# Chapter 6 - Statutory and Legislative History Research

## Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A.</strong></td>
<td>Introduction to Statutory Publications</td>
<td>2</td>
</tr>
<tr>
<td>1.</td>
<td>Types of Statutory Publications</td>
<td>2</td>
</tr>
<tr>
<td>2.</td>
<td>Official Status</td>
<td>3</td>
</tr>
<tr>
<td><strong>B.</strong></td>
<td>Federal Statutory Publications</td>
<td>4</td>
</tr>
<tr>
<td>1.</td>
<td>Slip Laws</td>
<td>4</td>
</tr>
<tr>
<td>2.</td>
<td>Session Laws</td>
<td>4</td>
</tr>
<tr>
<td>3.</td>
<td>Statutory Codes</td>
<td>4</td>
</tr>
<tr>
<td><strong>C.</strong></td>
<td>New York Statutory Publications</td>
<td>7</td>
</tr>
<tr>
<td>1.</td>
<td>Slip Laws</td>
<td>7</td>
</tr>
<tr>
<td>2.</td>
<td>Session Laws</td>
<td>7</td>
</tr>
<tr>
<td>3.</td>
<td>Statutory Codes</td>
<td>7</td>
</tr>
<tr>
<td><strong>D.</strong></td>
<td>Researching Statutory Issues</td>
<td>8</td>
</tr>
<tr>
<td>1.</td>
<td>Finding Statutes in Annotated Codes</td>
<td>9</td>
</tr>
<tr>
<td>2.</td>
<td>Analyzing Relevant Statutes</td>
<td>10</td>
</tr>
<tr>
<td><strong>E.</strong></td>
<td>Updating Statutes</td>
<td>12</td>
</tr>
<tr>
<td>1.</td>
<td>Updating Statutes Online</td>
<td>12</td>
</tr>
<tr>
<td>2.</td>
<td>Updating Statutes in Print</td>
<td>12</td>
</tr>
<tr>
<td><strong>F.</strong></td>
<td>Constitutional Law Research</td>
<td>13</td>
</tr>
<tr>
<td><strong>G.</strong></td>
<td>Federal Legislative History Research</td>
<td>13</td>
</tr>
<tr>
<td>1.</td>
<td>Congressional Elections</td>
<td>14</td>
</tr>
<tr>
<td>2.</td>
<td>A (Very) Brief Overview of the Federal Legislative Process</td>
<td>14</td>
</tr>
<tr>
<td>3.</td>
<td>Documents Generated During the Federal Legislative Process</td>
<td>15</td>
</tr>
<tr>
<td>4.</td>
<td>Example: A Bill Becomes a Law and Legislative History Documents are Created</td>
<td>16</td>
</tr>
<tr>
<td>5.</td>
<td>Finding Federal Legislative History Documents</td>
<td>18</td>
</tr>
<tr>
<td><strong>H.</strong></td>
<td>New York State Legislative History Research</td>
<td>21</td>
</tr>
</tbody>
</table>
A. **Introduction to Statutory Publications**

Statutes are laws commanding or prohibiting an action that have been passed by the U.S. Congress or a state legislature. They are written to govern future conduct, so their effect is prospective. For this reason, statutory language is often drafted somewhat broadly so statutes can be applied to a variety of unforeseen factual situations that might arise. This sometimes creates ambiguity that leads to lawsuits, requiring courts to interpret and apply the statutes to specific scenarios. In some complex areas of law that require more specificity, statutes are used to create administrative agencies and authorize them to write detailed regulations implementing the broad mandates of the statutes.

Statutes can also be created by legislatures in response to case law. The statutes can expand on or supplement case law rulings. They can also modify or invalidate case holdings. Statutes can also cover entirely new areas of law that were never part of the common law (for example, statutes relating to the Internet).

1. **Types of Statutory Publications**

   a. **Slip Laws**

      When statutes are initially passed into law they are published as individual slip laws. Slip laws can be found on government websites, but different jurisdictions vary in how soon they are made available. Generally, commercial online services such as Bloomberg Law, Lexis, Westlaw, and some reliable free websites have new federal statutes in their databases shortly after they are available.

   b. **Session Laws**

      At the end of each session of the legislature, all the slip laws are collected and published together in a session laws publication. The laws are published in the order they were passed. Statutes published in session laws publications sometimes include notes in the margins to indicate where they will appear in the jurisdiction’s statutory code.

   c. **Statutory Codes**

      Statutory codes are created through a process called “codification,” which organizes all statutes currently in force by subject, as opposed to the chronological arrangement found in session laws publications. Codification makes it easier to find statutes on a specific topic because: (1) laws on similar topics are grouped together and (2) the text of the law appearing in the code is updated with subsequent amendments, adding or deleting statutory language that is repealed, superseded, or expired.

      There are two types of statutory codes:
i. **Unannotated Codes**

A statutory code that contains the text of the statutes and not much more is considered an “unannotated” code. In addition to the statutes, unannotated codes may include a source note containing citations to the original slip laws that created the statutes and any amendments to them, a table of contents showing the organization of the statutes (also known as the “statutory scheme”), and sometimes an index or other finding tools. Most official codes, as well as some unofficial ones, are unannotated.

ii. **Annotated Codes**

Annotated codes are the most useful sources for statutory research. They are produced by private, for-profit publishers, such as Thomson Reuters West and LexisNexis. Because of this, you will not find annotated codes available for free online. You will have to use a commercial research database or a print version at a library.

