



Legislative History Materials in MAALL and adjacent states

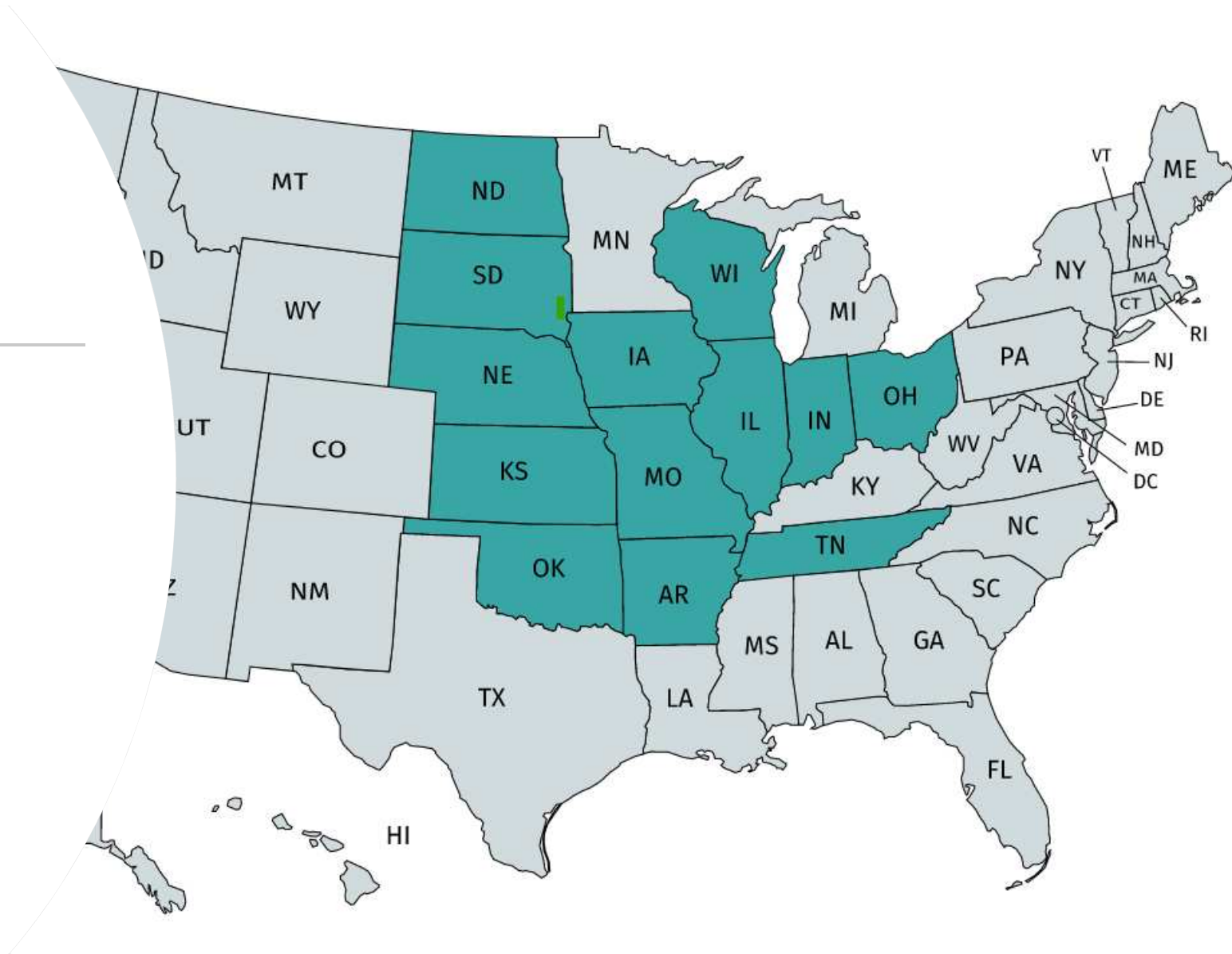
Compiled and Presented by:

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Ruth Lilly Law Library
IU Robert H McKinney School of Law

States covered:

- North Dakota
- South Dakota
- Nebraska
- Kansas
- Oklahoma
- Ohio
- Iowa
- Illinois
- Missouri
- Arkansas
- Wisconsin
- Indiana
- Tennessee



