of Printing.” All of the disclaimers go on to state, “The Information Network of Kansas has made every effort to create an accurate electronic representation of the [resources]. In some cases there may be minor discrepancies with the printed document. In those cases neither INK nor the State of Kansas shall be liable for the effect of those discrepancies” (pp. 112-113).

Kansas is one of eighteen states – Alabama, Colorado, Hawaii, Idaho, Indiana, Iowa, Georgia, Kentucky, Maine, Montana, Nebraska, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, and Virginia – that have a state-level portal created through a public-private venture involving National Information Consortium, Inc. (at http://www.nicusa.com/html/). Kansas was the first such venture; the corporation is headquartered in that state. Resources of other states with public-private partnerships do not necessarily make representations and disclaimers like those of Kansas; undoubtedly a variety of factors come into play. A full exploration of the special category of representations and disclaimers associated with such public-private ventures is beyond the scope of the Authentication Survey. The effect of such ventures on the dissemination of government information warrants further study.

\textit{a. Official-Unofficial Type of Disclaimer Information}

This type of disclaimer information turns on the well-established official-unofficial dichotomy in legal publishing. A disclaimer of this type may simply state that the legal resource is not \textit{official}. But it is rarely so completely undorned. Often the resource stating it is unofficial identifies its \textit{official} counterpart and gives some additional information about it. A representative example of this type is given on the Web site for Alabama’s online administrative code:

This is not the Official Alabama Administrative Code. The Official Alabama Administrative Code is available in hardcopy form from the Legislative Reference Service [giving specified contact information].

The Alabama Administrative Code is published by the Legislative Reference Service pursuant to subsection (e) of Section 41-2-7 of the Code of Alabama 1975. The Alabama Administrative Code is a compilation of the rules of all state agencies covered by the Alabama Administrative Procedure Act. . . . (at http://www.alabamaadministrativecode.state.al.us/about-code.html).
Often the official-unofficial type is combined with a few representations and disclaimer statements that are characteristic of the “as is” form. Thus, in addition to a statement that a resource is not official, one finds statements such as: “While every effort is made to ensure the accuracy and completeness of the [online resource], the [resource] is not official, and the [agency creating the resource] will not be responsible for any errors or omissions that occur in these files” (Georgia’s statutes at http://w3.legis-nexis.com/hottopics/gacode/Terms%20and%20Conditions.doc). “This Web site contains copies of the [online resource]. These are not the official copies of the [resource]. The official copies remain the paper copies published by the [agency creating the print resource] pursuant to [specified statute]. Every attempt has been made to ensure accuracy and reliability. However, the [agency creating the resource] makes no warranties, either express or implied, including warranties regarding the content of copies presented on this Web site” (Missouri’s administrative register at http://www.sos.mo.gov/adrules/moreg/moreg.asp). “The [resource] is a free service of the [agencies cooperatively creating the resource]. The information obtained from this site is not intended to replace official versions of that information and is subject to revision. The [hosting body] presents this information, without warranties, express or implied, regarding the accuracy of the information, timeliness, or completeness” (Michigan’s statutes at http://www.legislature.mi.gov/(S(cvgvdi5510mtwxz1sdotia55))/mileg.aspx?page=home). Multiple additional examples are found in the state summaries of this report.

Finally, the special case of online official legal resources making extensive “as is” representations and disclaimers must be noted. They are usually court opinions published by commercial vendors – usually the same vendors who publish the print official versions – and made available on government-hosted Web sites for no-fee public access. This special case is discussed in detail after we address multi-purpose “as is” disclaimer information in the next subsection.

b. “As Is” Type of Disclaimer Information

States offering their online legal resources “as is” do a great disservice to citizens and law researchers, yet the Authentication Survey found several states that offer such resources. Even online official legal resources are being offered “as is.” One may wonder how it is possible for official legal sources to be offered “as is,” inasmuch as this runs contrary to one’s intuitive sense of official status. The existence of untrustworthy official legal resources – resources that suggest themselves that they may not be reliable – signals a critical need for authentication. Legal resources deemed as official should be authentic.

The “as is” type of disclaimer information turns the well-established official-unofficial dichotomy on its head. In the world of print legal resources, a publication is either official or unofficial. Responsibilities in connection with print dissemination are settled in law or by recognized convention. In general, a state official certifies the text of an official legal resource as an accurate and complete statement of the law. That certification is a basis for judicial notice and other recognition; generally the official
resource is *prima facie* evidence of the law, trustworthy though not guaranteed as infallible.

There is little room in the established concept of *official* status for express limitations of liability. Indeed, were this area of the law explored judicially and fully settled, the required good faith of certifying officials and *official* publishers may very well negate any attempt on their part to limit their liability with total “as is” representations and disclaimers.

Nonetheless, boilerplate “as is” representations and disclaimers appear on government-hosted online legal resources. They originated, undoubtedly, from commercial vendors that were invited or required to publish legal resources on government Web sites. A representative example of such “as is” language is given for Tennessee’s online statutory compilation. The resource is made available by a major law publisher. Relevant excerpts are as follows:

**General Disclaimer.** EXCEPT AS EXPRESSLY STATED IN [other sections making limited warranties not relevant here], WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CAPABILITY OF THE LEGAL RESEARCH SERVICE OR THE ACCURACY OR THE COMPLETENESS OF THE MATERIALS.

THE LEGAL RESEARCH SERVICE AND MATERIALS ARE FURNISHED ON AN “AS IS,” AS-AVAILABLE BASIS. ALL WARRANTIES OF ANY TYPE NOT EXPRESSLY STATED IN THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHATABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

...  

**CONSEQUENTIAL DAMAGES DISCLAIMER.** UNDER NO CIRCUMSTANCES WILL WE OR ANY RELATED PARTY OR SUPPLIER BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES; OR FOR LOSS OF PROFITS, REVENUE, OR DATA; WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STRICT LIABILITY, STATUTE OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

**LIABILITY DISCLAIMER.** Neither we nor any Related Party or Supplier shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from: (a) any errors in or omissions from the Legal Research Service or any Materials available or not included therein...
It will be recalled that Tennessee is one of the three states among the most committed to making online official legal resources available to citizens and others. Identical representations and disclaimers are made by the same major commercial legal publisher in connection with Mississippi’s statutory compilation on the Web.

States have adopted similar language in representations and disclaimers that, evidently, were crafted directly by the state itself. Relevant excerpts from language applicable to a number of Hawaii’s resources are as follows:

Notice [y]ou have entered an official State of Hawaii WEB SITE (i.e., all pages starting with “www.state.hi.us”, “www.hawaii.gov”, “www.ehawaii.org”, or “www.ehawaiigov.com”), which may be used for authorized purposes only. . . .

Disclaimer of Warranties [. ] This WEB SITE is provided “AS IS” and without warranties of any kind. To the fullest extent of the law, the State of Hawaii, including each agency, officer, or employee of the State of Hawaii, disclaims all warranties, express or implied, including but not limited to warranties of merchantability and fitness for a particular purpose, with respect to this WEB SITE; the disclaimer of warranties includes but is not limited to disclaimers as regards the following: . . . (2) that any defects or other errors on this WEB SITE will be corrected . . .

In addition, neither the State of Hawaii nor any agency, officer, or employee of the State of Hawaii makes any representations, guarantees, warranties as to: (1) the accuracy, completeness, currency, or suitability of the information provided via the WEB SITE; . . . and (3) the accuracy, reliability, availability or completeness or usefulness of the content of Web sites created and maintained by persons other than the State of Hawaii and linked to from this WEB SITE (at http://www.hawaii.gov/portal/terms.html (words in all caps in original)).

None of the legal resources covered by Hawaii’s representations and disclaimers is official, despite the use of that term – a label typically given state-level portals – in the opening statements on their home page.

Official Legal Resources Making “As Is” Representations and Disclaimers

Boilerplate “as is” disclaimers are found on official legal resources on the Web. They are uncommon on official legal resources, but no less troubling as a result. Instances of “as is” disclaimer information typically originate from the major commercial legal publishers
that make the online official resources available. In one case it is part of the boilerplate given for all resources – official and unofficial – on a state portal, namely that of Utah. The situation with the “New York Official Reports Service,” noted above, is an important, telling example.

The “New York Official Reports Service” is a feature of the New York Law Reporting Bureau Web site. The Law Reporting Bureau is statutorily responsible for overseeing, among other things, the preparation of the bound volumes of official opinions of the New York Court of Appeals and Supreme Court, Appellate Division. See N.Y. JUDICIAL LAW §§ 433 & 433-a. Those volumes, published as the New York Reports and the Appellate Division Reports, constitute two of the three series of official reporters for the state. Their actual printing and publication is performed pursuant to a contract currently held by Thomson West. That contract is statutorily required to permit the contractor “to produce and market [the court reports] and the combined official series in any medium or format, besides bound volumes and printed advance sheets, including but not limited to microfiche, ultrrafiche, on-line computer retrieval data base, and CD-ROM, subject to prior approval by the state reporter and the chief judge of the court of appeals.” Id. § 434(5)(b). Thus the no-fee “New York Official Reports Service” is official, as is Thomson West’s commercial online-annotated version, which draws from the same data.

Those seeking to use the “New York Official Reports Service” encounter an “I agree” check-off hurdle, forbidding access unless the user agrees to extensive boilerplate “as is” type disclaimer information. The representations and disclaimers include the following:

THE NEW YORK OFFICIAL OPINIONS ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OMISSIONS, COMPLETENESS, CURRENTNESS AND DELAYS. USER ACKNOWLEDGES THAT USE OF THE NEW YORK OFFICIAL OPINIONS IS AT USER'S SOLE RISK. WEST IS NOT LIABLE FOR ANY CLAIMS RELATING IN ANY WAY TO USER'S INABILITY OR FAILURE TO PERFORM LEGAL OR OTHER RESEARCH OR RELATED WORK OR TO PERFORM SUCH LEGAL OR OTHER RESEARCH OR WORK PROPERLY OR COMPLETELY, OR ANY DECISION MADE OR ACTION TAKEN BY USER IN RELIANCE ON THE NEW YORK OFFICIAL OPINIONS. IN NO EVENT WILL WEST BE LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. . .

(http://government.westlaw.com/nyofficial/search/default.asp?tempinfo=SEARCH (all caps in original)).
Returning to our discussion of California’s court opinions, we note that the situation involving the repository of “Official Reports” or “Searchable Opinions 1850 – Present” on the California judiciary Web site has several things in common with the “New York Official Reports Service.” Notably the California “Official Reports,” which is maintained by LexisNexis, makes “as is” representations and disclaimers very similar to the New York resource. The LexisNexis resource also appears to declare its official status by including the word “official” in its title.

The Judicial Council of California is responsible for the judiciary Web site of which the “Official Reports” or “Searchable Opinions 1850 – Present” is a part. Like the Web site of the New York Law Reporting Bureau, the California judiciary Web site is well organized. It provides a set of links for current slip opinions, superseded slip opinions, and short-term unpublished opinions of the California Supreme Court and Courts of Appeal. The LexisNexis resource is well integrated with those other links. There are some indications that the Judicial Council of California intends the LexisNexis resource to be official. The site’s “Important Notice to Publishers” advises unofficial publishers to “exercise caution as to any California appellate opinions not procured from this Web site” (at http://www.courtinfo.ca.gov/opinions/notice.htm (emphasis added)). The notice cites the Reporter of Decisions as the final authority concerning the status of opinions. The site appears to set itself up as a standard insofar as an opinion not published on the opinions page is cause to inquire further as to its status. The notice cites an instance where paper opinions not on the Web site had erroneously been distributed as final opinions and – because they were paper – improperly treated by unofficial publishers as citable authority. Id.

Conceivably, the Judicial Council of California is privileging the online resource over paper (because errors are found to creep into the distribution of paper opinions). Even if this is the correct reading of the Judicial Council’s intention, however, it still has failed to take the simple step of actually explaining the status of the materials on the site. Balancing all relevant factors – including the troubling nature of its “as is” type disclaimer information – the overall absence of a definitive statement of the Judicial Council’s intentions compels our conclusion that the resource has “official traits” only.

We urge states to take care to make the status of online legal resources clear to users. While we are troubled by its mixing of official status and “as is” disclaimer information, the New York Law Bureau has the virtue, in the final analysis, of being clear enough to make the actual status of its materials understood. Further, it may be thought New York is especially well positioned to achieve authentication of its online court opinions – and remedy the unseemly “as is” disclaimer information – by requiring its commercial official publisher to use appropriate authentication methods. Given the profit incentives built into the statutory arrangements that underlie the state’s official publication of online legal resources, such an avenue to genuine authentication would appear to be viable.
Policies and Practices Meeting the Needs of Citizens and Law Researchers

In general, the states appear to be unaware of the consequences of steps they have taken and representations they have made concerning their legal resources on the Web. They have sought little continuity between online materials and print official sources, as they might have were they engaged in a truly coordinated shift from print to the Web. Many states appear to be unaware, as well, of legal principles applicable to print official legal sources and their rationale; current policies and practices do not reveal an understanding of the problems official status is designed to solve. The policies and practices fail to meet the needs of citizens and law researchers. The report now turns to specific suggestions for states entering the all-digital world. Areas of concern not adequately addressed in state policies and practices are as follows:

- Giving online legal resources specific and easily identified names. Do the Uniform Resource Locators (URLs) for the legal resources logically reflect those names? Are the URLs of reasonable, citable length?

- Naming online legal resources consistently vis-à-vis any print counterparts. Are online official legal sources given names identical to equivalent print official sources? Are such resources named differently but according to a pattern or convention easily understood by citizens and law researchers? Do the URLs logically reflect the natural sections into which the legal resources are divided?

- Identifying print official sources, giving information about where to find them, and providing other guidance about options for locating legal information.

- Resolving and communicating clearly any differences in currency and updating schedules for online legal resources vis-à-vis any print counterparts. How should the resource be structured to ensure access to earlier versions? How should superseded material be presented?

- Using Persistent Uniform Resource Locators (PURLs) to ensure permanent accessibility and unhindered linking to the online legal resource from other sites.

- Addressing pagination or other formatting issues concerning equivalency between online and print legal resources. Does the implementation of the state’s universal citation system, if any, optimize use of online legal resources?
• Providing a clear statement about the official or unofficial status of online legal resources. What source of law provides for the status of the resource?

• Using the word “official” with care. Can citizens and law researchers easily understand the difference between its use in “official state Web site” and “official state statutes”?

• Identifying the source of the data of the online legal resource, its “chain of custody,” and relevant processes and procedures in the state’s handling, safekeeping, and long-term preservation of the data.

• Describing authentication and archival processes and procedures ensuring authenticity. Is the source authentic? How do users obtain an authentic source?

• Addressing any duplicate versions of the same online legal resource. What purpose is served by the duplicate resource? Is that purpose communicated to users, along with a link to the duplicate source?

• Presenting prominently any representations and disclaimers. Do users understand any limitations on the usability of the legal resource?

• Specifying precisely the scope of any representations and disclaimers.

• Developing thorough policies and procedures specifically addressing online primary legal resources. Are rationales given? Does the state address official status, authentication, and permanent public access for online legal resources?

• Posting the policies and procedures with online legal resources, along with contact information for persons responsible for the policies and procedures.

We now turn to the central issue that should inform any state’s policies and procedures, namely, the authenticity of online official legal resources.

KEY FINDING 5: No state’s online primary legal resources are authenticated or afford ready authentication by standard methods.

The Authentication Survey found, unfortunately, that it is difficult to know with certainty whether an online legal resource is official or not. The report helps to make clear what it means for online resources to be official. It examines statutes responsible for online official legal resources. It demonstrates that the concepts of official status and
authenticity of online legal sources are inextricably interrelated. Our analysis of the relationship is this: An online official legal resource is one that possesses the same status as a print official legal resource. The essential means to ensure the online legal resource is equal to the print official source is to ensure the online resource is authenticated or affords ready authentication by standard methods.

No state’s online primary legal resources are authentic – meaning that none of those resources are authenticated or afford ready authentication by standard methods. One recalls that “an authentic text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator.” It bears a certificate or mark as proof of its certification, “the process associated with ensuring the text is complete and unaltered” from the original. An authentic text is able to be authenticated, “ensuring that it is what it claims to be.”

Three States Express Special Concerns about Authentication

In completing the Authentication Survey, the state authors for Minnesota, Virginia, and Vermont identified their states as “addressing the authentication of online legal resources.” Efforts of Minnesota and Vermont require some scrutiny. Virginia’s longer-range efforts in this area seem especially promising.

a. Minnesota’s Approach Concerning its Online Administrative Register

Minnesota’s Revisor of Statutes has an important awareness of authentication issues and, as described by the state author, “has discussed digital signatures, watermarks, and other technologies, but there are no immediate plans to make online resources official and there is no process in place to certify Web text as complete and unaltered.” The state author comments that “[t]he online State Register is considered authenticated insofar as the material submitted for publication is properly endorsed.”

We have already noted that this form of authentication is insufficient. It is worth summarizing our conclusions here. Under Minnesota law, state agencies must endorse duly adopted notices of hearing, rules or changes submitted for publication. See MINN. STAT. § 14.46(3). Text so endorsed is considered to be an authenticated source. Thus, adhering to our methodology, we have labeled the resource as authentic, with our stated reservations. Under our broad definition of authentication, we consider the resource to have been certified, but for one point in time only. Digital materials endorsed according to the Minnesota statute are still vulnerable to lapses in management and control, corruption, and tampering. The Minnesota certification is not, by itself, sufficient to establish that the digital materials are authentic.  

10 A “silent” issue – one never actually voiced by relevant state officials – concerning the authentic status of Minnesota’s online administrative register warrants some attention. According to the state author, the position on authentication taken by the Minnesota Revisor of Statutes is based on the proper endorsements
Something else is needed, namely, processes described by one of the standard methods of authentication. Those methods include digital signatures and public key infrastructure, but other archival methods or “best practices” are also possible. Certification or other types of formal endorsement of legal resources are a vital link in the “chain of custody.” That chain may contain a link to computer technologies that guarantee the very copy delivered to the user’s computer screen is uncorrupted and complete. Or that chain may be part of other archival methods.

**b. Vermont’s Authentication Law Concerning its Statutory Compilation**

Vermont is the only state to mandate by statute proof of authenticity for a legal resource on the Web. The state’s Legislative Council is required to “maintain official computerized databases of the Vermont Statutes Annotated” and post them, “along with a seal of authenticity, on the worldwide Web site of the Vermont general assembly.” Vt. STAT. ANN. tit. 2 § 425. Vermont does not appear to have complied with this mandate. Nonetheless, the state has a “growing awareness of authentication issues”. This represents important progress in addressing authentication of online legal resources.

In requiring a “seal of authenticity,” does section 425 of title 2 of the Vermont Statutes Annotated contemplate authentication of the online statutes as defined by this report? Since neither the online statutes maintained by the Legislative Council nor the statutes available on the Web through LexisNexis actually have the required “seal of authenticity,” it is difficult to answer this question with certainty.

The print *official* statutes published by LexisNexis have a “certificate of authenticity” in compliance with section 423(a) of title 2 of the Vermont Statutes Annotated. This evidence represents a one-time certification as to the text’s accuracy and completeness sufficient to designate the print resource as *official*. But the situation with the “seal of authenticity” for online statutes is very different. Consistent with our central understanding that authentication is needed to ensure an online legal resource is
equivalent to a print *official* source, we argue that the seal required by the statutes must be a form of proof associated with a standard authentication method as defined in this report.\(^\text{11}\)

c. Virginia’s Legislative Study Addressing Authentication and Related Issues

There is also some progress to report from Virginia, where a joint subcommittee of the legislature has been studying issues of providing official authentication of state electronic records and permanent public access. The study, which has focused on records, may help in developing a model for legal materials on the Web. Recently enacted legislation developed by the subcommittee has charged the State Library Board with issuing regulations designed to address the range of issues inherent in the preservation, management, and storage of all records, including electronic records.

\(^{11}\) We have noted that a premise of the *Federal Rules of Evidence* is that “the manner in which law is fed into the judicial process is never a proper concern of the rules of evidence”. Like the majority of states, Vermont has patterned its rules of evidence on the *Federal Rules of Evidence*. *Vermont Rules of Evidence* Rule 902(5), which is identical to the federal rule, provides that “[e]xtrinsic evidence of authenticity as a condition precedent to admissibility is not required [for] . . . (5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.” Thus publications “purporting to be issued by public authority” are “self-authenticating” under federal and Vermont rules. Even assuming this rule of evidence would apply to issues concerning the *authenticity* of legal resources, its rationale would be seriously undermined if the “seal of authenticity” requirement for Vermont’s online statutes was construed as any less stringent because official publications are “self-authenticating” under the evidence rule. As discussed in connection with Minnesota’s online administrative register, *official* status is not meaningful without authentication by standard methods, since that status is not functionally achieved unless the online resource can serve as a touchstone for accurate and complete statements of the law.

The only known case applying Rule 902(5) to an online government publication is *U.S. Equal Employment Opportunity Comm’n v. Dupont Nemours & Co.*, 65 Fed. R. Evid. Serv. (Callaghan) 706, 16 Am. Disabilities Cases (BNA) 381, 2004 U.S. Dist. LEXIS 20753 (E.D. La. 2004). In that case, a table giving employment information printed off from the Web site of the United States Census Bureau was found to be self-authenticating under Rule 902(5). The exhibit in question gave the Internet domain address for the site from which the table was printed and the date on which it was printed. The court verified that the Web page existed at that location. This report takes the common sense position that proof as to the domain address for a statute and its printout date, without more, would be wholly insufficient to ensure the text is trustworthy, even where the court verified that the online text existed at that location. Additional certification is needed, one meaningful in light of the risk of accidental changes and data corruption over potentially long periods of time. The text of online sources such as statutes is usually drawn from databases that are intended to accommodate changes and, without the rigorous controls of authentication, are susceptible to unaccounted for alterations. Without additional certification in the form of authentication by standard methods, it cannot be said the text is what it purports to be. To assert that the question of accidental changes is a matter of how much weight the evidence deserves, not authenticity, misstates the law and, worse, returns over-technical rules to a matter that is not “a proper concern of the rules evidence.” Professor Peter W. Martin, Cornell Law School, is thanked for alerting us to Rule 902(5) and this case law; the interpretation is ours.
Other States and Authentication Concerns

At least eight states – Alabama, Arkansas, Connecticut, Maryland, Montana, Ohio, South Carolina, and Tennessee – potentially perceive authentication or its absence as a specific concern warranting attention. The state author for Ohio points out that certain state legal resources may imply they are official, even where they are not. That state’s concern about authentication is well placed.

Some states – Wisconsin, for example – have definite policies that make it very clear to users that only print resources are official and therefore are not considering authentication at this time. Other states appear to regard online legal resources as law searching tools not intended as a final source. They may indicate that resources are offered “for informational purposes only.” States that cast online legal resources in a facilitative role consider authentication a low priority.

For five states – Alaska, Indiana, New Mexico, Tennessee and Utah – online versions of legal resources substitute for a print official source; the online resource is the sole official statement of the law. There is a significant disconnect between states aware of the role of authentication and the states most in need of addressing authentication of their sole online official legal resources. Only Tennessee, a state committed to making official legal resources available on the Web, may have priorities concerning authentication not fundamentally misaligned here. New Mexico and Utah are urged to review priorities in their public information policies.

We find that virtually all states have the preconditions for implementing encryption-based authentication methods. Laws and policies addressing e-commerce, including transactions involving state government, are in place in most states. States therefore have addressed the validity and acceptance of digital signatures involving government agencies and have laid the groundwork for a public key infrastructure.

The Authentication Survey investigated what basic “chain of custody” information is available for online legal resources. This information addresses data handling procedures essential to encryption-based authentication and standard archival methods. We found too little information to draw relevant conclusions here. We urge states to make information about their data handing procedures for online legal sources readily available on Web sites for the resources.

**KEY FINDING 6: Eight states have provided for permanent public access (PPA) to one or more of their online primary legal resources.**

Eight states – Alaska, California, Indiana, Minnesota, Ohio, Pennsylvania, Texas, and Utah – have afforded thirteen sources of law permanent public access. These are
contained in thirteen separate repositories. As explained under Key Findings 2 and 3, the six sources investigated in the Authentication Survey – state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions – are the units counted in our total of thirteen sources. The number of safeguarded sources of law equals the number of safeguarded repositories, but the counts represent two different things. As noted above, PPA is a policy and practice that ensures “applicable government information is preserved for current, continuous and future public access.” See Gov’t Relations Comm. & Wash. Affairs Office, State-by-State Report on Permanent Public Access to Electronic Government Information 2 (2003).

For five of these states – Alaska, Indiana, New Mexico, Tennessee, and Utah – the online versions of legal resources substitute for a print official source. Where the online source is the sole official statement of the law – as it is in these five states – those digital materials demand safeguards that ensure permanent public access. While relatively few online legal resources are afforded PPA, disappearing print has prompted affected states to address PPA.

The analytical table in Appendix A shows that most states that substitute online official legal resources for discontinued print have begun to provide for the long-term accessibility and preservation of those online sources. Three of four states – Alaska, Indiana, and Utah – that have discontinued print official administrative registers afford PPA for the online resource. Tennessee does not. The situation with discontinued print official administrative codes is less optimistic. Utah affords PPA for its online official administrative code but Indiana and Tennessee do not. New Mexico does not afford PPA for its sole online official administrative code. This section describes efforts by those states and several others that have put in place statutes or reasonably secure policies and practices addressing PPA.

Alaska’s Administrative Register. Statutory provisions that created the Alaska Online Public Notice System (Alaska Stat. § 44.62.175(d)), direct the State Lieutenant Governor to “provide a permanent, electronic archive system of notices posted on the Alaska Online Public Notice System.” Under those provisions, “[a]ccess to the electronic archive system shall be made available to the public. At this time, there is no separate archive for the notice system and it is unclear whether the Lieutenant Governor intends to provide for continuous online access to the archives. Significantly, section 44.62.175(f) of the Alaska Statutes protects the state from liability in managing the site. “A person may not maintain an action based on the posting or lack of posting on the Alaska Online Public Notice System.”
TABLE SHOWING STATES THAT PROVIDE FOR PERMANENT PUBLIC ACCESS (PPA) TO LEGAL RESOURCES ON WEB

This table shows states where repositories of online legal resources are safeguarded by statutes or reasonably secure policies and practices ensuring "applicable government information is preserved for current, continuous and future public access." Information concerning the basis for such conclusions is given. The table notes the status of the state's online repositories. "PPA" designates repositories of online legal resources safeguarded for permanent public access. "O" designates official legal resources on the Web. "O traits" indicates that relevant evidence as to the official or unofficial status of the resource on the Web is inconclusive.

The table is a simplified reformatting of certain information from the analytical table in Appendix A. Each block represents a separate repository for an online legal resource, unless a block contains "N/A," which indicates that no current government-hosted repository is available. All repositories designated as official or possessing "official traits" are represented; there are actually many more unofficial repositories than represented here. Blocks colored blue (or medium grey, when printed in greyscale) indicate that the type of legal resource represented is currently published in one or more print official resources.

<table>
<thead>
<tr>
<th>Administrative code</th>
<th>Administrative register</th>
<th>Statutes</th>
<th>Session laws</th>
<th>High court opinions</th>
<th>Intermediate appellate opinions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>O, PPA BASED ON STATUTE</td>
<td></td>
<td></td>
<td></td>
<td>O traits</td>
</tr>
<tr>
<td>California</td>
<td>O traits</td>
<td>O traits</td>
<td>PPA BASED ON STATUTE</td>
<td>O traits</td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>O</td>
<td>O, PPA BASED ON STATUTE</td>
<td></td>
<td>PPA BASED ON POLICY</td>
<td>O traits</td>
</tr>
<tr>
<td>Minnesota</td>
<td>O</td>
<td></td>
<td></td>
<td></td>
<td>PPA BASED ON POLICY</td>
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California’s Session Laws. The Legislative Counsel is required to make “available to the public in electronic form . . . all statutes enacted on or after January 1, 1993.” Cal. Gov’t Code § 10248(a)(10). This refers to the legislature’s session laws. Applicable provisions further require that the information “be made available in one or more formats and by one or more means in order to provide the greatest feasible access to the general public in this state.” Id. § 10248(b). Since section 10248(b) of the California Government Code also addresses the statutory compilation and other materials not necessarily safeguarded for permanent access, it is not clear the statute may be read as a broad PPA mandate.

Indiana’s Administrative Register. Statutory provisions applicable to the state’s administrative code were amended with the provisions applicable to its administrative register. The 2005 amendments now require electronic-only distribution of the publications. That distribution requirement may be met by “permanently publishing” the documents on the Web. See Act effective July 1, 2006, Pub. L. 215-2005, §§ 13-14, 2005 Ind. Acts 3365, 3372-73 (amending Ind. Code §§ 4-22-8-2 & 4-22-8-5). It is clear that the Legislative Services Agency will continue making each new issue of the administrative register permanently available on the Web. It is too early to determine how the statute will be applied to the administrative code.

Minnesota’s Session Laws. A retention policy posted on the state’s legislative Web site recommends that the online version of the Laws of Minnesota be kept indefinitely. The policy notes that “[m]aterials which populate the legislative www site are considered unofficial documents and as such are not subject to Minnesota Statutes § 15.17 which governs responsibilities of ‘public officers’ with regard to preservation of official records. Policies made regarding www materials [on the legislative site] are designed to provide access and to manage the site, not maintain an official archival record.” In their very nature, session laws require PPA.

Ohio’s High Court and Intermediate Appellate Court Opinions. The court rules require that all Supreme Court opinions and Court of Appeals opinions be posted permanently on the Supreme Court Web site. Ohio Sup. Ct. R. Ops 1(A) & 3(B). Slip opinions are posted until replaced by the final version. Opinions have a unique Web citation and give their citation for the print official reporter if they are also published there.

Pennsylvania’s Session Laws. As described on its Web site, the Pennsylvania Legislative Reference Bureau, an agency of the state legislature, “has undertaken a long-term preservation and public access project to digitize the laws enacted for the Province and Commonwealth of Pennsylvania and published on a periodic basis from 1682 to the most recently completed session of the Pennsylvania General Assembly, referred to for purposes of the project as ‘session laws.’” The project is not yet completed, but the agency is up-to-date with the legislature’s most recent enactments. Among other express goals, the project is intended to “[c]reate a permanent digital repository of the session laws of Pennsylvania” and “[p]rovide single-point, worldwide public access to the session laws via [the] Web site.” Carl L. Mease, former Director of the Legislative
Reference Bureau, is credited as the “driving force” for the project. Notwithstanding the apparent lack of a dedicated budgetary appropriation to ensure permanency, the goals of the project, when accomplished, squarely constitute PPA.

**Texas’ Administrative Register.** As described on the Texas Register Archive Web site, the archive was established “to insure permanent storage and public access to the non-current electronic files” of the Texas Register. The latest issue of the Texas Register is first posted on the Texas Secretary of State Web site, which links to the most current six months’ issues of this weekly publication. The University of North Texas Libraries provides free access to all issues of the Texas Register beginning with the June 14, 1991 issue, up to within a week of the latest issue. The Texas Register Archive is the result of an agreement between the University of North Texas and the Office of the Texas Secretary of State.

**Texas’ Session Laws.** The Texas Laws and Resolutions Archive Web site states that the “University of North Texas Libraries and the Office of the Texas Secretary of State – Statutory Documents, in a partnership arrangement, established the [archive] to ensure permanent storage and public access to the non-current electronic files” for certain legislative materials. At the time of this writing, the archive covers the 78th and 79th legislative sessions; complete session laws are available for the former.

**Utah’s Administrative Code, Administrative Register, Statutes, and Session Laws.** The Utah State Library Division has undertaken a pilot project to archive Utah digital government publications to ensure permanent public access. Equally significant, effective May 1, 2006, the State Library Division is now required by statute to “manage and maintain an online, Web-accessible digital library for state publications” and “provide for permanent public access to the publications.” State agencies posting a digital version of a state publication to its public Web site may not remove the publication “until a copy is deposited into the digital library for permanent public access.” Act of March 10, 2006, ch. 81, sec. 4, 2006-1 Utah Code Ann. Adv. Legis. Serv. 759, 761 (LexisNexis) (codified as UTAH CODE ANN. § 9-7-208). The range of state publications covered by the legislation is substantial. See UTAH CODE ANN. § 9-7-101(7)(a) (as renumbered under the new law).
Conclusion

The Authentication Survey’s findings point to a critical need for action on the part of state legislators and government officials. The detailed findings of this report provide guidance for revising existing laws and, at the administrative level, adjusting policies and practices to ensure each state’s publicly available legal resources on the Web are authoritative and reliable. The need is particularly acute for those online legal resources that replace discontinued print official sources and are now the sole official published source of the information.

The Survey found that online legal resources are increasingly the sole official published source. Laws addressing those resources and other online official sources are seriously deficient, failing to require certification as to completeness and accuracy for online resources comparable to that required for print official sources. Moreover, those laws fail to recognize the authentication linchpin, essential to online official sources, tying together their official status, their certification or other formal endorsement, and their judicial and administrative recognition as authoritative and reliable statements of the law.

Official status demands appropriate authentication procedures. Standard methods of authentication may include encryption, digital signatures and public key infrastructure but other methods to adopt best practices are also possible. Certification or other types of formal endorsement of legal resources are a vital link in the “chain of custody” involved in dissemination, maintenance, and long-term preservation of digital materials. That chain may contain a link to computer technologies that guarantee the very copy delivered to one’s computer screen is uncorrupted and complete or it may be part of other archival methods.

The fundamental trustworthiness of online legal information is not the only concern, however. Fully recognizing the needs of citizens and law researchers related to the authority of online legal resources necessitates that the states take action to make online sources serve as improved or, at least, adequate substitutes for print official legal sources. This means that the states think through a number of practical matters, particularly their use of disclaimers. The detailed findings discuss issues relevant to the authenticity and authority of online legal resources, as measured against print official sources.