Annotated codes contain everything in the unannotated version, plus they include many additional tools and features that make them much more useful to researchers. The most important additional research feature that annotated codes provide is references to selected cases that have interpreted the statute. We will study the use of this feature in depth in the case research chapter. The annotations also may include references to related statutes, regulations, expanded legislative information, and secondary sources.

2. **Official Status**

When a statutory code or session laws publication is designated as “official,” this indicates that it has been published under authority of the government. Either the government itself operates a publishing division, or it contracts with a private publisher to publish the laws in print. Any other publications of statutory codes and session laws are considered unofficial. Online versions of statutes, even if provided through a government website, are not considered official unless specifically designated as such.

If there is a discrepancy in the text of a statute among different published versions the official version controls, but this rarely happens. In practice, most researchers rely exclusively on unofficial statutory resources. However, you will still have to cite to the official statutory publication if the citation rules in your jurisdiction require it.

When a jurisdiction publishes both an official session laws publication and an official statutory code (as in the federal system), only the text in one of those publications will be designated as the final official version. In our federal system, the *United States Statutes at Large* session laws publication used to be the exclusive source for the official text of statutes. However, as time has passed, certain titles of...
the U.S. Code have been enacted into “positive law,” meaning the official version of the statutes under those titles is found in the code.¹

While official status may sound important, the truth is most researchers use unofficial statutory publications exclusively. Official publications in some jurisdictions, including the federal system, are notoriously slow to be updated, and they do not have most of the helpful research features found in many of the unofficial publications.

Some jurisdictions, including New York, have no official statutory code. New York has instead designated its session laws publication, Laws of New York, as the official text of all New York statutes. Because session laws publications are not practical to use for researching laws currently in force, attorneys in New York do all of their statutory research in unofficial codes and cite to them.

B. Federal Statutory Publications

1. Slip Laws

Federal slip laws, referred to as “public laws,” are assigned a public law number consisting of the number of the Congress and the chronological number of the law passed by that Congress. For example, the citation P.L. 115–1 identifies the first public law passed by the 115th Congress.

Federal slip laws are still published in print and can also be found online at Congress.gov, the official website for U.S. legislative information,² in addition to Bloomberg Law, Lexis, Westlaw, and other sites.

2. Session Laws

Federal session laws are published in a publication called United States Statutes at Large, abbreviated as “Stat.” A new federal Congress is convened after national elections are held every two years, when all House seats and one third of Senate seats are up for election. The legislative output of the Congress is divided into two sessions, each consisting of one calendar year, so this is why the U.S. Statutes at Large volumes are divided into “first session” and “second session” for each Congress.

The published public law versions of statutes include a citation to where the statute appears in U.S Statutes at Large.

3. Statutory Codes

The United States Code (U.S.C.) is arranged by subject matter under 54 title numbers.³ Each title covers a specific legislative subject area, such as Agriculture,

² Congress.gov is maintained by the Library of Congress. See About Congress.gov for more information.
³ 53 titles are currently in use, one is reserved.
Crimes and Criminal Procedure, Labor, Transportation, etc. U.S.C. and two annotated versions of it are described below.


   The print version of U.S.C. published by the U.S. Government Publishing Office (GPO) is designated as the official version of the federal statutory code. Unofficial online versions of U.S.C. are available from both the GPO’s govinfo site and the U.S. House of Representatives, Office of Law Revision Counsel website. U.S.C. can be found on many websites, including commercial legal research services, university legal research portals, and others. Whichever site you use, you’ll want to make sure that the information provided there is accurate and up-to-date.

   U.S.C. is not annotated, but it does include a source note for each statute that provides citations to its original enactment and any subsequent amendments, as well as a table of contents and a few other finding tools. It is useful if you want to consult the official version of a statute, but it does not have the annotations found in U.S.C.A. and U.S.C.S. to assist you in your research. Furthermore, the print version of U.S.C. is re-published in its entirety once every six years and supplemented with separate volumes annually, making it more difficult to use because you frequently have to consult multiple volumes when researching a single statute. This same difficulty is encountered when using online pdf versions of U.S.C.


   This is an unofficial annotated code published in print and online by Thomson Reuters. U.S.C.A. is available online exclusively on Westlaw. When you search for a U.S.C. citation on Westlaw you will be taken to the U.S.C.A. annotated version of the statute by default. When you are viewing a statute on Westlaw, the various sections of the annotation are accessible via tabs at the top of the document. U.S.C.A. annotations include:

   - **History (online) / Historical and Statutory Notes (print)** — this section should not be confused with the source note, which is copied from U.S.C. and appears in brackets before the annotation starts. The Historical and Statutory notes section in U.S.C.A. includes the same citations presented in the source note, as well as notes on the historical development of the statute. The History tab on Westlaw includes the same information provided in print plus a variety of additional tools for exploring the history of the statute, including a graphical map of earlier versions and links to legislative history materials.

   - **Context & Analysis** - This section includes cross-references to other relevant code sections or related Code of Federal Regulations citations. This section also includes citations to secondary sources such as Am. Jur.
2d, ALR, legal forms, and law review articles, as well as relevant West Key Numbers.4

- **Notes of Decisions** - This section includes brief summaries of court decisions and citations to them. The editors select decisions that they believe are valuable to the interpretation of the statute. When many cases are listed, the notes are organized by topic. In print, the most recent notes of decisions are found in the annual pocket part and the semi-annual soft cover supplement.