Three inquiries

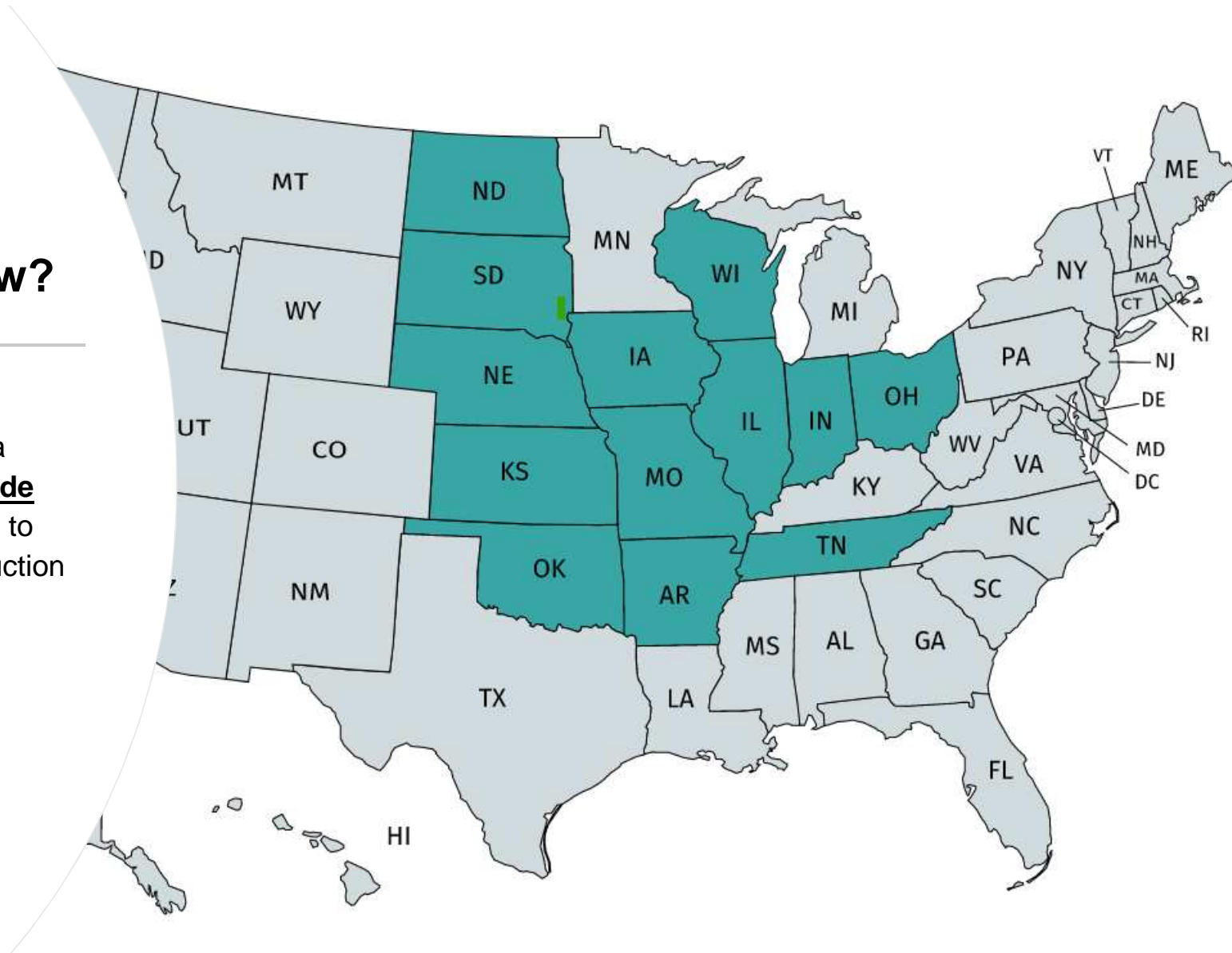
1. What is the standard of review for questions of legislative intent?

2. When will extrinsic materials be utilized?

3. What materials are available?

Question 1: What standard of review?