The State-by-State Report on Authentication of Online Legal Resources raises concerns that need to be addressed by the states both as high-level policy decisions and practical matters. The American Association of Law Libraries hopes that it will serve as a guide for the states to correct smaller-scale deficiencies in their current dissemination of online legal resources and to initiate long-term progress toward the all-digital legal information environment that will enhance each state’s fundamental interaction with its citizens.
STATE REPORTS
Alabama online legal resources are not official.
The state’s online legal resources are not recognized as the official source for the documents. However, the Alabama legislature website does include the following statement: “Welcome to the Official Website of the Alabama Legislature.” Appellate opinions are available online through Alalinc, the State Law Library’s Legal Information Network, which is a subscription Internet service, but there is no language at the introductory court website pages and at Alalinc that indicates that the online source is official. There is a comment on the first page of the Alabama Administrative Code which says that the Internet version is “not the official Alabama Administrative Code.”

Alabama is not addressing the authentication of online legal resources.
The state is not addressing the authentication of online legal resources, but according to the Reporter of Decisions, the state is very careful with the posting of online opinions to guarantee as much as possible that the opinions are, in fact, the authorized and accurate version of the opinions from the state. The Reporter of Decisions indicates that Alabama is beginning to think about issues such as authentication.

Alabama does not certify as official and authentic its online versions of the state session laws, statutes, court opinions, administrative code, and administrative register. In the case of the administrative code, the website indicates that it is not the official version, but rather directs users to the hardcopy form of the Alabama Administrative Code. The websites for the legislature and the courts do not direct users to specific titles for the official versions, and there is no obvious language at either location that indicates what is considered the official source. An interesting development in Alabama is its digitization of Alabama legislative acts and House and Senate journals. It currently has available on its website materials from January–February 1818 through the annual session for
November 19, 1827–January 15, 1828. The website indicates that this is a multi-year endeavor and that new documents will be added, by session and progressing forward, as they are made ready. The information in the historical “Alabama Legislative Acts, House Journals, Senate Journals” section are provided for "historical and research purposes" and there is no mention that the materials as presented at the website can be used as official.

Alabama's courts are discussing the fee-based subscription service for their opinions. The current subscription and fee-based service for court opinions, Alalinc, was developed in the early 1990s by the State Law Library. Fees for the service are used to pay for the hardware, software and personnel expenditures required to operate the service. The courts, however, are currently re-evaluating the fee-based service to determine whether or not they will be able to provide free access to the collection. No specific dates were given for this evaluation and decision.
One Alaska online legal resource is considered official. Others have official characteristics.

The statute creating the Alaska Online Public Notice System gives official characteristics to this substitute for the print official administrative register. The website does not state whether or not the notice system is official, however. The court system’s contract with Thomson West requires its official publisher to make the text of appellate opinions available electronically as well as in print. The online Alaska Case Law Service is silent as to its official or unofficial status. Alaska does not deem as official the online versions of its session laws, statutes, or administrative code.

No Alaska online legal resource has computer-based authentication.

State officials are not considering either encryption or other computational means to authenticate website content at this time.

The State of Alaska does not certify as official and authentic its online versions of the state session laws, statutes, administrative code and administrative register (Alaska Online Public Notice System). The latter administrative publication is considered official, however, since it is the source designated by statute for publication of rulemaking notices and other action as enumerated in section 44.62.175 of the Alaska Statutes.

Slip opinions from the Alaska Supreme Court and Court of Appeals are posted on the official court website with the following disclaimer notice at the top of all slip opinions: “This opinion is subject to correction before publication in the PACIFIC REPORTER” (italics removed). However, the court system has negotiated an agreement with Thomson West, its official publisher, to make the text of all appellate opinions (1960–current) available electronically as well as in print. This free website contains text of the opinions only; it does not include the editorial material (synopsis, headnotes and pagination) that are in the official print reports. Insofar as the text of these opinions is identical to that in Alaska’s official reporter, these opinions can be construed as official.
Session laws, statutes, and the administrative code are posted on the State of Alaska’s website with the following notice: “These Infobases are not the official versions of the Alaska statutes and regulations currently in effect. The Infobases may contain errors or omissions. They will not contain information that has been inserted after their preparation. These Infobases are intended as informational guides only. The State of Alaska makes no warranty, express or implied, of the accuracy of the Infobases. To be certain of the current version of the statutes and regulations, please refer to the official printed version of the statutes and regulations.” The links to the administrative code from the court system’s website and the lieutenant governor’s website, however, bypass this warning.
Arizona

by Janet Fisher, Arizona State Library, Archives and Public Records

Arizona online legal resources are not official.
The state’s session laws, statutes, administrative code, administrative register, and court opinions are published in official print versions. Disclaimers on the Arizona judicial and Secretary of State websites make it clear that none of their online resources are official. This clarity is lacking from the legislative site.

Arizona is not addressing the authentication of online legal resources.
Much of the state’s legal information provided online is believed to be the same as the printed official versions. However, there is no process in place to certify Web text as complete and unaltered. Web sources are assessed on a case-by-case basis and users must rely on routine business practices to ensure authenticity.

The Arizona State Legislature, through its Legislative Council, provides no-fee, Internet access to versions of the state bills (1995–current), session laws (1995–current) and the current version of the Arizona Revised Statutes through its website (at http://www.azleg.gov). No written statement on permanent public access appears on the legislature’s website, but the intent is to continue adding new bills and session laws to the database, while maintaining those of previous years. The text of these legislative documents is checked by staff, but is neither official nor authenticated. Access to statutes with annotations is through paid subscription to the edition as published by commercial publishers.

The Arizona Secretary of State’s Office provides no-fee access to the Arizona Administrative Code (annual) and Administrative Register (weekly) in HTML and PDF formats. The website for these publications provides access to the Arizona Register (1999–current) and the latest compilation of these administrative rules and regulations in the annual publication of the Arizona Administrative Code.
The Arizona judicial branch provides no-fee access to slip opinions from the Supreme Court (2000–current) and from the Arizona Court of Appeals (Division 1: 2000–current; Division 2: 2002–current) on the judiciary website (at http://www.supreme.state.az.us). These unofficial and unauthenticated opinions are in PDF, however the judges’ signatures do not appear.

Arizona state agencies are encouraged to publish documents on the Web, and they are to post their reports on their agency website. ARIZ. REV. STAT. ANN. § 41-4153. State agencies may publish electronic versions of reports in place of print publications. These publications are required to be forwarded to the Arizona State Library, Archives and Public Records (hereafter referred to as the “Arizona State Library”) for their collections (ARIZ. REV. STAT. ANN. § 41-1338(A)(2)), with failure to supply the State Library with these publications resulting in a charge to the agency (ARIZ. REV. STAT. ANN. § 41-1338(B)).

Three divisions of the Arizona State Library – Records Management, State Archives, and Law and Research Library – are working with state agencies to address the access to internal and public documents, as well as plan for the retention and maintenance of these documents through trusted systems in the agencies and the Arizona State Library.
Arkansas online legal resources are not official.
The Arkansas Supreme Court Law Library was a leader in the United States in terms of making its opinions available to the public electronically. The state has not, however, taken steps to change the status of the online legal resources to official. Arkansas has a new Reporter of Decisions and the court has hired its first-ever webmaster. The staff at the Supreme Court believes that issues relating to official status and authentication will likely be addressed by the Reporter of Decisions and the webmaster and hope that the court's actions will spur other state departments to follow.

Arkansas is not addressing the authentication of online legal resources.
Court personnel believe that there might be some discussion of authentication in the coming years. The Court has hired a new Reporter of Decisions and a webmaster, and Court staff believe that the individuals in these positions likely will be interested in addressing these and other issues.

Arkansas does not at this time certify as official and authentic its online versions of statutes, session laws, court opinions, administrative code, and administrative register.

For session laws and statutes, the website indicates that the user should use the Acts of Arkansas and Arkansas Code as the official versions. For court opinions, the website identifies the Arkansas Reports and the Arkansas Appellate Reports as the official versions. For administrative regulations, the website directs the user to the print Arkansas Register.

The Arkansas Judiciary website (the beginning page for access to both the Supreme Court and the Court of Appeals) posts decisions that are not designated for publication as
well as the opinions that will eventually be published in the *official* reports. The website includes Supreme Court opinions (December 1999–current) that are not designated for publication. It also includes Arkansas Court of Appeals opinions (January 2000–current) that are not designated for publication.

According to a librarian at the Arkansas Supreme Court Library, Arkansas might be positioned to begin deliberations about *official* status and authentication soon. The Court has hired a new Reporter of Decisions and its first-ever webmaster. The librarian believes that both of these individuals would be interested in following up on these topics; she suggested that someone from the American Association of Law Libraries or one of its committees should contact the webmaster and talk about this issue. She also believes that movement by the Supreme Court on these issues will stimulate discussions and activity among the legislative and executive branches as well.
California

by Maryruth Storer, Orange County Public Law Library

None of California’s online legal resources is official. But several of those resources have some official characteristics. The online administrative code, available through the state's print official publisher, is required to be consistent with the most recent print version and accurately reflect rules and regulations officially filed. The online statutes, which have no print official version, are available through the Office of Legislative Counsel website. The resource does not specifically represent that it is official and gives an extensive disclaimer and limitation of liability. The California “Official Reports” site, which draws from the commercial publisher’s database of court opinions, states that the text is offered “as is” and avoids liability for errors and omissions.

California is not addressing the authentication of online legal resources.
State officials from the various entities responsible for the online legal resources investigated here have not addressed the issue of authentication.

California does not publish a print official version of its statutory compilations. Two commercial publishers provide annotated unofficial versions.

California has provided free online access to primary legal materials for a number of years, but no agency has moved ahead to establish a true official or authenticated source for these items. The disclaimers on the various sites are quite explicit: the legislative information site states, “We make no claims, promises, or guarantees about the accuracy, completeness or adequacy of the contents of this web site, and expressly disclaim liability for errors and omissions in the contents of this site”; and the linked site for court opinions states, “Provider does not represent or warrant that the Web Site will be error-free . . . . Provider does not warrant or represent that the information available on or through the Web Site will be correct, accurate, timely, or otherwise reliable.”
The legislative site (at http://www.leginfo.ca.gov) includes bill information, chaptered laws, and the current codes. The legislative site notes that California law requires that for each legislative session certain information be made available on the Internet, including the California Codes and all statutes enacted on or after January 1, 1993. From this, the intent to provide permanent public access might be inferred, but there is no express statement to that effect. Older versions of the codes are not available.

Court opinions and administrative regulations are available through links to commercial publishers’ websites, with some limits on functionality. It is beneficial that the commercial publishers were required to provide online access to the court opinions and administrative regulations as a condition for being awarded the contracts to publish the print versions of these legal materials. On these commercial sites, access to cited documents are then available for a fee (e.g., on the site for administrative regulations, if a regulation cites a state statute, the user would pay to link to and view that statute.) Slip opinions from all appellate courts are available on the judiciary site (at http://www.courtinfo.ca.gov) for 120 days. Opinions are thereafter accessible on the “Official Reports” page or the slip opinions archive page. Opinions are superseded by orders for rehearing, grants of review by the Supreme Court, and Supreme Court depublication orders for Court of Appeal opinions. Superseded opinions are no longer considered published, and California Rules of Court do not permit citation to unpublished opinions.

The judiciary site (at http://www.courtinfo.ca.gov) indicates that the “Official Reports” page “is primarily intended to provide effective public access to all of California’s precedential appellate decisions; it is not intended to function as an alternative to commercial computer-based services and products for comprehensive legal research.” Elsewhere, the resource states, “Because opinions on this Web site are not primarily provided for purposes of legal research, other sources of legal information must be consulted to determine if an opinion is superseded and noncitable.”

The administrative regulations site does not include Title 24, California Building Standards, which contains copyrighted materials under the ownership of several model code publishers. Title 24 is only available as a print product purchased from the copyright holders.
Colorado

by Martha Campbell, Colorado Supreme Court Library

Colorado online legal resources are not official.
Statutes, as maintained on the Web through a contract with the state’s official print publisher, and session laws are expressly intended as an “information service,” without official status. There is no indication the state’s online administrative rules publications, which are now being mounted on the Web for the first time, are intended to be official. Court slip opinions on the Web notify users that they are subject to modification, rehearing, withdrawal, and clerical corrections.

Colorado is not addressing the authentication of online legal resources.
It appears the state’s online legal resources are published as an unofficial “information service.” The research potential of the online versions or their accessibility in permanent digital repositories is not a primary concern. This policy and approach contrasts with Colorado’s leading efforts to give a statutory basis for broad permanent public access to state government information.

Section 2-5-118(1)(a) of the Colorado Revised Statutes specifies that the official print Colorado Revised Statutes is the only authoritative version of the statutes. That title is the only publication of the statutes entitled to be considered as evidence. For case law, a 1980 order of the Supreme Court designated the predecessor of Thomson West as the publisher of the print official opinions of the Colorado Supreme Court and Colorado Court of Appeals.

The overall disclaimer for the Colorado General Assembly website states: “All documents contained on the [legislative site] are prepared as an informational service only and should not be relied upon as an official record of action taken by the Colorado General assembly.”
The legislative site offers no-fee access to an unofficial version of the current Colorado statutes. A note on the website prepared by LexisNexis states: “Colorado Revised Statutes are made available for public use by the Committee on Legal Services of the Colorado General Assembly through a contractual arrangement with the LexisNexis Group which prepares and maintains this website.” The text of the online statutes is taken from the same source data as the print official statutes. No superseded versions of the statutes are available online at this time.

Session laws (1993–current) are available on the General Assembly site. The disclaimer states: “This information is prepared as an informational service only and should not be relied upon as an official record of action taken by the Colorado General Assembly. The content of the Session Law documents is the same as the published Session Laws. However, there may be formatting differences and no page numbers are shown.”

The Colorado Judicial Department offers no-fee access to slip opinions from the Supreme Court (January 5, 1998–current) and from the Court of Appeals (March 4, 1999–current). There are no disclaimers on the Judicial Department’s website regarding the court’s opinions other than a statement that “[s]lip opinions are subject to modification, rehearing, withdrawal, or clerical corrections.” The site provides a “link to any modifications to previously posted opinions.” The link will appear “in the petition for rehearing section of the announcement document the day the changes are announced.”

Through a cooperative arrangement with the courts, searchable opinions are available to the public for the past twelve months on the Colorado Bar Association’s website. To members of the Bar Association, access is available to additional opinions back to January 1996. The disclaimer on the Bar Association website states: “The purpose of e-slips is to give a quick, first look at the cases. . . . Before relying on the completeness or accuracy of this presentation please consult the official source. These opinions are not final . . . . Changes to or modifications to these opinions resulting from any action taken by the Court of Appeals or the Supreme Court are not incorporated here.”

The online version of the state’s administrative code, to be maintained on the website of the Secretary of State, appears to be generated from the same source data as the print version. However, at the time of this writing, the resource was still “under construction” and many of its features could not be examined. Less far along was the administrative register, also to be maintained on the website of the Secretary of State. There is no indication that either of those online resources is intended to be official.

Colorado was the first state to enact a statute expressly addressing permanent public access to electronic government information. Section 24-90-204 of the Colorado Revised Statutes, as amended in 2003, requires the State Publications Depository and Distribution Center, a section of the State Library, to coordinate “with state agencies, depository libraries, or other entities permanent public access to state publications, regardless of format” (emphasis added). Colorado’s approach to online legal resources is not fully consonant with the forward-thinking information policy reflected in that statute.
Connecticut

by Anita Postyn, NYC Civil Court – Queens County

Connecticut online legal resources are not official.
Disclaimers appear on most of the online legal resources investigated. An exception is the website for the statutory compilation, which states that it replicates the print, but makes no mention of whether the site is official or unofficial. Most disclaimers refer users to the print version as the official or authoritative source.

Connecticut is not addressing the authentication of online legal resources.
The State Library is involved in several projects addressing digital preservation. This concerns authenticity and a number of related issues. It is significant that Connecticut, like many states, has enacted laws addressing the validity and acceptance of electronic signatures in transactions involving government agencies. Such laws lay a groundwork for computer-based means to authenticate government electronic materials, but no legislation specifically addresses online legal resources.

The state’s online statutory compilation is available on the Connecticut General Assembly website (at http://www.cga.ct.gov). The Legislative Commissioner's Office, which compiles the print General Statutes of Connecticut and is also responsible for the website, represents that the online statutes are an electronic equivalent of the printed volumes. It does not indicate, however, whether the online statutes are official or unofficial.

The session laws are also available on the Connecticut General Assembly website, as well as a variety of related information, including the text of bills, session transcripts, and committee hearing transcripts (1988–current). Users can find out what resources are available by checking the legislative data availability table, which provides a list of available documents with dates of coverage.
A disclaimer for the session laws and related materials clearly states that the documents are not official and should not be quoted or cited. Users are referred to print official versions and instructed how to obtain them.

State agency regulations are generally not available online, although some regulations are published on individual agency websites. The Banking and Insurance Department websites, for example, have disclaimers stating that their compilations are not a substitute for the official sources. Other agency sites provide information as to the currency of materials available on their sites, but include no disclaimers. There is no online equivalent to the Connecticut Law Journal, the weekly print official legal periodical containing proposed and adopted regulations of state agencies, among other types of legal information.

Online access to Connecticut Supreme Court and Connecticut Appellate Court slip opinions (July 2000–current) is available on the judiciary’s website (at http://www.jud.ct.gov) prior to their print official publication. The website states that the opinions are subject to modification and technical correction before they are published in the official reporters. In the event of discrepancies between the electronic version and the print appearing in the Connecticut Law Journal and, subsequently, in the state’s official reporters, the latest print version is considered authoritative. A disclaimer also appears on the decision page itself.

Connecticut state government websites generally disclose the official or unofficial status of their content by placing disclaimers or other descriptive information right on their initial page or providing an appropriate link to a separate notice. Information on where to find the original version is provided on many sites. Currency information is also available. Those are significant plusses. None of the six online legal resources under investigation here is authenticated, however.

The Connecticut State Library (at http://www.cslib.org) has begun to address a number of issues related to the authenticity of digital resources. It is one of five libraries working with the University of Illinois at Urbana-Champaign and OCLC on the ECHO Depository Project. (at http://www.ndiip.uiuc.edu) sponsored by the Library of Congress’ National Digital Information Infrastructure and Preservation Program (NDIIPP). The three-year ECHO Project seeks to develop new tools for selecting and capturing government information published on the Web and meet other pressing digital preservation needs.

The State Library’s Connecticut Digital Archive (at http://www.cslib.org/CTDigArch.htm) is intended to preserve born-digital state government information. The Connecticut Digital Library (at http://www.iconn.org) is designed to facilitate citizen access to online resources.
Delaware

by Janet Lindenmuth & Mary Jane Mallonee, Widener University School of Law

Delaware online legal resources are not official.
None of the state's websites give any information on the official status of the online documents. There do not appear to be any plans to change this.

Delaware is not addressing the authentication of online legal resources.
The state does not appear at this time to have any plans to address authentication.

Delaware does not certify as official and authentic its online versions of the state statutes, administrative code, administrative register, and court opinions.

The state’s official statutory code is the print Delaware Code Annotated published by LexisNexis, according to the user’s guide contained in the most recent supplement. Starting in 2006, West's Delaware Code Annotated, a print unofficial version of the statutes is also available. An online unofficial version of the Delaware Code is available on the state’s website (at http://www.delcode.state.de.us). While the data used on the website is obtained from LexisNexis, it does not claim to be official and includes a disclaimer that “this information is provided for informational purposes only.”

The official version of the state session laws is Laws of the State of Delaware (commonly called Laws of Delaware or Delaware Laws), published by the State of Delaware. Session laws in the same form as the Laws of Delaware are not available on the Web.

The Atlantic Reporter, published by Thomson West, is the official state reporter for appellate and other cases. Delaware cases are also published separately as the Delaware Reporter using Atlantic Reporter citations. State cases from the Supreme Court, as well as trial level Chancery, Superior and Common Pleas courts (2000–current) are available from the Delaware court system’s webpage (at http://courts.delaware.gov). The online version states that the print is to be considered the official version.
There is no officially published administrative code for Delaware. The only official publication of Delaware regulations is the *Delaware Register of Regulations*, published monthly by the state. This is not a codification, but a monthly list of regulations analogous to the *Federal Register*. There is an unofficial administrative code, *Code of Delaware Regulations*, published by Weil Publishing. A small portion of the Delaware administrative code is available on the state’s website (at [http://www.state.de.us/research/AdminCode](http://www.state.de.us/research/AdminCode)). No information is given about the official or unofficial status of this version of the code, except for Title 7, Natural Resources and Environmental Control, which explicitly states that it does not provide a complete list of regulations. We would conclude the website is not considered an official version of the administrative code.

None of the Web versions of Delaware primary legal materials can be considered to be official or authenticated, and there do not appear to be any plans to change this.
One District of Columbia online source of law is considered official, as indicated on its website. The status of one legal resource on the Web is indefinite.

The District of Columbia Official Code is official. The status of opinions posted by the court is unclear and applicable citation rules are in need of crucial updating. The code of municipal regulations, administrative register, and session laws are not official.

The District of Columbia is beginning to address the authentication of online legal resources but nothing has yet been implemented.

The Office of the Chief Technology Officer is developing a Public Key Infrastructure to address the need for digital signatures and encryption but has not yet determined standards.

The District of Columbia certifies its online statutory code as official. Both the print and electronic versions of the District of Columbia Official Code are published by West Publishing Company (Thomson West). The online code of municipal regulations, administrative register, and session laws are not official. The official versions of the session laws and regulations are published as print versions by the Office of Documents and Administrative Issuance, a division of the Office of the Secretary. The D.C. Court of Appeals considers its online opinions official, but applicable rules and citation guidelines are equivocal or contradict that conclusion.

The District of Columbia, Office of the Chief Technology Officer, while addressing the issue of authentication of online legal resources with digital signatures, has not issued an established standard. After speaking to the various agencies that administer relevant websites, as well as the court office, none indicated that authentication of the legal resources had been considered at their agencies or that they were aware of an imminent plan.
Session laws for the District of Columbia are published in the District of Columbia Register, a weekly legal bulletin. The print version is the only official version of the session laws. Through a contract with American Legal Publishing, the commercial publisher of the District of Columbia Register, the Office of the Secretary posts an online, portable document format (PDF) version of the print. The PDF files are created by scanning the paper copy. As indicated on the website disclaimer and by a representative of the Office of the Secretary, the data is provided for information purposes only.

The District of Columbia Council has contracted with a private entity, West Publishing Company (Thomson West), to provide the complete online official version of the District of Columbia Official Code. West has been the publisher of the print official version of the code since 2001. A representative at West indicated there is no authentication in place on the site and that there has been no discussion of this issue.

As the District of Columbia is not a state, its court structure is different than the fifty states. The court system consists of the Superior Court, which is a court of general jurisdiction, and the District of Columbia Court of Appeals. The D.C. Court of Appeals was established by Congress as the highest court in the District of Columbia in 1970. There is no intermediate court in its court system.

Opinions of the D.C. Court of Appeals are published in the Atlantic Reporter, part of West’s National Reporter System, and the Maryland Reporter. Neither publication is considered the official reporter for the court. Opinions (August 1998–current) are posted on the website, which provides a general disclaimer covering all its contents. According to the disclaimer, the site is not warranted as “free of omissions, or error-free.” All opinions posted on the website contain the following notation:

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections maybe made before the bound volumes go to press.

Errata and modifications for specific opinions are listed in a separate document on the site. A representative at the D.C. Court of Appeals stated that opinions posted online are considered official. Certain language on the website seems to imply this, particularly the description of published and unpublished opinions of the court, as given on the “Opinions and List of MOJs” Web page, which states:

Opinions of the D.C. Court of Appeals may be either published or unpublished. Signed opinions and per curiam opinions are published. Memorandum Opinions and Judgments (MOJs) are not published. Opinions published by this court from mid-1998 to the present are available on this website.

The website is therefore sufficient to inform users when an opinion is considered published, a crucial distinction under applicable court rules.
The Rules of the District of Columbia Court of Appeals provide for published and unpublished opinions without specifying the source for official publication. “An opinion may be either published or unpublished” and parties or other interested persons may move the court to change the status of an unpublished opinion or the court may do so on its own motion. D.C. Ct. App. R. 36(c). “Unpublished orders or opinions of [the] court may not be cited in any brief, except when relevant [under specified procedures generally concerning prior proceedings in the history of the case].” D.C. Ct. App. R. 28(g).

The court’s Citation Guidance Memorandum (at http://www.dcapppeals.gov/dccourts/docs/Revised_Citation_Guide.pdf), which was last revised in August 2002, sets forth rules that appear to contradict the conclusion that opinions on the court’s website are official. Paragraphs 3 and 5 of the Memorandum indicate that the Atlantic Reporter is the source to cite for published opinions of the D.C. Court of Appeals. That guidance, which is definitely out of date, recognizes that persons may wish to cite “slip opinions which appear on the D.C. Bar’s website or which are not reported officially by the time a proof is returned to the printer.” D.C. Court of Appeals, Citation Guidance Memorandum ¶ 7 (2002). This further suggests that the Atlantic Reporter is considered as the source for published opinions. No provision is made for citation to the court’s website.

The compilation of municipal regulations is published as the District of Columbia Municipal Regulations (DCMR). The District of Columbia Register (DCR), which contains new or amended rules, is the temporary supplement to the DCMR. The DCMR is published by the government through the Office of Documents and Administrative Issuance (ODAI), a division of the Office of the Secretary. The print DCMR is the only official version of the publication, according to an ODAI representative.

The website provides both an “Advanced” version and “Basic” version of the DCMR. Although the text of all titles is not available online, the advanced version contains more titles than the basic version. The advanced version is accessible for a fee by purchasing a subscription. The same company that hosts the online DCMR also hosts the online DCR. A representative from the ODAI confirmed that the texts of the DCMR online titles are not considered official or authenticated. The online DCR is similarly not considered official or authenticated. The disclaimer specifically written for the online rules publications explicitly refers users to the print copy of both the DCR and the DCMR before citing any part of the document as reference. The ODAI representative further indicated that authentication has not been considered for the contents of the website.

In 1998, Congress created the Office of the Chief Technology Officer (OCTO) to aid the District in creating and implementing key information technology initiatives. The District of Columbia Code, under sections 28-4916 and 28-4917, allows agencies to create, accept and distribute electronic documents. The OCTO authored a document titled Information Technology Strategic Plan for the District of Columbia, 2002-2004, which outlines its goals for transforming the government’s information technology
structure. To date, it has implemented many of the goals outlined in that plan toward online dissemination of government information.

The plan mentions a public key infrastructure (PKI) as one of the cornerstones of the security systems. Currently, the OCTO website indicates it is “developing a Public Key Infrastructure (PKI) to address agency needs for encryption, digital signature, and secure remote access.” It appears that when it is developed it will become the standard for all of the District of Columbia agencies.
Florida

by Barbara H. Brandon, University of Miami Law School

Florida online legal resources are not official. Only the print resources are deemed official and only the Florida Administrative Code site contains a clear disclaimer that it is not an official resource.

Florida is not addressing the authentication of online legal resources. No relevant official contacted was aware of steps being taken to authenticate digital documents. Use of digital watermarks and signatures to authenticate materials are concepts not on the state’s radar screen.

Florida has a strong commitment to open government in its sunshine laws and electronic documentation is freely available on the Web. As a consequence, Florida state statutes, session laws, judicial opinions, administrative code, and administrative register are maintained on governmental websites. While none of these sites state that they are a permanent repository, it is hard to imagine that Florida will not continue to publish these materials electronically.

Three separate governmental sites post electronic versions of the Florida statutory compilation. Unfortunately, there is no disclaimer on any of those sites directing the user to the print official version.

Since 1999, the official statutory compilation, the Florida Statutes, is adopted in its entirety on a yearly basis. Under each year’s adoption act, which is codified as a revision to sections 11.2421, 11.2422, 11.2424 and 11.2425 of the Florida Statutes, the text of the prior year’s Florida Statutes that is carried forward unchanged is adopted and then published as the official version. Another provision, section 11.242(5)(c) of the Florida Statutes, also operates here. According to that section, measures enacted during the most recent legislative session are incorporated into the published text of the Florida Statutes, but they are viewed only as prima facie evidence of the law. Where a discrepancy exists, one must look to the session law text as controlling. Laws enacted during the special
legislative session immediately preceding the adoption of the official statutory compilation are also handled as an exception. See generally the preface to the Florida Statutes at vi. Therefore, the overall codification scheme makes it somewhat difficult for users of online statutes to determine what provisions are positive law.

With regard to the court system, the Supreme Court maintains a website where its opinions (1999–current) are available online. The five intermediate appellate courts have now taken similar steps. The sites do not carry disclaimers that these are not official versions, although the Supreme Court does not view them as official.

With regard to authentication, the relevant official at the Florida Supreme Court said that the Court was fearful of a mirror site where opinions could be doctored. She did not seem familiar with concepts of a digital watermark or digital signature.

The online administrative code is not official but it is updated more speedily than the print version. The system works much like the federal e-CFR. The Florida Administrative Weekly, the state’s analog to the Federal Register, is published every Friday. The electronic version of the administrative code on the Department of State site incorporates new changes in the text of a rule by the close of business on the following Monday. Looking to the online administrative code is a much easier way to update a regulation.

Neither print nor online versions of the administrative code maintain past issues. Any change to the official print Florida Administrative Code removes the prior version by substituting a new page in this looseleaf publication. The online version follows the same pattern by adding or removing language from a regulation upon adoption.

Relevant officials contacted in the legislative, judicial and executive branches were not aware of how to authenticate electronic documents. In addition, no effort appears to be underway to launch such an effort.
Georgia

by Terrye Conroy, Coleman Karesh Law Library, University of South Carolina School of Law

Georgia online legal resources are not official.
Unlike its print publications, the online versions of Georgia's legal resources have not been approved or adopted as official. In fact, disclaimers on the various websites state specifically that the information provided is not official.

Georgia is not addressing the authentication of online legal resources.
No relevant official contacted was aware of a current plan or project underway to authenticate Georgia's online legal resources.

Georgia’s Web portal, Georgia.gov (at http://www.georgia.gov), provides online access to Georgia legal information through its “Government” button that links to websites for Georgia’s laws and administrative regulations, as well as its appellate court opinions.

Maintained by Georgia’s Secretary of State, the PDF version of the current Rules and Regulations of the State of Georgia (at http://www.sos.state.ga.us/rules_regs.htm) may be searched by agency name, rule name, chapter number, or rule number. It is updated monthly. The site’s disclaimer language clearly states that the electronic version “should not be regarded as the official copy” of the administrative sources and includes contact information for the publisher of the print official version. For questions regarding the website’s content, the phone number for the Administrative Procedures Division is provided. The researcher is further advised to contact the appropriate adopting state agency regarding specific questions about a particular rule or regulation.

Georgia session laws are available online through the Georgia General Assembly’s website (at http://www.legis.state.ga.us), which is also accessible from Georgia.gov. The legislative home page links to pending bills as well as bills introduced and statutes enacted during previous legislative sessions (1995–current). Both are searchable by keyword or by bill number. Current legislation is presented in both HTML and PDF
format and previous legislation is available in HTML only. Also accessible from the Georgia General Assembly’s website is an unannotated and unofficial Georgia Code, which may be browsed by chapters and sections or searched by keyword in HTML and is also browse-able by title in PDF. Although the website is designated as the “official website of the Georgia General Assembly,” disclaimer language included on the legislative home page notifies the user that the information provided is not an “official record” of the Georgia General Assembly and that “no warranty or guarantee of any kind is provided.” The webmaster’s e-mail is the only contact information provided.

The judicial branch Web page (at http://www.georgiacourts.org/) includes links to websites for the Georgia Supreme Court and Georgia Court of Appeals. Georgia Supreme Court opinions (prior year–current) are accessed by following the “Opinions and Summaries” link on its website (at http://www.gasupreme.us), where the opinions may be browsed by date in PDF format. Disclaimer language on each page of opinions states that all opinions are subject to reconsideration by the court and editorial changes by the Reporter of Decisions. The opinions are not designated as official nor are they certified as authentic. The Georgia Supreme Court website’s “Contact the Court” link provides contact information for the Clerk’s Offices, including an e-mail link for online inquiries.

A link to “Opinions” provided on the Georgia Court of Appeals website (at http://www.gaappeals.us/) sends the researcher to the home page of LexisOne at www.lexisone.com. The researcher must register to gain access to a “rolling wall” of the last five years of all state and federal cases, searchable by keyword or citation.

A link to “E-Filing and Data Exchange Project Information” (at http://efilinginfo.gaoc.us/) is included on the judicial branch website, as well as a link to the recent Supreme Court Committee on Court Technology Final Report (at http://www.georgiacourts.org/aoc/publications/finalreport.pdf ). The committee concluded that although e-filing has been successfully implemented in at least one county in Georgia, it is not wide-spread. It recommended adopting e-filing standards such as those proposed by the American Bar Association.
Hawaii online legal resources are not official.
Disclaimers on the judicial, legislative, and executive websites specifically state that none of the online resources is official.

Hawaii is not addressing the authentication of online legal resources.
Although recent statutory revisions provide for the creation of documents in digital format, there are no provisions in place for authentication.

The Hawai‘i State Legislature provides free access to an unofficial version of the state statutes on its website (at http://www.capitol.hawaii.gov). The Legislature’s disclaimer clearly states that information on the website is unofficial, provided on an “as is” basis, and to be used for informational purposes only. For official versions, the user is directed to the 1993 replacement volumes of the Hawaii Revised Statutes and all subsequent amendments and supplements “in written form by authority of law.” This website also provides full text of bills and committee reports (1999–current) introduced and passed in each legislative session, but this is not the official compilation. The Session Laws of Hawaii, which is only available in hardcopy, is official.

Hawai‘i does not have a print official compilation of administrative rules and regulations. However, the Legislative Reference Bureau issues the “Hawaii Administrative Rules Directory,” and “Hawaii Administrative Rules Table of Statutory Sections Implemented,” which serve as a detailed table of contents for the state’s administrative rules. These directories are available on the website of the Legislative Reference Bureau (at http://www.state.hi.us/lrb/reports/rule.html). Executive departments post the full text of rules on their individual websites through the state’s Web portal for government information (at http://www.ehawaii.gov). Most agencies have disclaimers stating that the posted rules are unofficial and that copies of the official rules may be obtained from the Office of the Lieutenant Governor or from the respective state offices. An unofficial compilation, the Code of Hawaii Rules, formerly published by Weil, is available through LexisNexis.
Currently Hawai‘i has no official state administrative register. Executive agencies are required to publish notices of public hearings (Haw Rev. Stat. § 91-3) dealing with proposed rule changes in a daily or weekly publication of statewide circulation; e.g., a daily newspaper (Haw Rev. Stat. § 1-28.5). Notices must state that copies of the proposed rules are available to any interested persons for a fee. A law passed in 1999 (Haw Rev. Stat. § 91-2.6) requires executive agencies to post the full text of proposed rule changes and new rules on the website of the Office of the Lieutenant Governor. A commercial publication, the Hawaii Government Register, which contains proposed, adopted, withdrawn and emergency rules, and various notices, is available for purchase from LexisNexis. This subscription service is not endorsed or supported by the state.