- **Citing References** – technically, this is not part of the annotation. It only appears as a tab in the online version of the statute and provides a list of citing cases and secondary sources from the Westlaw citator system, KeyCite. This feature is discussed in the statutory case finding section of Chapter 7.


This is an unofficial annotated code published in print and online by LexisNexis. U.S.C.S. is available online exclusively on Lexis Advance. When you search for a U.S.C. citation on Lexis Advance you will be taken to the U.S.C.S. annotated version of the statute by default. To quickly see different parts of an annotation for a statute you are viewing, use the “Go to” drop-down menu at the top of the statutory document. U.S.C.S. annotations include:

- **History** – this is where Lexis includes the source note from U.S.C.
- **Notes** – provides explanatory information about some of the citations included in the History section.
- **Case Notes (online) / Interpretive Notes and Decisions (print)** - this section includes citations and brief summaries of court decisions and some administrative decisions. The editors select decisions that they believe are valuable to the interpretation of the statute. When many cases are listed, the notes are organized by topic. In print, the most recent case annotations are found in the annual pocket part and the semi-annual soft cover supplement.
- **Code of Federal Regulations** – when included, this section provides citations to federal regulations that were authorized by the statute or related to it.
- **Cross-references** – when included, this section includes citations to other relevant code sections.
- **Research References & Practice Aids (online) or Research Guide (print)** - this section includes citations to secondary sources like Am. Jur. 2d, ALR, legal forms, and law review articles.

---

4 The West Key Number system is discussed in Chapter 7.
d. **Notable differences among the Federal statutory codes**

In addition to the information described above, there are several differences among the three federal codes you should be aware of:


- **History** - U.S.C.A. generally gives more specific references to former code sections than the U.S.C.S.


- **Case Annotations** - U.S.C.S. and U.S.C.A. are annotated by different editors, so the cases selected in each publication differ from each other.

C. **New York Statutory Publications**

The general information about statutory publications discussed above applies to New York statutory publications as well, with a few differences as noted in this section.

1. **Slip Laws**

   New York State refers to its slip laws as “chapter laws,” which are designated by year and chapter number, e.g., L.2013, ch. 1. New York slip laws are not published in print. Slip laws passed by the legislature that haven’t been published in the Session Laws yet can be found using the “Laws” section of the New York State Legislature’s online legislative information system.

2. **Session Laws**

   As mentioned previously, New York has designated its session laws publication, titled Laws of New York, as the official text of all New York statutes. It is only published in print and new volumes are added annually. New York session laws are designated by year and chapter number, e.g., L.2013, ch. 1, the same way they are in slip law version. Unofficial versions of the New York session laws are published in print by Lexis and Thomson Reuters (West) and are available through their online systems as well.

3. **Statutory Codes**

   New York state statutes are codified under 67 different “Laws” that group the statutes by subject matter, ranging from “Abandoned Property” to “Workers’ Compensation.” New York statutes are identified and cited by law name and section number, unlike the federal code, where statutes are identified by title number and section. For this reason, The Bluebook refers to New York as a “subject code” state, as opposed to the federal system and most other states, which are referred to as “title code” states.
As mentioned earlier, New York State does not publish an official statutory code. The unannotated text of the New York Consolidated Laws is available on the New York State legislature’s Government Information System,⁵ which includes an indication of when it was last updated.

Most attorneys use one of two unofficial annotated codes of the Consolidated Laws of New York that contain the complete and accurate text of the laws. Like federal annotated codes, the New York annotated codes provide research references and notes about cases interpreting the statute. The two annotated codes for New York are:

a. **McKinney’s Consolidated Laws of New York (McKinney’s)**

This annotated code is published in print by Thomson Reuters. McKinney’s is available online exclusively on Westlaw. The annotations and research tools are similar in format to those found in U.S.C.A. because both codes have the same publisher. McKinney’s also includes “Practice Commentaries” in the annotations for selected important statutes, which are articles explaining the law written by leading attorneys or scholars. Practice Commentaries are meant to help practitioners, and they may summarize leading cases construing the statute, describe legislative intent, or offer a history of the statute. Practice Commentaries can be very useful as secondary sources and are sometimes cited as persuasive authority.

There is also a separate but related publication called West’s McKinney’s Forms, not included as part of the code, that provides sample forms based on the requirements of the statutes.

b. **New York Consolidated Laws Service (CLS)**

This annotated code is published in print by LexisNexis. CLS is available online exclusively on Lexis Advance. The annotations and research tools are similar in format to those found in Lexis’s U.S.C.S. because both codes have the same publisher. CLS includes “Practice Insights” for some statutes, which are similar to the Practice Commentaries in McKinney’s. Unlike McKinney’s, CLS includes forms in the annotations of the statutes they relate to, which is an advantage to practitioners who don’t want to have to subscribe to a separate publication for forms.

D. **Researching Statutory Issues**

When your research indicates that a statute is involved, your next step is to go to the annotated code and read the statute. The annotated code is the best tool to use early because not only does it supply the text of the statutes, it will point you to relevant secondary sources, cases, and other resources to help you understand the statutes.