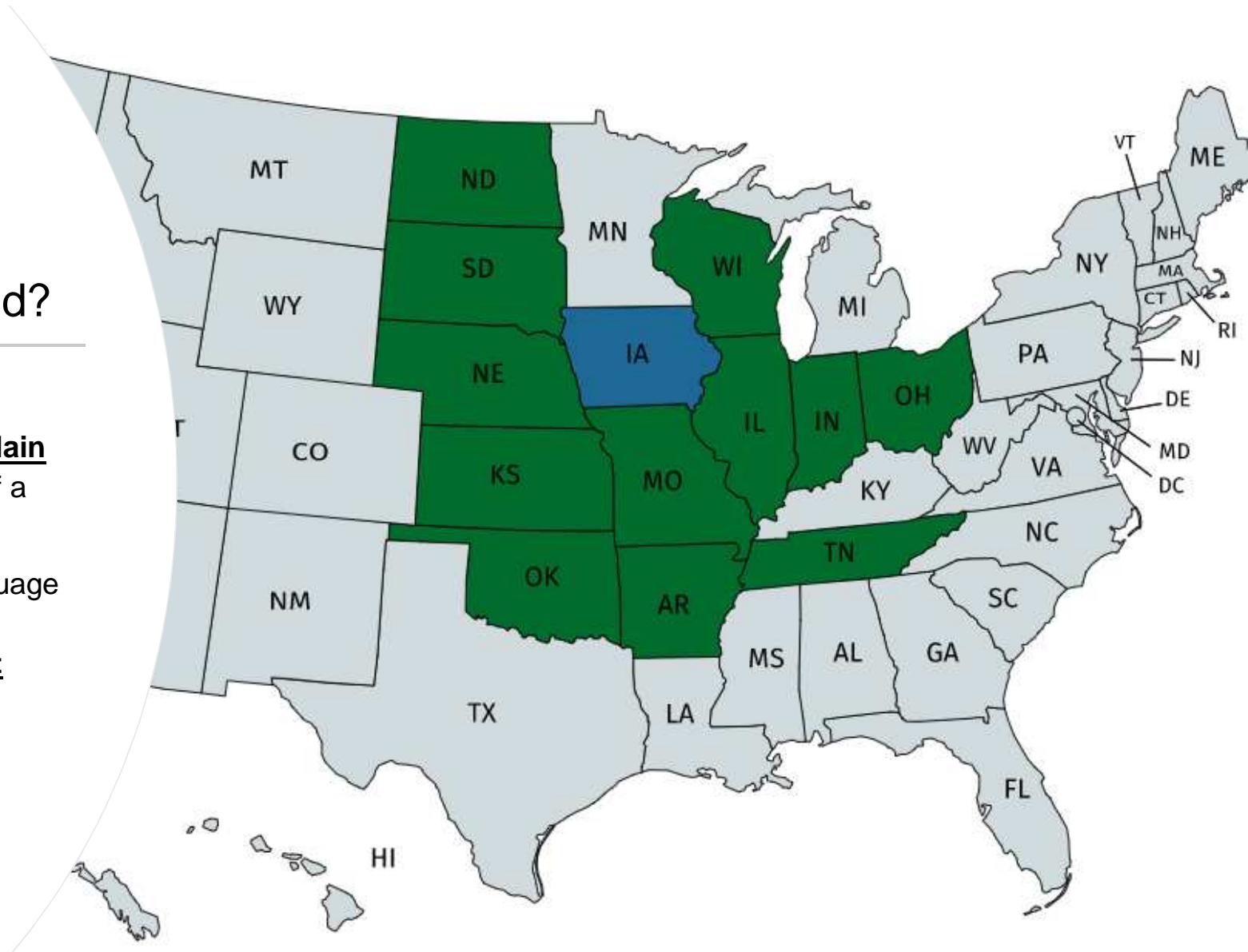
- All states surveyed view statutory construction as a matter of law and apply a **de novo standard of review** to issues of statutory construction



Question 2:

When will extrinsic materials be utilized?