The Hawai‘i Supreme Court Law Library maintains the website for dispositions rendered by the Hawai‘i Supreme Court and the Hawai‘i Intermediate Court of Appeals. This site includes the full text of court opinions (January 1998–current) designated for publication, and memorandum opinions, summary disposition orders, other final orders that dispose of appeals or original proceedings, and orders (June 2000–current) that grant or deny motions for reconsideration or that modify final opinions or orders. An alert on the Web page states “these electronic opinions may contain computer-generated errors or other deviations from the official slip opinion filed in the Office of the Chief Clerk, Supreme Court of the State of Hawai‘i. The opinion is eventually published in a West's Hawai‘i Reports bound volume. In case of discrepancies, the opinion as filed in the Clerk's Office controls.”

Recent revisions to sections 602-5.5 and 92-30 of the Hawaii Revised Statutes allow for the creation and conversion of judiciary records and government records to electronic formats, designating the electronic copies to be the “original record”. However, none of the three branches of government has addressed the authentication of online resources.
Idaho online legal resources are not official.
All of the online resources investigated here are provided as a free public service. However, none of these online resources serve as the official version. The official administrative code, administrative register, session laws, statutory code, and court opinions are found in print.

Idaho is not addressing the authentication of online legal resources.
In general, since the online resources investigated here have not been designated as official, there appears to be no recognized need to authenticate these materials through digital or other means. Except for the administrative rules site, the other online resources have disclaimers stating that the information is provided as a public service and directing users to the official print versions.

Idaho does not certify as official and authentic its online versions of the state statutory code, session laws, court opinions, and administrative rules publications. The official versions for all of these resources are available only in print. All of the online resources being investigated are available through the Idaho State Government website, Idaho.gov (at http://www.state.id.us/index.html). These resources are provided as a public service and are free of charge.

The Idaho Code Annotated is the official version published by Lexis Publishing (LexisNexis) and is updated by pocket parts and supplements. The current online statutory code is available on the Idaho Legislature website (at http://www.legislature.idaho.gov/statutesrules.htm). The online Idaho Code is unannotated. The legislative website has a site disclaimer stating that the information provided may not be up-to-date and directs users to the official print Idaho Code Annotated.
The Idaho Legislature website also provides bills introduced in the current and prior legislative sessions (at http://www.legislature.idaho.gov/priorsessions.htm). These are not strictly the session laws published in the official print *Idaho Session Laws* by Caxton Printers. Bills (1998–current) available on the legislative website include all bills introduced during a legislative session: those which passed, failed to pass, and those which died in committee. Other legislative information provided includes *sine die* reports, journals, and some committee minutes. A site disclaimer directs users to the *Idaho Session Laws* for official copies.

*Official* opinions of the Idaho Supreme Court and Court of Appeals are published in the *Idaho Reports* by West Publishing Company (Thomson West). The Idaho State Judiciary maintains a website (at http://www.isc.idaho.gov/) posting slip opinions from the Idaho Supreme Court and Court of Appeals on the day they are issued by the court. The website only posts opinions for the current session of the courts. However, there is some discussion of keeping opinions posted after the session has ended. The website has a disclaimer directing users to the print *Pacific Reporter* and *Idaho Reports* and mentions that the opinions posted on the website are subject to formal revision before they are published in the preliminary print of the *Pacific Reporter*.

The *Idaho Administrative Code* is published by the Idaho Department of Administration. The online version (at http://adm.idaho.gov/adminrules) is a PDF copy of the print. To receive a certified or official copy of an administrative regulation, requests should be sent to the Office of Administrative Rules. However, for all practical purposes, including judicial notice, online and print versions of the *Idaho Administrative Code* can be used. There is no disclaimer posted on the Department of Administration website or the “Administrative Rules” pages; apparently the disclaimer was omitted as an oversight while the new website was under construction. Only the current administrative code is available online.

The “Administrative Rules” pages also post the PDF version of the official print *Idaho Administrative Bulletin* (November 1995–current). This monthly publication contains newly proposed, final, and temporary regulations.
Illinois online legal resources are not official. While the sources are generally available free online, disclaimers prominently state the unofficial status of each online legal resource.

Illinois is not addressing the authentication of online legal resources. Rule 6 of the Illinois Supreme Court Rules still requires citation to cases, statutes, and treatise material in print. It doesn't appear that free, authentic, Web-based access to official state primary documents is in the state's near future.

None of Illinois' online legal resources can be considered official. While the sources are generally available free online, none is designated as official, and disclaimers prominently state the unofficial status of each.

In fact, Illinois is currently without a print official version of its administrative code and statutes. The only official version of the Illinois Administrative Code is that held by the Secretary of State’s Administrative Code Division. Official, certified, print copies of Code sections can be requested from the agency. The Illinois General Assembly’s Joint Committee on Administrative Rules (JCAR) provides free online access to a current, but unofficial version of the administrative code. Issues of the Illinois Register are provided online by the Secretary of State, but directly state they are not the official version.

The state’s annotated statutes are provided in print by both Thomson West and LexisNexis, but neither set is designated as official. The Illinois General Assembly provides online statutes and public acts, but reminds the user that the information is provided "as is," may contain errors, and should not be considered the official version of the statutes.

Recently, change to Rule 23 of the Supreme Court Rules, which governs unpublished decisions, is being considered. Should the rule be changed to allow publication of, and
citation to, all Illinois appellate court decisions, the need for distribution of official court decisions online could become apparent. The state has not yet adopted a vendor-neutral citation system and does not appear to be planning to do so soon.
Indiana

by Rick Goheen, Schoenecker Law Library, University of St. Thomas (Minnesota)

Two Indiana online legal resources are official and state this on their website. The state’s other sources on the Web are unofficial.

Indiana’s recent move to electronic-only distribution of administrative rules publications has been a subject of considerable controversy. Their form, design for research use and ability to be cited have been a concern to lawyers and law librarians.

Indiana is not addressing the authentication of online legal resources.

There is no evidence the state has made an effort to begin authenticating online legal resources.


At the time of this writing, the means by which the state will effect the new electronic-only distribution requirements are unclear. The administrative register had been published online as a PDF copy of the print since October 2001. It appears the last such PDF copy is the July 1, 2006 issue (volume 29, number 10). After that, the new electronic-only publication will not be paginated, and will not be designated by a volume
Protests directed to the Legislative Services Agency, which is the official publisher of both the administrative register and the administrative code, have resulted in the agency’s plan to give each document on the administrative register website a unique document identification number. This plan appears to eliminate potentially significant difficulties for users trying to cite the Indiana Register. Nonetheless, since the administrative register will no longer be formatted as an integrated PDF document, the publication will lack Adobe Acrobat functionality, which provided a sophisticated search capability and bookmarks in a separate frame constituting a table of contents.

It appears the new electronic-only Indiana Register will not have a regular publication schedule. The publication will consist of individual documents – agency notices, proposed or adopted rules, Governor’s actions, Attorney General’s actions, and non-rule related policy statements – made available on the Web as they are received. Irregular publication has the benefit of potentially being more frequent. The individual documents will be available in HTML and PDF formats, and links to certain related documents will be given. It appears the new publication will not have indexing other than by date. This means the user’s points of access will be limited to links to documents arranged by date.

What changes, if any, will be made to the online Indiana Administrative Code are even less clear. Current code sections are available in WordPerfect and PDF versions, with limited information about repealed rules. It is uncertain how the statutory requirement of “permanently publishing” the code on the Web will be effected. It does not appear that there is a structure to preserve online the text of superseded agency rules and other materials.

Session laws for the most recent full session (2005) are available in PDF on the legislative section of the Indiana website. The PDF file is roughly 4900 pages, and it’s a very large 14 MB download, which is difficult if not impossible for anyone with less than a broadband Internet connection. The PDF is indexed at the front, so it is not difficult to locate a particular session law if you already know its public law number. The original paper document is certified and signed by the Speaker of the House and Senate president pro tem, and this certificate is reproduced in the PDF file of session laws.

The PDF files for the 2002, 2003, and 2004 session laws are still on the website, but they do not appear to be linked from anywhere. The author found them by directly typing 2004, 2003, and 2002 instead of 2005 in the URL. That doesn’t work for 2001. Bills (and eventually session laws) from the 2006 session will be searchable on the website, and session laws available from prior years in PDF are searchable within Adobe Reader.

Until September 21, 2005, there was a notice on the site that the 2005 session laws were being integrated into the online version of the Indiana Code. At the time of this writing, it has disappeared. There is no archive on the website for earlier statutory codifications. The current code is searchable by subject keyword and by section number. The Indiana Code pages note that they are “Maintained by the Office of Code Revision Indiana Legislative Services Agency.” There are no further statements or disclaimers regarding the online statutes.
As reported by the *Indianapolis Star* (March 8, 2005), the Indiana judiciary is in the middle of a $74 million, six-year project to modernize its statewide computer system. The software failed two years into the project, and the Indiana Supreme Court’s Judicial Technology and Automation Committee has brought in an expert from another agency to fix it.

Apart from the statewide court system’s troubles, the Indiana Supreme Court’s own website seems to be in fine shape: it was recently named the No. 1 judicial website in the country by the National Center for State Courts (press release, September 16, 2005). The site contains archived Supreme Court and Court of Appeals decisions back to 1997 in both HTML and WordPerfect formats. The archived opinions do not appear to be arranged in any particular order. There is an adequate search engine, so if one knows the name of a party, the case is readily available. Since June 6, 2005, Indiana’s Supreme Court and Court of Appeals have published all their online opinions exclusively in PDF format. There are no statements of authenticity and no disclaimers.

Court opinions may be found on any of three different Web pages, depending on the age of the opinion. They are considered current until one week after their initial online publication date. There is a separate page for opinions more than one week old but newer than June 6, 2005, and yet another page exists for all online opinions older than that. Opinions prior to June 2005 were published in HTML and WordPerfect.

A wide range of legal material is available through the state portal, but none of it appears to have been designated as *official* or *authentic*. Much progress is possible.
Iowa online legal resources are not official.
Disclaimers on the Iowa judicial and legislative websites clearly state that these online resources are unofficial. Sections 2B.17(3) and 2B.17(5) of the Code of Iowa specify that the print official sources are the only authoritative versions of Iowa’s session laws, codified statutes, and administrative rules. Rules 21.25 and 21.30 of the Iowa Court Rules designate West (Thomson West) as the publisher of the official opinions of the Iowa Supreme Court and Iowa Court of Appeals.

Iowa is not addressing the authentication of online legal resources.
Iowa offers some official agency materials online through the State Library, and much of the other Iowa legal information published on the Web is believed to be the same as the official, printed versions. However, there is no process in place to certify online materials as complete and unaltered.

Iowa does not certify as official or authentic its session laws or statutes on the Web. The Iowa General Assembly, through the Legislative Services Agency, offers no-fee access to Iowa Acts (the state session laws) from 1998 to 2004 and the Code of Iowa from 1995 to 2005 (with current supplement) on its website (at http://www.legis.state.ia.us/IACODE/). Although there is no written statement on the site guaranteeing permanent public access to these sources, the intent is to continue adding new versions while maintaining, and perhaps even expanding, the archived versions. The text of both sources is derived from the same database used to produce the print versions. However, the complex conversion process necessary to make the sources available on the Web may introduce errors. Staff spot-check the electronic documents and correct errors as they are discovered, but the authenticity of the online text is not guaranteed.

Iowa also does not certify as official or authentic its regulations on the Web. The Iowa General Assembly, through the Legislative Services Agency, offers no-fee access to the
Iowa Administrative Bulletin (September 24, 1997–current) on its website (at http://www.legis.state.ia.us/IAC.html). Beginning with the January 8, 2003 bulletin, these are offered in a PDF version in addition to the HTML version. The current version of the Iowa Administrative Code is also offered, without fee, in both PDF and HTML versions. With the exception of added hypertext navigation aids, the electronic documents are generated from the same data source as the print versions. In conversion to HTML errors may be introduced. A parenthetical note on the index pages explains that the PDF is a “duplicate of printed pages.” However, the text is not formally certified as authentic.

Iowa also does not certify as official or authentic its high court and intermediate appellate court opinions on the Web. The Iowa judicial branch offers no-fee access to slip opinions of the Iowa Supreme Court (May 28, 1998–current) and Iowa Court of Appeals (January 28, 1998–current) on the judicial website (at http://www.judicial.state.ia.us/). Opinions are available both in a Web format and as Word documents. There is no written statement on the website guaranteeing permanent public access to these sources, but that is the intent. The judicial branch also offers a free e-mail notification service for Supreme Court opinions, Court of Appeals opinions, and press releases.

Court Web pages explicitly note that the electronic versions of the court opinions are not official. At the top of both its Supreme Court and Court of Appeals opinions index pages, the judiciary offers two differently worded notices conveying that the posted opinions are not final, published opinions. Both notices directly point the reader to the North Western Reporter for the courts’ official published opinions. Likewise, the General Assembly offers a disclaimer on the “Iowa Law” index page that urges the reader to “consult the official printed versions of these publications.” A similar disclaimer is offered from the administrative code index page and within both the code and session law pages, as well.

Iowa is offering some official materials on the Web. Under section 256.56 of the Code of Iowa, the State Library cooperates with the State of Iowa Information Technology Enterprise (the state’s IT department) to provide permanent public access to “documents intended for the general public produced by Iowa state agencies” via the Iowa Publications Online (at http://publications.iowa.gov/). Most documents date from recent years, with the vast majority from the 2000s, although one document is from 1923. Currently there are over 2,000 documents in the collection. Once in the depository, items cannot be altered, although revised copies are accepted as additional holdings. The software used, ePrints, does not authenticate documents.

Unfortunately, the Electronic Records Committee, formed in January 2002 by the State Records Commission in order “to recommend and regularly review policies, guidelines, and best practices for the creation, maintenance, access, and long-term preservation or destruction of electronic records,” appears to be dormant. Its website (at http://www.iowasrc.org/ERC/) has not been updated since 2003.
Kansas

by Richard J. Matthews, Visiting Fellow in Law Librarianship, Institute of Advanced Legal Studies, University of London

Kansas online legal resources are not official.
The state’s statutes, session laws, administrative rules publications, and court opinions are published in print official versions. Taking steps to make electronic official versions available on Kansas.gov does not appear to have been considered by the state officials and public-private entity responsible for the state’s “official web site.”

Kansas is not addressing the authentication of online legal resources.
The state has taken steps to allow and encourage administrative agencies to publish certain official materials in online versions only. It is experimenting with a controlled repository and document management system for such documents. Encryption or related technological means to ensure the integrity of documents is not under consideration.

Kansas.gov, the state’s “official web site,” makes freely available the Kansas statutory compilation, current through the latest concluded legislative session. It makes statutes with annotations available, but only to subscribers paying an annual fee and per search charges. Kansas.gov also makes the state’s session laws freely available from 1996 up to the text of the latest acts formatted for eventual print official publication. Kansas Administrative Regulations are available, current as of the 2003 compilation, with 2005 supplement. An updated compilation is due this year. Website users are directed to update the compilation and supplement using the Kansas Register, whose text to date is available to subscribers paying an annual fee and per search charges.

Kansas Supreme Court and Court of Appeals opinions (1996–current) are available at no fee on a website maintained by Washburn University Law School. They are published online through an informal agreement among Washburn, University of Kansas School of Law and the Kansas judicial branch.
The Information Network of Kansas, Inc., a public/private entity, contracts with a subsidiary of National Information Consortium, Inc., to manage Kansas.gov and perform other services paid for by subscription revenue. None of the legislative, administrative, or judicial resources investigated here, available through the portal, is designated as official or authenticated.

Disclaimer information on the interface for the statutes (both fee and no-fee) states that the text “is provided with the permission of the Revisor of Statutes.” Disclaimer information on the interface for the session laws states that the Information Network of Kansas creates an “electronic representation of the Session Laws” derived from “electronic-readable material provided by the Kansas Division of Printing.” Disclaimer information on the interface for the Kansas Administrative Regulations states that the text “is derived from electronic-readable material provided by the . . . Division of Printing.” All of the disclaimers go on to state, “The Information Network of Kansas has made every effort to create an accurate electronic representation of the [resources]. In some cases there may be minor discrepancies with the printed document. In those cases neither INK nor the State of Kansas shall be liable for the effect of those discrepancies.”

The website for Kansas Supreme Court and Court of Appeals opinions informs users when it is updated, which is within one hour after the Reporter of Decisions transmits the WordPerfect court opinions to the law school library webmasters. A disclaimer advises, “Slip opinions are subject to motions for rehearing and petitions for review . . . Before citing a slip opinion, determine that the opinion has become final.” “Consult the bound volumes of Kansas Reports and Kansas Court of Appeals Reports for the final, official texts of the opinions.”

Kansas has some official but not authenticated government documents on the Web. Under sections 46-1212c and 75-3048 of the Kansas Statutes Annotated, agencies may publish reports, pamphlets, books and other materials on the Web in place of print publications, provided certain specifications, depending on the type of document, are met. The State Archives captures and retains some of those materials through its KSPACE pilot repository and document management system (at http://www.kspace.org). However, since legislative and judicial branch materials fall outside the scope of the Kansas Government Records Preservation Act (see KAN. STAT. ANN. §§ 45-410 & 45-411), administrative procedures designed to help ensure the integrity of electronic records are not required of online session laws, statutes and court opinions. The state is attempting to create a substantial Public Key Infrastructure. This could serve as a framework for future official, authenticated online legal resources. But Kansas officials have no plans to take such steps.
Kentucky

by Jennifer Frazier, Kentucky State Law Library

Kentucky online legal resources are not official.
The state has made strides in placing its legal resources on the Web for free public use. None of the resources investigated here, however, is deemed as official. Website disclaimers clearly state this.

Kentucky is not addressing the authentication of online legal resources.
Authentication of digital materials is not an issue being considered by the state at this time.

Kentucky has made a good start at putting primary legal resources on the Web. The Legislative Research Commission's website maintains the Kentucky Administrative Regulations, Kentucky Revised Statutes, and Acts of the Kentucky General Assembly all in one location. These materials are offered without fee. The regulations and statutes are the current versions only, with good descriptions of their source and years covered. Disclaimers clearly state the text of these resources is unofficial. Note that the source for the Kentucky Revised Statutes online is the same database from which the Legislative Research Commission prints official copies of the statutes when a request is made by the public. According to statute, the Commission maintains the official internal database for the Kentucky Revised Statutes and makes a version available on the Web, along with the regulations and acts. See KY. REV. STAT. ANN. §§ 7.131(1) & 7.500(1). Acts of the General Assembly on the website cover 1996 forward.

The Kentucky Administrative Office of the Courts maintains the opinions of the Court of Appeals (1996–current) and Supreme Court (1999–current), with links to the party briefs, as well as court rules. The current searching capabilities are limited. Print sources must be consulted for the official versions of these opinions.

None of the material currently available from government websites is official or authenticated. In order to obtain official sources for any of the primary legal materials,
print versions must still be consulted. At this time, there appear to be no plans to make the state’s online primary legal materials *official* or to *authenticate* them through watermarks, encryption, or related technologies.
Louisiana

by Catherine Lemann, Law Library of Louisiana

The Louisiana statutes are available through the Louisiana legislature website (at www.legis.state.la.us). Statutes may be located using a table of contents, by entering a specific citation, or using the search feature. The search engine often returns many results and has limited help available. From 1951-2005, West (Thomson West) was the only official publisher of annotated and unannotated statutes for the state. In 2005, LexisNexis published the Louisiana Annotated Statutes, which have also been designated as official by the Secretary of State. The website does not direct users to either of the paper resources.

The Louisiana session laws are available on the legislature website (at www.legis.state.la.us). The session laws have a good variety of search and retrieval methods: subject index to bills or to acts, citator index, by bill or act number, etc. There is no way to search for bills or acts across multiple years. The only link to the disclaimer on this site is on the home page and may not be reviewed by users prior to looking for specific information. Users are not referred to the official print Acts of the Legislature.

The Louisiana Supreme Court and the First, Second, Third, and Fifth Circuit Courts of Appeal each post their own opinions. The Fourth Circuit does not make their opinions available electronically. The Supreme Court and First Circuit Court of Appeal sites have
search capability. The Supreme Court and the Fifth Circuit Court of Appeal have disclaimers that page numbers may not match the original slip opinion. None of the Court sites refers users to the Southern Reporter, the unofficial and only paper publication of opinions.

No Court in Louisiana currently accepts electronic filings. Court rules would have to be changed to allow for electronic filings. The Clerk of the Supreme Court indicates that the Supreme Court will consider electronic filing in the future.

The electronic Louisiana Administrative Code and Louisiana Register are PDF copies of the paper version published in pamphlet format by the Office of the State Register. There is a disclaimer on the website as to the accuracy of the information but no reference to the paper. There is no search capability across titles or years. Individual titles or issues may be searched using the search feature in Adobe Acrobat.

The official paper Louisiana Administrative Code pamphlets each have a facsimile of the notarized Certificate of Correctness signed by the Director of the Office of the State Register. The certificate is not included in the electronic versions. The paper version also has a disclaimer that only publications issued directly from the Office of State Register are accurate.

The official paper Louisiana Register is published monthly. The electronic version does not include a copy of the inside of the front cover of each issue, thus omitting information concerning the effective date of rules published in the issue and authenticity. The administrative register is cumulatively indexed on an annual basis.

There does not appear to be any consideration of authentication of electronic legal resources by any branch of government in Louisiana.
Maine online legal resources are not official.
The disclaimer on the Maine Revised Statutes website indicates that all online legislative publications are made available “as a public service” and “reliance on any such information is at the user’s own risk.” Other online legal resources have disclaimers indicating the sources are unofficial.

Maine is not addressing the authentication of online legal resources.
The State Archivist points to the GeoArchives project, which includes documenting the authenticity of town boundary records on the Web. It appears the only discussion of authentication directed to legal publications involved court opinions, where concern was expressed with regard to the authenticity of revisions to decisions.

The Maine Revised Statutes online are updated following each regular session (one per year) by the Office of Revisor of Statutes. Changes made by enacted laws and initiated measures receiving approval by the voters are incorporated. Certain non-substantive changes may be made through the Revisor’s Report, which is cited in the history annotation. The website disclaimer for the Maine Revised Statutes is quite broad in scope, as it embraces all legislative publications: “The publications of the Maine State Legislature are made available on the Internet as a public service and reliance on any such information is at the user’s own risk. The State of Maine, its agencies, officers and employees do not warrant the accuracy, reliability, completeness or timeliness of any information on the Maine State Legislature’s web site and may not be held liable for any losses caused by any person’s reliance on the information available on this web site.” The disclaimer refers users to the official print Maine Revised Statutes Annotated and supplements for certified text. According to the Revisor of Statutes, other states have used the language of Maine’s disclaimer as a model.
The Laws of the State of Maine are added to the website of the Revisor of Statutes following each regular session (one per year). The website does not have its own disclaimer, but the broad disclaimer for the Maine Revised Statutes covers the session laws. This is confirmed by the Revisor of Statutes. The website makes no reference to the paper *Laws of the State of Maine*, whose preface identifies the title as the *official* publication of session laws. The website does not mention that individual paper copies of laws (not the Web versions) may be certified by the Secretary of State. The same fees given for certifying administrative rules would apply.

Decisions of the Maine Supreme Court are posted to the judicial branch website on any weekday, generally between 10:00 and 12:00 in the morning. Up to 48 hours may be required before a decision can be posted. The information on the decisions page indicates that the decisions are subject to revision. The disclaimer directs users to the permanent *official* version of the decisions published in the *Atlantic Reporter*.

The *official* text of the administrative rules resides in the files of the Administrative Procedures Act Office, a unit of the Office of the Secretary of State, Bureau of Corporations, Elections and Commissions. The website directs users to contact the Administrative Procedures Act Office for certified copies of rules. There is a fee of $10 per certified document and a photocopying fee of $.75 per page. The certification is provided for paper documents, not those on the web. No reference is made to the commercially published *Code of Maine Rules* (Weil Publishing Company.)

Generally Maine is not considering steps involved in designating electronic legal records and publications as *official*, although awareness of these issues appears to be increasing. Only the judicial branch has even raised the possibility, but according to a Supreme Court Justice concerned with publication and Web resources, the initial discussion has gone no further. He expressed concern about marking and documenting changes to decisions following initial publication. There appears to be little attention given to *official* status and authentication for other online legal materials.
Maryland

by Steven Anderson, Maryland State Law Library

Two Maryland online legal resources are considered official. One of the resources directly states it is official. The online version of the Maryland Register claims that it is “an official publication of the State of Maryland.” While applicable statutes require the Division of State Documents to make the register accessible online (Md. Code Ann., State Gov’t § 7-206.2), only the most recent six issues are available. Maryland’s online statutory code does not declare itself to be official. Section 10-201 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland provides that “[t]he Code of Public General Laws compiled, updated, and maintained by the Department of Legislative Services” is evidence of the state’s laws (along with the LexisNexis and West codifications). Presumptively, this means the online version, as no print copy is published by the state. The brief notation given on the Department of Legislative Services website, however, does not directly reference the statute.

Maryland is not addressing the authentication of online legal resources. There is no technological measure, policy or statute currently in place that addresses authentication. However, this is an issue of statewide importance, as there is a growing need to determine how electronic state publications should be acquired and distributed under the State Depository Library Program. See Md. Code Ann., Educ. §§ 23-301 to -304.

Most of Maryland’s online legal resources are not official versions and none of the sources are authenticated. While there are substantive disclaimers and notations regarding update cycles, in certain instances better wording on websites might provide greater clarity and information. Maryland’s legal information statutory structure presently is a patchwork of legislative approaches. Therefore, to effectively designate
online versions as official, legislation is called for to amend some of the current statutes that seem to envision a more print-oriented world.

One exception to Maryland’s rule about online versions not being official is the Maryland statute codification. Section 10-201 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland declares that “[t]he Code of Public General Laws, as compiled, updated, and maintained by the Department of Legislative Services” is evidence of the state’s laws,” so considered “in all courts of the State and by all public offices.” The Department of Legislative Services produces only an online version of the code and no print copy. The website notes that the database text contains the “actual words of the codified law.” While this is not technically untrue, one might wonder why the notation does not simply state that the text is the codified law. This online version of the code – Maryland’s only official electronic version – lacks several features that would make for easier and more effective use. First, only the current version is available. Second, there is no authentication mechanism. This is problematic insofar as one might use the statute text from a particular year and then be unable to find it again in later years. One might even be unable to prove with certainty that the current version had not been changed within the past few months.

Maryland’s session laws, the Laws of Maryland, are available online at two locations. The Department of Legislative Services offers those from recent years. However, access is somewhat cumbersome because searchers can only find chapter numbers by accessing bills first. The second location, the Maryland State Archives, provides free copies of scanned session laws through 1975. These high-quality TIF images will likely be viewed by most people, informally at least, as official and authentic, in spite of the fact that the images bear no watermark or digital signature. Furthermore, the available information on the State Archives’ website would probably give users a general feeling of reliability about the scanned images.

Maryland’s court opinions, while readily available online, consist of only copies of slip opinions. A prominent disclaimer to that effect is placed at the top of the web page. Maryland’s statutes regarding the publication of opinions seem to envision the process to be print-based. See Md. Code Ann., Cts. & Jud. Proc. §§ 13-201 to -204. As long as the Maryland Reports and Maryland Appellate Reports are published in print, these titles will remain the official versions.

The Code of Maryland Regulations (COMAR) is online for public use by statutory mandate. See Md. Code Ann., State Gov’t § 7-206.2. Therefore, the statute arguably calls for this to be provided in perpetuity. Interestingly, the compiler, the Division of State Documents, states that only the printed text is the official version and provides a noticeable disclaimer to that effect on the COMAR website. The disclaimer references section 7-217 of the State Government article of the Annotated Code of Maryland as providing justification for the print version’s official status. However, that section itself does not address document format, so it seems that this statute by itself would act as no impediment to making an online version official.
To the extent other statutes related to section 7-217 do make reference to print versions of COMAR, there would likely be some uncertainty as to the official status of an online copy unless there were legislative changes. For example, section 7-211 of the State Government article states that COMAR must be printed. Additionally, section 7-205 of the same article refers to the creation of permanent supplements for COMAR, mandating either printed looseleaf supplements to be distributed on a regular basis or “other appropriate permanent supplements.” If official status were bestowed upon the current online version of COMAR, then it might be best for the database to contain some type of authentication measure, which is not now in place.

According to its publisher, an official version of Maryland’s administrative register is available online for free. Section 7-206.2 of the State Government article of the Annotated Code of Maryland requires the Division of State Documents to make available to the public no-fee, “direct on-line searching of” both COMAR and the Maryland Register. The Division treats the online version of the Maryland Register as official, and its website states “[t]his is an official publication of the State of Maryland.” As noted above, however, the online version of COMAR is regarded as unofficial. Citing section 7-217 of the State Government article, the Division states on the website for the administrative code that “the printed version of COMAR is the official and enforceable text.” Applicable statutes do not clearly support this disparate treatment of the resources. In fact, section 7-206 of the State Government article, which describes the Maryland Register, refers to print characteristics of the resource, including page numbers and issue dates turning upon its deposit in the United States mail.

Maryland does not have a unified statutory framework for ensuring that electronic legal information resources are official or authenticated versions. As more users demand online access to such materials, state government officials may wish to begin discussions about the necessity and desirability of such legislation.
Massachusetts

by Robert M. Ey, Wolf, Block, Schorr & Solis-Cohen, LLP

Massachusetts online legal resources are not official.
The commonwealth's online versions of the statutory code, administrative regulations, and judicial opinions all contain express disclaimers of official status. The online session laws are silent on this point.

Massachusetts is not addressing the authentication of online legal resources.
No authentication measures were found to be currently in place or planned.

Massachusetts does not certify as official the online versions of the state session laws, statutes, administrative code, or court opinions. Online materials are not authenticated, and no plans for authentication could be found. Massachusetts does not have an online version of the administrative register.

The General Laws of Massachusetts is the commonwealth's official statutory code. The catalog entry at the Massachusetts State Library gives authorship credit to the General Court, noting the cooperation of the Massachusetts Bar Association, and identifies West (Thomson West) as the publisher. The Massachusetts government's online version is explicitly not official.

Acts and Resolves of Massachusetts is the print official compilation of the commonwealth's session laws. The online version on the General Court's website neither asserts nor disclaims official status.

The administrative code is known as the Code of Massachusetts Regulations (CMR). Print copies of the individual sets of regulations of each agency constitute the only official version. It would be necessary to buy all of the individual segments, as sold by the State Bookstore, to have the complete official code. An unofficial but complete print set, Weil's Code of Massachusetts Regulations, is published commercially by Weil.
Publishing. An explicitly unofficial but complete electronic version is available from the State Bookstore on a subscription basis. The Massachusetts Trial Court Law Libraries provides a Web page with links to such regulations as are available online, but coverage is limited to agencies that independently post their own regulations. The format, currency and other details vary as determined by each agency. The Trial Court Law Libraries have, however, generated an index.

The Massachusetts Register is the Commonwealth's official administrative register. It is published bi-weekly in print by the Office of the Commonwealth State Publications and Records Division. The Commonwealth does not provide online access to the Register, but it is available through LexisNexis.

The Massachusetts Reports is the official compilation of Supreme Judicial Court (SJC) opinions. The SJC website provides a link out to a free Westlaw site containing very recent (i.e., issued within the previous two or three weeks) slip opinions. The slip opinions are posted there with a notice that they "are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports."

More extensive online collections of recent slip opinions (going back several months) are available from sites maintained by the Social Law Library and by Lawyers Weekly. The member-managed, subscription-funded Social Law Library is a legal research institution that historically has provided certain library services to the commonwealth. Lawyers Weekly is a commercial publication. A collection of slip opinions that dates back to July 1998 is maintained by Findlaw, owned by Thomson West.

Massachusetts Appeals Court Reports is the official compilation of intermediate appellate decisions. Prior to the issuance of bound volumes by Thomson West, opinions are compiled in a looseleaf service by the same publisher under the title Official Opinions from the Appeals Court of Massachusetts. Slip opinions are posted online as described above for the SJC opinions, although the Findlaw collection dates back to February 1998.

The Social Law Library maintains a collection of online databases which are available only to members by subscription. Among other things, the databases include: Supreme Judicial Court Opinions; Appeals Court opinions; Massachusetts General Law; and the Code of Massachusetts Regulations. The resources have no statement regarding official status.
Michigan

by Rick Goheen, Schoenecker Law Library, University of St. Thomas (Minnesota)

Two separate Web sources for Michigan court opinions are considered official. Each so identifies itself, although the website titled official by the commercial publisher is not entirely free from doubt. No other online resource investigated here is official.

Some of the state's online legal resources appear to be moving toward official status. The online Michigan Compiled Laws is generated from a current, almost real-time version of the statutory code. Michigan Supreme Court and Court of Appeals reports on the Web are designated as official once the final text of the published opinion is received from the official publisher of the print version. The online Thomson West's Michigan Official Historical Reports, linked to from the Michigan Courts website, includes opinions originally published in the state's print official reporters. Coverage ends in 2000, roughly shortly after where the run of opinions on the Michigan Courts website begins.

Michigan is not addressing the authentication of online legal resources.

It does not appear the state is addressing technology issues involved in authenticating resources on the Web.

Michigan is making progress on issues concerning official status and authentication of online legal resources. But the state could go a bit further in the right direction. The online version of Michigan’s administrative code has an unusual URL, and it would help if this could be shortened or streamlined for better public access. This resource is not designated as official, and there is no online archive of prior versions of the code. The most recent six years of an unofficial version of the state’s administrative register are available online.