---

⁵ Use the “Laws” link at the top of the screen to select “Laws of New York.”
1. **Finding Statutes in Annotated Codes**

Because annotated codes are updated more frequently than unannotated statutory codes issued by the government, and because the annotations provide research guidance, it is best to conduct statutory research in the annotated codes. There are many ways to find a statute in annotated codes depending on the type of information you have about the statute.

a. **Citation**

The easiest way to find a statute is when you already have the citation. If you don’t already know the citation for a specific statute when you begin your research you will likely come across one while reading secondary sources on your issue, or perhaps you’ll discover a statutory citation through a case that has come to your attention (but remember that thorough case research should always be done AFTER reading your statute).

Once you have a citation to a relevant statute, you can use it to look up the statute online or in print. On Westlaw or Lexis Advance, simply type the citation into the search bar to obtain the annotated version of the statute. In print, locate the citation in the appropriate volume of the code.

b. **Table of Contents**

Each Title of the U.S. Code and each N.Y. Consolidated Law includes a table of contents located in the front of the print volume and appearing as a link when viewing code sections online. If you know which Title or Consolidated Law to look under, you could browse the table of contents to find relevant statutes, but this is often not as efficient as locating statutes using other methods. However, once you’ve found relevant statutes, regardless of the method used, you should always check the table of contents for related statutes in the same area of the code. Using the table of contents in this way to understand the “statutory scheme” is discussed in more detail in section 6.D.2.d., below.

c. **Popular Name**

If you know the popular name of a statute (for example, the Civil Rights Act of 1964), you can locate it in the code using a popular name table, which cross-references a statute’s popular name to its code sections. Popular name tables are available on Westlaw if you begin on the initial screen by selecting your jurisdiction and then the link to the statutory code. A popular name table for federal statutes is also available on the House of Representatives [U.S. Code website](https://www.law.cornell.edu/uscode). Popular name tables are available in print in U.S.C., U.S.C.A., and U.S.C.S. For New York, popular name tables can be found in print at the end of the general index volumes in both McKinney’s and CLS.
d. **Conversion Table**

If you know the slip law or session law citation of a statute but not its location in the code, you can use a Conversion Table, which provides cross-references from public law numbers to code titles and sections. These are available in volumes at the end of many print codes, and the U.S.C. conversion table is available with the rest of U.S.C. on the U.S. Code House of Representatives, Office of Law Revision Counsel website. Conversion tables are not necessary, however, if the slip law or session law version of the statute includes code citations in the margins indicating where the various sections are codified.

e. **Index**

Official and unofficial print versions of the U.S. Code and N.Y. Consolidated Laws include a multi-volume general index (located at the end of the set). Each title of the U.S. code and each N.Y. Consolidated law also includes a more specific index (located at the end of the title or law). Online versions of indexes are sometimes provided on Westlaw and other online services, but often they are not included because full-text searching is available.

f. **Full-Text Searching**

Searching the full-text of the annotated codes on Lexis and Westlaw is always an option, however, this can be challenging because statutes are written, formatted, and punctuated differently than cases and secondary sources, and sometimes use special language. This can produce unpredictable results, and at times the statute you really want is buried in a search result. When using terms and connectors searching, numerical connectors should be used in place of grammatical ones because statutory text doesn’t follow standard rules of grammar.

Additionally, when you run a search in an online annotated code you are searching not only the text of the statutes, but the text of all the annotations attached to them as well. If this is a problem, you can use advanced search options to limit your search to only words contained in the statutory text, or select a more restrictive database containing only the unannotated statutes of a jurisdiction.

2. **Analyzing Relevant Statutes**

Using annotations, statutory schemes, and citing references or Shepard’s can lead you to helpful secondary sources and important primary authorities that will help you understand the meaning, context, and application of a statute.

a. **Annotations**

Annotations include cross-references to other relevant statutes or regulations and references to relevant secondary sources, such as sections of
legal encyclopedias, treatises, and law review articles. Most importantly, they also include summaries of cases chosen by the editors that interpret and analyze aspects of the statute. More information on using the case summaries is provided in the statutory case finding section of Chapter 7.

b. **Citing References / Shepardizing**

Citing references (on Westlaw) and Shepard’s (on Lexis Advance) allow you to find all the cases in their respective databases that have cited the statute, as well as some citing secondary sources. You will see these options when you are viewing statutes in the online annotated codes. You can also search within the list of citing references to narrow the results to your topic. More information on filtering and searching within citing references and Shepard’s results is provided in the statutory case finding section of Chapter 7.

c. **Source Note**

Each code section includes a source note, which contains a citation to the law as originally enacted in slip law form, as well as any subsequent amendments to the section. This source note will appear in parentheses immediately following the statutory text.

The source note is important in two ways. First, it may be important to know when past amendments occurred and how they changed the language of the statute. For example, if you are reading an older case or secondary source that analyzes the statute, you would want to know if any of the relevant statutory language had been changed by a subsequent amendment after the case or secondary source was published. Secondly, the information in the source note contains what you need to begin legislative history research, which is discussed in more detail in section G of this chapter.

d. **Statutory Scheme**

As mentioned earlier, once you’ve identified a relevant statute you should always check the table of contents to see the statutory scheme because related statutes are often found together in the same area of the code. Important related statutes sometimes include a “definitions” sections defining terms that have special meanings within the statute, a section setting time limits for bringing a lawsuit (statute of limitations), separate sections listing exceptions to the main rule contained in your statute, etc. Depending on how the statutory scheme has been set up, many statutes can only be fully understood within the context of the related statutes around them.