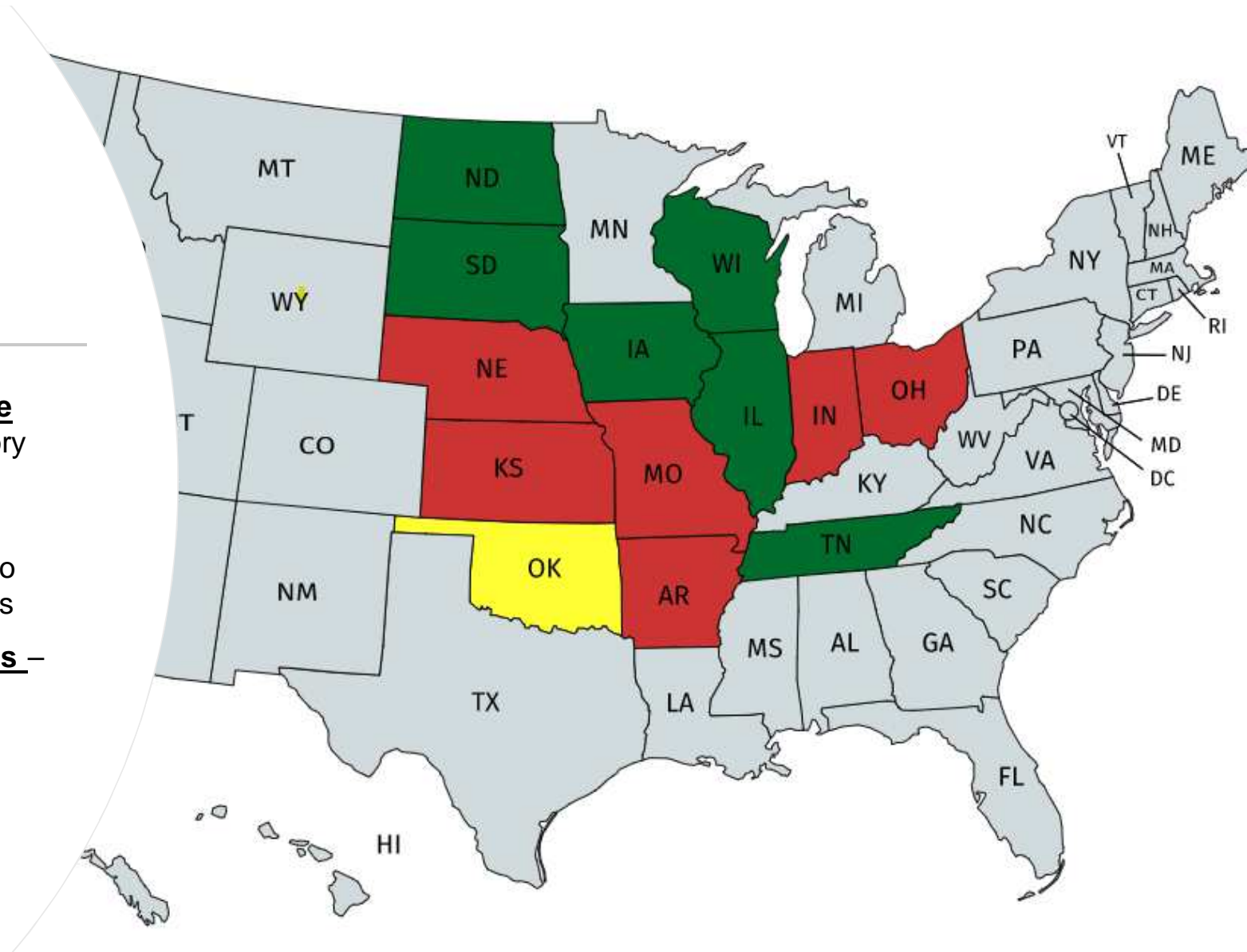
- All states surveyed turn to extrinsic materials if the **plain and ordinary meaning** of a statute is ambiguous
- Iowa uses both plain language and extrinsic materials to determine intent **at outset**



Question 3:

What materials are available?

- 6 states have **good online access** to legislative history materials
- 1 state has **some online/physical access** to legislative history materials
- 6 states have **poor access** – Good luck!