Session laws are available in both HTML and PDF, but the online versions are not official. There is a standard text disclaimer at the bottom of every HTML page in the
statutory section of the Michigan legislature’s website. There is no disclaimer on PDF pages, but the images and language elsewhere on the website show that the PDFs are images of acts as passed by both houses of the legislature (each act carries the signature of both presiding officers but not of the governor). Six years of material (2001–2006) are available on the main website, and four years prior to that (1997–2000) are linked to from a separate page.

A current version of Michigan Compiled Laws (the statutory code) is available online in both PDF and HTML. The disclaimer found on all other legislative Web pages covers the statutes, but the PDF copies would otherwise appear official. Each PDF page includes a footer with a date stamp, a copyright notice, and the statement “Michigan Compiled Laws Complete Through PA [number] of [year].” On January 24, 2006 the PDF date stamp read “Rendered Thursday, January 12, 2006” and indicated the text was complete through Public Act 340 of 2005. The HTML version also includes a time stamp, which appears to be given in real time (i.e., the instant the page is requested). Navigation is a bit difficult. To find any individual section of the statutory code, one must know all or part of its exact number. There is no browsing function until one reaches the chapter level. Entire chapters and individual sections are then available in either HTML or PDF, and each carries the footer and disclaimers noted above.

The state’s Supreme Court and Court of Appeals opinions are available from a single unified website. Some online opinions are designated as official, but only after their final text is received from the publisher of the print official reporter. Opinions then designated as official are indicated by an “open book” official icon on the website. These official opinions remain in the same 8.5” x 11” PDF format in which they were originally released by the court. They are not re-posted with a new PDF image of the print official publication.

Online versions of published opinions prior to 2001 are made freely available on a separate website by an arrangement with Thomson West, the publisher of the print official reports. The larger external site is titled Michigan Official Reports, but there is no print publication with that same title, and it must be said the reports retrievable there are no different from any other document on Westlaw.

Michigan has some distance yet to travel toward permanency and authentication, but with some court opinions already official online and the session laws practically so, that distance may be shorter than in many other states.
Minnesota

by Barbara L. Golden, Minnesota State Law Library

One Minnesota online legal resource is official. Based on statute and statements within the PDF copies that constitute the Web version, judicial notice shall be taken of its contents. The other online resources investigated here are not official.

Although the Minnesota Legislature supports free public access to online legal resources, the Revisor of Statutes considers the print versions of the statutes, session laws, and administrative code to be the authoritative editions. This is based on statutory provisions stating that the print sources are prima facie evidence of the law in all proceedings (see MINN. STAT. §§ 3C.13 & 14.37(2)) and requiring that print sources include a “certificate of correctness” (see MINN. STAT. §§ 3C.11(1) & 14.47(4)). Disclaimers on the legislative website make it clear that none of these online resources is official. The Minnesota Supreme Court has adopted the North Western Reporter2d as the official reporter of its opinions (by order dated June 9, 1978). A disclaimer on the appellate courts opinion archive page makes it clear that slip opinions published there are subject to change and refers users to the official source.

Minnesota addresses authentication.
The Revisor of Statutes is aware of the issues and has discussed digital signatures, watermarks, and other technologies, but there are no immediate plans to make online resources official and there is no process in place to certify Web text as complete and unaltered. The online State Register is considered official and authenticated insofar as the material submitted for publication is properly endorsed. Note that the statutory and administrative online sources are drawn from the same database used to create the print resources and, therefore, are considered authentic. In fact, in some cases, the Web version is more current and correct than the print source, as corrected errors and new materials are available on the Web almost immediately. There is a disclaimer
that graphics (in the case of Minnesota Rules) are not available online.

The Minnesota Revisor of Statutes supports free access to unofficial versions of the Laws of Minnesota (state session laws) since 1994 and the Minnesota Statutes since 1997 on the legislative website (at http://www.leg.state.mn.us/leg/statutes.asp). The site’s retention policy (posted at http://www.leg.state.mn.us/leg/retention.asp) states that the session laws are to be kept indefinitely. It also states that only the current statutes are to be kept, but older editions back to 1997 have been retained (how to access is explained at http://www.leg.state.mn.us/leg/help.asp#current). The intent is to continue maintaining the archived versions. The text of both session laws and statutes is derived from the same database used to produce the print versions and corrections or additions appear immediately online.

The Minnesota Revisor of Statutes supports free access to a current, unofficial version of the Minnesota Rules (state administrative code) on the legislative website (at http://www.leg.state.mn.us/leg/statutes.asp). Tables and graphics are not displayed online. The electronic documents are generated from the same data source as the print versions and corrections or additions appear shortly after the notice of adoption appears in the administrative register.

The official status, as well as authentic nature, of the print resources is based on applicable statutory provisions: The print version is prima facie evidence of the law in all courts and proceedings. See MINN. STAT. §§ 3C.13 & 14.37(2) (applicable to Minnesota Statutes and Laws of Minnesota, and to Minnesota Rules, respectively). The print version must include a “certificate of correctness.” See MINN. STAT. §§ 3C.11 & 14.47(4) (applicable to Minnesota Statutes and Laws of Minnesota, and to Minnesota Rules, respectively).

An official version of the Minnesota State Register from July 1, 2004 to date is available in PDF. Since that date, print subscriptions are no longer widely available although print copies are found in state depository libraries. Earlier issues back to March 17, 1997 are also available online. Issues from March 17, 1997 to May 27, 1997 are in HTML format; issues following that date are in PDF. Although not stated on the website, the intent is to continue to add new issues and permanently retain all archived issues. An online subscription with added features is available for a fee.

The Minnesota judicial branch offers no-fee access to the most recently released slip opinions from the Minnesota Supreme Court (at http://www.courts.state.mn.us/page/?pageID=102) and the Minnesota Court of Appeals (at http://www.courts.state.mn.us/page/?pageID=106). Opinions are available in HTML, Word, and Rich Text formats but are neither official nor authenticated. These slip opinions are archived by the Minnesota State Law Library going back to May 1996 (at
No written statement on the website guarantees permanent public access, but that is the intent. The archive states that the slip opinions are unofficial and subject to modification and correction by the courts. Since May 1977, *North Western Reporter 2d* has been the *official* source of Minnesota court appellate opinions (by Minnesota Supreme Court order dated June 9, 1978). Before that time, the *official* reporter was *Minnesota Reports* published by the state. The Supreme Court’s order predates the establishment of the Court of Appeals but the intent is that the *official* source of the intermediate appellate court’s published opinions is also *North Western Reporter 2d*. It should be noted that “unpublished” opinions of the Minnesota Court of Appeals, although available online, are not published in the *official* print source. *See Minn. Stat. § 480A.08(3).* Those unpublished opinions are not precedential and may not be cited except as provided by statute. *Minn. Stat. § 480A.08(3).*
Mississippi

by Stacey A. Lane, University of Mississippi

Mississippi online legal resources are not official.
Mississippi does not certify as official and authentic its online versions of the state session laws, statutes, court opinions, or administrative regulations. The state does not have a complete online code for all administrative agencies. No administrative register is available.

Mississippi is not addressing the authentication of online legal resources.
The goal of many state agencies is to have more resources available online, although authentication was not a stated priority.

Mississippi does not certify as official and authentic its available online legal resources. It is not otherwise addressing the authentication of online materials.

The Mississippi Secretary of State's website (located at http://www.sos.state.ms.us/ed_pubs/pub_statutory_pubs.asp) directs users to either write the appropriate department to obtain copies of materials sought or invites them to search the electronic, unannotated versions provided free of charge by LexisNexis. The LexisNexis materials include the state’s constitution and a copy of the unannotated statutes. The Department of State website states that print official versions of the state constitution and statutes may be purchased for the cost of printing and that copies are available at law libraries.

The Mississippi Supreme Court and Appellate Court decisions (1996–current) are available online. While there are no plans to authenticate them, the Supreme Court does plan to expand its archive of available materials online to include older briefs and opinions. There are no disclaimers on the Supreme Court website that direct visitors to paper resources.

The Mississippi Library Commission hosts some of the available administrative materials for Mississippi. The website encourages users interested in obtaining administrative
materials to contact the agency directly or to visit a law library. The Mississippi Library Commission (at http://www.mlc.lib.ms.us/reference/state-docs/online/Rules_and_Regulations/) is focusing its resources on encouraging state agencies to provide more materials online. Some of the materials offered online are only summaries and not complete copies of administrative rules or guidelines. Many agencies do not offer any guidelines online.

Mississippi does not have an *official* administrative register, either in print or online. Weil, which publishes the Mississippi Government Register, offers elements of an administrative register by contacting the various state agencies and publishing the notices of proposed rules and other actions. The Weil publication of such notices is not *official*. Interested parties are advised to contact the specific agency for *official* copies of notices and changes to the Mississippi administrative code.

Overall the various officials contacted for this survey agreed that resources are being directed towards getting materials accessible online. Authentication either was not a factor or was a secondary consideration.
Missouri

by Cynthia L. Ernst*, Leon E. Bloch Law Library, University of Missouri – Kansas City

Missouri online legal resources are not official.
Despite the Missouri Revisor of Statutes’ concern to publish an online version of state statutes capable of certification as required under section 3.090 of the Missouri Revised Statutes, it appears only the print version of the state statutes are certified and entitled to treatment as prima facie evidence of the law. Print copies of the other resources investigated here are the only official versions.

Missouri is not addressing the authentication of online legal resources.
The state is not addressing authentication at this time. It does not appear that there are any future plans to address computer-based methods for certifying legal materials.

Missouri’s online administrative code, administrative register, statutory code, session laws, and court opinions at the present time are not certified as official and authentic documents. Disclaimers for these online legal resources indicate the material and its content do not make any warranties either expressed or implied as to the accuracy of the content presented. According to the Office of the Secretary of State, Missouri does not have a plan at this time to authenticate its online legal resources.

The Revisor of Statutes, Patty Buxton, states that the Missouri Revised Statutes found on the Missouri General Assembly website are the official evidence of law, but they are not certified in the same manner as the print version of the statutes. Upon proper endorsement by the Secretary of State, text of the online Missouri Revised Statutes may be recognized by the court as authentic, but such endorsement apparently applies to a printout, not the online text itself.

A new edition of the official print Missouri Revised Statutes is published at least once every ten years (Mo. Rev. Stat. § 3.010) and supplements or pocket parts may be issued every year or every two years (Mo. Rev. Stat. § 3.125(1)). The statutes are updated once a year on the General Assembly website. The Missouri Revised Statutes can be
purchased in CD-ROM format, beginning with the 1951 edition and includes versions to the present time. These electronic versions are considered official evidence of law.

The bound volumes of the *Laws of Missouri* are the official session laws for the state. The online documents are considered unofficial.

Slip opinions for the Missouri Supreme Court and Court of Appeals can be found on the judicial website (at http://www.courts.mo.gov). A disclaimer indicates the opinions may not reflect the final opinion adopted by the court due to later revisions.

An unofficial version of the Missouri Code of State Regulations, the state’s administrative code, is found on the Secretary of State website. The official version remains the paper copy published by the Office of the Secretary of State pursuant to section 536.031 of the *Missouri Revised Statutes*. An unofficial version of the Missouri Register is also found on the Secretary of State website. The official version is the paper copy published pursuant to section 536.015 of the *Missouri Revised Statutes*.

Given the official status of the CD-ROM version of the *Missouri Revised Statutes*, the state’s universal citation system, and the court’s adoption of electronic filing, the state is becoming increasingly digital. However, a future involving official and authenticated online legal resources is far from certain.

* The author would like to acknowledge Nancy Stancel and Phill Johnson for their contributions.
Montana online legal resources are not official.
None of Montana’s elected officials has considered taking the steps to make the state’s electronic information official.

Montana is not addressing the authentication of online legal resources.
Authentication is a necessary step for declaring electronic records and publications to be official. Montana’s elected officials have not considered how to do this, nor have they begun to implement a plan, although the webmaster for the Supreme Court opinions is looking into authentication steps for them.

Montana’s statutes are republished after every legislative session, incorporating all changes from legislative activity and voter initiatives since the previous code. Editions of the Montana Code Annotated for the session years 1995 through 2005 are freely available on the Montana legislature website (at http://leg.state.mt.us/css/mtcode_const/default.asp). The online versions give no disclaimer information concerning accuracy or authenticity. Bills approved by the legislature are also available on the legislature website, but the session laws must be purchased in hard copy.

Note that the official print Montana Code Annotated is not an annotated code. It merely has historical references related to enactments. The Montana Code Annotated, Annotations is a separate and distinct publication, coming out in even-numbered years. It is available for purchase in hard copy only.

The State Law Library of Montana is the webmaster for the judicial website (at http://www.montanacourts.org). The Montana Supreme Court’s opinions and orders, as well as the appellate briefs filed matters before it, are placed on the Web within hours of their availability, and are free for anyone to search, read or download. However, the official version of the court’s opinions, the Montana Reports, is available only in print through purchase from LexisNexis. The court requires citations to its opinions to be in
electronic, uniform citation format. Therefore the commercial versions have the same look as the online, free version. Nonetheless, the court is probably a few years away from accepting the online version as the official. Authentication of the electronic opinions is being investigated, and may be available within the next year. Montana has no intermediate courts.

The Administrative Rules of Montana first became available online in 2003. They are posted by the Secretary of State’s office, as are the bi-weekly editions of the Montana Administrative Register. The site makes very clear that only the print versions are official or authoritative. There is no authentication provided for the online versions of either publication.
Nebraska online legal resources are not official.
Disclaimers on all online resources indicate those versions are not official. Section 49-767 of the Revised Statutes of Nebraska provides that the official version of the Nebraska statutes shall be the supplements and reissued volumes as published by the Revisor of Statutes. Rules 12 and 2E(3) of the Nebraska Court Rules of Practice and Procedure in the Supreme Court and Court of Appeals specify that the bound volumes of the Nebraska Reports and the Nebraska Appellate Reports provide the official version of the courts’ opinions. Sections 49-501.01 and 84-906.03 of the Revised Statutes of Nebraska appear to leave open the possibility that an electronic version of the Nebraska session laws or Nebraska Administrative Code could be designated as official.

Nebraska is not addressing the authentication of online legal resources.
Nebraska has no process in place to certify online legal resources as complete and unaltered.

Nebraska does not certify as official and authentic its online versions of the state statutes, court opinions, or administrative code. Further, the state session laws equivalent to the print title are not available online. Starting in 1999, individual slip laws, unofficial and unauthenticated, are available through the website of the Unicameral, Nebraska’s legislature (at http://www.unicam.state.ne.us/), using the Bill Finder “Search by Word/Phrase” feature.

The Unicameral’s site offers HTML access to the current statutory code. Users selecting the Nebraska Revised Statutes link from the “Laws of Nebraska” pop-up menu on the Unicameral’s homepage (at http://www.unicam.state.ne.us/), or directly accessing the code (at http://srvwww.unicam.state.ne.us/Statutes2005.html), do not see a disclaimer. Users entering the code from the “Laws of Nebraska” index page (at http://www.unicam.state.ne.us/laws/index.htm) see: “NOTE: The [Legislature] makes
every attempt to ensure accuracy and reliability of the data in the documents contained on this web site. However, the [Legislature] makes no warranty, guarantee, or promise, express or implied, concerning the content of the documents. For matters affecting legal or other rights, or to confirm content, please refer to the printed version of the appropriate official publication.” The Nebraska Legislative Information Director reports that there are currently no plans to change this access.

Both the Nebraska Supreme Court and the Nebraska Court of Appeals provide online access to slip opinions released in the last ninety days in HTML and, for opinions designated for publication, PDF form (at http://court.nol.org/opinions). A clear disclaimer notes, “Pursuant to Neb. Ct. R. of Prac. 12 and 2E(3), the only official version of the opinions of the Nebraska Supreme Court and the Nebraska Court of Appeals appears in the bound volumes of the Nebraska Reports and the Nebraska Appellate Reports.” According to the Nebraska Supreme Court and Court of Appeals Reporter of Decisions, there are currently no plans to change this access, although limited discussion about archiving opinions has occurred.

Nebraska has no administrative register, either in print or online. The Secretary of State’s website provides an unofficial, unauthenticated version of the current administrative code in PDF format (at http://www.sos.state.ne.us/business/regsearch/). The top of the page notes, “Important Information, Please Read Before Searching (click here).” The linked text reads: “Disclaimer. Every effort is being made to make sure the online version of the Nebraska Administrative Code is complete and accurate. The text of the code on the internet appears as submitted by the agency which promulgated the rule and should be correct, but, due to the volume of text submitted, they have not been proofread for accuracy against the official paper text of the code on file with the Secretary of State.”

There are currently no plans to make the online version of the Nebraska Administrative Code official or authenticated. The site offers some enhancements, such as a rules tracking feature and an e-mail notification service that alerts the user to upcoming hearings for user-specified agencies’ proposed regulations. Additionally, some agencies accept electronic submission of comments on proposed regulations, as explained on the Secretary of State website (at http://www.sos.state.ne.us/business/rr_disc.html). Moreover, the Secretary of State, Rules and Regulations Officer reports that Secretary of State John Gale’s office is creating a database showing each version of every regulation from 1985 forward. Initially intended for internal use, the database might eventually become public.

Currently, no Nebraska government body appears to offer official or authenticated state materials online. The Nebraska Library Commission’s Nebraska Publications Clearinghouse (at http://www.nlc.state.ne.us/docs/statedepositoryprogram.html) provides access to state government publications that are multiply produced and intended for public distribution. For about a decade, this has included offering links to online state publications. Beginning in July 2005, the Clearinghouse now collects PDF versions of select state documents either harvested from agency websites or scanned from print copies and then archived on the Library Commission server, with the intent of offering
permanent, stable public access to these resources. These functions are detailed on the Library Commission’s “Depository Library Responsibilities” Web page (at http://www.nlc.state.ne.us/docs/cleartutorialresdepost.html). The documents collected by the Clearinghouse are not authenticated, however, and an official with the Library Commission confirms there currently are no plans to begin authenticating them.
Nevada

by Rebecca Pressman, Rutgers University Law School Library

Nevada online legal resources are not official.
A general disclaimer on the Nevada legislature website makes clear that the online legal resources investigated here are not considered official. The website for Supreme Court opinions has a separate disclaimer with essentially the same language as the general disclaimer. Nevada has print official versions of the resources.

Nevada is not addressing the authentication of online legal resources.
Nevada does not appear to be addressing the authentication of online legal resources.

Unofficial versions of the state’s administrative register, administrative code, session laws, statutes, and Supreme Court opinions are contained on the Nevada legislature website. This website contains a general disclaimer that states the information “should not be relied upon as an official record of action” and directs the user “to the printed version of the appropriate official publication which may be obtained from Legislative Publications.” The menu bar at the bottom of the screen contains a link to the Nevada legislative portal. The portal links to a site for purchasing print official publications.

The website for Supreme Court advance opinions contains a separate disclaimer and indicates that official versions in print may be obtained from the Clerk of the Supreme Court.

There is no evidence that Nevada is taking steps to authenticate online legal resources.
New Hampshire

by Mary Searles, New Hampshire Law Library

New Hampshire online legal resources are not official.
Print sources are designated the official versions. For certain online resources silent as to their official or unofficial status, one finds no source of law or other basis to consider them official.

New Hampshire is not addressing the authentication of online legal resources.
None of the officials interviewed for this survey knew of any plans for encryption, digital signatures or digital watermarks to ensure integrity of the resources.

The Laws of the State of New Hampshire are available from the General Court (state legislature) website. Titled "Chaptered Final Version," only the current session laws are found; there is no archive for previous years. There is no disclaimer about official status or the authenticity of the online session laws. There is no reference to the official print version.

New Hampshire's current statutes are available from the General Court website. Online annotations include only the source of the statute; no other references are provided. The website displays clearly the coverage dates of the online statutes and includes a prominent disclaimer stating that this is not the official version. The disclaimer refers users to the print version of the statutes published by West Publishing Company (Thomson West). Also available on this website is the “List of Sections Affected” identifying all changes to statutes during the legislative session. This list goes back to 1999.

Slip opinions of the New Hampshire Supreme Court and final orders of the 3JX panel are posted on the judicial branch website. A 3JX panel is a panel of 3 judges only. 3JX orders are published only on the website; they are not available in print. Neither slip opinions nor 3JX orders are official or authenticated. There is a prominent notice stating that slip opinions are still subject to motions for rehearing as well as formal revision before publication in the New Hampshire Reports. The New Hampshire Reports are the
print official source for the court’s opinions, but users must infer this from the online notice.

There is no official print publisher of a New Hampshire administrative code. Agencies are responsible for publishing their own rules. An online version is made available by the Office of Legislative Services, Division of Administrative Rules (Division). The Division has a very detailed and informative disclaimer on the website about the non-official status of the online rules. Also included are instructions about how to obtain copies of the official versions of the rules (at http://www.gencourt.state.nh.us/rules/offversion.html) and details about the differences between the official, agency versions of the rules and the online rules. It is important to note that only the certified versions of administrative rules are published on the website. A rule may be in effect without having yet been certified; therefore the online rules are not the complete New Hampshire administrative code. Again, the Division has done a thorough job of alerting users to this and of instructing them how to make sure a rule is current.

The Office of Legislative Services, Division of Administrative Rules publishes the weekly official print New Hampshire Rulemaking Register. This administrative register is also available online (1998–current). The resource contains information about rulemaking activities including: notices of proposed and adopted rules, executive orders of the Governor, notices of hearings, and requests for public comment.

Despite the steps taken by the New Hampshire legislature to address permanent public access to government information (discussed in the American Association of Law Libraries State-by-State Report on Permanent Public Access to Electronic Government Information) little has changed. Access is provided, for the most part, to current resources only. New Hampshire state and federal depository libraries have begun to meet informally to discuss this issue but, as yet, the group has taken no action.
New Jersey

by A. Hays Butler, Rutgers Law School – Camden

The status of one of the state’s sources on the Web is indefinite. Otherwise, New Jersey online legal resources are not official. Online database of statutes created under a law directing the Office of Legislative Services to maintain “the most current available compilation of the official text of the statutes” is not clearly considered official. The online database of decisions of the New Jersey Supreme Court and Appellate Division, maintained by Rutgers Law Library – Camden is not official.

New Jersey is not addressing the authentication of online legal resources. The state has made no effort to authenticate its online legal resources. There are no plans to do so.

New Jersey does not certify as official and authentic online versions of the state session laws, statutes, and court opinions.

An electronic database on the New Jersey legislature’s website provides access to New Jersey statutes (at http://lis.njleg.state.nj.us). The database does not explicitly indicate whether it is official or not. Nor does the database contain any disclaimer directing users to the print official version. The site does contain the following statement: “This statutory database is unannotated and as such may include laws that have not become operable due to unmet conditions, have expired, have been ruled inoperable by a court, or have otherwise become inoperable. Effective dates are not typically included. Users should diligently read applicable statute source law and case law.” While this statement is providing a warning concerning the appropriate use of the website, it is not a disclaimer concerning the official status of the resource.

In the statute establishing the online statutory database, the New Jersey Legislature provided the following:
The Office of Legislative Services shall make available to the public and maintain in electronic form the following information: (1) the most current available compilation of the official text of the statutes of New Jersey. . .

N.J. Stat. Ann. § 52:11-78(a)(1). There is some ambiguity about the intent of this statement. It falls short of a definitive certification that the database is intended to be an authoritative source of the statutes of New Jersey. This statement may be contrasted, for example, with the following provision in Iowa’s statutes:

The official printed versions of the Iowa Code, Iowa Code Supplement, and Iowa Acts published under authority of the state are the only authoritative publications of the statutes of this state. Other publications of the statutes of the state shall not be cited in the courts or in the reports or rules of the courts.

Iowa Code § 2B.17(3).

Since the New Jersey online statutory database leaves the user unsure whether it is official or not, it appears reasonable to conclude that the database, in fact, is not official. As a policy matter, online resources provided by state governments will be of far more value to users if their official status is unambiguously declared by the state.

For the same reasons, it appears that the New Jersey session laws (1996–current), found on the same site, also cannot be considered official. Actually, the case for not considering the session laws official is even stronger than with the statutes, since the statute requiring the session laws official is even stronger than with the statutes, since the statute requiring the session laws to be included in the statutory database does not even refer to the “official” session laws.

Decisions of the Supreme Court of New Jersey and the Superior Court’s Appellate Division can be found on the website of the Rutgers Law Library – Camden (at http://lawlibrary.rutgers.edu/index.shtml). These cases are made available by an agreement between the New Jersey Administrative Office of Courts and Rutgers University School of Law – Camden. No changes of any kind are made by Rutgers aside from the conversion from WordPerfect 5.1 format to HTML. All opinions are available in their original word-processed format by clicking the hypertext link at the top of each document. This site cannot be considered official insofar as no provision of the state’s statutes has declared the site official and there is no statement on the site itself or on the Web pages of the New Jersey Courts declaring the site official. Moreover, the Rules Governing Practice in the Supreme Court and Appellate Division of the Superior Court provide:

New Jersey decisions shall be cited to the official New Jersey reports by volume number but if not officially reported that fact shall be stated and unofficial citation made.
N.J. R. App. Prac. 2:6-2(a)(5). This rule clearly provides that the only official and authoritative source for decisions of the appellate courts in New Jersey are the official print reporters.

Neither the administrative code nor the administrative register has an online version. The print official rules publications are the New Jersey Administrative Code and the New Jersey Register.

None of the electronic resources investigated here are authenticated, including the statutory and session law database, as well as the Rutgers Law Library – Camden decisional database, and there is no plan to do so. The decisional database, as noted, does indicate that decisions are received directly from the courts and that no changes are made in the decisions other than converting the format from WordPerfect 5.1 to HTML. But this statement obviously does not constitute authentication of the documents.
New Mexico

by Barbara Lah, University of New Mexico School of Law Library

All but one of New Mexico’s online legal resources investigated here are considered official. Two of those sources directly state on the Web that they are official.

Under statute, an electronic version of the 1978 compilation of New Mexico statutes certified by the New Mexico Compilation Commission is considered official. Act of July 1, 2006, ch. 70, § 4, 2006 N.M. Adv. Legis. Serv. 480, 483 (codified at N.M. STAT. § 12-1-7). The online New Mexico Administrative Code, which has never had a print official version, is considered official by the Administrative Law Division of the New Mexico Commission of Public Records. The online version of the New Mexico Register is also considered official. Electronic copies of opinions released for publication in the official New Mexico Reports and published online by the New Mexico Compilation Commission and the New Mexico Supreme Court are considered official.

New Mexico is not addressing the authentication of online legal resources.

The state enacted the “Electronic Authentication of Documents Act,” which pertains to the authentication of electronic documents in general. Ch. 11, 1996 N.M. Laws 115, as amended (codified at N.M. STAT. §§ 14-15-1 to -15-6). However, there is no indication that New Mexico is addressing the authentication of online legal resources specifically.

The New Mexico Compilation Commission holds the power to provide for both the official compilations of the New Mexico statutes and the court opinions. N.M. STAT. § 12-1-3.1. Recent legislation provides that “[u]pon the certification of the compilation of 1978 or any supplement by the New Mexico compilation commission, with the advice and approval of the advisory committee of the supreme court, the compilation or supplement shall be in force, and printed and electronic copies thereof shall be received, recognized, referred to and used in all the courts and in all departments and offices of the
state as the official compilation of the statutory law of New Mexico and may be cited as the ‘NMSA 1978.’” Act effective July 1, 2006, ch. 70, sec. 4, 2006 N.M. Laws 480 (codified at N.M. Stat. § 12-1-7). It is important to note that if differences exist between the codified version of the law and the session law, the wording in the session law is deemed correct: “If the text of an enrolled and engrossed bill differs from a later publication of the text, the enrolled and engrossed bill prevails.” N.M. Stat. § 12-2A-11. The electronic version of the statutes is considered official by the New Mexico Compilation Commission even though there is no indication of this on the website.

Court opinions from the New Mexico Supreme Court and the New Mexico Court of Appeals are also authorized to be published, online and in print, by the New Mexico Compilation Commission. The official print New Mexico Reports is produced by Thomson West. The official electronic version (at http://nxt.ella.net/NXT/gateway.dll?f=templates$fn=default.htm$vid=nm:all) contains a searchable database of opinions (1995–current) released for publication in the New Mexico Reports. A second online source for official New Mexico court opinions can be found on the New Mexico Supreme Court’s website (at http://www.supremecourt.nm.org/). The Supreme Court Clerk considers the final opinions published on that page to be official because of the court’s relationship with the Compilation Commission.

The State Rules Act authorizes the State Records Administrator of the State Records Center and Archives to be responsible for promulgation of state administrative rules. N.M. Stat. § 14-4-7.2. There is no statutory authority for designating any version of the administrative rules compilation as official. The word “official” used on the website of the New Mexico Administrative Code (at http://www.nmcrpr.state.nm.us/NMAC/) indicates that it is the only compilation authorized under the State Rules Act. Nonetheless, the Administrative Law Division of the New Mexico Commission of Public Records considers it official.

Under statute, state agencies are required to submit one paper version and one electronic version to the Administrative Law Division of the State Records Center and Archives. N.M. Stat. § 14-4-3. An original filed document is approved by the Rules Analyst and is time-and-date-stamped. This version is the official filing of the rule. The paper version becomes part of the State Rules Collection that is housed at the Administrative Law Division. If differences exist between this filed version and the text of the New Mexico Administrative Code, the State Rules Collection version is considered to be correct. N.M. Code R. § 1.24.10.19.
An “Official Reports Service” makes the Web version of court opinions, considered official, available from the database of the print official publisher. None of the state’s other online resources investigated here are official. Official reports of New York’s Court of Appeals and Appellate Division are now available for no-fee online public access through an agreement between the New York State Law Reporting Bureau and Thomson West. There is currently no online official version of the state statutes, session laws, or administrative rules publications.

New York is not specifically addressing the authentication of online legal resources.

There is no evidence the state is presently considering computer-based authentication methods for legal sources on the Web.

New York has no official edition of its statutes. The state’s statutes consist of Consolidated and Unconsolidated Laws. Consolidated Laws are currently-in-force general laws compiled into subject areas and Unconsolidated Laws consist of various special laws, including court acts and sources related to New York City. Print unofficial statutory compilations are McKinney’s Consolidated Laws of New York Annotated, the New York Consolidated Laws Service, and Gould’s New York Consolidated Laws. A free Web version of the state’s Consolidated and Unconsolidated Laws is available on the New York State Legislature website (at http://public.leginfo.state.ny.us/menuf.cgi). Links on the site identify the statutes as “Laws of New York.” This resource provides no descriptive information about itself; it has no disclaimer or other information about its official or unofficial status.

New York’s print official version of the session laws, the Laws of the State of New York Passed at the Sessions of the Legislature (1777–current), is compiled by the Legislative Bill Drafting Commission. Not widely distributed, the publication is available in microfilm. It is not on the Web. McKinney’s New York Session Laws and the New York
Consolidated Laws Service are print unofficial compilations of the public and private laws passed by the legislature each year. Unofficial versions of individual chapter laws for the current and immediately preceding year are available on the New York State Legislature website (at http://public.logininfo.state.ny.us/menuf.cgi). Users can obtain an ordered list of chapters and acts. The New York State Assembly website (at http://assembly.state.ny.us/) also provides unofficial versions of individual chapter laws, but for the current year only. The site gives the text of bills, along with summaries and any sponsoring memos, but no ordered list of chapters and acts is available. The information that appears on the legislature and assembly websites is not authenticated. There are no certificates or other markings ensuring authenticity of the text.

The state has no comprehensive Web version of its administrative code. The print official version is the Official Compilation of Codes, Rules and Regulations for the State of New York (NYCRR). The unofficial text of particular rules or regulations is found on individual state agency websites such as the Banking Department, Department of Environmental Protection, Insurance Department, and Health Department. In most cases, the sites provide HTML versions of the print rules and regulations. In some cases, the entire regulation is available; in other cases, just excerpts or particular sections of the regulation are provided. Source information and disclaimer issues vary by agency, with some sites stating directly that the text is not the official version of the rule or regulation and that the definitive version is issued by the Secretary of State. Currency is not addressed on most agency websites.

The Governor’s Office of Regulatory Reform (GORR) provides a collection of links to agencies publishing their rules or regulations on the Web. The collection (at http://www.gorr.state.ny.us/Reg_Guide.html) gives no descriptive information other than the name of the agency. The GORR website has a general disclaimer indicating that links to non-GORR organizations . . . are provided solely as a service to our users.” It goes on to state that “GORR is not responsible for the content of the individual organization webpages found at these links.” The links provided sometimes need updating.

New York’s administrative register (2003–current) is available online. The print official version of this Department of State, Division of Administrative Rules publication is titled the New York State Register and is issued each week. The online version is found on the Division of Administrative Rules website (at http://www.dos.state.ny.us/info/register.htm). The website, which refers to the publication as the State Register or New York State Register, provides an HTML version of the table of contents for each print issue and links to PDF copies of the printed text. The PDF version retains the language in the print version that describes the New York State Register; the print does not refer to itself as official and the PDF likewise does not. The language of the print version generally distinguishes the form and function of print versions of the register from online sources. The Division of Administrative Rules website provides no disclaimer or other descriptive information addressing the official or unofficial status of the Web publication. Links to issues of the administrative register organized by year are referred to as the official archives, but in one instance only.
Print official reporters for the New York Court of Appeals and the intermediate Supreme Court, Appellate Division opinions are the New York Reports and the Appellate Division Reports, respectively. Due to a recent agreement between the New York State Law Reporting Bureau and Thomson West, the print official publisher, opinions deemed as official are available on the Law Reporting Bureau website. The “New York Official Reports Service” generated by Thomson West provides free public access to all opinions published in the state’s print official reporters, from January 2000 to the latest advance sheets. Annotations found in the print version, however, are not available on the Web. The “New York Slip Opinion Service” on the Law Reporting Bureau website provides slip opinions for New York’s high and intermediate appellate courts and include opinions selected for online publication only. The slip opinion service appears to be considered unofficial. The Court of Appeals and the Appellate Division, 3rd and 4th Departments, separately publish their own slip opinions on the Web. None of the opinions available online are authenticated. There are no certificates or other markings ensuring authenticity of the text.