When viewing statutes on online services, look for a link to the table of contents to see the statutory scheme. If you’re working with a print version, your statute may be part of a subgroup of statutes (sometimes called a “chapter” or “article”) that has its own table of contents. Otherwise, check the main table of contents at the front of the print volume.
E. Updating Statutes

There are two purposes for updating statutes: (1) ensuring the text you are looking at is current (accurate and up-to-date) and (2) checking for possible negative treatment of your statute by courts in your jurisdiction to ensure it is still “good law.”

1. Updating Statutes Online

Statutes are regularly amended, so you must ensure that you are viewing the most current version of the statute. Lexis Advance, Westlaw, and Bloomberg Law all include information about when their online statutes were last updated. Lexis Advance provides this information near the top of the screen, indicating that the text is current through a specific slip law number passed by the legislature. On Westlaw, click the “Currentness” link just after the title of the statute to find information indicating that the text is current through a specific slip law. They are usually current within a week or so. You can find out how current a statute on Bloomberg Law is by clicking the “General Info” link while viewing the statute.

To cover any gap from when the statutory text was last updated online to the current date, Lexis Advance and Westlaw both provide status signals to indicate when the current status of the statute is in question. A red signal appearing near the top of a statute on Westlaw or Lexis Advance indicates there may be a new amendment not included in the online code yet that has changed the statute. Use the provided links on both services to read the document triggering the red signal to see if it affects your statute in some important way. Westlaw and Lexis Advance also include a yellow signal for statutes that may be affected in future by legislation that has been proposed but not passed into law yet. Bloomberg Law does not have status signals for its statutes at this time.

In addition to new amendments, the red status signal for a statute on Lexis Advance and Westlaw can indicate that one or more cases have ruled negatively on the statute. You will need to read the linked cases to determine for yourself whether they do have a negative impact on the statute. Also, consider the level of the court and whether its decision is binding on you. This will be discussed in more detail in Chapter 7 on Case Research.

2. Updating Statutes in Print

When using print codes, you need to check the pocket parts, supplementary pamphlets, and/or interim supplements at the end of the set to see whether a statute appearing in the main volume of the code has been amended or repealed. You will also have to check the the latest update pamphlets, called “advance sheets,” for the session laws publication to make sure no legislation has modified the statute since the last code supplement was published. The last step of the process just described could be done using a free website that provides the latest statutes, such as Congress.gov’s Public Laws page for the current Congress.
The official U.S.C. is updated by hardback supplementary volumes published annually, often requiring you to check even more supplements than in the process just described. It is not updated as often as the U.S.C.S. or U.S.C.A.

F. Constitutional Law Research

Researching Constitutional Law issues involves many of the same tools and techniques used in statutory research. Although the U.S. Constitution is not a federal statute, it is published at the beginning of the annotated federal statutory codes. State Constitutions are also published in state annotated codes. As a result, when researching a particular Constitutional Article or Amendment you can look it up in an annotated statutory code and employ the same research tools you learned about for statutory research, including using notes of decisions and citing references to find relevant cases (discussed in more detail in the statutory case finding section of Chapter 7). In addition to what you find in annotated codes, there are many treatises, law review articles, and other secondary sources devoted exclusively to constitutional law issues, and you can find them using the same tools you learned about in the previous chapter on secondary sources.

One unique, freely available publication for U.S. Constitutional research you should also be aware of is *The Constitution of the United States of America: Analysis and Interpretation* (also known as the Constitution Annotated). It’s an annotated version of the U.S. Constitution authored by experts at the Congressional Research Service and published by the U.S. Government Printing Office. In addition to information on the history of the Constitution itself, this publication has chapters devoted to federal and state laws that the U.S. Supreme Court found unconstitutional. It is available in both online and print form, and an updated version is published during each session of Congress as a Senate document.

G. Federal Legislative History Research

Legislative history research isn’t only important to legal historians and scholars; it can be very important to practicing attorneys as well. When an issue involves how a statute should be applied to a particular legal situation, attorneys will often look to the history of the statute to try to determine what the drafters of the statute intended when they created it. This is particularly true when there is any ambiguity in the language of a statute or where the statute is being applied to a situation the drafters couldn’t have imagined at the time they wrote it.

It’s important to understand that although some legislative history documents can be considered “primary sources” since they were created under government authority during the legislative process by the legislators who drafted the law, they are NOT the law and therefore can never be considered mandatory authority. Courts are free to disregard legislative history arguments if they see fit, so legislative history documents

---

6 *The Constitution of the United States of America: Analysis and Interpretation* is also available on the U.S. Government Printing Office website using a different layout.

7 This is also referred to as “statutory interpretation” or determining “legislative intent.”
can only hold persuasive authority at best. In fact, some judges will reject any arguments based on legislative history documents and only consider the text of the statute itself as evidence of its “plain meaning.” This highlights an ongoing debate among judges and scholars, but the fact remains that legislative history research continues to be widely used as part of the statutory research process and as an attorney you will be expected to know how to do it. In fact, legislative history research is a common task assigned to law students who are working during the summer for law firms, government organizations, or legal advocacy groups.

To conduct legislative history research effectively you need to understand how the legislative process works, what types of documents are generated during the process, and how to find them.