Treatment by individual states



Wisconsin

When determining legislative intent, we first examine the language of the statute itself and will resort to extrinsic aids only if the language is ambiguous. *Zimmerman v DHSS*, 169 Wis.2d 498 (Wis.Ct.App1992)



General availability	Statutes	Acts	Bills	Journals
	Online: 1849-present	Online: 1848-present (state) 1836-1986 (LLMC)	Online: 1999-present (state) Microfiche: 1927-present	Online: 1995-present Print: 1907-present

State Legislature's website is immensely helpful:
<https://docs.legis.wisconsin.gov/archive>

Wisconsin State Law library has a helpful guide:
<https://wilawlibrary.gov/learn/wilegislativehistory.pdf>

Tennessee

When the language is ambiguous and does not yield a clear interpretation, the court may consult the legislative history for additional interpretive guidance. *Storey v. Bradford Furniture Co.*, 910 S.W.2d 857, 859 (Tenn.1995)



General availability	Statutes	Acts	Bills	Journals
	Online: 1991-present (Lexis)	Online: 1796-1986 (LLMC) 1997-present (state)	Online: 1991-present (Lexis)	Online: 1796-1990 (LLMC) 2000-present (WL)

No materials prior to 1955


Secretary of State's office is helpful:
<https://sos.tn.gov/tsla/legislative-history-recording>

Oklahoma

The fundamental rule of statutory construction is to ascertain and give effect to the legislative intent, and that intent is first sought in the language of a statute.

Pentagon Academy v. Ind. Sch. Dist. No. 1 Tulsa Cty, 2003 OK 98




General availability	Statutes	Bills & Session Laws	Journals	Recordings
	Online: 1988-present (WL)	Online: 1993-present (legislature)	Online: 1895-1987 (LLMC) 1999-present (House); 2003-present (senate)	Online: some spotty availability (legislature) Physical: State Archives

Indiana

Where the language is clear and unambiguous, there is “no room for judicial construction.” *St. Vincent Hosp. & Health Care Ctr., Inc. v. Steele*, 766 N.E.2d 699, 704 (Ind.2002)



General availability	Statutes	Session Laws & Acts	Journals
	Online: 1990-present (WL) Print: 1816-present (IU libraries)	Online: 1999-present (IGA) Print: 1801-present (IU libraries)	Online: 1857-1990 (LLMC) 2003-present (WL)

Recordings of floor debate and committee hearings (the only records of what is said in these proceedings) cannot be use as evidence of legislative intent. Ind. Code 2-5-1.1-15.

Missouri

Only in those cases “where the language of the statute is ambiguous or where ‘its plain meaning would lead to an illogical result,’ ” will this court “ ‘look past the plain and ordinary meaning of a statute.’ ” *Nichols v. Dir. of Revenue*, 116 S.W.3d 583, 586 (Mo.App. W.D.2003)

General availability	Statutes	Session laws	Journals
	Online: 1989-present (WL)	Online: 1999-present (legislature)	Online: 1820-1899; 1996-present (legislature)

“The typical librarian disclaimer when discussing Missouri legislative history is that there isn’t any! Though with creativity we can usually find something about intent. At the federal level the government is required to publish committee reports, hearings, debate, etc. Typically none of that is available at the state level in Missouri.”



Illinois

To this end, a statute's legislative history and debates are “[v]aluable construction aids in interpreting an ambiguous statute.” *Krohe v. City of Bloomington*, 789 N.E.2d 1211 (Ill. 2003).




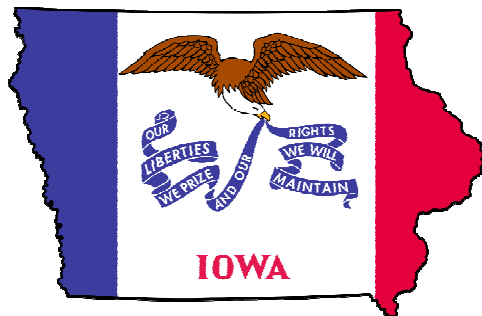
General availability	Statutes	Session laws	Journals
	Online: 1988-present (WL)	Online: 1971-present (legislature)	Online: 1971-present (legislature)

Iowa

“We give words their ordinary and common meaning by considering the context within which they are used . . . We also consider the legislative history of a statute, including prior enactments, when ascertaining legislative intent. When we interpret a statute, we assess the statute in its entirety, not just isolated words or phrases.”

Doe v. Iowa Dep't of Human Servs., 786 N.W.2d 853, 858 (Iowa 2010).

