

Researching Federal Legislative History

by Rachel Compton

Federal legislative history is a compilation of “the related documents that precede the enactment of a U.S. public law.”¹ Legislative history documents are produced by the national law-making body in which a law is introduced. Examples include bills, committee or conference reports, transcripts of floor debates and hearings, and other miscellaneous papers. Legislative history often is used to clarify congressional intent of a law when the statute is not “clear on its face,”² and the plain meaning is ambiguous.

Because of the complexity of the legislative process, and because papers, transcripts, and reports from each stage of the process are extensive, it may be difficult to compile an exhaustive legislative history of a public law. This article is intended to make the research process easier by explaining how to find compiled legislative histories and how to find and use the primary documents in a legislative history. It provides some of the most comprehensive print and electronic resources available, but is aimed at providing a broad survey rather than a detailed tutorial.

The Legislative Process

A general understanding of the legislative process will give the researcher an idea of what documents are created from the introduction of a bill to the codification of the law. There are a number of resources that describe the legislative process. Among them are: “How Our Laws Are Made,” by John V. Sullivan;³ Project Vote Smart’s “GOVERNMENT 101: How a Bill Becomes a Law”;⁴ a legislative analysis from the U.S. House of Representatives;⁵ and an introduction to the legislative process from the U.S. Senate.⁶

Compiled Federal Legislative Histories

Researchers seeking a basic overview of a bill’s legislative history may be able to save a great deal of time by using one that has already been compiled. Many institutions, websites, and subscription databases make such compilations available or publish the in-

formation. For example, law libraries often provide a number of federal legislative histories in their collections. The researcher can search a library’s catalogs to find them, using key terms from the law, as well as the terms “legislative history.” The Government Printing Office (GPO) website, GPO Access,⁷ also has a catalog of government publications that includes legislative histories.

The U.S. Code Congressional and Administrative News⁸ (USCCAN) offers what may be considered a bare-bones legislative history, because it selectively publishes portions of the histories, generally providing the most important committee reports. USCCAN often includes floor debates and presidential signing statements.⁹ Additionally, the Law Librarians’ Society of Washington D.C., Inc. (LLSDC) provides an extremely helpful list of select legislative histories that are available online as part of LLSDC’s *Legislative Source Book*.¹⁰

The major subscription services for legal research—HeinOnline,¹¹ LexisNexis,¹² and Westlaw^{®13}—offer compiled legislative histories. For example, the U.S. Federal Legislative History Library is found through HeinOnline, and includes the Sources of Compiled Legislative History Database¹⁴ and the U.S. Federal Legislative History Title Collection.¹⁵ In LexisNexis, the databases US-CIS/Index (CISINX)¹⁶ and US-CIS Legislative Histories (CISLH)¹⁷ offer federal legislative history compilations. This information also is available through LexisNexis Congressional Universe,¹⁸ which may be included in the electronic collections of university or public libraries. In Westlaw, these can be found in the US GAO Federal Legislative Histories (FED-LH) database of the U.S. Government Accounting Office,¹⁹ as well as the Arnold & Porter Collection—Legislative Histories.²⁰

Government Publications

Quite often, there is not a compiled legislative history available on a particular law. In these instances, it will be up to the researcher



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to construct his or her own history. Some of the government resources that may be helpful in this effort are discussed below.

Public Laws

A good place for the researcher to start is to locate the public law number of the bill or law that is being researched. If the researcher knows the section of the U.S. Code, for example, the public law number can be found in the historical note following the text of that section. If more than one number is listed, the researcher will need to locate each one to find the desired section and language. Public law numbers also can be found by looking up the title of the act in the Popular Name Table of published versions of the U.S. Code, which are available in West's *U.S. Code Annotated*[®] and LexisNexis's *U.S. Code Service*.

The full text of a public law is available in many resources, including USCCAN, GPO Access,²¹ the GPO's Federal Digital System (FDsys),²² and THOMAS.²³ Public laws also can be found within databases in the LexisNexis and Westlaw subscription services. Once the full text is obtained, the researcher can consult the "Legislative History" section at the end of the public law, which will provide further information regarding which legislative documents contain discussion of the law.

Bills and Committee Reports

Bill numbers can be used to begin legislative history research. The full text of bills can be found on GPO Access, GPO FDsys, THOMAS, or LexisNexis Congressional. Once introduced, a bill

is assigned to one or more committees and then is the subject of hearings that allow representatives in the House and Senate to debate their views of the bill. When the committee has completed its hearings, it issues a report on the bill.