1. **Congressional Elections**
   Every two years, all seats in the House of Representatives and one third of Senate seats are up for election. The results of the election determine the make-up of the new Congress, which gets a number. Currently the 115th Congress is in session. 2018 is an election year, so when the new Congress convenes in January 2019 after the elections it will be the 116th Congress. As mentioned earlier, the Congress number is included in federal slip law citations, and knowing the Congress number will be helpful when you need to limit your searches for legislative history documents to a specific Congress.

   Sometimes legislative history documents will also make reference to the first or second “session” of a Congress. This is simply a reference to the first or second calendar year of the Congress. Because every Congress lasts two years, each Congress includes two sessions.

2. **A (Very) Brief Overview of the Federal Legislative Process**
   The legislative process officially begins when a bill is introduced in Congress in the House or Senate. After introduction, the bill is assigned to an appropriate House or Senate congressional committee or sub-committee. During the committee process hearings may be held, reports may be generated, and the bill might be amended. However, many bills receive no further action from this point and are said to have “died in committee.” If a bill is referred out of committee back to the full House or Senate, the members may debate whether the bill should be passed and

---

8 Much has been written in law review articles and elsewhere about “plain meaning” versus legislative intent.

9 For a graphical view of the legislative process, go to the ProQuest Legislative Insight database (library barcode number required if accessing this link from outside the law school) and click the “Legislative Process” link. Use the “i” buttons next to each step in the “How a Law is Made” flowchart for additional information. Those who wish more detailed information on the ins and outs of the legislative process can go to Congress.gov’s overview at https://www.congress.gov/legislative-process, which includes video presentations and transcripts explaining each step.
will then vote on it. If the bill passes, it is then referred to the other chamber of Congress and the same process starts over again there.

If a bill is amended by the second chamber of Congress, resulting in two different versions of the bill being passed by the two chambers, a conference committee will be formed to iron out any differences. Once the same version of the bill is approved by both chambers of Congress, it is “enrolled” (published as a bill in final form) and sent to the President for signing.

Once the President receives the enrolled bill there are a few possible outcomes. If the President signs the bill it officially becomes a law. The new law would then be assigned a Public Law number and published as a slip law. However, the President also has the power to veto the bill, in which case the only way the bill could still become a law is for both chambers of Congress to pass it by a two-thirds majority vote. Less commonly, the President could do nothing at all, in which case the bill would become a law without the President’s signature after 10 days. If Congress goes into recess before the 10-day window has passed, however, the bill won’t become a law (this is known as a “pocket veto”).

3. Documents Generated During the Federal Legislative Process

This section introduces you to several types of important documents you might encounter during your legislative history research. Note that although there will always be at least one bill in a statute’s legislative history, some or all of the other documents discussed here may not have been generated for the particular statute you are researching. Major pieces of legislation, however, will usually include multiple versions of most or all of the document types mentioned here.

a. Bills

The formal legislative process begins with the introduction of a bill in either the House or Senate by a member of Congress. When a bill is introduced it is given a bill number. Bills introduced in the House begin with “H.R.” before the number and bills introduced in the Senate begin with “S.” Bill numbers start over again at 1 after the election of each new Congress, so when looking for bills it is important to know the number of the Congress the bill was introduced in.

The initial bill is a first draft of a proposed law. During the legislative process the bill may be amended many times, so it is not unusual to see several different versions of the same bill in the legislative history of a statute. Looking at how the language of a bill changed over time can provide some insight into the development of the legislation and why the final version that became law was ultimately drafted the way it was.

When doing legislative history research, you may uncover earlier versions of the legislation you’re researching but listed under different bill numbers that were introduced in an earlier congress but never passed. These are often referred to as “related bills” or “related legislation.” You may also find that at the same time your bill was introduced in the House, a very similar bill was
introduced in the Senate, or vice versa. These are called “companion bills” and are meant to generate action in both chambers at once to get legislation passed more quickly. Although you are most concerned with legislative history documents relating directly to the bill that was actually passed into law, you may glean additional insight from legislative documents generated during the consideration of the other bills as well.

b. **Committee Hearings**
   Congressional hearings may be held before or after a bill has been introduced. The hearings are conducted by an appropriate Congressional committee or subcommittee. During hearings, members of Congress and persons with expertise in the relevant subject area can give testimony as to why legislation is needed and members of Congress may ask them questions. The transcripts are published as “Committee Hearings.”

c. **Committee Reports**
   Committee Reports are the most useful and potentially persuasive type of legislative history document. After a bill is initially introduced in the House or Senate, it will be referred to an appropriate committee. The committee will analyze the proposed legislation and may do additional research to inform Congress about the purpose of the legislation and how it is meant to work. This research is published in the form of a “Committee Report.” As a result of what is learned from a committee report, amendments may be made to the original bill.

d. **Committee Prints**
   “Committee Prints” are less often encountered than some of the other types of legislative history documents. They may include drafts of bills, committee reports, and additional supporting information used in researching and drafting a report or amendment.

e. **Congressional Debates**
   When proposed legislation is reported back to the full House or Senate by a committee, the representatives or senators may conduct a debate before voting on whether the legislation should be passed. Transcripts of these debates are included in the *Congressional Record*, which is a daily publication of the proceedings of Congress.