General availability	Statutes	Session laws/acts	Journals	Others
	Online: 1988-present (WL)	Online: 1838-present (legislature)	Online: 1838-present (legislature)	Online: 1995-present (legislature)



North Dakota

When the language of a statute is ambiguous, courts may use extrinsic aids, including legislative history, to ascertain legislative intent. NDCC 1-02-39



General availability	Statutes	Session laws	Journals
	Online: 1989-present (WL)	Online: 1862-present (legislature)	Online: 1983-present (legislature)

In *City of Fargo v. Ness*, 529 N.W.2d 572 (N.D. 1995), the North Dakota Supreme Court used Code Revision Commission notes to interpret a statute.

South Dakota

Courts can only look to legislative history if legislation is ambiguous or its literal meaning is absurd or unreasonable.
Slama v. Landmann Jugman Hosp. 654 N.W.2d 826 (S.D. 2002).



General availability	Statutes	Session laws	Journals
	Online: 2004-present (WL)	Online: 1890-present (state library)	Online: 1997-present (legislature)

Ohio

Legislative history may be considered if statute is ambiguous.
R.C. 1.49.

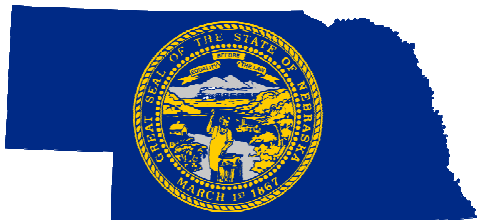
Legislative history was used to interpret a statute in *State v. Sidell*, 282 N.E.2d 367 (Ohio 1972).



General availability	Statutes	Session laws	Journals
	Online: 1994-present (WL)	Online: 1997-present (legislature)	Online: 2003-present (legislature)

Nebraska

"It is also settled law that where the general intent of the Legislature may be readily discerned, and yet the language in which the law is expressed leaves the application of it in specific instances obscure, doubtful, ambiguous, or uncertain, the courts may have resource to historical facts of general information in order to aid them in interpreting its provisions."
 Adkisson v. City of Columbus, 333 N.W.2d 661 (Neb. 1983).



General availability	Statutes	Session laws	Journals
	Online: 1989-present (WL)	Online: 2007-present* (legislature)	Online: 1999-present* (legislature)

Omaha Public Power Dist. v. Nebraska Dept. of Revenue, 537 N.W.2d 312 (Neb. 1995) referred to committee hearings and floor debate to interpret a statute. Three judges concurred in judgment but criticized the majority for referring to legislative history.

Arkansas

Courts can use legislative history when statute is ambiguous. *ACW, Inc. V. Weiss*, 947 S.W.2d 770 (Ark. 1997).



General availability	Statutes	Session laws	Journals
	Online: 2004-present (WL)	Online: 1987-present* (legislature)	Online: Current session (legislature)

Court held testimony from former state lawmaker was inadmissible. *Board of Trustees for City of Little Rock, Ark. Police Pension Fund v. City of Little Rock*, 750 S.W.2d 950 (Ark. 1988).