Authenticity and integrity of electronically signed documents is an issue of concern to the New York State Office for Technology, which revised its Electronic Signatures and Records Act (ESRA) Guidelines (NYS Best Practice Guideline No. G04-001) in 2004 to conform to the newly amended New York Electronic Signatures and Records Act (now codified at N.Y. STATE TECH. LAW §§ 301-309) and related regulations (N.Y. COMP. CODES R. & REGS. tit. 9, §§ 540.1 to .6). The Office for Technology guidelines (available at http://www.oft.state.ny.us/esra/Guidelines_files/files/ESRA-Best_Practice_Guideline-05-25-2004.pdf) do not directly address the authentication of online legal resources, but represent an established framework to implement appropriate technologies.
North Carolina

by Marcia Baker, Wake Forest University School of Law

North Carolina online legal resources are not official.
The state’s statutes, session laws, administrative code, administrative register, and court opinions are published in official print versions. All of their online counterparts have explicit disclaimers as to official status, given on their website or on the documents themselves. The disclaimers for the court opinions, as well as the North Carolina Register and the North Carolina Administrative Code, reference the print official publications, but the disclaimer for the statutes does not.

North Carolina is not addressing the authentication of online legal resources.
One reason the state has not yet addressed these issues is that authentication is perceived as an additional step. Collecting the documents that require authentication is primary.

The North Carolina General Statutes (current as of the last concluded session) and the state session laws (1983-84–current session, for public acts) are freely available on the North Carolina General Assembly website. Both the general disclaimer for the website and the disclaimer for the statutes page contain a separate “not official” subsection that discusses the unofficial status of the resources. In addition, the General Assembly disclaimer states that “some information on our pages is provisional” (bolded in original) or subject to revision. The text for online legislative resources comes from the same General Assembly Research and Drafting System (GARDS) used to generate the text for the state’s print official publications, as well as materials prepared for the legislature’s internal use. The print official publications are the North Carolina General Statutes Annotated, published by LexisNexis, and the Session Laws of North Carolina. The text for online legislative resources is updated as soon as the text for the print resources is released.

North Carolina Supreme Court opinions (1997–current) and Court of Appeals opinions (1996–current) are also freely available on the Web. Each opinion on the court system
website displays with a header stating that in case of discrepancies between the printed and the online version, the hard copy version will be “considered authoritative.” The disclaimer refers the reader to the print official publications, the North Carolina Reports and the North Carolina Court of Appeals Reports. Any alterations or corrections introduced in the editorial phase of production result in the corrected version being displayed online, and previous versions are not retained on the Web.

The North Carolina Administrative Code is freely available online. The online version does not state that it is the current version of the Administrative Code except that the “Information Page” for the website indicates that it is updated weekly. The Administrative Code disclaimer expresses no warranties about the online version and asserts that it does not replace the official print North Carolina Administrative Code, which is published by Thompson West.

The North Carolina Register (June 1, 2001–current) is also freely available online and displayed chronologically by issue. There is no disclaimer regarding the online register text, which is a PDF copy of the print version of the register. The North Carolina Codifier of Rules, who heads the Office of Administrative Hearings, Rules Division, is responsible for publishing on the Web both the North Carolina Administrative Code and the North Carolina Register. No superseded versions of the administrative code are online because the expenditure for a rule-tracking system that would allow this has not been funded by the legislature. The Office of Administrative Hearings continues to seek funding to enhance the website and increase the scope of documents represented there.

The responsibility for public records management is assigned to the Department of Cultural Resources, which encompasses the State Library and the Office of Archives and History. N.C. GEN. STAT. § 132-8.1. Between 2002–2005 the State Library, in collaboration with other groups, participated in “The Access to State Government Information Initiative, a three-year project funded by a Library Services and Technology Act Statewide Leadership Grant. The purpose of the initiative was to study methods of identifying, collecting, preserving and continuing access to state government information. Accomplishments are described in the Access to State Government Information Initiative, Project Overview (at http://statelibrary.dcr.state.nc.us/digidocs/AgencyIntroFactSheets11-8-04.pdf). Findings, conclusions, and recommendations from the completed research are reported in a white paper titled North Carolina State Government Information: Realities and Possibilities (at http://statelibrary.dcr.state.nc.us/digidocs/Workgroup/WhitePaper.pdf).

A second two-year pilot project to harvest state digital documents into a “dark” (closed-access) archive using a webcrawler to document website changes has also been concluded. Since the initial project funding ended in 2005, funding for staff and continued development and testing of digital management systems has been available only through one-year grants and annual applications. Thus North Carolina is addressing preservation and authentication, but the process is slow. Political and bureaucratic roadblocks are substantial, as is competition for funding.
North Dakota

by Ted Smith, North Dakota Supreme Court

The online versions of North Dakota’s administrative code, statutes, session laws and high court opinions are not official. The legislative branch website contains a general disclaimer that covers administrative rules and legislative materials examined here. According to the disclaimer: “Although we try to keep information on the Legislative Branch web site up to date and accurate, we do not warrant the accuracy, reliability, or timeliness of any information available from this site . . . Any person that relies on any information obtained from this site does so at that person’s own risk.” The absence of any representation about the official or unofficial character of the website’s materials and its discussion of potential differences between established print versions and the Web lead users to conclude the Web versions are provided for user convenience. They may even provide an advance notice of updates to the law, though without assurances that they are research-reliable.

For example, pages introducing the online equivalent to the official print North Dakota Administrative Code indicate: “The Administrative Code was initially published July 1, 1978. The loose-leaf version is updated with monthly supplements. The Internet version
North Dakota does not have an administrative register modeled on the Federal Register. The North Dakota Legislative Council compiles notices of proposed rulemaking that are filed by state administrative agencies. It makes print copies of such notices available by subscription. There is no online equivalent to this service. The Legislative Council website provides a short range schedule of administrative agency rulemaking hearings. This is not considered an official source for notice of such hearings.

The website for the North Dakota Century Code indicates that the Web version of the statutes “is derived from the bill drafting data base used by the North Dakota Legislative Council.” It compares the website to the print version, without making clear that the print is official or suggesting that one or the other version is authoritative. The Web version “may vary in some respects from that text of the Code as contained in the published version available from LexisNexis.” Session laws, compiled for each biennial session starting with the 54th in 1995, are similarly presented on the Legislative Council website. These are not considered official. Note that the state’s session laws are arranged and numbered according to a defined scheme of subject matter categories tracking the organization of the statutory code.

North Dakota Supreme Court opinions on the Web provide no guidance concerning which sources of case law are official and authoritative. The same website is the source for Court of Appeals opinions. The latter court is not strictly an intermediate appellate court, inasmuch as the Supreme Court assigns to the Court of Appeals matters appealed to the high court. As indicated on the Supreme Court site, the high court “provides this website on the Internet for the benefit of lawyers, judges, law students, and other members of the public. . . . The Supreme Court site contains approximately 7,400 of its opinions and the equivalent of 59,000 typewritten pages. New opinions are posted the day they are filed with the Clerk of the Supreme Court.” Coverage begins in 1969 and the search engine for the repository assists in making the site suitable for certain serious research.

Note that since January 1, 1997, the Supreme Court has been using a media-neutral case citation system. This means that “each opinion is assigned a North Dakota citation as it is filed (for example, the 23rd case filed in 1997 would be given the number 1997 ND 23).” Paragraphs in opinions are numbered for purposes of pinpoint citation. This implements North Dakota Rules of Court Rule 11.6, which provides:

When available, initial citations must include the volume and initial page number of the North Western Reporter in which the opinion is published. The initial citation of any published opinion of the Supreme Court or Court of Appeals released on or after January 1, 1997, contained in a brief, memorandum, or other document filed with any trial or appellate court and the citation in the table of cases in a brief must also include a reference to
the calendar year in which the decision was filed, followed by the designation of “ND” for the Supreme Court or “ND App” for the Court of Appeals followed by a sequential number assigned by the Clerk of the Supreme Court.

In addition to this feature of the court system that seemingly gives greater weight to online resources, the Supreme Court accepts documents filed electronically by e-mail. Electronic inquiries of the Clerk of the Supreme Court are welcomed.
Ohio online legal resources are not official. However, in general, they appear to invite users to regard them as such. The state does not specifically certify or authenticate its Web resources, other than by presenting them on “official” government websites. The online Register of Ohio is an important example; it is not expressly official but possesses certain official characteristics. Created by statute, it is the sole source of its kind where “members of the public may readily resort for notice of and information about rule-making processes.” Ohio Rev. Code Ann. § 103.051. The online Ohio Revised Code, while also neither expressly official or unofficial, has a print official equivalent. In contrast, the online Laws of Ohio directly states it is not official; the title has a print official version. The Ohio Supreme Court does not specifically certify or authenticate its Web-posted opinions but, in certain respects, its Rules for Reporting of Opinions imply that the opinions have official status. The rules require posting of final opinions on the Supreme Court website and otherwise reporting them in a way fundamentally parallel to print official publication.

Ohio is not addressing the authentication of online legal resources. Ohio courts and administrative agencies have in recent years fought off several legislative attempts to protect commercial database providers and curtail or eliminate Web-based access to information provided by the court system and the state. Chief Justice Thomas Moyer has stated in speeches and has shown by administrative actions the Supreme Court’s intent to transition to freely accessible Web-based systems. Historically, Ohio has been in the forefront of electronic legal research, being the geographic home of LEXIS, founded through efforts of the Ohio State Bar Association. The state was a pioneer and early adopter of the Casemaker™ online legal research library. The Ohio General Assembly and its Legislative Service Commission appear to be less
In early August 2006, the General Assembly and its Legislative Service Commission issued a Request for Proposal to develop a website for the Ohio Revised Code and the Ohio Administrative Code. That request did not include specifications for authentication. Anderson Publishing, a brand of the LexisNexis publishing group, is responsible for Ohio’s existing online statutory compilation and administrative code. Anderson Publishing and LexisNexis have had a long-standing relationship with the state. The latter publishes the print unofficial Page’s Ohio Revised Code Annotated, whose text, as reflected on the title page for the online statutory compilation, is the basis for the Web resource.

Note that Ohio has no official statutory compilation. However, the front matter for each volume of Page’s Ohio Revised Code Annotated has a message from Ohio’s Secretary of State indicating that copies of the enrolled acts were provided to the publisher. The same message appears in the front matter of the alternative print unofficial Baldwin’s Ohio Revised Code Annotated, published by Thomson West.

It appears simply to be a matter of time before the Ohio Supreme Court takes the position that materials on its website are official. The court now publishes a variety of reports electronically, with limited hard copy distribution. The Reporter of Decisions posts on the Web all Supreme Court, Court of Appeals, and other court opinions, as well as case announcements and court administrative actions, in PDF format, with each decision and document given its own unique Web citation.

Pursuant to the Ohio Rules of Court, Rules for Reporting of Opinions, all Supreme Court opinions and Court of Appeals opinions are posted permanently on the Supreme Court website. The Court of Appeals opinions are so posted, regardless of whether or not they are designated for publication in the official print Ohio Appellate Reports. Ohio Sup. Ct. R. Rep. Ops. 1(A) & 3(B). Newly issued slip opinions added to the database of opinions maintained on the Supreme Court website bear the statement: “This opinion is subject to further editing. It has been posted to the website . . . as a manuscript document in the interest of disseminating it to the public on an expedited basis. This document will be replaced with the final version when the final version becomes available.” The slip opinion indicates, with a citation in blank, where the opinion will be reported (if designated for print official publication), and it gives the opinion’s unique Web citation. The slip opinion is also given special paragraph numbering and footnote lettering. After an opinion is officially reported, the updated document no longer has a notice as to further editing and the full print citation is given.

Significantly, Rule 11 of the Ohio Rules of Court, Rules for Reporting of Opinions provides that the print official reporters “control as to the accuracy over the same opinions as . . . posted to the Supreme Court website or other electronic database.” The
Ohio Reporter of Decisions recently renewed the contract for print official publication of the reporters. Nevertheless, with the sophisticated system now in place, designating the online opinions as official would not be a very large jump.

The online version of the Ohio Administrative Code has a situation similar to the online Ohio Revised Code. The online is unofficial, but the print Ohio Administrative Code, described as the “Approved Edition,” is considered official. It is published by Thompson West.

The online Register of Ohio, which has no print equivalent, was created by statute, as part of a substantial revision to Ohio administrative rule-making procedures. It “is an electronic publication that functions as a gazette to which members of the public may readily resort for notice of and information about rule-making processes.” OHIO REV. CODE ANN. § 103.051. Although it is not deemed as official, the Register of Ohio has important official characteristics. If its official status were clarified, it would be a logical starting point for establishing an online official administrative code.

Ohio has an effective system for online public access to legal resources, although it appears the state is reluctant to give the resources an actual official tag. The first step in that direction will more than likely come from the Ohio Supreme Court. For the General Assembly, designating an official electronic version of its session laws would be reasonable starting point. Publication of the print official session laws usually lags several years, making the move to an online official version a substantial public service. No legislative activity at this time would appear to contribute to efforts to designate online legal resources as official. If the proper safeguards were used to prevent tampering and data corruption – that is, if appropriate authentication measures were established – the cost savings alone from such a move would be considerable.

Errata and Additional Information

Ralph W. Preston, the Reporter of Decisions for the Supreme Court of Ohio, and the court's network and technology resources department, have quietly put in place encryption-based authentication procedures for all opinions, which are available as PDF files, searchable in the database on the Supreme Court's website. Preston, who participated in AALL’s National Summit on Authentication of Digital Legal Information, April 20-21, 2007, is currently co-chair of the Electronic Publishing Committee of the Association of Reporters of Judicial Decisions.

Ohio’s approach to the status and authentication of judicial decisions on the Web has been very deliberate, although the Supreme Court’s use of authentication procedures is not documented on its website. The opinions on the Web are unofficial. However, they are conformed exactly to the corresponding print versions, which are considered to be the official source. The formatting of the online judicial decisions, which includes unique Web citation information and numbering of paragraphs, enhances users’ ability to cite the material in accord with the state’s citation system. Where an opinion is also published in
the state’s print *official* reporter or the Thomson West unofficial regional reporter, the online version includes citation information for locating the text in those sources.

Pursuant to applicable court rules, selected Court of Appeals and other opinions are published in the *official* print *Ohio Appellate Reports* and the *Ohio Miscellaneous Reports*. According to Rule 9(C) of the *Ohio Rules of Court, Rules for Reporting of Opinions*:

Should the Supreme Court cease publication of the Ohio Appellate Reports and the Ohio Miscellaneous Reports in a paper medium (which event shall not occur prior to July 1, 2006), the Supreme Court website may be designated the Ohio Official Reports for those opinions.

The date limitation mentioned in the rule corresponded to provisions of the state’s contract then in effect with its *official* publisher, Thomson West. The contract has now been renewed through mid-2011.

Thus, the Ohio court rules potentially still could form the basis for designating certain online judicial decisions as *official*. Using authentication procedures positions the state for such a move. Additional steps, including a state official’s certification of the online texts as conforming to express standards for completeness and accuracy, might be essential to ensure *official, authenticated* opinions as contemplated by the *State-by-State Report on Authentication of Online Legal Resources*.

The Reporter of Decisions has described to the editors of this report the authentication procedures used by the Supreme Court. Ralph W. Preston writes:

Each new opinion to be added to the database published on the Supreme Court website comes to the Reporter of Decisions either as a MS Word or a WordPerfect document. Those in WordPerfect format are converted to MS Word prior to processing. Paragraph numbering and the opinion’s Web citation information are added to the document, and the opinion is then run through a software routine developed by the court's network and technology resources department. The software routine creates a version of the opinion in PDF format, removes any metadata and unviewable information, adds the Supreme Court's digital signature to the document's metadata (encoded in the metadata using a hash function), and places the document in a “queue,” ready to be released to the Web server. At such time as the document is to be made accessible to the public, it is simply released from the “queue” and is then automatically moved by the software to the web server where it becomes visible in the index and retrievable from the Web server.

The Reporter of Decisions notes that “the software routine also adds the original document in Word format to a separate server, so two identical versions of each document are maintained.” He indicates, “If for any reason a change would have to be
made to a posted opinion, the necessary change would be made to the stored Word document, which would then be sent through the software routine again, thereby creating a new PDF version which would then replace the original PDF version on the Web server.”

Prior to 2004, opinions had been published on the Supreme Court's website as MS Word documents without authentication. “It was discovered in early 2004 that certain information thought to be non-viewable (hidden comments, tracked changes, etc.) could actually be seen when a document was opened by a much older version of a word processing program.” Preston writes, “The Supreme Court decided that the correct approach going forward would be to make opinions available electronically only in PDF format and to digitally sign all opinions for authenticity purposes.” Thus, in mid-2004, “all 30,000 previously-posted opinions were converted to PDF format, verified that accuracy had been maintained during the conversion, digitally signed, and reposted to the court's Web page.” Ohio now has approximately 50,000 opinions available on the Web.

The Supreme Court website currently gives an “as is” disclaimer. Each court decision opened in Adobe Reader (version 7.0 or higher) has a tab, either labeled "Signatures" or identified by an icon representing a pen and paper, incorporated into the document’s frame. Under that tab, notations indicating that the document is “signed by the Supreme Court” are evidence of the court’s use of authentication procedures.

Ohio judicial decisions are the only online legal resources known to utilize authentication procedures. The approach therefore represents important components of a model as contemplated by this report. Use of authentication procedures is not necessarily costly or cumbersome. Ohio has demonstrated that encryption-based authentication avoids many problems encountered by publicly available legal resources on the Web.

June 4, 2007
Oklahoma online legal resources are not official.
Oklahoma statutes, session laws, administrative rules publications, and court opinions are published in print official versions. Separate research gateways involving some duplication of legal resources have evolved and the state is generally oriented to supporting use of online resources for legal research. Those resources, however, are not offered as a substitute for established print official titles.

Oklahoma is not addressing the authentication of online legal resources.
Recent policies concerning the protection of the state’s “information assets” generally do not address the integrity of government Web publications from the perspective of long-term, archival preservation. The policies primarily target security of systems and risks from external harms.

Oklahoma has an “official Internet gateway” (OK.gov) to its information resources. However, the Oklahoma court system maintains a distinct Electronic Law Library for Oklahoma and the Oklahoma Attorney General has an independent Oklahoma Public Legal Research System. The state may be unusual in that it has duplicate repositories for several of its online legal resources – namely, for statutes, session laws and court opinions.

The Oklahoma Office of State Finance, Information Services Division, is responsible for the state’s portal system and other computer resources. Its recently updated State of Oklahoma, Information Security Policy, Procedures, Guidelines contains a “minimum Information Security Policy” applicable to all state agencies. The document’s “primary focus is on the confidentiality and integrity of the information required for delivering information throughout the State.” It states that “[t]he objective . . . is to protect the information from inadvertent or intentional damage as well as unauthorized disclosure or
use.” The approach touches on authentication but not in connection with preservation and research reliability issues. Authentication is not employed as a tool to validate official status, since that status is not designated for the state’s primary legal resources.

The Electronic Law Library for Oklahoma – also known as OSCN, The Oklahoma State Courts Network – is an unofficial source for opinions of the Oklahoma Supreme Court, Court of Criminal Appeals, and Court of Civil Appeals. The Supreme Court and Court of Criminal Appeals are courts of last resort. Opinions available through OSCN represent the entire publication history for those courts, going back to 1890 in the case of the Supreme Court. The site also provides unofficial text of the Oklahoma Statutes as part of the “Oklahoma Statutes Citationized” tool, which shows what sources of law have cited particular statutes. The full text of Oklahoma session laws, by chapter number, covering the current session and retrospectively to 1998 are also provided. According to OSCN’s disclaimer, “in those rare instances where there is a discrepancy between the version of a document published here, and the official version of that document, the official version shall govern.”

The Oklahoma Attorney General’s Oklahoma Public Legal Research System is by its own description “designed to provide . . . access to statutes, cases and other law-related information.” It is an alternative repository for high and intermediate appellate court opinions. It was once an active alternative source for Oklahoma statutes but now simply links to the Oklahoma legislature website. According to the disclaimer on the Attorney General’s site, official versions of the resources are available from specified commercial publishers.

The Oklahoma legislature website provides an unofficial version of the Oklahoma Statutes. The bill tracking system also provides unofficial full text of enrolled legislation, although generating a chronological list by chapter number is not straightforward. Legislative documents go back to 1993. The site’s disclaimer states that the resources “are not intended to replace any official source” and are “presented ‘as is’ without warranties” regarding the content. Users are advised to “refer to the printed version of the appropriate official publication.” Note that Thompson West is publisher of the print official version of the Oklahoma Statutes. Okla. Stat. tit. 75, § 171.

The Oklahoma Secretary of State maintains a searchable repository of Oklahoma “Enrolled Legislation,” providing the full text of measures passed by the House and Senate. Users can retrieve the text of such legislation, by chapter number, from sessions starting in 2001 to the current year. The disclaimer advises users to “consult the printed bills for official purposes.”

The Oklahoma Secretary of State, Office of Administrative Rules, is responsible for publishing The Oklahoma Administrative Code and The Oklahoma Administrative Register. Okla. Stat. tit. 75, §§ 250.9, 255, & 256. The introduction to the “Online Oklahoma Administrative Code and Register” Web pages indicates that “[t]he online OAC is unofficial.” The print and CD-ROM versions of that title are official. The
introduction further explains that “[t]he online Register is unofficial and is updated after each official issue is published.” The print and CD-ROM are official.
Oregon

by Cathryn Bowie, State of Oregon Law Library

Oregon online legal resources are not official.
The state’s online administrative rules publications, statutes, session laws, and court opinions have disclaimers that clearly state that the resources are unofficial and identify the official print titles. Online resources are made available “as a public service” or are “provided for convenience of reference and enhanced access.”

Oregon is not addressing the authentication of online legal resources.
Authentication methods involving technology are not being considered at this time. Disclaimers for some of the resources state that the online text has not been reviewed for accuracy or legal sufficiency. In the case of statutes, state law prescribes a certification procedure that has been applied to print versions only.

Oregon’s online legal resources typically identify the print titles that represent official versions for purposes of notice and receipt by the state’s courts. The disclaimer on the Legislative Assembly’s website states that “[i]nformation . . . is made available on the Internet as a public service. It does not constitute or represent an official record of the Oregon Legislature. The information or opinions contained at this location and at any of the sites linked from this location have not been reviewed for accuracy or legal sufficiency by the Legislative Administration Committee or the Office of Legislative Counsel. The legislature, its offices, and employees make no warranty as to the accuracy, reliability, completeness or timeliness of any information [on] the Oregon Legislature’s web site and are not responsible for any errors or omissions or for results obtained from the use or misuse of this information.” The pages dedicated to the online statutes further state that “[t]he text appearing in this database was produced from material provided by the Legislative Counsel Committee of the Oregon Legislative Assembly. The official record copy is the printed published copy of the Oregon Revised Statutes. The text in the database is not the official text of Oregon law.”
In the case of the *Oregon Revised Statutes*, the Legislative Counsel, who serves under the Legislative Assembly’s Legislative Counsel Committee, is responsible for certifying that he or she “has compared each section” of new statutes within any new edition, part or supplement “with the original section in the enrolled bill” and that the new text has been correctly copied. Or. Rev. Stat. § 171.285(1). The text so certified “shall constitute prima facie evidence of the law in all courts and proceedings . . . No compilation of the statute laws of Oregon not bearing such certificate” or that of the Revisor of Statutes “shall be admissible as evidence of the law in any court or proceeding.” Or. Rev. Stat. § 171.285(2). Only the print is admissible as an authorized publication.

The session laws follow a similar pattern. The Legislative Counsel is responsible for the *official* session laws. Or. Rev. Stat. §§ 171.236(1) and 171.255. Only the print is admissible.

The online Oregon Administrative Rules compilation states that “[t]he online version of the OAR is provided for convenience of reference and enhanced access. The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division . . . Any discrepancies with the published version are satisfied in favor of the Administrative Order.” The online Oregon Bulletin makes a nearly identical statement.

The Oregon Courts, Oregon Judicial Department website is a repository for opinions of the state’s Supreme Court, Tax Court, and Court of Appeals. The Oregon Tax Court has exclusive jurisdiction to hear tax appeals under state laws. The disclaimer for the repository states “[t]he slip opinions published at this website are subject to copy correction prior to preliminary publication in the Advance Sheets and final publication in the bound volumes of the Oregon Reports.” It goes on to point out that “[t]he Oregon Appellate Courts Advance Sheets and Bound Volumes are published by the Publications Section of the Office of the State Court Administrator under the direction of the Oregon Supreme Court and are the official published decisions of the Oregon Supreme Court, Court of Appeals and Tax Court [citing Or. Rev. Stat. § 2.150].”

Note that the online publication of the slip opinions of the Supreme Court, Tax Court, and Court of Appeals is organized by court and by date. The opinions are arranged according to the bound volume and print advance sheets issue number where the opinion appears. Coverage on the website runs from 1998 to date.
Pennsylvania

by A. Hays Butler, Rutgers Law School – Camden

Pennsylvania online legal resources are not official. The online session laws, court decisions, and administrative rules publications, even though maintained by the government or companies hired by the government, cannot be considered official. The only available online statutory database is maintained as the personal effort of a lower court justice.

Pennsylvania is not addressing the authentication of online legal resources. None of the online legal resources investigated here has been authenticated. There is no evidence of any state plan to do so.

Pennsylvania does not certify as official and authentic its online versions of the state session laws, statutes, administrative rules publications, and court opinions.

Pennsylvania’s official effort to consolidate its statutes began in 1970 and is ongoing. See 1 PA. CONS. STAT. ANN. §§ 301-306. The official print Pennsylvania Consolidated Statutes is a result of that effort. See id. § 503. Purdon’s Pennsylvania Statutes Annotated, which publishes new volumes of consolidated titles as Purdon’s Pennsylvania Consolidated Statutes Annotated, is a print unofficial version available from West Publishing (Thomson West). There is no official version of the statutes on the Web. A lower court justice, acting as a private attorney, hosts an unofficial version on a personal website (at http://members.aol.com/StatutesPA/Index.html#).

The Laws of Pennsylvania is the official version of the state’s session laws. See PA. CONS. STAT. ANN. § 1103. The title has been so recognized since the early nineteenth century. In 2001, the Legislative Reference Bureau began a long-term digitization, preservation, and public access project putting the state’s session laws on the Web (at http://palrb.us). Over time, what session laws are available on the site has varied and grown. At the time of this writing, the Statutes at Large collection covering 1682 to 1700 has been completed and older session laws up to 1809 are available. There is then a gap until about 1970. The session laws from 1970 to the present appear to be complete.
The Legislative Reference Bureau session laws website does not indicate whether it is official. No notice directs users to print official versions. A separate disclaimer “expressly denies any warranty of the accuracy, reliability or timeliness of any information available on [the] Web site” and states that the Legislative Reference Bureau “shall not be held liable for any losses caused by reliance upon the accuracy, reliability or timeliness of the information.” Elsewhere the site represents that “[e]ach collection [of session laws] derives from original sources or verified copies and was compiled and published under authority of the General Assembly.” Relevant to authentication issues, digitized materials were created using image TIFF files that were then converted to PDF files for presentation on the Web. A technical account of the project is given in the “Project Narrative” (at http://palrb.us/about/narrative.asp). The authentication of the text in its digital medium, as preserved over time, is not specifically addressed.

The Pennsylvania State Reports published by Thomson West is the print official reporter for the state’s appellate cases. Opinions from the Supreme Court of Pennsylvania as well as other courts in the state system are available on the Pennsylvania Unified Judicial System website (at http://www.aopc.org/index/opinions/indexopinions.asp). This site does not state that it is official; nor is there any disclaimer. It appears the only official source of opinions is the print official reporter.

The Pennsylvania Bulletin and the Pennsylvania Code are the state’s print official administrative register and administrative code, respectively. See 45 Pa. Cons. Stat. Ann. §901. The bulletin is distributed weekly and the code is a loose-leaf publication regularly updated with replacement pages. Fry Communications, which publishes both resources, also has contracts with the Legislative Reference Bureau to produce online versions (at http://www.pabulletin.com/ and http://www.pacode.com, respectively). The websites for both resources give the following disclaimer:

> Although all attempts are made to provide accurate, current and reliable information, you should recognize the possibility errors may exist in the information available on this Web site. The Legislative Reference Bureau and Fry Communications, Inc. . . . expressly deny any warranty of the accuracy, reliability or timeliness of any information made available on this Web site, and shall not be held liable for any losses caused by reliance upon the accuracy, reliability or timeliness of the information. Any person who relies upon information made available on this Web site does so at the person’s own risk.

Except for the reference to Fry Communications, this language echoes the full disclaimer of the Legislative Reference Bureau session laws website. Descriptive information on the administrative bulletin and administrative code websites goes on to state: “The official version of the [Pennsylvania Bulletin] [Pennsylvania Code] is published by Fry Communications, Inc.” This further statement helps clarify that Pennsylvania’s online administrative rules publications are not official.
Strong support for this conclusion is found in the introductory material for the administrative code. The introduction shows that the exclusive official status of the print version is based on the Pennsylvania Code’s special role as reliable evidence of the law it contains. The introduction states:

The Pennsylvania Code is an official publication of the Commonwealth of Pennsylvania. . . .

Use as Evidence. No administrative regulation or change therein is valid for any purpose until filed by the Legislative Reference Bureau as required by [specified statutes]. No filed document required to be published in the Code (except a rule of court) is valid [against anyone without actual knowledge of it] until the supplement to the Code containing such a document has been deposited in the United States mail for distribution[.]

[45 PA. CONS. STAT. ANN. § 903.]

[Among other specified evidentiary functions for the publication] . . . Courts are required to take judicial notice of the contents of the Code[.]

[45 PA. CONS. STAT. ANN. § 506 and 507.]

Form. The Code is printed in loose-leaf form so that supplementary pages may be inserted in proper sequence into the Code, which may thus be kept up to date.

This introductory material includes a detailed discussion of evidentiary presumptions raised by the publication of a document in the code. See 45 PA. CONS. STAT. ANN. § 905. It identifies regulations and other materials published in the administrative code that, as matter of law, are the only valid and enforceable versions. See 45 PA. CONS. STAT. ANN. § 901.

Finally, each title or part of the Pennsylvania Code, and all its permanent supplements, require a certification by the Director of the Legislative Reference Bureau. See 45 PA. CONS. STAT. ANN. § 902. The director must endorse the publication as properly including contents required by statute, including materials that must be filed for public inspection prior to the closing date for a permanent supplement. The certificate is conclusive evidence of such compliance. Id. No such certificates are contained in the Web version of the administrative code.

Although Pennsylvania’s online legal resources do not in every case provide unequivocal statements as to their official or unofficial status, there is more than enough evidence to conclude that they are not official. Furthermore, none of the sources investigated here have been certified as authentic, and it does not appear the state has any plan to implement computer-based authentication methods.
Rhode Island online legal resources are not official.
The state publishes its statutes, session laws, and court opinions in print official format. Although administrative rules and regulations are filed with the Secretary of State “by or through electronic data or machine readable equipment,” this is not considered the official format. Agencies must also submit paper copies of the materials.

Rhode Island is not addressing the authentication of online legal resources.
There is no evidence this is a state concern at this time. The requirement that both print and electronic versions of administrative materials are filed with the Secretary of State is intended as a form of authentication; the electronic version of the rule or regulation is verified against the paper copy. However, technologies ensuring the long-term integrity of digital materials are not being utilized. No certificate or mark conveys to users that any method is being used to authenticate the materials.

At the present time, primary legal source materials are available in electronic format through the Rhode Island General Assembly, Office of the Secretary of State, and Judiciary websites. None of these resources is considered official or authenticated for purposes of certification or cite checking. Although permanent public access is considered an optimum content management strategy and an electronic government ideal, the parameters and requirements needed to implement and execute that goal have yet to be determined.

The General Assembly website, which hosts Rhode Island session laws (1994–current) and the General Laws of Rhode Island statutory compilation, states that although every effort is made to assure accuracy and timeliness, the “information is prepared as an informational service only and should not be relied upon as an official record of any action taken by the General Assembly.” The latest session laws state that they are
“preliminary versions . . . subject to proofreading, review, correction and editing by the State Law Revision Office.”

The Office of the Secretary of State, where state agencies must file copies of their rules and regulations, has a similar disclaimer on its website. The administrative material available there “is for reference purposes only” and “certified copies of the Rules and Regulations are available at the Office of the Secretary of State.” Several years ago, the legislature amended the Administrative Procedures Act (R.I. GEN. LAWS §§ 42-35-1 to -18) to update agency filing requirements for administrative rules and regulations. Act of July 3, 2001, ch. 61, 2001 R.I. Pub. Laws 314. The Secretary of State was permitted to “authorize the filing of rules and regulations by or through electronic data or machine readable equipment” in the form and manner as the secretary may prescribe. As a result, electronic versions of administrative rules and regulations are now filed in a database maintained by the Office of the Secretary of State; they are verified against print copies. A procedure is in place to electronically authenticate officials submitting data. In addition, a public search interface and a regulation tracker notification service is available on the Web.

The website for the Judiciary of Rhode Island hosts the opinions of the Supreme Court and the Superior Court. The latter is the Rhode Island trial-level court; the state does not have an intermediate appellate court. Slip opinions are sent to the webmaster at the Judicial Technology Center, who then loads them on the court system’s website. The opinions are not certified as official, nor are they authenticated. The official version of the Supreme Court’s opinions is published in the Atlantic Reporter and its offshoot the Rhode Island Reporter, both West Publishing (Thomson West) products.

In researching these issues, the author contacted a representative of REX, the Rhode Island eGovernment Exchange, a cooperative project involving the state portal and various state agencies. The project’s Web Data Sharing Committee seeks to evaluate and recommend standards for Web data sharing technologies, including security, and to educate state and municipal webmasters about the technology. Through RSS feeds (which stand for really simple syndication) the committee is attempting to coordinate direct access to one authentic source of data. It is currently exploring means to provide dynamic feeds updating citizens with agenda notices and minutes of various official meetings throughout the state.
South Carolina

by Terrye Conroy, Coleman Karesh Law Library University of South Carolina School of Law

South Carolina online legal resources are not official.
Unlike South Carolina’s print publications, the online versions of its legal resources have not been approved or adopted as official. Disclaimer information applicable to the legislative resources investigated here generally state that the information is provided without warranties regarding accuracy or completeness. None of the resources state they are official; nor do they expressly disclaim that status. The online version of the South Carolina State Register, which is now available by subscription only, retains the exact title of the print official version. Since it became fee-based in 2002, it is published as a PDF copy of the print official version. Absent specific attention to the issue, the online resource easily seems to be official. The online versions of South Carolina court opinions do not state whether they are official or unofficial.