4. **Example: A Bill Becomes a Law and Legislative History Documents are Created**
   Now that you’ve had an introduction to the legislative process and the documents that make up a statute’s legislative history, here is an illustration using an actual statute that was passed by Congress in 2004. This example follows the legislative timeline from the introduction of the bill to its passage into law and
codification. The documents referred to are hyperlinked so you can examine them easily for yourself.

a. **A Bill is Introduced in Congress**
   On February 26, 2004, during the 108th Congress, Representative Richard Pombo introduced a new bill called the “Tribal Forest Protection Act” in the House of Representatives. It was assigned bill number **H.R. 3846**.

b. **Committee Consideration**
   Next, H.R. 3846 was referred to both the House Committee on Resources and the House Committee on Agriculture. The House Committee on Resources referred the bill to two of its subcommittees. The subcommittee on Forests and Forest Health held a hearing on the bill on April 24, 2004 (noted in the subsequent House Report but the hearing transcript was apparently unpublished). On May 5, 2004, H.R. 3846 went back to the full House Committee on Resources which considered it, amended it, and created **House Report 108-509**. In May 2004, the Bill and the Report were reported to the full House of Representatives.

c. **Debate and Voting on Passage of the Bill**
   On June 21, 2004, the amended version H.R. 3846 was “debated” on the floor of the House of Representatives and was passed. In this case, time was allotted for debate but there was no disagreement so the procedures were recorded in the **June 21, 2004 issue of the Congressional Record**. The House then passed the amended version of **H.R. 3846** (this version as passed by the House is referred to as the “engrossed” bill).

d. **Engrossed Bill Sent to Senate for Consideration, Debate & Voting**
   On June 22, 2004, the engrossed version of H.R. 3846 arrived in the other chamber of Congress, the Senate. On June 25, 2004, the Senate considered and passed H.R. 3846 without sending it to any Senate committees for additional review. You can see the brief proceedings of the Senate on the bill in the **Congressional Record for that day**.

e. **Enrolled Bill Sent to the President and Signed into Law**
   The final version of the bill passed by both chambers of Congress and sent to the President is called the “enrolled bill.” The **enrolled version of H.R. 3846** was presented to the President on July 21, and on July 22, 2004 then President George W. Bush signed it into law. At that point, H.R. 3846 became Public Law **P.L. 108-278**. The assigned Public Law number reflects both the Congress and the numerical order of the legislation passed into law. P.L. 108-278 translates as the 278th law enacted by the 108th Congress.
f. **Public Law Published as a Session Law in U.S. Statutes at Large**

The 108th Congress existed from 2003-2004. As mentioned earlier, each Congress is divided into two sessions, one for each calendar year. P.L. 108-278 was passed during the second session of the 108th Congress, and at the end of that session it was published in the official federal session laws publication U.S. Statutes at Large. The session law citation for our statute is 118 STAT. 868, which indicates that the law was published in volume 118 of U.S. Statutes at Large on page 868. The information included in the session law publication of our statute indicates the day it became a law (July 22, 2004), the Public Law number, and the original Bill number it is derived from. More recent public laws, like this one, also indicate in the margin where they will be codified in the U.S. Code (see the reference to “25 U.S.C. 3115a” in the Session Law example above).

Some session laws, including this one, include a short legislative history note at the end. The legislative history note for 118 Stat. 868 includes citations to the original bill number, the House report, and the two mentions in the Congressional Record. Although helpful, legislative history notes in Statutes at Large should not be relied on as being complete.

---

5. **Finding Federal Legislative History Documents**

When you need to do thorough federal legislative history research, the best resources will provide a timeline or overview of the process the bill you’re researching went through and links to the documents produced at each stage. Lexis Advance and Westlaw do have legislative history documents available, however, there are other dedicated resources for legislative history research available to you, some of which are more comprehensive in their coverage and easier to use. One of them discussed here is even free!

When researching legislation that became law, in some of these services you will need the Public Law numbers of the original act and any subsequent amendments you may be interested in. If you are researching a bill that never became a law, you will need to know the bill number and what Congress it was introduced in. Searching the text of legislation is also possible if you don’t have a citation or want to search by topic, and your search results can often be filtered by specific types of documents and date ranges if needed.

In order to get a better understanding how each of the resources discussed below works, use the database links provided and go through the legislative history
for The Tribal Forest Protection Act, P.L. 108-278, which you just followed in section G.4. of this chapter.

a. **ProQuest Legislative Insight**

Proquest Legislative Insight is a commercial resource our library subscribes to that provides comprehensive legislative histories for statutes going all the way back to the first Congress. Proquest includes a vast collection of legislative history documents in full-text going back much further than Lexis or Westlaw, so documents listed in the legislative histories are usually available to view immediately without having to look elsewhere.

Additionally, Legislative Insight will alert you to other bills on the same topic as the legislation you’re researching. These include bills that were introduced in the same or earlier/later Congresses (related bills), and bills introduced at the same time in the other chamber of Congress (companion bills). While it’s usually not necessary for attorneys to go beyond the direct legislative history of the statute being researched, if you’re writing an historical article about the development of a law you might very well want to look at other attempts to introduce the same or similar legislation.

Here are just a few more advantages of Proquest Legislative Insight that you should be aware of:

- **Multiple search options** – “search by number” is the easiest feature to use if you already have a citation to specific legislation or documents that you’re looking for. “Quick Search” allows you to run keyword searches on all the documents in the database and filter them by Congress and type of document. “Guided Search” does the same but also provides a limited form of Terms & Connectors searching and the ability to search just the titles or subjects of the documents, in addition to full-text.