Kansas

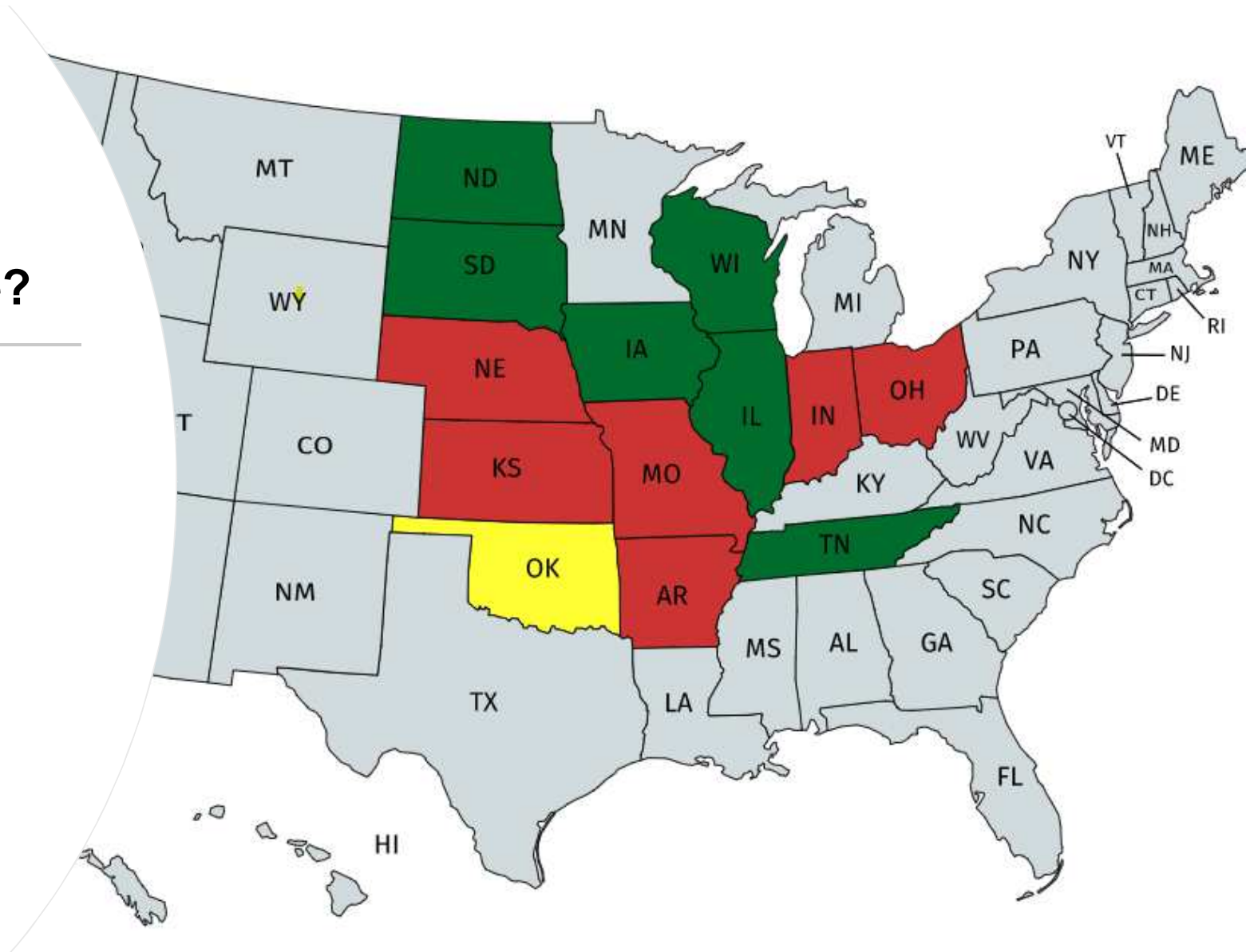
"Where a statute may be of doubtful meaning and is susceptible to two constructions, the court may look at the legislative history of the statute to assist in determining the meaning of the statute. *Tompkins v. Bise*, 910 P.2d 185 (Kan. 1996).

General availability	Statutes	Session laws	Journals
	Online: 1990-present (WL)	Online: 1996-present (legislature)	Online: 1997-present (legislature)



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Your experience?



Further Reading

- Candice Spurlin, The Basics of Legislative History in South Dakota, 56 S.D. L. Rev. 114 (2011).
- Rhonda R. Schwartz, Resorting to Extrinsic Aids: North Dakota Legislative History Research, 30 Legal Ref. Servs. Q. 95 (2011).
- Maureen Bonace McMahon, Legislative History in Ohio: Myths and Realities, 46 Clev. St. L. Rev. 49 (1998).

Further Reading

- Karen Wallace, Does the Past Predict the Future?: An Empirical Analysis of Recent Iowa Supreme Court Use of Legislative History as a Window into Statutory Construction in Iowa, 63 Drake L. Rev. 1 (2015).
- Kathryn C. Fitzhugh & Melissa M. Serfass, Using Legislative History in Arkansas to Determine Legislative Intent: An Examination of Cases and Review of the Sources, 32 U. Ark. Little Rock L. Rev. 285 (2010).



Further Reading

- Richard E. Levy & Robert Mead, Using Legislative History as a Tool of Statutory Construction in Kansas, J. Kan. Bar Ass'n 71, at 35 (May 2002).
- Jesse Bowman, Looking for Intent Illinois Legislative History, 108 Ill. B.J. 50 (2020).

Further Reading

- Our colleagues at Georgetown Law Library have created several very helpful state-specific libguides that include legislative history research tips:
 - <https://guides.ll.georgetown.edu/home/us-law>
- When in doubt, call your colleagues at a law school in that state



Questions?