South Carolina is not addressing the authentication of online legal resources.
From information gathered from representatives of the South Carolina General Assembly and the Judicial Department, as well as the South Carolina Department of Archives and History, it appears that the state is considering how such authentication would occur and who would be responsible. South Carolina, however, has no firm plans to implement authentication technologies.

South Carolina’s “Official Web Site” (at http://www.sc.gov) provides links directly to its executive, judicial, and legislative branch websites. The portal’s sidebar “Government” button also links to those websites, as well as resources from every governmental level.

The South Carolina Code of Laws, the state session laws, the South Carolina Code of Regulations, and the South Carolina State Register are represented on the legislature
website (at http://www.scstatehouse.net). Except for the administrative register, which has been available since 2002 by paid subscription only, these legislative resources are not identified by the same titles as their print official counterparts. Moreover, the South Carolina Code of Laws is unannotated and the session laws (1980–current) are, for most years, the text of the enrolled bills as maintained in the legislature’s bill tracking system.

The legislature’s “Website Policies” page gives a disclaimer that identifies the Office of Legislative Printing, Information and Technology Systems (LPITS) as the website producer and states that the “LPITS makes no warranties or representations regarding its accuracy or completeness” and “disclaims any liability for any damages in connection with its use.” Disclaimer language on the search interface for both the South Carolina Code of Laws and the South Carolina Code of Regulations repeats this disclaimer as to accuracy and completeness and adds that users rely on the data at their own risk. None of these resources have been approved or adopted as official or certified as authentic.

The current versions of the South Carolina Code of Laws and the South Carolina Code of Regulations are both linked to directly from the home page of the South Carolina legislature. Pending bills and regulations as well as current acts are accessed using the website’s “Current Legislation” and “Research” tabs. The “Archives” tab provides access to full text versions of South Carolina acts (1980–current). Acts are available in HTML and Word, and pending regulations are in Word. The South Carolina Code of Laws and the South Carolina Code of Regulations are in HTML and Word. None of the resources has a PDF version.

The monthly South Carolina State Register has been available, by paid subscription only, in PDF format since June 30, 2002 (at http://www.scstatehouse.net/cgi-bin/state_register.exe). The “Archives” tab on the South Carolina legislature website provides access to the publication’s earliest issues on the Web (January 22, 1999–June 28, 2002). Issues for each month, published in Word, are free; they are browse-able, but not keyword searchable.

The South Carolina Judicial Department website (at http://www.sccourts.org) provides links to the published and unpublished opinions and orders of the South Carolina Supreme Court and the South Carolina Court of Appeals. It also includes a link to its Judicial Automation Project (at http://www.sccourts.org/judauto/index.cfm), which will eventually include e-filing. State budget cuts, however, have extended the project’s anticipated dates of completion.

Published opinions and orders of the South Carolina Supreme Court (1997–current) and the South Carolina Court of Appeals (1999–current) are available free in HTML format. These may be searched by keyword or browsed by month and year. Also available on the “Opinions and Orders” page of the South Carolina Judicial Department website are the “Sheareouse Advance Sheets,” so named for the Supreme Court’s Clerk of Court. These consist of South Carolina Supreme Court and Court of Appeals opinions (November 25, 2000–current) in PDF format; they are described as “identical to the paper version.”
advance sheets are browse-able by year and month, but not searchable. The website does not include a disclaimer, but the opinions are not designated as official.
South Dakota

by Rick Goheen, Schoenecker Law Library, University of St. Thomas (Minnesota)

South Dakota online legal resources are not official.
There are print official versions of all the online legal resources investigated here, but only the online statutory code has characteristics suggesting it is regarded as official. Beginning in 2006, the opinions of the state Supreme Court carry disclaimer information concerning their status.

South Dakota is not addressing the authentication of online legal resources.
It does not appear the state is taking steps to begin authenticating its Web legal resources.

South Dakota has a typical assortment of online legal resources on its state website (at http://www.state.sd.us/). Online versions of the current administrative code, the administrative register (1998–current), the current statutory code, session laws (1997–current), and high court opinions (1996–current) are relatively easy to find. But none of the online versions are official or certified as authentic.

At the time of this writing, the index page for the online South Dakota Codified Laws gives the following notice: “Statutes are current as of 7/1/2006 This includes all changes made during the 2006 Legislative Session.” On the bottom of the index page and the Web page for each individual statutory section, this notice appears:

This page is maintained by the Legislative Research Council. It contains material authorized for publication that is copyrighted by the state of South Dakota. Except as authorized by federal copyright law, no person may print or distribute copyrighted material without the express authorization of the South Dakota Code Commission.

Since the material is copyrighted, the statutes are regarded as unique or distinctive text official enough to protect. But the South Dakota Code Commission doesn’t state that the statutes are official. Even South Dakota’s own administrative agencies need the
commission’s permission to copy and redistribute statutes, as is sometimes necessary in connection with promulgating and publishing rules administrative rules. The Legislative Research Council’s Guide to Form and Style for Administrative Rules of South Dakota (at http://legis.state.sd.us/rules/RulesManual.pdf) advises agencies to obtain the printingmaster for new rules from their material on the Web. Id. at 17. Agencies therefore start with text from the online resource. No other source of rules is mentioned. Given that the state government already treats its online rules as official for internal use, it would only be one small step further to designate them as official for public use as well.

Online opinions of the state courts are not official. The earliest South Dakota Supreme Court opinions (1996–2005) made available on the Web were published in HTML, with no disclaimer information. As of January 2006, the opinions are published in PDF and carry a notice in red type: “These opinions are subject to formal revision before official publication in the North Western Reporter.” This is a welcome addition, and an important step in the right direction.
Tennessee

by Sibyl Marshall, University of Tennessee College of Law, Joel A. Katz Law Library

Three of Tennessee’s online legal resources are official. Two of them are expressly so, as stated on their website. The Tennessee Administrative Register (2004–current) and the Official Compilation Rules and Regulations of the State of Tennessee are both available only electronically and are designated as official. Tennessee’s session laws (1997–current) are available both on the Web and in print. Descriptive information for the online version excerpts the statute that would authorize sole publication of legislative acts on the Internet and thus provides a basis for concluding the resource is official. The online versions of Tennessee’s court opinions and statutory code are not official and need clearer indication as to their status.

Tennessee is not addressing the authentication of online legal resources. While this has been considered by librarians at the Tennessee State Library and Archive, the issue does not appear to be something that is being actively addressed by the Department of State’s Division of Publications or the Office of the Attorney General, which ordinarily would be responsible for such matters.

Tennessee has done an excellent job in making its documents available electronically. Tennessee’s administrative code, administrative register, session laws, and court opinions are all available on the Web directly from the state government. These online resources are updated frequently, and of those four categories of publications, only the court opinions are not official. The legislature website hosts an unofficial version of the Tennessee Code, without annotations, maintained by LexisNexis.

Improvements are needed in some areas. Better, clearer information as to whether legal resources are official should be displayed their website. A disclaimer for the Administrative Office of the Courts website (at http://www.tncourts.gov), which covers Tennessee court opinions, states that “[i]nformation on this site is believed to be accurate,
but is not guaranteed.” No information is given about the official print version of the court opinions. Similarly, users of the unofficial version of the Tennessee Code are not told that the resource is not the official code and should not be relied upon or cited. Fortunately, except for the session laws, the online official resources directly state that they are official. The unofficial resources tend to be silent about their unofficial status. Tennessee’s administrative code, administrative register, and session laws are all available in online official versions. The administrative code and register no longer have print official versions, and the slip laws that were previously bound into session laws are now only available online. The bound volumes of session laws continue to be printed and distributed. As information about the status of the online session laws, the website gives an excerpt from the statutory authority for their publication, TENN. CODE ANN. § 12-6-116. The excerpted statute states that the Secretary of State is required “to prepare and distribute the printed acts of the General Assembly.” That duty is fulfilled “by publishing the text of the public acts in electronic form by use of the Internet.”

Descriptive language on the website for the Tennessee Administrative Register needs some attention. The site indicates that the register “is an official publication of the Tennessee Department of State” and then goes on to state: “This publication is available by subscription to interested parties for an annual fee. The current issue of the T.A.R., as well as an archive of previous editions, is available online in Portable Document Format.” The language is out of date and confusing, since the print version of the Tennessee Administrative Register ceased in 2004.

The website of Official Compilation Rules and Regulations of the State of Tennessee states that “the following rules and regulations are the current and official rules and regulations presented as the official compilation.” New rules and amendments are easily accessible to researchers, both through a link to “recently effective rules” and an RSS feed delivering information about rules changes. One drawback to the online publication of the administrative code is that it cannot be searched as a separate database and there is no index. Access is through links in its table of contents or through a search engine that covers the entire Secretary of State website, often leading to other content.

After Tennessee resolves issues related to the official status of its online legal resources, it would then be well-positioned to address concerns regarding authentication and other means to ensure the long-term preservation of reliable legal sources on the Web.
Three Texas online legal resources have certain official characteristics, based on statute, but are not commonly regarded as official. The resources themselves give no descriptive information about their status or official characteristics.

The state’s administrative code and administrative register are prima facie evidence of the text of the administrative rules they contain. See TEX. GOV’T CODE ANN. §§ 2002.054 & 2002.022(a) (evidentiary value of code and register, respectively). Subsequent law directed the Secretary of State to make the administrative code and administrative register available online. See TEX. GOV’T CODE ANN. §§ 2002.057(a) & 2002.0151(a)(1). The Secretary of State approves the print Texas Administrative Code published by Thomson West, which is considered authoritative but not strictly official, since rules as officially filed are controlling. As for session laws, the Secretary of State obtains the “bills that have become law” (TEX. GOV’T CODE ANN. § 405.014) and is charged to make them available (see TEX. GOV’T CODE ANN. § 405.011). PDF copies of original documents constituting the enrolled bills of the current legislature, including signatures, are available on the Secretary of State’s website. The other online resources investigated here are not official. The sources indicate they are provided to facilitate access; their print counterparts are designated as official.

Texas is not addressing the authentication of online legal resources.

There is no indication that the state is planning to specially authenticate Web sources using new technologies.
The Texas Legislature meets every other year, in odd numbered years, for 140 days beginning the second Tuesday in January. Bills introduced during a session can be viewed on the Legislative Council’s website (at http://www.capitol.state.tx.us). This unofficial website includes bill history, committee amendments and, if enrolled or passed, the final bill. Researchers may view PDF copies of the original documents constituting the enrolled bills of the current legislature, including signatures, on the Secretary of State’s website (at http://www.sos.state.tx.us). Like the Texas Administrative Code, the print version of enrolled bills is published under the authority of the Secretary of State by a private company winning the printing award. See TEX. GOV’T CODE ANN. § 405.014.

It is common for researchers to cite to Vernon’s Texas Statutes and Codes Annotated when referencing Texas laws. This print version is published by Thomson West and is not an official version of the laws. Should you wonder why the Texas statutes are referred to as Vernon’s, a bit of history. In 1925, one of the years the Texas statutes went through a major revision, Vernon’s Publishing Company was the quasi-official publisher of the statutes. Years later, Vernon’s Publishing was absorbed by West Publishing Company but “Vernon’s” was retained as part of the title of the published set.

Texas has been codifying its civil statutes over the past several years. Twenty-six subject matters have been identified and the project is close to completion. Some civil statutes, however, still remain and are cited to by article number. To view the current but unofficial version of Texas statutes with incorporated amendments, researchers may visit the Legislative Council’s website (at http://www.capitol.state.tx.us). As noted above, the Secretary of State maintains the “bills that have become law” (TEX. GOV’T CODE ANN. § 405.014), which are an official version of Texas laws. To view official text of a statute or code, the researcher must know the number of the bill originally passed, as well as any amendments that may have followed.

Texas court information can be accessed electronically from a single website maintained by the Office of Court Administration (at http://www.courts.state.tx.us). Courts currently do not allow electronic filing except in special circumstances. Hard copies are still required. Opinions available electronically are not considered official. Likewise, Texas does not have a print official version of its court opinions. Funds for the official publication of reports were not appropriated in 1963 and the state has been without an
official reporter since. West Publishing Company, now Thomson West, created *Texas Cases*, an unofficial reporter that republishes just the Texas opinions found in the multi-state regional *South Western Reporter*. Only the Texas Supreme Court, Court of Criminal Appeals and appellate courts are reporting courts.
Utah

by Jessica Van Buren, Utah State Law Library

Utah’s online administrative rules publications explain in detail their official status. Of two online versions of the state statutory compilation, one is expressly official. The other has official characteristics, without stating it is official. Online versions of the Utah Administrative Code, Utah State Bulletin, and Utah Code are official. The Utah session laws and appellate opinions are not considered official.

Utah is not specifically addressing the authentication of online legal resources.


Since funding for print distribution of Utah’s administrative rules publications stopped in 2003, the state turned to its online versions of the Utah Administrative Code and the Utah State Bulletin as official sources. Applicable statutes are construed to permit either print or electronic publication of those titles. UtAH CODE Ann. §§ 63-46a-10(d) & -10(e). The version of the Utah statutory compilation mounted on the legislature’s website as a numerical list of titles and chapters is deemed as official. The searchable version is considered official, but the website does not spell out its status.

State session laws (1998–current) are available for free on the Utah legislature’s website (at http://www.le.state.ut.us/), but they can be difficult to locate because they are not listed as a separate database. The website has a general disclaimer, applicable to all its content, which states that “the public is given access to information on a strictly ‘as is’ basis. The legislature disclaims any express or implied warranties related to making a legislative . . . site available for public use or to any materials, information, graphics, products, or processes contained within the . . . site.” The website does not specifically
address whether the session laws are official. Moreover, it does not refer to the print official source of session laws, namely, the Laws of Utah. By statute, the legislature is responsible for printing, storing and distributing the session laws. Utah Code Ann. § 36-13-1(1).

The Utah statutory compilation is available via two free legislature-hosted websites (at http://www.le.state.ut.us/). One is a searchable database; the other a simple numerical list of titles and chapters with links to the text. Only the current statutes are available online. The Utah Code presented as a simple numerical list indicates that it is official. The searchable database does not indicate it is official – technical issues make it difficult to add such language. The version of the statutes mounted as a numerical list refers to print versions of the Utah statutory compilation, available at the State Law Library and elsewhere. The searchable database does not refer to the print versions – again, because technical issues make it difficult to add the information. Print versions of the Utah Code Annotated are published by both LexisNexis and Thomson West, but neither is an official publication. By statute, the legislature is responsible for printing, storing and distributing the Utah statutory compilation. Utah Code Ann. § 36-13-1(3).

Utah appellate court opinions (1997–current) are available for free on the Utah State Courts’ website (at http://www.utcourts.gov). The website provides information about the posting schedule, but otherwise has no specific information about the official status of the opinions or their authenticity. The site does not refer to the print Pacific Reporter, which is understood to be the official publisher of Utah appellate decisions, but not designated as such by statute or court rule. Discussions are underway to add language to the site regarding the officialness of the information and referring to the print resource. Utah has a public domain citation system for cases after December 31, 1998. See Utah Supreme Court Standing Order No. 4 (effective January 18, 2000).

The Utah Administrative Code is available for free on the Division of Administrative Rules website (at http://www.rules.utah.gov/publicat/code.htm). The website specifically states that the electronic version is the official publication, updated monthly. There is no longer an official print Utah Administrative Code. A print unofficial code is published by LexisNexis, which is mentioned on the website. The responsibility of the Division of Administrative Rules for publishing the administrative code is set forth in the Utah statutes. Utah Code Ann. §§63-46a-9.6, -10(e), -10.5, and -16.

The Utah State Bulletin (1996–current) is similarly available for free on the Division of Administrative Rules website (at http://www.rules.utah.gov/publicat/bulletin.htm). As with the administrative code, the website specifically states that the electronic version is official. The Office of Legislative Printing creates a paper edition of the administrative register, available by subscription, but not pursuant to a statutory mandate. The responsibility of the Division of Administrative Rules for publishing the administrative register is set forth in the Utah statutes. Utah Code Ann. § 63-46a-10(d).

The Utah State Library Division has undertaken a pilot project to archive Utah digital government publications to ensure permanent public access. It has also successfully
sought an amendment to the Utah Library Law (Utah Code Ann. §§9-7-101 to -511), specifically incorporating digital preservation and access responsibilities for the State Library.

Effective May 1, 2006, the State Library Division is required to “manage and maintain an online, web-accessible digital library for state publications” and “provide for permanent public access to the publications.” State agencies posting a digital version of a state publication to its public website may not remove the publication “until a copy is deposited into the digital library for permanent public access.” Act of March 10, 2006, ch. 81, sec. 4, 2006-1 Utah Code Ann. Adv. Legis. Serv. 759, 761 (LexisNexis) (codified at Utah Code Ann. § 9-7-208). According to the established statutory definitions, the state publications covered by the legislation include laws, legislative bills, registers, rules, and statutes, among other materials published by state agencies and political subdivisions. Utah Code Ann. §9-7-101(7)(a) (as renumbered under the new law).

It is too early to fully understand the impact of this new legislation on the particular online legal resources investigated here. But the existence of a firm statutory basis to ensure permanent public access to legislative and administrative resources is an historic development. The legislation does not address technical processes to ensure the authenticity of online resources and other aspects of preservation. Authentication is inevitably a fundamental concern as well as a practical issue in implementing Utah’s new permanent public access mandate.
A state statute requires that Vermont maintain a publicly accessible database of statutes, with a seal of authenticity. Despite this strong basis for official status, no website appears to comply. No online legal resource investigated here can be said to be official. The online version of the Vermont statutes maintained on the legislature’s website gives the following notice: “The Vermont Statutes Online is an unofficial copy . . . provided as a convenience. It has NOT been edited for publication. The ‘official’ version . . . is online at LexisNexis Publishing.” The LexisNexis version does not claim to be official.

The Vermont statute requiring a seal of authenticity for online statutes and the state’s growing awareness of authentication issues represent important progress. The Vermont General Assembly, Legislative Council is required to “maintain official computerized databases of the Vermont Statutes Annotated” and post them on the Web “with a seal of authenticity.” VT. STAT. ANN. tit. 2, § 425.

Although Vermont Statutes require that the Legislative Council maintain an official, authenticated online version of the statutes (VT. STAT. ANN. tit. 2, § 425), the Legislative Council’s website (at http://www.leg.state.vt.us/statutes/statutes2.htm) explicitly states that its version is unofficial, and refers the viewer to a free LexisNexis site (at http://198.187.128.12/vermont/lpext.dll?f=templates&fn=fs-main.htm&2.0). The Legislative Council’s website, which links to the LexisNexis site, describes the latter as “official,” putting that word in double quotation marks. The LexisNexis site makes no statement that it is official, although the official print Vermont Statutes Annotated is produced by the same company and required by statute (VT. STAT. ANN. tit. 2, § 423(a)) to contain a “certificate of authenticity” issued by the Legislative Council.
The Legislative Council also posts the session laws (1987–current) on its website (at http://www.leg.state.vt.us/database/database2.cfm), without any statements regarding official status or authenticity.

The Vermont Department of Libraries provides free online access to current opinions and current published entry orders of the Vermont Supreme Court (at http://dol.state.vt.us/www_root/000000/html/supct.html). The text of these opinions is received directly from the Court Administrator’s Office. Unpublished entry orders (2002–current) are retained by that office and maintained separately in the court system’s publicly accessible repository (at http://www.vermontjudiciary.org/upeo/Forms/default.aspx).

All opinions posted on the Web bear a statement reading “NOTICE: This opinion is subject to motions for reargument . . . as well as formal revision in the Vermont Reports. Readers are requested to notify the Reporter of Decisions, Vermont Supreme Court . . . of any errors in order that corrections may be made before this opinion goes to press.” The entry orders – both published and unpublished – do not give that notice.

The current opinions and current published entry orders are not identified as official or unofficial; the notice as to the non-final status of the opinions is the only descriptive information in this regard. After the opinions and published entry orders appear in the print official reporter, the online versions of the opinions and published entry orders are removed from the “Current List” and arranged on Web pages according to their print volume number. Links to those Web pages name the volume number and are labeled as unofficial. The unpublished entry orders on the court system website are not identified as official or unofficial.

Since slip opinions and slip entry orders are first labeled as unofficial after they are removed from the “Current List” and identified by their print official reporter volume number, one might ask whether the slip opinions and slip entry orders are initially considered to be official. Users of the website might be confused by this. According to the Vermont Reporter of Decisions, such online slip opinions and slip entry orders may be recognized as official – just as a decision published in the print official reporter – at least for some limited purposes.

Vermont’s administrative regulations are posted on the Internet by individual agencies, and coverage is uneven and incomplete. Some agencies provide notification regarding unofficial status (e.g., at http://www.bishca.state.vt.us/RegsBulls/bnkregs/bankregindex.htm); some do not (e.g., at http://www.bgs.state.vt.us/rules/rule_001.htm). Note that the Vermont State Archives, a division of the Vermont Secretary of State’s Office, has a prototype page “exploring the viability of advertising administrative rule notices online” (at http://vermontarchives.org/apa/Datechoices2006.html). Such notices are otherwise required to be published in newspapers of record. On behalf of the Vermont Agency of Administration, the Department of Libraries publishes a list of agency meetings, including notices of administrative public hearing. Neither of these resources, intended as additional channels
for public notification of administrative actions, constitutes an official permanent public source.

Note that commercial online resources are an unofficial source for administrative regulations, as well as rulemaking information. The Code of Vermont Rules, the compilation of current Vermont regulations, is available on LexisNexis, by subscription only. Similarly, regulation tracking and the online counterpart to the print unofficial Vermont Government Register is available on LexisNexis, by subscription. Westlaw has similar administrative rules materials.

Although electronic document management issues, including authenticity and permanence, have been raised by the Vermont State Archives since 1994, little awareness of records preservation needs was evident until recently. Recent legislative changes and a new Strategic Enterprise Initiative have resulted in more cooperation between the branches of Vermont government. The future looks increasingly more hopeful for a more coordinated approach to addressing these concerns.
One Virginia online legal resource is considered *official* on the basis of statute. Its description on the Web, however, leaves some doubt as to its status. Certain online court opinions are somewhat confusingly referred to as *official*.

The Virginia Register of Regulations includes proposed or newly adopted administrative rules and other specified content. By statute, it must be published on the Web; additionally, it may be printed. *Va. Code Ann.* § 2.2-4031. This resource is therefore considered official. The court system website somewhat confusingly refers to the PDF and “word-processed” versions (distinguished from the ASCII text version) of opinions on the site as official, since those versions contain the court’s original footnotes and layout. Otherwise, no other Virginia online legal resource investigated here is considered official. It should be noted that a broad statutory framework to ensure permanency and authenticity of online legal resources was enacted in the latest legislative session. See Act of March 7, 2006, ch. 60, at http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060 (not yet available in print official version)(amending Virginia Public Records Act to address issues in lifecycle of electronic government information).

Virginia is beginning to address the authentication of online legal resources.

A joint subcommittee of the legislature has been studying issues of providing official authentication of state electronic records and permanent public access. *H.J. Res. No. 6, Gen. Assem., Reg. Sess. (Va. 2004).* While this study has focused on state records and documents, and not specifically online legal sources, it is hoped the subcommittee’s work will help in developing a model for legal materials on the Web created and maintained by all three branches of government.
Generally speaking, the commonwealth of Virginia has not taken steps to designate legal resources on the Web as official. An exception is the state administrative register inasmuch as the statute creating that resource requires that it be distributed online. VA. CODE ANN. § 2.2-4031(D). Despite an overall less-than-stellar performance in providing for online legal resources certified as official and authentic, the legislature is moving forward to address the authentication and preservation of government records. One hopes the application of any statutory changes will not be limited to executive agencies, but extend to the documents and records of the legislative and judicial branches of government.

A joint subcommittee of the legislature just completed a two-year study of the Virginia Public Records Act, as mandated by House Joint Resolution No. 6, adopted in 2004. The subcommittee was charged with:

- Providing and assigning authority to establish and maintain guidelines for the creation, transfer and archival preservation of electronic state records and publications;
- Providing and assigning authority to establish and maintain procedures for the official authentication of e-records and documents; and
- Establishing a means to identify, describe, receive and manage discrete electronic government information products covered by copyright.


In November 2005, the subcommittee prepared draft legislation to amend the Virginia Public Records Act (VA. CODE ANN. § 42.1-76 to -91). The proposal addressed the challenges of authenticating and preserving electronic records. During the 2006 legislative session, the Virginia General Assembly approved amendments to the Virginia Public Records Act to include provisions relating to the management and archiving of electronic records, incorporating the changes recommended by the House Joint Resolution No. 6 study. See Act of March 7, 2006, ch. 60, at http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060 (not yet available in print official version). As a result, the State Library Board is charged with issuing regulations designed to address the range of issues inherent in the preservation, management, and storage of all records, including electronic records.

The Division of Legislative Automated Systems (DLAS) is responsible for maintaining a legislative electronic information system that includes the status of bills and resolutions and related information, and “shall be made available to all agencies of the Commonwealth and its political subdivisions, and conditionally available to the public.” VA. CODE ANN. § 30-34.10:1. Although Virginia’s session laws are not available as a single compiled resource on the DLAS website, the researcher is able to view PDF versions of final session laws (chapters) exactly as they appear in the bound volumes of the official print Acts of the General Assembly of the Commonwealth of Virginia.
same website also offers electronic access to the Code of Virginia and the Virginia Administrative Code. While a call to the DLAS Help Desk did indicate that the content of the online Code of Virginia is “the actual text of the print version,” there is no notice on the website addressing the status or accuracy of any of the three electronic publications: statutory code, session laws, and administrative code. The only notice regarding the statutes is “[t]he Virginia General Assembly is offering access to the Code of Virginia on the Internet as a service to the public. We are unable to assist users of this service with legal questions nor respond to requests for legal advice or the application of the law to specific facts.”

The description of the Virginia Register of Regulations found on the Division of Legislative Services (DLS) website leaves the viewer some doubt as to whether it describes only the print or both the print and online versions. The page titled “About The Virginia Register of Regulations” reads: “An official publication of the Virginia Code Commission, the Register is distributed every other week throughout the year. Indexes are published quarterly and are cumulative for each volume.” The page leading to the online issues of the administrative publication is titled Virginia Register Online and refers to the electronic issues as the Virginia Register, not the Virginia Register of Regulations. Nonetheless, since the statute makes the Web version of the Virginia Register of Regulations primary (VA. CODE ANN. § 2.2-4031(D)), it is clear the online resource is considered official.

The Virginia Judiciary maintains a website offering electronic access to the opinions of the Virginia Supreme Court and the Virginia Court of Appeals. These opinions are uploaded to the website on the day they are released by the respective court. No notice is given to users regarding the official or unofficial status of the opinions or their accuracy. Note that opinions on the site are currently published in both PDF and ASCII text formats; several years earlier they were published in DOC (Microsoft Word) and ASCII text formats. The website refers to the PDF and the “word-processed” versions – distinguished from the ASCII text version – as official, since opinions in those formats contain the court’s original footnotes and layout. Unfortunately, this statement causes some confusion. The website’s use of the word “official” here appears to have a broader meaning than the word as used in the phrase official reporter. To be sure, the text on the Web is pulled from the original opinion electronically prepared by the court. But there is no process in place to assure this slip opinion is the same as the final opinion published in the official bound Virginia Reports (thus, reflecting any editing completed subsequent to the slip opinion).

Virginia still publishes print official versions of its statutory code, session laws, administrative code, administrative register, and appellate court opinions; until the legislature and judiciary address the authentication or permanency of electronic legal information produced by their respective branches of government, the use of legal information appearing on these websites is limited to locating relevant code sections or cases, but not citing the electronic resource or relying on it as an official source.
**Washington**

*by Kay E. Newman, Washington State Law Library*

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**Washington online legal resources are not official.**

The electronic code for the state statutes, administrative code, and administrative register is transferred from database sources used for the print official publications, and the Code Reviser of the State Law Committee updates the sources as changes occur. Court opinions available on the Web are not deemed official.

**Washington is not addressing the authentication of online legal resources.**

The state is not planning on producing online official statutes, administrative law, or court opinions. Officials, including the Code Reviser and other members of the State Law Committee, closely watch developments in other states, but no change concerning official status or authentication is currently planned.

The Code Reviser’s Office of the State Law Committee is responsible for the online versions of the Washington statutes, administrative code, and administrative register. A current copy of the Revised Code of Washington is available on the Washington State Legislature website (at http://www1.leg.wa.gov). However, the print copy is the only official source, and Washington does not warrant the “accuracy, reliability or timeliness” of its online information. A second free online site for the state statutes is provided by the Municipal Research and Services Center of Washington (at http://www.legalwa.org). This site provides full disclaimers and is not official. Copies of slip laws arranged by session are available on the Washington State Legislature website (at http://www1.leg.wa.gov/CodeReviser/Session+Legs), but session laws with formatting like the print official version are not available.

For case law, the print *Washington Reports* and *Washington Appellate Reports* are the official resources for the state. A free website for Washington court opinions is provided by the Municipal Research and Services Center of Washington. It includes disclaimers and is not an official source of Washington case law. Slip opinions of the State Supreme Court and Court of Appeals are available for ninety days on the court system’s website.
(at http://www.courts.wa.gov). These are not official and include disclaimers directing users to the print sources.

The print *Washington Administrative Code* is the official codification of administrative rules for the state. The state’s administrative register, which publishes new or proposed administrative rules and other agency actions, updates the administrative code. The print *Washington State Register* is the only official source of the register. A current unofficial copy of the administrative code is posted on the Washington State Legislature website (at http://apps.leg.wa.gov/wac), with full disclaimers. The Municipal Research and Services Center of Washington also mounts copies of the administrative code on its website, complete with disclaimers. The unofficial administrative register is posted on the Washington State Legislature website (at http://www1.leg.wa.gov/codereviser/washington+state+register/) and is updated on the first and third Wednesday of each month.

The Code Reviser’s Office regularly updates the materials for which it is responsible. It has no plans to make changes to authenticate online resources. The office monitors relevant policies and practices of other states, but does not see the need to change its procedures at this time.
West Virginia

by Kathleen M. Wilko, Robert Crown Law Library, Stanford University

West Virginia online legal resources are not official.
The official websites of the West Virginia Legislature, Supreme Court of Appeals and Secretary of State all include general use disclaimers as well as direct statements indicating the unofficial status of the legal materials provided. Users of the online materials are encouraged by the Legislature, Supreme Court of Appeals and Secretary of State to use the printed official versions of the materials in order to ensure accuracy of information.

West Virginia is not addressing the authentication of online legal resources.
Although West Virginia has taken steps to provide government agencies with the ability to adopt digital postmarks and signatures (W. Va. Code §§ 39A-3-1 to -3-5), it does not appear that the state has contemplated the steps needed to create authenticated electronic versions of legal materials. These digital postmarks and signatures are not utilized on the versions of the court opinions, session laws, administrative rules and statutory code available from official West Virginia government websites.

The West Virginia Legislature has made available on its website the text of session laws (1993–current), as well as the text of the current West Virginia Code. Along with a general use disclaimer and a statement confirming the unofficial status of the bills included on the website, the site offers a further disclaimer on the text of bills from the 1993-1999 sessions on its “Frequently Asked Questions” page (at http://www.legis.state.wv.us/FAQs/FAQ.cfm). That further disclaimer states: “[S]ome bill text from 1993-1999 may be unreliable due to older data systems losing some bill text information.” No steps have been taken to authenticate the legal materials provided or to change the unofficial status of these materials.

The current West Virginia court structure was formalized in 1974 under the Judicial Reorganization Amendment. The court system is administered by the Supreme Court of
Appeals and includes three levels: Magistrate Courts, Circuit Courts and the Supreme Court of Appeals. The Circuit Courts are the state’s only courts of general jurisdiction. No official reporter for the Circuit Courts exists and the courts themselves do not have a presence on the Web outside of contact information provided by the Supreme Court of Appeals on its website. The Supreme Court of Appeals does offer access to the text of its slip opinions, but is quite clear on the unofficial nature of these opinions and directs users to the print official reporters. The court also provides an electronic current awareness system that allows users to receive e-mail notification of recent slip opinions filed by the court.

The West Virginia Secretary of State website provides access to the current Code of State Rules. Online access to proposed rules is available only during the comment period and emergency rules are posted as long as they are in effect. The website includes a general use disclaimer, a statement regarding the unofficial nature of the rules included on the site, as well as directing users to the print official version of the West Virginia Code of State Rules.

The Secretary of State website also provides access to the State Register, the weekly publication updating the status of pending rules. The site maintains online access to this publication for at least one year. The general use disclaimer applicable to the Code of State Rules also applies here, although there is no publication-specific disclaimer as there exists for the administrative code. Although the administrative register is available as a PDF document that appears to replicate the print official version, no authentication or chain of custody information is provided.

The Administrative Law Division of the Secretary of State is a repository for executive agency orders, opinions, and decisions. Executive orders are not currently available online, although a searchable database of orders issued since 1989 will soon be made available from the Secretary of State website, along with the ability to request certified copies of orders. Electronic versions of Attorney General and Ethics Commission opinions are not currently available. The text of Grievance Board opinions is available from the board’s website. These electronic versions of the opinions are not official. At this time there is no fee associated with viewing the rules, opinions, and other materials available from the Secretary of State website, however, the agency candidly comments on its funding situation and does indicate that should funding sources change, the Secretary of State is authorized to charge certain fees for online access.
Wisconsin online legal resources are not official. Wisconsin does not certify as official the administrative code, administrative register, session laws, statutes and court opinions that are available on the websites of the Wisconsin Legislature and the Wisconsin Court System.

Wisconsin is not addressing the authentication of online legal resources. This is not a direction the state is going.