- **Legislative Process view option** – while looking at a legislative history, you can use the “Legislative Process” link just above the sorting options to see a graphical overview of the process the bill went through and what documents were generated at each stage.\(^\text{10}\)

- **Historical Context link** – provides a background summary of major events going on during the time of each Congress that might have influenced the legislation that was created at the time.

b. **Congress.gov**

Congress.gov is a free collection of legislative documents maintained by the Library of Congress. It contains some of the advantages of Proquest Legislative Insight, but it doesn’t go back as far in time\(^\text{11}\) and doesn’t offer a graphical view

\(^{10}\) Note: confusingly, there is another “Legislative Process” link near the top of the screen next to “Timeline Browse” that should only be used if you want to START your research in graphical view, otherwise you will be required to re-enter the Public Law number there.

\(^{11}\) Congress.gov provides [coverage dates](http://www.congress.gov) for the various types of documents it collects.
option. On the plus side, Congress.gov is free and is a very comprehensive for recent legislation.

Keyword searching using the main search bar is limited to legislation introduced in the current Congress, so be sure to change “Current Legislation” to “All Legislation,” or use the “More Options” link under the search bar to limit your search to a specific Congress, type of document, part of a document, legislation introduced by specific sponsors or co-sponsors, or legislation considered by specific committees.

c. **HeinOnline U.S. Federal Legislative History Library**

If you don’t have access to Proquest Legislative Insight and need a resource that has legislative history documents going further back in time than Congress.gov or Lexis and Westlaw, the [HeinOnline U.S. Federal Legislative History Library](https://heinonline.org/HOL/LandingPage?tab=ubycle&collection=LGH) is a great option. This online library is organized under four tabs. The first two are the most important ones.

The “U.S. Federal Legislative History Title Collection” tab contains a collection of legislative histories from the U.S. Government Printing Office as well as from well-regarded private sources such as the Bureau of National Affairs (BNA). Legislative histories in this collection are only available for selected statutes, but if you find one for a statute you’re researching they are usually very thorough.

The “Sources of Compiled Legislative Histories Database” tab provides another excellent resource for finding legislative histories. While some of the sources listed here overlap with those found under the U.S. Federal Legislative History Title Collection tab, you will find citations to many additional legislative histories that have been published in law reviews and other publications.

d. **Lexis Advance**

In Lexis Advance, while viewing a statute in the online code, you need to click on the Public Law link in the source note, then look for the “Bill Tracking” link to see a list of available legislative history documents and a summary of the legislation. The “Bill Text” link there will show you available versions of the bill as it worked its way through the legislative process. Coverage varies by type of legislative document, but for older legislation many documents won’t be available in the Lexis database.

e. **Westlaw**

While viewing a code section or a public law on Westlaw you can access the “Legislative History Materials” tab to see a list of available documents grouped by type. Note that under this tab for the Tribal Forest Protection Act of 2004 we looked previously, you can see the April 21, 2004 hearing transcripts that weren’t published in the Congressional Record and weren’t available in the other
resources we looked at. A separate “Bill Drafts” tab allows you to see all versions of the bill that Westlaw has in its database. Coverage varies by type of legislative document, but for older legislation many documents won’t be available in the Westlaw database.

H. New York State Legislative History Research

In many ways, legislative history research in New York is similar to its federal counterpart. As with federal research, compiling a New York legislative history involves locating and analyzing the paper trail of documents created during the process of a bill becoming a law. Conducting New York legislative history research differs, however, in that documents are neither as plentiful nor as readily available. This can make New York legislative history research more challenging.

When researching the legislative history of New York statutes, you will need the Chapter Law numbers of the original act and any subsequent amendments you may be interested in. Following the text of the statute in the code you will find the source note containing citations to the relevant New York session law(s) from which the text of the statute is derived. For example, “L.2006, c. 320” in the source note of a New York statute indicates it was originally published in chapter 320 of the 2006 legislative session.

Using the year and chapter law number, you will want to locate the “bill jacket” for the statute, if you can find one. A bill jacket is a file created for New York legislation that often contains memoranda discussing the background and purpose of the law in addition to other legislative material relevant to the law. For recent New York laws, bill jackets are available in digital form from the New York State Library, or online in Westlaw under the statute’s “History” tab. Older bill jackets are often only available in hardcopy or microfiche from a small number of libraries, such as the New York State Public Library in Albany or research branch of the New York City Public Library. You may also want to look up the chapter law in the New York State Legislative Annual, a print publication that often includes memoranda by the sponsor of the law or the Governor.

The unofficial publications of New York session laws also sometimes include legislative history materials. McKinney’s Session Laws of New York and the New York Consolidated Laws Service Session Laws both include some legislative history material for selected statutes, but they don’t provide complete legislative histories and don’t go back as far in time as the official publication, Laws of New York.

For a thorough explanation of how to find legislative history documents for New York statutes, see the New York State Library’s online publication, The Legislative History of a New York State Law: A Tutorial and Guide to Library Sources.

---

12 This is a reminder that just because a document isn’t available through one resource doesn’t mean it’s not available elsewhere.

13 As mentioned earlier, New York refers to laws passed by the legislature as “chapter laws” rather than public laws.

14 Also available on Westlaw under New York Historical Enacted Legislation (back to 1990) and New York Enacted Legislation (for the current session).