Committee reports are considered one of the key pieces of a legislative history, offering additional explanation of the proposed bill and its intent. The committee also reprints the bill to include any changes that have been made to it and describes the committee's recommendations. Because there often are many versions of a bill, looking at the added or deleted bill text can provide additional insight into the intent. Committee reports also may provide a section-by-section discussion of the bill, which is helpful to researchers who are looking for specific language or a specific section of the current statute.²⁴

Committee reports are printed in the *United States Congressional Serial Set*. Each report is assigned a number according to the Congress in session and when the report was written. For example, House Report 111-585—Part 1, submitted by the Committee on Agriculture, discusses H.R. 4785 or the Rural Energy Savings Program Act from the 111th (2009–10) Congress. Reports also can be found online through THOMAS or GPO Access and GPO FDsys, with all resources having coverage from the 104th Congress (1995) through the current Congress. Additionally, committee reports frequently will be housed on both the U.S. House of Representatives and the U.S. Senate websites by the committee to which they were assigned,²⁵ and can be found online through the LLSDC's "Quick Links to House and Senate Committee Hearings and Other Publications."²⁶

Hearing Transcripts and Floor Debates

Transcripts of hearings and floor debates are congressional documents that provide supplementary information regarding the intent of a bill. The transcripts record the discussion that occurs on a specific bill in either the House or the Senate. Transcripts of the debates are assembled in the Congressional Record, which is the largely verbatim account of the remarks made by representatives and senators on the floor of the House and Senate.²⁷

The Congressional Record for the 101st Congress (1989) through the current Congress is accessible through THOMAS. From the 104th Congress (1995) forward, the Congressional Record is accessible through GPO Access and GPO FDsys. Much earlier versions of the Congressional Record are available through the Library of Congress website.²⁸ Additionally, the print version of the Congressional Record can be found in most federal depository libraries.²⁹ The LexisNexis Congressional Universe subscription service, as well as Westlaw's database Congressional Record (CR), offer coverage starting with the 99th Congress (1985).

Miscellaneous Documents

Miscellaneous documents may be created in committees that can be used to further define the legislative intent of a law. These include congressional committee prints, issued by congressional committees, and conference reports, issued when a bill is the subject of a conference hearing in which the House and the Senate meet to agree on the same legislative language for a bill. Many of these documents can be found in the resources previously listed in this article, including GPO Access, GPO FDsys, THOMAS, HeinOnline, LexisNexis, and Westlaw.

Presidential documents, such as signing statements or papers, also can be useful in a federal legislative history. Even though they originate from the President rather than from Congress, they may offer additional insight. Often, the President's signing statements will explain why certain legislation was signed or vetoed. The President also can give Proclamations or Executive Orders that can have significant legal implications. Many presidential papers are compiled in the Weekly Compilation of Presidential Documents and

the Public Papers of the Presidents of the United States, or are included in the Federal Register,³⁰ the Code of Federal Regulations,³¹ and the U.S. Code, as well as on the White House website.³² Like the congressional committee prints and the conference reports, the presidential documents can be found in the resources listed in this article, including GPO Access, GPO FDsys, THOMAS, HeinOnline, LexisNexis, and Westlaw.

Conclusion

Assembling a legislative history is a complex and often complicated process, but a number of resources are available to assist the researcher. Locating a compiled legislative history is an important first step, because it may provide the researcher all the information he or she needs. If the compiled legislative history is not comprehensive enough or one is not available, the researcher can use many of the sources listed in this article to locate primary documents that offer insight into a statute's legislative intent. Congressional documents, including committee reports, hearing transcripts, floor debates, congressional committee prints, conference reports, and presidential signing statements, all work together to complete the federal legislative history.

Notes

1. McKinney and Sweet, "Federal Legislative History Research: A Practitioners' Guide to Compiling the Documents and Sifting for Legislative Intent" (Law Librarians' Society of Washington, D.C., Inc. (LLSDC), rev. 2008), available at www.llscdc.org/fed-leg-hist.

2. Gaylord, "Legislative History Research: A Guide to Legislative History" (Illinois Institute of Technology, May 25, 2010), available at libraryguides.kentlaw.edu/legislativehistory.

3. Sullivan, "How Our Laws Are Made" (Library of Congress, July 24, 2007), available at thomas.loc.gov/home/lawsmade.toc.html.

4. Project Vote Smart's Guide, "GOVERNMENT 101: How a Bill Becomes Law," available at www.votesmart.org/resource_govt101_02.php.

5. "Tying it All Together: Learn about the Legislative Process," available on the U.S. House of Representatives website at www.house.gov/house/Tying_it_all.shtml.

6. "Learning About the Legislative Process," available on the U.S. Senate website at www.senate.gov/pagelayout/legislative/d_three_sections_with_teasers/process.htm.

7. The Catalog of U.S. Government Publications, catalog.gpo.gov/F, is provided by GPO Access, a website run by the U.S. Government Printing Office (GPO) that includes official information from the Legislative, Executive, and Judicial Branches of the U.S. Government.

8. See the Library of Congress website at www.loc.gov/law/help/leghist.php:

USCAAN public law volumes reprint all of the public laws appearing in the Statutes at Large since 1941. Beginning in 1948, USCAAN contains legislative history volumes which print excerpts of congressional reports for selected legislation with additional citations to the *Congressional Record* and Presidential signing statements.