The Wisconsin Revisor of Statutes includes the following in its “About the Wisconsin Statutes and Annotations” section of its Web page: “As is the case with all electronic versions of the statutes, the statutes on this web site cannot be certified under s. 35.18, Wis. States., and are unofficial. Only the printed Wisconsin Statutes and Annotations can be certified under s. 990.07, Wis. Stats. Certain tables and maps that are a part of the printed Wisconsin Statutes and Annotations are not included in the statute files reproduced on this website. Please consult the 2005 Acts and the printed Wisconsin Statutes and Annotations 2003-04 for the official text.”

There is no similar disclosure for the acts of the legislature. According to Bruce Munson, current Revisor of Statutes for Wisconsin, there are no plans to make the electronic version of the statutes, acts, administrative code or administrative register official.

The Wisconsin Supreme Court and Court of Appeals include the following language on the first page of every opinion available on the Wisconsin Court System website:

NOTICE: This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

This same information also appears on the search results screen, so that users of the website do not see the notice until they actually search for an opinion. The court system has no plans, at this time, to certify the electronic opinions as official.
Wyoming

by Kathy Carlson, Wyoming State Law Library

Wyoming online legal resources are not official. Even though they are not official, most people treat the state’s online legal resources as if they were. Given the fact that the source of the data for most of the online sources is exactly the same as for the creation of the official source, there is only a small chance of discrepancy.

Wyoming is not addressing the authentication of online legal resources. Research indicates that at the present time there are no moves to add any authenticating marks to the documents.

Wyoming has been progressive in placing government information in an electronic format for free and open use. However, none of the online sources have been designated as official. Additionally, investigation has shown that steps have not yet been taken to insure the permanency of that access nor have methods been adopted to provide authentication of the information for the user.

The Legislative Service Office (LSO) posts the current text of the state constitution and statutes on the Web. The statutes are nicely divided by title and chapter and there is limited word searching capability. At one point in time, retrospective versions of the statutes were available but have been removed. The LSO also is responsible for supplying the text of the statutes to LexisNexis for publication as the official print Wyoming Statutes Annotated. Thus, the text of the online material is coming from the same source as the official version.

The LSO also posts session information on the Web. The texts of all bills as introduced are posted, as are the engrossed, enrolled, and chaptered versions. Although they are not searchable, there are several indexes. The House and Senate Digests and a considerable amount of information about the activities of the various legislative committees are posted as well. The LSO also prepares and publishes the print official session laws so the online material is coming from the same source as the official source.
The Wyoming State Law Library in association with the Oklahoma State Courts Network is providing access to the Wyoming Supreme Court opinions. Currently most opinions from 1990-present are available with new opinions being added as released and additional retrospective opinions being added as time permits. The opinions are both field and subject searchable. The State Law Library is on the same mailing list as Thomson West and LexisNexis to receive the text of the opinions from the chambers authoring them. Thus, the text being posted on the Web is from the same source as that being placed in the official publication. The Wyoming Supreme Court Automation Office also posts recent opinions. They too are receiving them from the chambers. However, they are not searchable. Additionally, as a joint project, the State Law Library and the Automation Office insure that all the current court rules are posted. The rules are not currently searchable nor are the sample forms available in the paper form posted. The State Law Library is responsible for transmitting rule changes to the official publisher, LexisNexis. Thus, the source of the text for the rules being posted is the same as is being used to develop the official version.

The Office of the Secretary of State provides access to the Wyoming Administrative Rules. Due to the far-sightedness of a previous Secretary of State, twelve years ago a requirement was instituted that agencies file both paper and electronic copies of all new rules and rule changes. This has resulted in a system whereby researchers may find the texts of all current rules and prior versions of many post-1995 rules, as well as the texts of many repealed or superseded rules. A drawback to the system is that it has no word searching capabilities. Although the researcher can limit by type of rule (e.g., current or superseded), one needs to know which agency or division would have created the rule in order to browse those rules. The rules and regulations on this site are electronic copies submitted by the state agencies as duplicates of the certified copies filed within the Office of the Secretary of State.

A number of other administrative agencies post on the Web materials that would also be classified as legal information. For example, the Attorney General's Office posts its formal opinions and the Board of Tax Appeals posts its recent decisions. There are no official published sources for these documents. Thus, even though the sites are not designated as official, there is more legal information available for use than was available in the past.
APPENDICES
Appendix A

ANALYTICAL TABLE SHOWING WHICH STATES HOST OFFICIAL (O), AUTHENTICATED (A) LEGAL RESOURCES ON THE WEB, WITH PERMANENT PUBLIC ACCESS (PPA), AND WHETHER CORRESPONDING OFFICIAL PRINT VERSIONS EXIST

This table shows which states host online official legal resources and provide for authentication procedures, as well as permanent public access. It also shows where print official versions are available. Special situations and important anomalies are represented or discussed in footnotes.

Each of the six blocks for each state represents a distinct source of law on the Web, unless a block contains "N/A," which indicates that no current government-hosted online publication of the source is available. Blocks divided into separate boxes (designated as a., b., and c.) indicate where versions of the online source of law are currently published in separate repositories. Blocks colored blue (or medium gray, when printed in grayscale) indicate that the source is currently published in one or more print official resources. White blocks with slash through them, found only in the Intermediate appellate court opinions column, indicate that the state's court system has no intermediate appellate court.

"O" and "A" designate, respectively, official or authenticated legal resources on the Web. Definitions for those terms are found in the main text (pp. 19-21). "O traits" indicates that relevant evidence as to the official status of the resource on the Web is inconclusive. See p. 48. "PPA" designates resources safeguarded for current and future public access. See p. 69.

Letter footnotes, which give special information common to resources of several states, appear throughout the table. Number footnotes give relevant details peculiar to the footnoted resource. Horizontal double lines separating boxes indicate that separate resources substantially duplicate the same information. Horizontal medium lines (3 pt.) separating boxes indicate that separate resources together constitute a current, continuous run of materials. Horizontal narrow lines (1/4 pt.), used in connection with court opinions, indicate that distinct courts on the same level, or distinct judicial divisions, are responsible for separate resources. Horizontal dashed lines show where novel forms of publication on the Web partially provide information found in the typical print version of the resource. The latter situation characterizes two resources, one in Ohio and another in Vermont, as discussed below.
<table>
<thead>
<tr>
<th>Administrative code</th>
<th>Administrative register</th>
<th>Statutes</th>
<th>Session laws</th>
<th>High court opinions</th>
<th>Intermediate appellate court opinions</th>
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<td>O traits⁸</td>
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## Appendix A: Analytical Table

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*STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES*
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Notes

A. Text of individual acts or enrolled bills is available on Web bill tracking utility, but straightforward chronological listing or other characteristic features of session laws are not available.
B. No comprehensive version of administrative code is available on Web.
C. Only portion of administrative code is available.
D. No online or print comprehensive chronological publication of administrative rules is available.
E. Online administrative register available only through paid subscription.

1 Based on statute creating Web resource. Alaska Online Public Notice System replaces discontinued official print Alaska Administrative Journal.
2 Based on statute. Intention to provide continuous online access to archives is not clear.
3 Court system has agreement with Thomson West, publisher of print official reporter, to make high court and intermediate appellate court opinions available on Web. Thomson West's website is silent on official or unofficial status of opinions. Court system website (boxes marked b) publishes slip opinions.
4 Divisions 1 and 2 of Arizona Court of Appeals have separate systems (boxes a and b, respectively).
5 Secretary of State website provides links to agency-by-agency rules filings.
6 Secretary of State website provides chronological account of adopted rules and regulations, as published in print official administrative register. Also provides agency-by-agency listing of proposed rules and regulations, with archive.
7 Thomson West, which publishes official print California Code of Regulations, is responsible for version on Web. State contract requires online resource to accurately reflect official source. Web version does not represent it is official.
8 Legislative Counsel is required by statute to make online version of California Codes available, in addition to any other version. Statute does not address official status. Representation on website of Legislative Counsel that it is "official site for legislative information" is unclear as to status of particular resources. Website gives extensive disclaimer and limitation of liability.
9 Statute mandates greatest feasible electronic access to all California statutes (individual acts) enacted since January 1, 1993.
10 Database of Searchable Opinions 1850-Present, published by print official publisher LexisNexis, represents that it contains "Official Reports" or "California Official Reports." Disclaimer stating text is offered "as is," seeking to avoid liability for errors and omissions, raises question as to official status. Section of Judicial Council of California website (boxes marked b) posts new slip opinions, certified for publication, for limited time and maintains archive of as-filed versions of such opinions. Compare approach here with entry for Michigan courts.
11 Code of Colorado Regulations is available on Secretary of State website, but it is not yet fully functional.
Colorado Register is intended to become available on Secretary of State website. There is no indication resource will be official.

Separate from court system website (boxes marked a), searchable opinions are available through cooperative arrangement with Colorado Bar Association (boxes marked b).

District of Columbia Council contracted with print official publisher Thomson West to provide online official version of statutory compilation. Website represents it is official resource.

District of Columbia Council session laws are published in print and online versions of District of Columbia administrative register.

Text of published signed opinions and per curium opinions (1998–current) is available on court website. Only monthly lists of unpublished memorandum opinions and judgments (1999–current) are provided. Despite disclaimers on each published opinion stating that text "is subject to formal revision before publication in the Atlantic and Maryland Reporters" and statement on website that content is offered "as is," representatives of District of Columbia Court of Appeals consider opinions published as PDF copies on court website to be official. Applicable court rules and citation guidance are either equivocal or contradictory.

Florida Department of State website hosts online Florida Administrative Code and Florida Administrative Weekly. Florida Government Electronic Rulemaking System, which allows agencies to submit required notices of proposed actions and facilitates submission of public comments, provides links to administrative rules publications.

Apparently identical resources are published by Florida Legislature, Division of Statutory Revision (box a), as well as by Senate (box b) and by House of Representatives (box c). Former is linked to from Online Sunshine site, identified as "Official Internet Site of the Florida Legislature." Each resource is drawn from separate repository and has unique interface.

Each of First through Fifth District Courts of Appeal (boxes a through e, respectively) has separate website and publishes opinions separately.

Court of Appeals opinions have limited availability through LexisOne, as linked to on court website. Link is to general interface of that commercial resource. LexisNexis, which provides to registered users free access to five-year "rolling wall" of opinions, publishes print official version of opinions.

Court system website provides "Caution on Court Opinions," explaining that text on Web represents "only the respective court's slip opinions." Such opinions are not final. Official copy of opinions is published by Supreme Court Reporter of Decisions in Official Reports advance sheets following final action.

Based on statute further discussed in footnotes 23 and 24. As of July 1, 2006, electronic-only distribution of Indiana Administrative Code is required. At time of this writing, what changes, if any, will be made to existing online publication are unclear. It does not appear statute's requirement of "permanently publishing" the resource on Web will result in permanent public access.

Based on statute further discussed in footnotes 22 and 24. As of July 1, 2006, electronic-only distribution of Indiana Register is required. To implement new law,
features of resource may be redesigned; current online resource is PDF copy of official print version.

24 Based on statute further discussed in footnotes 22 and 23. Electronic-only distribution of Indiana Register is met by "permanently publishing" resource on Web.

25 Unannotated statutes available free of charge; annotated statutes available only through paid subscription.

26 Courts of Appeal for First, Second, Third, and Fifth Circuits (boxes a through d, respectively) have separate systems to publish opinions; Fourth Circuit does not independently publish Web version of opinions.

27 Department of Secretary of State publishes website providing notices of proposed and adopted administrative rules.

28 Maryland Register Online website, hosted by Secretary of State, Division of State Documents, represents that resource is official publication. Under applicable statute, text of documents published in Maryland Register is official until incorporated into Code of Maryland Regulations. Note that statute's description of Maryland Register makes reference to "pages" and "dates of mailing," thus envisioning print publication.

29 Based on statute, which provides that statutory code maintained by Maryland General Assembly, Department of Legislative Services, is evidence of state's laws. Department is required to publish statutes in form of statutory database. It maintains no print version of statutes.

30 Laws of latest sessions are available on General Assembly website (box a); laws of earlier sessions are available on Archives of Maryland Online website (box b), delivered as HTML and TIF files.

31 LexisNexis, publisher of official print Michie's Annotated Code of Maryland, and Thomson West, publisher of official print West's Annotated Code of Maryland, make available unannotated Web versions of Maryland Code (boxes b and c, respectively). These are apparently unofficial versions. Applicable statute, which designates as official supplements to specified print volumes adopted as evidence of state's laws, appears to address print materials.

32 Code of Massachusetts is not available online in its entirety. Secretary of State website (box a) provides links to agency-created text of administrative regulations; Massachusetts Trial Court Libraries website (box b) provides similar links.

33 Court system website links to Michigan Official Historical Reports (boxes marked a), published by Thomson West, publisher of print official reporters. Run of historical reports ends where courts' repository of slip opinions (boxes marked b) begins. Note that online resource has "as is" disclaimer included with its notice of copyright and trademarks, reached by a link identified only as "© 2006 West." Compare approach here with entries for California and District of Columbia courts.

34 Court system website publishes slip opinions for state's Supreme Court and Court of Appeals. Slip opinions are not considered official until reviewed by court editor and forwarded to official publisher as final documents. When official opinion, which is still in slip opinion formatting, is later uploaded to website, it is flagged with open book icon.

35 Based on statute creating Web resource. Published on Web as PDF copy of print official version, state has begun to limit distribution of latter.
Editor of State Register considers both print and online version to be authenticated. Material submitted for publication is accompanied by signatures of responsible parties from submitting agencies. This concept of authentication differs significantly from definition adopted by this report.

Not based on statute but recommendation contained in retention policy posted on state's legislative website.

Statute defining official version is inconclusive about status of Web resource. Website disclaimer states print version only is official.

Supreme Court website and legislature website have separate systems publishing opinions (boxes a and b, respectively).

Website provides only "certified" rules, not complete administrative code. Rules not yet certified may still be in effect. Certification is process that involves formatting rule for print publication. Print version of certified rule is official, as is original agency-filed hard copy of rule before it is certified.

Statute creating official print New Hampshire Rulemaking Register is silent about online version. Website providing links to PDF copy of administrative register does not address official or unofficial status of resource. Consistent with discussion in footnote 40, administrative register does not contain official version of administrative rules.

Statute requires that current compilation of official text of state's statutes be made publicly available in electronic form. However, status of resource created under statute is ambiguous. Website does not explicitly indicate whether statutory compilation is official or not.

Statute discussed in footnote 42 also requires chapter laws (1996-current) be made publicly available in electronic form. Applicable provision does not specify official text of resource.

Opinions are delivered on website of New Jersey judiciary (boxes marked a), as well as site maintained by Rutgers University Law Library–Camden (boxes marked b), through formal arrangement with court system.

Based on regulations implementing statute. Website represents that it is official. Currently there is no print official version of administrative code.

Website represents online administrative register is official.

Statute empowers New Mexico Compilation Commission to work with an advisory committee appointed by Supreme Court to certify, effective July 1, 2006, electronic official version of statutory compilation. As of this writing, compilation linked to from Compilation Commission website (box a) does not indicate it is official. Commission officials, however, confirm that it is official resource. Additional unofficial compilation is linked to from state legislature website (box b).

"Infobase" (boxes marked a) contains Supreme Court and Court of Appeals opinions. Additional repository contains "Prior Year Opinions" and "Current Year Opinions" of those courts (boxes marked b), as well as "Slip Opinions" of Supreme Court (box c in High court opinions column). Court officials consider those resources to be official, except for "Slip Opinions," which are not yet final. Another separate repository for "Slip Opinions" of Court of Appeals (box c in Intermediate appellate court opinions column) is also not considered official.
49 Governor's Office of Regulatory Reform maintains website with links to portions of administrative code as published on individual agency websites.

50 Phrase "official archives" appears one time on website of Department of State, Division of Administrative Rules, which publishes PDF copy of New York State Register. There is no indication whether online resource is official or unofficial. Applicable statutes are silent on issue.

51 Web bill tracking utility maintained by Legislative Bill Drafting Commission (box a) can generate chronological listing of session laws. Separate utility on website of New York State Assembly (box b) does not have similar straightforward functionality.

52 Law Reporting Bureau has online "New York Official Reports Service" (boxes marked a), which includes official reports of Court of Appeals and Supreme Court, Appellate Division (2000–current), as reported in print official advance sheets. These are available on Web through agreement with Thomson West, state's print official publisher. Slip opinions of Court of Appeals and Appellate Division, including opinions selected for exclusive online publication, are published by Law Reporting Bureau through its "New York Slip Opinion Service" (boxes marked b). Opinions selected for exclusive online publication appear to be regarded as unofficial. Note that they also appear, somewhat confusingly, in New York Official Reports database on Westlaw. Court of Appeals, as well as Appellate Division, 3rd and 4th Departments, also separately publish their own slip opinions on Web (box c in High court opinions column and boxes c and d in Intermediate appellate court opinions column, respectively).

53 Legislative Assembly, Legislative Council, compiles notices of proposed rulemaking, as filed by state administrative agencies. It makes such notices available in print through subscription service. Legislative Council website provides information on scheduled administrative rulemaking hearings.

54 Session laws are chaptered and arranged by subject matter category; data constituting online version is derived from print version.

55 Opinions of North Dakota Court of Appeals are reached through Supreme Court website. Court of Appeals hears only cases assigned to it by Supreme Court.

56 Register of Ohio, new Web resource without print equivalent, was created as part of comprehensive revision to administrative rulemaking process. Site represents that it "recognizes official notice and information functions" and makes every effort to be error-free.

57 By court rule, Supreme Court maintains website with combined database of Supreme Court and Court of Appeals opinions for all districts (boxes marked a). Those opinions and specified others are required to be permanently posted on the Supreme Court website. Each Court of Appeals district maintains own Web pages. Districts 1, 5, 6, and 8 separately distribute opinions on Web (boxes b through e in Intermediate appellate court opinions column, respectively), in addition to posting opinions on Supreme Court website (box a).

58 Ohio Monthly Record is print official chronological publication of state administrative regulations. It has no online equivalent except for updates to online Ohio Administrative Code, which are not frequent.
59 Oklahoma Legislature website (box a) and OSCN, Oklahoma State Courts Network database containing "citationized" statutes (box b) are separate sources of current statutory compilation.

60 Secretary of State website (box a), legislature bill tracking utility (box b), and court system database (box c) are separate sources for enrolled legislation.

61 Supreme Court and Court of Criminal Appeals, courts of last resort, publish their opinions through OSCN, Oklahoma State Courts Network (box a in High court opinions column). Court of Civil Appeals also publishes opinions through that website (box a in Intermediate appellate court opinions column). Attorney General's Oklahoma Public Legal Research System separately publishes opinions of those three courts (boxes marked b).

62 Supreme Court and Tax Court, Magistrate Division, courts of last resort, publish their opinions through court system website. Court of Appeals, intermediate appellate court, also publishes opinions through that website.

63 As personal effort, District Court justice maintains website of Pennsylvania Consolidated Statutes and Unconsolidated Pennsylvania Statutes. Note that state's consolidated statutes represent ongoing effort creating official codification.

64 Chronological listing of session laws (1975–current) available on General Assembly website (box a). Pennsylvania Legislative Reference Bureau has created permanent digital repository intended as source of entire run of state's session laws (box b).

65 Supreme Court website has system-wide repository of high court and intermediate appellate court opinions (box a in Intermediate appellate court opinions column). Superior Court and Commonwealth Court publish opinions on separate websites (boxes b and c in Intermediate appellate court opinions column).

66 There is no online resource comparable to official print Rhode Island Government Register, which does not directly update state's administrative code but publishes other materials related to administrative agencies. Administrative agencies electronically file pending regulations with Secretary of State, but these are not searchable by public. Rules tracking utility available on Secretary's website provides limited information on adoption of rules and regulations.

67 Applicable statutes generally contemplate print official publication of administrative register and administrative code. Language on website, unenlightening in some respects, states that resources are official. Official print Tennessee Administrative Code and Tennessee Administrative Register are no longer published.

68 Based on statute permitting Secretary of State to publish text of session laws online in place of print version. Print official session laws are still published.

69 Separate online resources publish opinions of Court of Appeals and its counterpart Court of Criminal Appeals (boxes a and b, respectively).

70 Statutes declare that text of Texas Administrative Code and Texas Register is prima facie evidence of rules. Provisions subsequently added direct Secretary of State to make those rules publications available on Web. Since print Texas Administrative Code published by Thomson West is approved by Secretary of State it is considered authoritative (but not strictly official) absent conflict with rules as officially filed. Website is silent on question of official status of Web version of administrative rules publications.
Unofficial version of enrolled bills available on legislature website (box a). PDF copies of original documents constituting enrolled bills, including signatures, for current session available on Texas Secretary of State's website (box b).

Court system coordinates repository of high court and intermediate appellate court opinions. Supreme Court and Court of Criminal Appeals, courts of last resort, and each of fourteen districts of intermediate Court of Civil Appeals maintain individual components of system-wide repository.

Texas Register Archive, result of agreement between University of North Texas Libraries and Texas Secretary of State, was established to ensure permanent storage and public access to electronic version of administrative register.

Texas Laws and Resolutions Archive, result of agreement between University of North Texas Libraries and Texas Secretary of State, was established to ensure permanent storage and public access to PDF copies of original documents constituting enrolled bills of current session and earlier, starting with 78th legislature.

Funding for print publication of Utah Administrative Code and Utah State Bulletin ceased in 2003. Since then, state deems Web versions as official, as stated on Department of Administrative Services, Division of Administrative Rules, website.

Based on newly enacted statute effective May 1, 2006. It is still too early to fully understand effect of permanent public access mandate on particular online legal resources.

Notice on Utah Statutes, mounted as numerical list on legislature website (box a), states that resource is official publication. Second "infobase" version of statutes on legislature website (box b) makes no such representation. State Legislature, Office of Legislative Research and General Counsel, considers as official only those statutes published on legislature website.

State Archives maintains prototype website providing administrative rules notices.

Statute requires Vermont General Assembly, Legislative Council, to maintain database of statutes, providing seal of authenticity and public access on Web. Legislative website directs users to "official" (with double quotation marks in original) online statutes from LexisNexis (box a), which makes no statement about their status as official or unofficial. Another version of statutes (box b) available on General Assembly website states that it is unofficial.

Opinions and published entry orders (box a) are maintained by Vermont Department of Libraries. Unpublished entry orders (box b) are maintained by Vermont Court Administrator's Office.

Department of Libraries publishes, on behalf of Agency of Administration, notices of administrative public hearings.

Based on statute. General Assembly website, which describes Virginia Register of Regulations as official, leaves doubt about whether this tag pertains to print only or both to print and online versions.

Note on court system's opinions Web page states that opinions in PDF or word-processed format (distinguished from ASCII text format) are official, since they contain court's original footnotes and layout. This note qualifies both published and unpublished opinions in those formats; therefore, use of "official" appears to have broader meaning than word as used in phrase official reporter. Nonetheless, such confusing description...
gives opinions “official traits” and should be addressed. On issue of official status of slip opinions compare approach here with entries for Illinois and New York courts.

Separate Web versions of administrative code are published by State Legislature (box a) and Municipal Research and Services Center (box b), nonprofit organization funded by state agency.

Text of online administrative register appears to be reachable only through online administrative code.

Separate Web versions of statues are published by State Legislature (box a) and Municipal Research and Services Center (box b), nonprofit organization funded by state agency.

Opinions (1854–current) are available on website of Municipal Research and Services Center (boxes marked a), nonprofit organization. Slip opinions from last 90 days are available on website of court system (boxes marked b).

Current administrative regulations arranged by subject are available on Secretary of State website. Information is available on which agencies presently are promulgating regulations, but not text of proposed measures.

"Infobase" of Supreme Court opinions (1870–current) are available on State Law Library website (box a). Site also links to latest two months of slip opinions (box b).
Appendix B: Definitions

AUTHENTIC
An “authentic” text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator. Typically, an authentic text will bear a certificate or mark that conveys information as to its certification, the process associated with ensuring that the text is complete and unaltered when compared with that of the content originator. An authentic text is able to be authenticated, which means the particular text in question can be validated, ensuring that it is what it claims to be.

AUTHENTICATION
“Authentication” of electronic documents is a process involving computer technology or other means to verify a text as authentic. A variety of methods are regarded as standard. The State-by-State Report on Authentication of Online Legal Resources is not committed to any particular standard method. Broadly understood, authentication is the means by which a text is authenticated. Authentication may involve digital signatures and public key infrastructure. It may involve digital watermarks. Demonstrated proof of chain of custody relating to trustworthy archival procedures may be essential to a process of authentication not involving computer technology. Additional proof may be needed as to appropriate processes and procedures in the handling, safekeeping, and long-term preservation of relevant data.

CERTIFICATION
“Certification” may constitute an initial step in creating an authentic text able to be authenticated. It is a process associated with ensuring that an electronic document completely and accurately reproduces the text or language of the official content originator, typically corresponding to a single original source or duly consolidated original sources. Such original material may be any print, digital or any other authorized medium.

CHAIN OF CUSTODY
“Chain of custody” information concerns the record of sequential steps in the handling of electronic documents. The chain typically begins with a duly certified text. Certification and other types of formal endorsement of legal resources are vital links in a chain of custody. As used in connection with data gathered for this report, chain of custody information is very basic evidence of procedures for data handling that would contribute to online resources being authenticated by other than purely technological means. However, chain of custody information may also be essential to authentication involving computer technology.

DIGITAL SIGNATURE
A “digital signature” is a means to authenticate electronic documents involving use of asymmetric encryption, sometimes referred to as dual key encryption. Such signatures are data items that accompany or are logically associated with an encrypted text. In
conjunction with a public key infrastructure, which includes trusted third party authorities designated as certificate authorities, a digital signature is used to ascertain who originated the encrypted text. It also is used to demonstrate that the encrypted text was not modified after it left the originator.

**DIGITAL WATERMARK**
A “digital watermark” is analogous to a paper watermark and is another means to ensure a particular text is what it claims to be. A digital watermark constituting extra, often hidden, information embedded in an electronic document may be used to identify the originator of the document and demonstrate that it has not been modified.

**ENCRYPTION**
“Encryption” is a method of converting ordinary digital content – that is, words and numbers – into data humanly unreadable except by someone who can decrypt it. A mathematical function known as a cryptographic algorithm is responsible for encryption and decryption. An encryption key is responsible for the first transformation. A decryption key regenerates the original encrypted content. A key is a seemingly random string of bits, a number to be plugged into the mathematical function responsible for encryption or decryption.

**LIFE-CYCLE OF INFORMATION**
The “life-cycle of information” refers to strategies involved in managing or administering storage and preservation of electronic documents. Appropriate life-cycle management for online legal resources involves policies and procedures ensuring optimal access and preservation consistent with the needs of citizens and law researchers. Determining nature and level of long-term access by citizens and law researchers may demand a comprehensive government information policy. The life-cycle of online legal resources may involve indeterminate duration.

**OFFICIAL**
An “official” version of regulatory materials, session laws, statutes, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be. A text may be certified by a government or other entity as official when the content originator has authorized the entity to do so.

**PERMANENT PUBLIC ACCESS**
“Permanent public access,” which is the subject of this report’s companion *State-by-State Report on Permanent Public Access to Electronic Government Information*, is a policy and practice ensuring applicable government information is preserved for current, continuous and future public access. Authentication of online legal resources is interrelated to other archival methods ensuring permanent public access. Authentication and permanent public access affirm the profound value to a democratic society of effective access to government information.
PUBLIC KEY INFRASTRUCTURE
“Public Key Infrastructure” (PKI) is a system to enable the use of encryption and digital signature services across a wide variety of applications through the use of a public and a private cryptographic key pairs obtained and shared through trusted third-party authorities. Such authorities maintain the integrity of user identities and serve to vouch for them. PKI arrangements allow users to be authenticated to each other and ensure valid use of public cryptographic keys.
Appendix C: GPO White Paper

Authentication

U.S. Government Printing Office
Office of Information Dissemination
Program Development Service

Washington, D.C.

October 13, 2005
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I. PREFACE

In accordance with GPO’s strategic vision, GPO has identified a need to develop policies and create systems that address the authentication and certification of electronic Government publications. As outlined in the Future Digital System (FDsys) Concept of Operations document, GPO will create an authentication system to verify the authenticity of digital content within the FDsys, and certify this to users accessing the content. In the near term, GPO is currently implementing a Public Key Infrastructure (PKI) initiative to ensure the authenticity of its electronically disseminated content on GPO Access.

It is important to note that this white paper is now considered to be complete. However, GPO will continue to plan and implement the authentication initiatives that meet the needs of the user community. GPO will continue to provide updates and solicit public comments on this issue through other channels, including Federal depository library conferences and voice of user activities conducted in conjunction with the implementation of GPO’s Future Digital System.

II. OVERVIEW

GPO recognizes that as more Government publications become available electronically, confidentiality, data integrity, and non-repudiation become more critical. The primary objective of GPO’s authentication initiative is to assure users that the information made available by GPO is official and authentic and that trust relationships exist between all participants in electronic transactions. GPO’s authentication initiatives will allow users to determine that the files are unchanged since GPO authenticated them, help establish a clear chain of custody for electronic documents, and provide security for and safeguard Federal Government publications that fall within scope of the National Collection of U.S. Government Publications.

A. Definitions

The following definitions will be applied to the terms below throughout this paper.

- **Authentic Content** – Describes content that is verified by GPO to be complete and unaltered when compared to the version approved or published by the Content Originator.

- **Authentication** – Validation of a user, a computer, or some digital object to ensure that it is what it claims to be. In the specific context of the Future Digital System, the assurance that an object is as the author or issuer intended it.

- **Authenticity** – A digital publication’s identity, source, ownership and/or other attributes are verified. Authentication also connotes that any change to the publication may be identified and tracked.

- **Certification** – Proof of verification or authority. Process associated with ensuring that a digital object is authentically the content issued by the author or issuer.
• Certificate – Mark of veracity that conveys certification information to users and is in some way joined to the object itself.

• Integrity Mark – Conveys authentication information to users. The integrity mark will include certification information and may include an emblem. Integrity marks are used to convey certification by providing verification of content as authentic and/or official.

• Official Content – Content that is approved by, contributed by, or harvested from an official source in accordance with accepted program specifications.

• Government publication – A work of the United States Government, regardless of form or format, which is created or compiled in whole or in part at Government expense, or as required by law, except that which is required for official use only, is for strictly operational or administrative purposes having no public interest or educational value, or is classified for reasons of national security.

• Publication – (N) Content approved by its Content Originator for release to an audience. See also Government publication.

III. SCOPE
Policies, procedures, and guidelines put forth by GPO on authentication will apply to all publications that are deemed to be within the scope of the FDLP, with a particular emphasis placed on publications that are disseminated electronically. This document will not address authentication issues related to tangible publications or documents that have not been approved by Federal publishing agencies for dissemination to the general public.

IV. KEY ASSUMPTIONS
1. GPO’s Authentication system will provide the capability for GPO to certify content as authentic and official.

2. GPO’s Authentication system will provide the capability to verify and validate that deposited, harvested, and converted content are authentic and official.

3. GPO will convey authentication information to users through the use of an integrity mark.

4. Chain of custody information should be included in the certification information when available.

5. GPO’s Authentication system will provide date and time verification for certified content.

6. Documents residing on GPO Access are official\(^1\), and retrospective authentication will be used to add integrity marks that reinforce this status.

\(^1\) All GPO Access documents are official in the sense that they are published by the Federal Government, at Government expense, or as required by law. GPO recognizes that there are connotations of the term “Official”, especially in the legal community, that differ from this definition. GPO is currently working on language to address this discrepancy.
7. GPO's Authentication system will re-authenticate the version of content that has been authenticated at earlier stages in the publishing process by GPO or Content Originators. For example, if there is a digital signature attached to a file when it comes into GPO from a publishing agency, GPO will be able to record that information and carry it forward in the provenance or in the chain of custody and provide that information to user.

8. When authentication information is already available from the Content Originators (e.g., publishing agencies), GPO should retain and display that information.

9. GPO’s Authentication system will provide the capability for GPO to change the authentication status of content.

10. GPO’s Authentication system should have the ability to certify a related or continuous piece of content in context (e.g. level of granularity).

V. CURRENT STATE

GPO is currently implementing a PKI initiative to authenticate the files available through GPO Access. GPO will use digital signature technology to certify documents as official and authentic. When fully implemented, GPO will be able to ensure confidentiality, authenticity, integrity, and non-repudiation of electronic transactions using digital signatures.

VI. KEY ISSUES

A. Level of Authentication

The provenance and fixity of an electronic document is directly related to its level of authentication. GPO will inform users about a publication's integrity and chain of custody through the designation of at least 2 different levels of authentication, "authentic" and "official." GPO defines “authentic” as content that is verified by GPO to be complete and unaltered when compared to the version received by GPO. “Official” content is content that is approved by, contributed by, or harvested from an official source in accordance with accepted program specifications. There may be instances, however, where GPO will harvest information that cannot be confirmed as official by the content originating agency. An example is a publication harvested from the Internet Archive Wayback Machine. This content will be considered authentic but not official by GPO.

B. Content Format

It will be necessary for GPO to authenticate and certify all content formats disseminated by GPO. Content formats may include but not be limited to PDF, ASCII text, video, audio, graphic, and multimedia. GPO must develop appropriate authentication and certification methods for all content formats available from GPO.
C. Integrity Mark

The process of certification will produce an integrity mark that will include certification information and may include an emblem. Integrity marks will allow users to determine if files have been changed since GPO authenticated them, and help establish a clear chain of custody for electronic documents. Emblems may be presented to users in various ways, such as a logo used in conjunction with a digital signature. GPO will also investigate emerging technologies related to the certification and authentication of non-digital content formats (e.g., digital watermarking of GPO publications downloaded and printed by users).

1. Emblem

GPO may provide an emblem to notify users of the authentication status of a publication in accordance with the required approval, when feasible, of the content originator. Different content formats (e.g., audio, video, etc.) will require the use of emblems that are appropriate for each format. Users may be required to initiate additional procedures to access emblems associated with different content formats.

*Look and Feel*

When an emblem is visibly displayed, it should contain the official GPO authentication seal and/or official seal for the publishing agency.

*Placement*

When an emblem is visibly displayed, it should be placed in the same location on every document. This location should not interfere with the contents of the publication (e.g., the visible emblem should not obstruct the title of the document). The upper left hand corner is a suggested placement for the visible emblem, but additional analysis will need to be performed to ensure that this will work for all electronic publications available from GPO.