9. McKinney and Sweet, *supra* note 1.

10. "Legislative Histories of Selected U.S. Laws on the Internet" is part of LLSDC's *Legislative Source Book*. It provides a number of federal legislative history compilations. One can search by popular name or by public law number. See www.llsdc.org/Leg-Hist.

11. HeinOnline, which touts itself as "the world's largest image-based legal research database," offers fully searchable image-based PDF versions of a number of resources. A subscription comprises: Legal Classics, Law Journal Library, U.S. Supreme Court Library, U.S. Federal Legislative History Library, and Treaties and Agreements Library. There also are several unique à-la-carte collections, including: U.S. Congressional Documents, Foreign & International Law Resources Database, World Trials, and Session Laws. See heinonline.org.

12. The Lexis Total Research System, a collection of online databases powered by LexisNexis®, is available at www.lexis.com.

13. Westlaw® (part of Thomson Reuters), a collection of online databases, is available at www.westlaw.com.

14. The Sources of Compiled Legislative History Database is derived from the loose-leaf publication, "Sources of Compiled Legislative Histories: A Bibliography of Government Documents, Periodical Articles, and Books," by Nancy P. Johnson, Law Librarian and Professor of Law, Georgia State University College of Law.

15. HeinOnline describes it as "a collection of full-text legislative histories on some of the most important and historically significant legislation of our time."

16. Coverage is from 1970 to the present. The following appears in the source information for the database:

The CIS/Index provides abstracts of Congressional committee hearings, prints, reports and documents that are published by some 300 active House, Senate, and Joint committees and subcommittees. In addition, this file contains CIS prepared legislative histories of all Public Laws enacted since 1970, with the exception that purely technical and ceremonial laws have been omitted.

17. Coverage is from 1970 to the present. The following appears in the source information for the database:

This file contains Legislative Histories, prepared by Congressional Information Service (CIS), of key U.S. Public Laws from first consideration through presidential signature. Abstracts of the hearings, reports, prints and documents cited in the Legislative Histories are also included in the file.

18. Congressional Universe is available through the Denver Public Library's Databases A-Z at denverlibrary.org/database/c. There is no charge, but a library card or account is required.

19. The following appears in the summary of the database:

Comprehensive legislative histories for most U.S. Public Laws enacted from 1921 to 1995 (rolling release), as compiled by the U.S. Government Accountability Office, including the text of laws, bills, commit-

tee reports, Congressional Record documents, transcripts of hearings, and other documents in pdf format.

20. The Arnold & Porter Collection—Legislative Histories is a collection of databases that contain comprehensive legislative histories for specific federal legislation, including full-text documents, compiled by the law firm of Arnold & Porter.

21. GPO Access's coverage of public laws begins with the 104th Congress (1995).

22. GPO's Federal Digital System (FDsys) is available at www.gpo.gov/fdsys, and is the new platform for government information provided by the U.S. Congress and other federal agencies. At the time of publication of this article, FDsys is in a beta stage/version, but the migration of information from GPO Access is expected to be completed before the end of 2010, at which point FDsys will be the main portal for the GPO. FDsys's coverage of public laws begins with the 104th Congress (1995).

23. THOMAS, available at thomas.loc.gov, is a government website created by the Library of Congress to locate legislative information. Public law coverage begins with information on the 93rd Congress, but provides only full text of the public law beginning in the 104th Congress through a link to GPO Access.

24. Georgetown Law Library Legislative History Research tutorials are available at www.ll.georgetown.edu/tutorials/lh/index.cfm.

25. Coverage and accessibility depends on the committee. The U.S. House of Representatives Committee Offices are available at www.house.gov/house/CommitteeWWW.shtml; the U.S. Senate Committees are available at www.senate.gov/pagelayout/committees/d_three_sections_with_teasers/committees_home.htm.

26. "Quick Links to House and Senate Committee Hearings and Other Publications" are available at www.llsdc.org/quick-links.

27. Description of the Congressional Record from the U.S. Senate website is available at thomas.loc.gov/home/LegislativeData.php?&n=Record.

28. The Library of Congress publishes the electronic resource titled "A Century of Lawmaking for a New Nation—U.S. Congressional Documents and Debates, 1774–1875," available at memory.loc.gov/ammem/amlaw/lawhome.html. It includes the predecessors to the Congressional Record, such as the Annals of Congress (1789–1825), the Register of Debates (1825–36), and the Congressional Globe (1833–73).

29. Local federal depository libraries include the Colorado Supreme Court Library; the U.S. Court of Appeals Library; the Auraria Library, located at the University of Colorado Denver campus; and the Denver Public Library. Most of these libraries are selective depository libraries, and may or may not house the Congressional Record.

30. The following appears at www.gpoaccess.gov/fr, the GPO Access website:

Published by the Office of the Federal Register, National Archives and Records Administration (NARA), the Federal Register is the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

31. GPO Access, at www.gpoaccess.gov/cfr, states the following about the Code of Federal Regulations:

The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis.

32. The White House website, www.whitehouse.gov, provides the full-text of the current administration's proclamations and executive orders, in chronological order. ■