2. Certification Information

All integrity marks will include certification information. It is recommended that the following information be available in the certification information. This information may also be contained in a digital certificate.

- Certifying organization
- Date of the signature/certification
- Digital time stamp
- Public key value
- Hash algorithm used
- Reason for signing
- Location
- Contact information
- Name of entity that certified the publication
- Level of authentication
- Expiration date of signature / certification
• Notification of changes occurring to the document

D. Granularity
The level of granularity to which a publication should be certified is a planning issue that must be addressed in conjunction with the implementation of the Future Digital System. Presently, a technology gap exists in that GPO currently only has the technology to authenticate at the entire document level, meaning that the content as a whole will be certified in its complete state.

GPO’s future authentication plans must include a means by which sections or small pieces of a publication (i.e. document) are authenticated and digitally certified. GPO’s Future Digital Authentication system should have the ability to certify a related or continuous piece of content in context (i.e. level of granularity) as defined by GPO and based on user needs.

In addition, integrity marks and certificates should be available at all levels of granularity delivered to users. For example, if a user is able to retrieve a section of a CFR title, the section should be certified. The entire part of the same title should also contain an integrity mark and certificate.

The policies for granularity will need to be set based on realistic expectations of technology advancements and evolving requirements of users. To this end, significant data will need to be collected by GPO in order to determine what levels of granularity users require for each content format. Granularity policies developed by GPO must be adaptable and flexible such that they may be changed in response to changes in user requirements or changes in methods/formats of dissemination preferred by originating agencies.

E. Chain of Responsibility
GPO will certify publications as “official” on behalf of Congress, Federal agencies, and other Federal Government organizations. Publications will be certified as “official” if the content originators (e.g., Congress, Federal agencies, commissions, committees, courts, etc.) have given GPO the authority to certify publications, or if the content has been contributed by or harvested from an official source in accordance with accepted program specifications. In the case of most documents already available on GPO Access, Federal organizations have given GPO official content to disseminate via the FDLP, and GPO is able to verify the chain of responsibility in order to certify documents as “official.”

F. Retrospective Authentication
It will be necessary to authenticate all files on GPO Access. As GPO moves forward with its retrospective authentication process, there may be occasions where some files on GPO Access will contain integrity marks and certificates, but some will not. In this case, it is important to note that all files currently residing on GPO Access are official and the authentication process will reinforce the status of these documents.
G. Maintenance

Throughout the lifecycle of an authenticated publication, it will become necessary to periodically “re-authenticate” the publication.

VII. CONCLUSION

Ensuring customers that the electronic information made available through GPO is official and authentic is of paramount importance for our future. There is a need for information that is reliable because it is from a trusted source, and a need to ensure the protection of data against unauthorized modification or substitution of information.

The steps that have been taken to stand-up a PKI and the associated digital signature process used in accordance with the policies and infrastructure of this system will enable GPO to assure customers that electronic files are unchanged since being authenticated by GPO. GPO’s authentication processes will allow customers to verify that a document originally disseminated by GPO is exactly the same as the document downloaded by the customer.

Equally important, the steps that GPO has already taken as part of its authentication effort map directly to requirements that are under development for the Future Digital System. Additional issues that are not currently being addressed, such as how to authenticate information at granular levels, are being addressed as new requirements based upon customer feedback.

VIII. RESOURCES


IX. ACRONYMS USED IN THIS PAPER

FDsys – Future Digital System

PKI – Public Key Infrastructure

X. SUMMARY OF PUBLIC COMMENTS

GPO released this White Paper to the public on June 23, 2005, requesting that comments be submitted by August 8, 2005. In response to requests, GPO extended the deadline for comments to September 16, 2005, and made samples of authenticated documents available for review in conjunction with the White Paper. The following is a summary of the comments.
Comments

GPO was commended on its ongoing efforts to develop policies related to the
management of electronic publications. The consensus was that the paper does a
thorough job of identifying many of the key issues. There were several specific areas of
concern identified, and they are listed below:

1) The centrality and significance of authenticating information at granular levels
2) The methods for authenticating web pages, which lack the fixity of PDF documents.

These issues are fundamental to the definition of what a document is, and whether
individual documents are the appropriate or the only unit measure for authentication.
Further exploration and clarification of these issues are needed to assure that the concept
of a "document" is not the sole factor in determining the authenticity of an electronic
source.

GPO received comments noting that some resources available on GPO Access (e.g.,
Supreme Court Decisions, 1937-1975) are not official. Moreover, it was noted that
‘official’ has a more specific meaning in the rules of legal citation than in GPO’s
definition. An official version is the one designated as such by the issuing body and to
which a citation must be made. Furthermore Rule 18 in the just released 18th edition of
The Bluebook: A Uniform System of Citation, “requires the use and citation of traditional
printed sources unless (1) the information cited is unavailable in a traditional printed
source; or (2) a copy of the source cannot be located because it is so obscure that it is
practically unavailable.” Thus an electronic version could be cited to only when there is
no paper version of a document or that version cannot be found. Commenting
organizations stated that GPO also needs to expand the definition of ‘official’ to include
some statement that even if the content has been certified to be the same as the printed
version, it may not be ‘official’ in the legal sense.

GPO Response

GPO recognizes the centrality and significance of authenticating information in multiple
file formats and levels of granularity. These capabilities are currently requirements of the
authentication portion of the Future Digital System and GPO continues to work toward
implementation of these capabilities.

All GPO Access documents are official U.S. Government information in the sense that
they are published by the Federal Government, at Government expense, or as required by
law. GPO recognizes that there are connotations of the term “Official”, especially in the
legal community, that differ from the definition of official as stated in this White Paper.
For example, the Administrative Committee of the Federal Register has stated that both
the online and print versions of the Code of Federal Regulations and Federal Register are
“Official,” while the Supreme Court and the Law Revision Counsel of the U.S. House of
Representatives have stated that the online versions of Supreme Court Slip Opinions and
the U.S. Code, respectively, are not “Official” for purposes of legal citation. Nevertheless, all of these online titles are official Federal Government information in the sense that term is used in this document. GPO is currently working on language to address this discrepancy.
Appendix D-1: Methodology

We believe the details described in this report concerning state legal resources on the Web are accurate as of approximately September 2006. Likewise, the law as stated is current as of that time. Whenever possible, where more recent, significant developments became known, they were incorporated into the final report.

Background research for this project began well before July 2005. The 2005-2006 AALL Access to Electronic Legal Information Committee (AELIC), which was specially charged with administering the Authentication Survey, began preparing the survey instrument in summer 2005. Recruitment of state participants began at approximately the same time. Official state law library directors were targeted to join members of AELIC and the AALL Government Relations Committee in participating in the Authentication Survey by completing the survey instrument for their state and writing the summary published in this report. By August, AELIC members had substantially settled the language and scope of the survey instrument. By September, they had beta-tested it for their home state or another specially chosen to gauge the instrument’s efficacy. Helpful revisions were incorporated following a committee-wide conference call toward the end of that month.

The final survey instructions and instrument, which are included as appendices D-2 and D-3, were ready for distribution to all participants by October 2005. We discovered the benefits of including administrative materials within the scope of the survey shortly before we were scheduled to go live. The AALL Washington Affairs Office successfully managed all technical aspects of deploying the online survey instrument, which was distributed to all participants at the end of the month by means of an email automated list.

Over the next several months survey participants completed the majority of states, submitting completed surveys and 350-600 word summaries for each. Participant interaction on the automated list helped promote a common approach on difficult issues concerning the criteria for determining when a resource is official. A protocol and common understanding concerning the capture of important findings for state online legal resources not specifically targeted by the survey instrument were developed through participant interaction on the automated list. Such interaction and AELIC committee decision making processes resulted in our recognition of the “O traits” or “official traits” category for certain online legal resources.

As completed surveys and state summaries were submitted, the editors of this report independently investigated what statutes, court rules, administrative regulations and other factors support or inform participants’ conclusions as to the official status of online legal resources for their state and the use of any authentication procedures. We inspected relevant disclaimer information for each resource. We prepared short summaries for those online legal resources where the author had concluded the source was official or authenticated, or had identified quandaries in determining its official or unofficial status.
This text was given to state participants for their scrutiny and double checking. The approved short summaries were eventually incorporated into the Findings section of the main text. They can be identified by lead-in headings such as “Alaska’s Administrative Register” and “Indiana’s Administrative Code and Administrative Register.” Participants also approved the entries for each state in the analytical table in Appendix A. Ongoing email exchanges with participants for a number of states contributed immeasurably to the report and its accuracy.

The overall inductive approach of the Authentication Survey is addressed thoroughly in the Findings. It is important to emphasize that, to answer the central questions of whether an online resource is official and authenticated, participants were instructed as follows:

Generally, any disclaimer about the official status and/or accuracy of the information will answer those central questions. The minimum expectation is that participants will search website documentation relevant to the questions. Where there is no conclusive information from documents alone, participants are strongly encouraged to contact state officials with relevant knowledge – namely, the state librarian, archivist, chief information officer, revisor of statutes, etc. In any event, more probing is better than less probing. Even a conclusive disclaimer on the online legal resources will not reveal possible plans state officials may have to address official status and authentication. Knowing of such plans is extremely valuable. (Instructions for Completing the Survey Form and Summarizing the Situation in your State, reproduced as Appendix D-2.)

State summaries prepared by official state law librarians typically have the built-in advantage of the participants’ direct knowledge of the issues being addressed. The participants are often the relevant decision makers. The state summaries generally reveal the extent to which the participant explored issues with relevant state officials.

Finally, how we used criteria for official status of online legal resources, tying that status to certification or other formal endorsement, and judicial and administrative recognition of online sources as authoritative and reliable statements of the law is demonstrated throughout the Findings. A focused discussion of those criteria is found in the main text (see pp. 27-30).

Note on Determining Official or Unofficial Status of Online Legal Resources

Certain online legal resources that fail to state they are official may still be said to possess that status on the basis of underlying statutes. Several of such official resources are discussed in the main text (pp. 45-47). We examine here resources from two states – Kentucky and New Jersey – that are not official but have underlying statutes that
potentially support a determination that the sources are *official*. Our reasoning helps demonstrate the subtle nature of issues involved.

As discussed by the Kentucky state author (pp. 114-115), section 7.131(1) of the *Kentucky Revised Statutes Annotated* requires the state’s Legislative Research Commission to “maintain the official version of the Kentucky Revised Statutes in an electronic database that shall be used in bill drafting for the Kentucky General Assembly and made available to the public as provided by [section 7.500].” Section 7.500(1) of the statutes requires the Legislative Research Commission “to make available to the public in electronic form” the Kentucky Revised Statutes, along with other specified resources. Given the link between sections 7.131 and 7.500, it may be thought the online statutes are cast as *official*. The Legislative Research Commission’s website, however, states that the statutes provided on its website are unofficial. But for this representation, considering the statutory context, the online statutes could be thought to be *official*. Actual evidence that state officials considered the online statutes *official* would likely then have been sufficient to so categorize the resource.

As discussed by the New Jersey state author (pp. 142-144), section 52:11-78(a)(1) of the *New Jersey Statutes Annotated* requires the Office of Legislative Services to “make available to the public and maintain in electronic form . . . the most current available compilation of the official text of the statutes of New Jersey.” The state author clearly describes in the state summary his reasoning that the online statutes are not *official*. The website gives a “Caution” stating, among other things, that the database “may include laws that have not become operable due to unmet conditions, have expired, have been ruled inoperable by a court, or have otherwise become inoperable. . . . Users should diligently read applicable statute source law and case law.” But for these inconclusive representations and the external circumstances discussed by the state author, the online statutes could be thought to be *official* and, with corroborative evidence that the resource is considered *official*, it might have been so categorized. Unlike the situation with the clear and direct representations made on the website for Kentucky’s online statutes, the ambiguous statements on the website for the New Jersey statutes have led us to label the resource as having “official traits.” A fuller discussion of “official traits” and this resource is found in Key Finding 3.

It is hoped this discussion gives an insight into the analysis employed in the Authentication Survey. Ultimately, because of the subtleties that must be considered, we strongly urge the states to take care to make the status of online legal resources clear to users. A goal of this report is to draw attention to the unsettled status of many online resources. States may easily correct this situation with little cost. Citizens and law researchers would benefit greatly.
Note on Use of Fonts Designating Online Official Legal Resources

We are unaware of any generally-accepted special convention in the use of fonts to distinguish online official legal resources from online unofficial sources and other ordinary Web pages. To be consistent and ensure the titles of online official legal resources discussed in this report are essentially on par with titles of print legal resources when they appear in running text of the narrative, we have, where practicable, used italicized titles for all such sources. Titles of online unofficial sources and other ordinary Web pages are not italicized, unless the title is that of a major, discrete resource (e.g., the database system for Oklahoma’s legal resources titled OSCN, Oklahoma State Courts Network, which is not considered as an official source). Unfortunately, it is sometimes difficult to rigorously identify online official legal resources with completely perspicuous titles. We urge states to name online official legal resources in such a manner as to resolve this problem. Issues concerning the naming of online legal resources are addressed in Key Finding 4.
Appendix D-2: Instructions for Completing Form

Instructions for Completing the Survey Form (Including the State Summary Portion to be Published in the AALL Authentication Survey Final Report)

Thanks again for participating! AALL President Claire Germain, who initiated this project, requested this survey as to which states, if any, have adopted website versions of primary legal resources as official and authentic. The survey examines each state’s websites that provide the state administrative code, session laws and statutory code, and judicial opinions of the highest and intermediate appellate courts.

Definitions of "Official" and "Authentic"

What are "official" and/or "authentic" versions of those resources? We adopt the following definitions based on law, established legal bibliography, and current efforts by the United States Government Printing Office to address authentication and the official status of federal government documents delivered on the web.

An "official" version of session laws, statutes, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be. A text may be certified by a government or other entity as "official" when the content originator has authorized the entity to do so.

An "authentic" text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator. Typically, an authentic text will bear a certificate or mark that conveys information as to its certification, the process associated with ensuring that the text is complete and unaltered when compared with that of the content originator. An authentic text is able to be authenticated, which means the particular text in question can be validated, ensuring that it is what it claims to be.

Other Terms Used in the Survey Form

A "digital signature" is a means to authenticate electronic documents involving use of asymmetric encryption, sometimes referred to as dual key encryption or public key infrastructure. A digital signature may involve the participation of a trusted third party, known as a certificate authority. A "digital watermark" analogous to a paper watermark is another means to ensure a particular text is what it claims to be.

The "Uniform Electronic Transactions Act" (UETA) is a model statute from the National Conference of Commissioners on Uniform State Laws. It is an "electronic signature" statute that gives parties to an electronic transaction broad discretion to select a method of signature. One such method may be a "digital signature," authorized under a "digital signature statute."

"Permanent public access" concerns preservation of electronic government information for current, continuous and future public access.
General Instructions

The survey form, which has a "Submit responses" button at the very end, works like most other survey forms you may have used on the Web. After you have completely filled in all required information, click "Submit responses." Your computer will then display a page that says:

Thank you for completing the survey! Your responses have been successfully emailed to the general editors, Richard Matthews (richard.matthews@wichita.edu) and Mary Alice Baish (baish@law.georgetown.edu).

Please be aware that all answers to the online survey questions must be filled in and submitted in one sitting. The Survey Worksheet is provided to help you collect the survey information and compose your answers before you sit down to fill in the online survey form.

Please retain your completed Survey Worksheet as your permanent final copy of your responses. When the survey is successfully submitted, the general editors receive an email that contains the text you typed into each of the survey form fields. If you find you need to change any of the answers you submitted, please email Richard Matthews (richard.matthews@wichita.edu). He will forward you a copy of the original email received by the general editors. Edit the email as needed (use ALL CAPS to indicate where answers are changed) and forward it to both general editors. Clearly indicate in the subject line that the email contains revised survey responses.

As a good first step, please explore the online survey form. Note that some questions pop up on the survey form contingent upon your answer to a preceding question. These pop up questions are discussed below.

The AALL Authentication Survey final report will include tabular findings for your state, as well as yes-no conclusions as to the official status and authentication of its online legal resources, followed by a 350-600 word summary of the situation. Detailed directions for the conclusions and summary, which will be authored under your name, are given in Part IV below.

Please give shorter titles for your state’s print official administrative code, session laws, statutory code, and court opinions following the abbreviation and citation conventions used in The Bluebook (18th ed. 2005) pages that list legal resources for your state. Give publisher names as found in a standard catalog record (based on AACR2), except for government publishers, which are further discussed below. For any citations you may give, use Bluebook form; for matters not addressed there or in these instructions, use The Chicago Manual of Style (15th ed. 2003). Note that the AALL Authentication Survey final report will not use footnotes. (Unless stated otherwise, the citations used in these instructions do not necessarily conform to Bluebook, etc. rules.)

Finally, a word about the approach you should take to determine the answers to the central survey questions: "Are the [website] documents 'official' / "Are the documents 'authenticated'"? Generally, any disclaimer about the official status and/or accuracy of the information will answer those central questions. The minimum expectation is that participants will search website documentation relevant to the questions. Where there is no conclusive information from documents alone, participants are strongly encouraged to contact state officials with relevant knowledge—namely, the state librarian, archivist, chief information officer, revisor of statutes, etc. In any event, more probing is better than less probing. Even a conclusive disclaimer on the online legal resources will not reveal possible plans state officials may have to address official status and authentication. Knowing of such plans is extremely valuable.
Your Information

In the Your Name and Your Institution fields, please enter the exact names as you wish them to appear in the AALL Authentication Survey final report—the State-by-State Report on Authentication of Online Legal Resources.

Survey Part I: Print Documents Available

We do not seek information about unofficial print resources. Rather, we want you to identify what official print versions of state administrative codes, session laws, statutes, and court opinions are available in order to compare and contrast what authentic and official website versions of these resources exist. If you have any doubt about what print publications for your state are official, please consult a current standard bibliography of legal materials.

Official Administrative Code

Title: Give The Bluebook shorter title for the current publication only.

Publisher: Give the "catalog record" name of the current publisher. If published by a government entity, use "Government."

Handle title and publisher information for Official Session Laws, Statutory Code, Court Opinions (Highest Level), etc. the same way.

Survey Part II: Electronic Documents Available

Note that extra sets of data entry blanks are available for this part of the survey form. Kansas, for example, has one URL for free statutes and another for subscription-only access to annotated statutes.

Administrative Code (Handle same set of questions concerning Session Laws, Statutory Code, Court Opinions (Highest Level), etc. the same way.)

(QA1-1) URL: Use stable address for page that collects links.

(QA1-2) Publisher: Where a government entity produces the website, use "Government." Where a commercial publisher is responsible, give the "catalog record" name of the current publisher. Where the website is the result of a public-private partnership involving, e.g., portal vendor or professional website developer (and not a "commercial publisher" of legal materials, as commonly understood), name the vendor and explain situation in the Additional Comments section.

(QA1-5) Is there documented "chain of custody" information? This is information that enhances the reliability or authority of the resource, and is in many respects the opposite of a disclaimer, discussed below. It includes statements about the source of a text, the date the electronic version was created, etc.

If you answer the question yes, please describe the "chain of custody" information in the pop up box. Examples of appropriate notes are: "For session laws, website names source of data—Kansas Division of Printing—but does not address custody of individual 'records.'" "For statutory..."
code, website names source of data—Revisor of Statutes of State of Kansas—but does not address custody of individual 'records.'”

(QA1-6) Are the documents "official"?

(QA1-7) Is there any disclaimer about the official status and/or accuracy of the information? Typically, a disclaimer will notify the user about the existence of the "official" print version of the resource.

If you answer the question yes, please describe the disclaimer language in the pop up box.

(QA1-8) Are the documents "authenticated"? If so, with a (check all that apply) digital signature … digital watermark … other. Describe any "other" form of authentication in the data entry space.

The remaining questions concerning the Administrative Code are straightforward. Handle same set of questions concerning Session Laws, Statutory Code, Court Opinions (Highest Level), etc. the same way.

Survey Part III: Additional Questions and Comments

1. Has your state enacted UETA? If yes, please cite. Has your state enacted (check all that apply) … Section 17 … Section 18 … Section 19.

   The linked digitized excerpt from the current Pocket Part Supplementing 7A Pt. 1 Uniform Laws Annotated (2005): 26, will assist in answering whether a state has enacted UETA. A sample Bluebook citation for the answer for one state is: KAN. STAT. ANN. §§ 16-1601 to -1620 (Supp. 2004). The linked digitized excerpt from 7A Pt. 1 Uniform Laws Annotated (2002): 285-98, together with the above Pocket Part, pages 38-42, will assist in answering whether a state included the specified UETA sections in its legislation.

2. Has your state enacted a digital signature statute? If yes, please cite.

   As discussed under Other Terms Used in the Survey Form, above, a digital signature statute is distinguished from an electronic signature statute. To assist you in answering this question, the following is a compilation of statutes, definitely in need of updating: Florida, Georgia, Mississippi, New Mexico, Utah and Washington have enacted digital signature legislation. Citations: FLA. STAT. ANN. §§ 282.70 to .75 (West Supp. 1998); 1997 Ga. Laws 394; MISS. CODE ANN. §§ 25-63-1 to -11 (Supp. 1997); N.M. STAT. ANN §§ 14-15-1 to -6 (Michie Supp. 1997); UTAH CODE ANN. §§ 46-3-101 to -504 (Supp. 1997); WASH. REV. CODE ANN. §§ 19.34.010 to .903 (West Supp. 1998) 16. The McBride Baker & Coles State Database on E-Commerce and Digital Signatures, found at http://www.mbc.com/ecommerce/state.asp, may help identify current laws. References—often to enrolled bills rather than statutes—appear to be current, at least as late as 2004.

3. Do courts have e-filing?

   See http://www.abanet.org/tech/ltrc/research/efiling/rules.html to assist you in answering this question. To answer yes, the state need only have e-filing available in some courts.

4. Has the state adopted a universal citation system?
Look for any Public Domain Citation Format information contained in *The Bluebook* (18th ed. 2005) pages that list legal resources for your state. The following website compilations will also assist in answering this question: http://www.aallnet.org/committee/citation/ and http://www.abanet.org/tech/lrtrc/research/citation/.

5. Additional comments you would like to submit:

Use this data entry space for descriptions and additional explanations required to completely answer any of the above survey questions. Be sure to identify the question (by number, etc.) to which your additional comments relate. In this space, set forth special considerations not covered elsewhere in the survey. Provide any additional information as to steps or intended steps by your state to adopt official and authentic website versions of session laws, statutes, court opinions or, for that matter, any other web government information.

**Part IV: State Summary**

1. Are your state's online legal resources official?

   Please give a 2-3 sentence description of the situation. With the answer to the immediately following question about authentication, your yes-no conclusion and "at a glance" explanation about the official status of online legal resources will be offset and serve as the lead in to your state's chapter in the *State-by-State Report on Authentication of Online Legal Resources*. Valuable information to include in the 2-3 sentence description here is whether or not the resources examined have official print versions.

2. Is your state addressing the authentication of online legal resources?

   As above, please give a 2-3 description of the situation, whether yes or no. Valuable information to include in the description is any evidence officials are aware of authentication issues (i.e., whether they were aware of such before your contact with them) and whether they are actually taking steps planning technological or other means to ensure the integrity of electronic materials.

3. Summary (350-600 words)

   Please prepare a summary for your state that elaborates your yes-no conclusions in the preceding questions and describes available online versions of your state's session laws, statutes, court opinions, and administrative code. Please discuss whether disclaimers direct users to paper resources. If web resources are not authenticated, is any government body taking steps to begin ensuring authentic and official versions of materials on the web?

   Unless your findings would best be handled in some other order, please address statutes, then court opinions, then the administrative code. Note that administrative codes could turn out to be the most interesting online resource in our study. For example, Utah may be said to have an "official" online version of its administrative code, without any print equivalent. Where that is the case, it may be more natural to emphasize and focus on the administrative code more than the other resources.
Template

A possible template for your summary is as follows:

[The state] does not certify, as official and authentic, online versions of the state session laws, statutes, court opinions, and administrative code.

For session laws, the website notifies users that [title, print version, etc.] is the [official, authentic, etc. version] … For statutes … For court opinions … etc.

[The state] is taking [no] steps … [Provide one or two sentences that help substantiate this conclusion about [the state's] plans, if any. For example, [the Reviser of Statutes, the Clerk of the Supreme Court, a published state technology plan covering government documents, etc.] indicates that …

Be sure to give your writing a narrative form. Please do not format it as a numbered list of answers to questions. The conclusions and summaries from Iowa, Kansas and Montana are good examples to follow. Each covers the essential concerns to be addressed and distinctively reflects the author's own personality. Further, the models give a picture of how the text from the survey instrument will be assembled into your state's chapter in the State-by-State Report on Authentication of Online Legal Resources.

Conclusion

Feel free to contact the general editors (email addresses below) with any questions or concerns.

Thank you once again for participating. Your time and attention to this project help advance significantly AALL’s efforts.

Richard Matthews, AELIC Chair
richard.matthews@wichita.edu

Mary Alice Baish, AALL Washington Office
baish@law.georgetown.edu

Footnotes:


6. See id. at 2.4-2.
7. See id. at 2.4-9.
Appendix D-3: Survey Instrument

American Association of Law Libraries
Washington Affairs

Shaded regions in Part II are for additional titles should you need them.

AALL Authentication Survey Worksheet

Your Information
Your Email Address: ____________________________
Your Name: __________________________________
Your Institution: ______________________________
Your Daytime Phone Number: ____________________
Your State: __________________________________

PART I: Print Documents Available

Official Administrative Code
Title: ________________________________________
Publisher: __________________________________

Official Session Laws
Title: ________________________________________
Publisher: __________________________________

Official Statutory Code
Title: ________________________________________
Publisher: __________________________________

Official Court Opinions (Highest Level)
Title: ________________________________________
Publisher: __________________________________

Official Court Opinions (Intermediate Appellate)
Title: ________________________________________
Publisher: __________________________________
PART II: Electronic Documents Available

Administrative Code

- (QA1-1) URL: 
- (QA1-2) Publisher: 
- (QA1-3) Are the documents available in (check all that apply):
  - PDF  HTML  ASCII Text  MS Word  Other 
- (QA1-4) Does the website use PURLs?  No  Yes 
- (QA1-5) Is there documented "chain of custody" information?  No  Yes 
- (QA1-6) Are the documents "official"?  No  Yes 
- (QA1-7) Is there any disclaimer about the official status and/or accuracy of the information?  No  Yes 
- (QA1-8) Are the documents "authenticated"?  No  Yes 
  If so, with a (check all that apply):
  - digital signature  digital watermark  other 
- (QA1-9) Is the information available for (check all that apply): free  fee per use  subscription? 
- (QA1-10) What years are covered? 
- (QA1-11) Does the publisher ensure "permanent public access"?  No  Yes

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Session Laws

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STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES
APPENDIX D-3: SURVEY INSTRUMENT

- (QB1-1) URL: 
- (QB1-2) Publisher: 
- (QB1-3) Are the documents available in (check all that apply): 
  - .PDF
  - HTML
  - ASCII Text
  - MS Word
  - Other
  
- (QB1-4) Does the website use PURLs? ☐ No ☐ Yes 
- (QB1-5) Is there documented "chain of custody" information? ☐ No ☐ Yes 
  
- (QB1-6) Are the documents "official"? ☐ No ☐ Yes 
- (QB1-7) Is there any disclaimer about the official status and/or accuracy of the information? ☐ No ☐ Yes 
  
- (QB1-8) Are the documents "authenticated"? ☐ No ☐ Yes 
  If so, with a (check all that apply): 
  - digital signature
  - digital watermark
  - other
  
- (QB1-9) Is the information available for (check all that apply): 
  - free
  - fee per use
  - subscription? 
  
- (QB1-10) What years are covered? 
- (QB1-11) Does the publisher ensure "permanent public access"? ☐ No ☐ Yes 

- (QB2-1) URL: 
- (QB2-2) Publisher: 
- (QB2-3) Are the documents available in (check all that apply): 
  - .PDF
  - HTML
  - ASCII Text
  - MS Word
  - Other
  
- (QB2-4) Does the website use PURLs? ☐ No ☐ Yes 
- (QB2-5) Is there documented "chain of custody" information? ☐ No ☐ Yes 
  
- (QB2-6) Are the documents "official"? ☐ No ☐ Yes 
- (QB2-7) Is there any disclaimer about the official status and/or accuracy of the information? ☐ No ☐ Yes 
  
- (QB2-8) Are the documents "authenticated"? ☐ No ☐ Yes 
  If so, with a (check all that apply): 
  - digital signature
  - digital watermark
  - other
  
- (QB2-9) Is the information available for (check all that apply): 
  - free
  - fee per use
  - subscription? 
  
- (QB2-10) What years are covered? 
- (QB2-11) Does the publisher ensure "permanent public access"? ☐ No ☐ Yes 

**Statutory Code**

- (QC1-1) URL: 
- (QC1-2) Publisher: 
- (QC1-3) Are the documents available in (check all that apply): 
  - .PDF
  - HTML
  - ASCII Text
  - MS Word
  - Other
• (QC1-4) Does the website use PURLs?  ☐ No  ☐ Yes
• (QC1-5) Is there documented “chain of custody” information?  ☐ No  ☐ Yes

• (QC1-6) Are the documents “official”?  ☐ No  ☐ Yes
• (QC1-7) Is there any disclaimer about the official status and/or accuracy of the information?  ☐ No  ☐ Yes

• (QC1-8) Are the documents “authenticated”?  ☐ No  ☐ Yes
  If so, with a (check all that apply):
  ☐ digital signature  ☐ digital watermark  ☐ other

• (QC1-9) Is the information available for (check all that apply):  ☐ free  ☐ fee per use  ☐ subscription?
• (QC1-10) What years are covered?
• (QC1-11) Does the publisher ensure “permanent public access”?  ☐ No  ☐ Yes

• (QC2-1) URL: 
• (QC2-2) Publisher: 
• (QC2-3) Are the documents available in (check all that apply):
  ☐ .PDF  ☐ HTML  ☐ ASCII Text  ☐ MS Word  ☐ Other

• (QC2-4) Does the website use PURLs?  ☐ No  ☐ Yes
• (QC2-5) Is there documented “chain of custody” information?  ☐ No  ☐ Yes

• (QC2-6) Are the documents “official”?  ☐ No  ☐ Yes
• (QC2-7) Is there any disclaimer about the official status and/or accuracy of the information?  ☐ No  ☐ Yes

• (QC2-8) Are the documents “authenticated”?  ☐ No  ☐ Yes
  If so, with a (check all that apply):
  ☐ digital signature  ☐ digital watermark  ☐ other

• (QC2-9) Is the information available for (check all that apply):  ☐ free  ☐ fee per use  ☐ subscription?
• (QC2-10) What years are covered?
• (QC2-11) Does the publisher ensure “permanent public access”?  ☐ No  ☐ Yes

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**Court Opinions (Highest Level)**

• (QD1-1) URL: 
• (QD1-2) Publisher: 
• (QD1-3) Are the documents available in (check all that apply):
  ☐ .PDF  ☐ HTML  ☐ ASCII Text  ☐ MS Word  ☐ Other

• (QD1-4) Does the website use PURLs?  ☐ No  ☐ Yes
• (QD1-5) Is there documented “chain of custody” information?  ☐ No  ☐ Yes

• (QD1-6) Are the documents “official”?  ☐ No  ☐ Yes
APPENDIX D-3: SURVEY INSTRUMENT

- (QD1-7) Is there any disclaimer about the official status and/or accuracy of the information?  
  □ No  □ Yes

- (QD1-8) Are the documents “authenticated”?  
  □ No  □ Yes
  If so, with a (check all that apply):
  □ digital signature  □ digital watermark  □ other

- (QD1-9) Is the information available for (check all that apply):  
  □ free  □ fee per use  □ subscription?

- (QD1-10) What years are covered?

- (QD1-11) Does the publisher ensure “permanent public access”?  
  □ No  □ Yes

• (QD2-1) URL:

• (QD2-2) Publisher:

• (QD2-3) Are the documents available in (check all that apply):
  □ .PDF  □ HTML  □ ASCII Text  □ MS Word  □ Other

• (QD2-4) Does the website use PURLa?  □ No  □ Yes

• (QD2-5) Is there documented “chain of custody” information?  □ No  □ Yes

• (QD2-6) Are the documents “official”?  □ No  □ Yes

• (QD2-7) Is there any disclaimer about the official status and/or accuracy of the information?  □ No  □ Yes

• (QD2-8) Are the documents “authenticated”?  □ No  □ Yes
  If so, with a (check all that apply):
  □ digital signature  □ digital watermark  □ other

• (QD2-9) Is the information available for (check all that apply):  
  □ free  □ fee per use  □ subscription?

• (QD2-10) What years are covered?

• (QD2-11) Does the publisher ensure “permanent public access”?  □ No  □ Yes

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Courts Opinions (Intermediate Appellate)

• (QE1-1) URL:

• (QE1-2) Publisher:

• (QE1-3) Are the documents available in (check all that apply):
  □ .PDF  □ HTML  □ ASCII Text  □ MS Word  □ Other

• (QE1-4) Does the website use PURLa?  □ No  □ Yes

• (QE1-5) Is there documented “chain of custody” information?  □ No  □ Yes

• (QE1-6) Are the documents “official”?  □ No  □ Yes

• (QE1-7) Is there any disclaimer about the official status and/or accuracy of the information?  □ No  □ Yes

• (QE1-8) Are the documents “authenticated”?  □ No  □ Yes
  If so, with a (check all that apply):
PART III: Additional Questions and Comments

1. Has your state enacted UETA?  No  Yes
   Please cite:
   Has you state enacted (check all that apply):  Section 17  Section 18  Section 19
   Did your state amend the model language of any of these sections
   (check all that apply):  Section 17  Section 18  Section 19

2. Has your state enacted a digital signature statute?  No  Yes
   Please cite:

3. Do courts have e-filing?  No  Yes

4. Has the state adopted a universal citation system?  No  Yes

5. Additional comments you would like to submit:

   .
PART IV: State Summary

1. Are your state's online legal resources official?  ☐ No  ☐ Yes

2. Is your state addressing the authentication of online legal resources?  ☐ No  ☐ Yes

3. Summary (350-600 words): 