

REPORT TO
THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII

EXAMINATION OF THE
OFFICE OF THE REVISOR OF STATUTES

SUBMITTED BY
THE AUDITOR OF THE STATE OF HAWAII

Audit Report No. 66-1

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TO THE GOVERNOR OF THE STATE OF HAWAII
TO THE MEMBERS OF THE THIRD STATE LEGISLATURE

I submit herewith a report on our examination of the operations of the Office of the Revisor of Statutes, Supreme Court of Hawaii. This is the first of a continuing series of management audits which will be conducted by this Office.

In this audit examination, we have attempted to evaluate management's effectiveness in program planning and execution in the light of identified State goals, policies, and resource commitments for the Revisor's program. Our evaluative comments and recommendations are presented in Section VII of this report.

The selection of the Office of the Revisor of Statutes for an audit examination should be explained. During the 1965 general session of the legislature, the House of Representatives adopted House Resolution Number 29, House Draft 1, which requested the Legislative Reference Bureau "to make a study of the operation of the Office of the Revisor of Statutes and of the staff workload and pay schedule" and "to determine how the

purpose for which the office was created may best be accomplished." This Resolution was adopted prior to the establishment of the Auditor's Office. However, with the establishment of this Office it became apparent that the Revisor's study would more properly fall within the Auditor's function. The responsibility of conducting this study, therefore, was transferred from the Legislative Reference Bureau to the Auditor's Office, with the verbal concurrence of the Speaker of the House of Representatives and the President of the Senate.

I wish to express our deep appreciation to the many individuals who so generously lent us their assistance in providing us with informational background and in reviewing the preliminary draft of this report. Special thanks should be given to the Revisor of Statutes and his staff and the Administrative Director of the Courts. They were most cooperative in all respects and greatly expedited the conduct of this study.



Clinton T. Tanimura
Auditor

H O U S E R E S O L U T I O N

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO
REVIEW THE OPERATION OF THE OFFICE OF THE REVISOR
OF STATUTES.

WHEREAS, Section 1-50, Revised Laws of Hawaii 1955, as amended, created the Office of the Revisor of Statutes; and

WHEREAS, said section authorizes the Revisor of Statutes to select an assistant revisor and other technical, clerical and stenographic assistants as are necessary; and

WHEREAS, a review of the operation of the Office of the Revisor of Statutes is in the public interest to determine how the purposes for which this office was created may best be accomplished; now therefore,

BE IT RESOLVED by the House of Representatives of the Third Legislature of the State of Hawaii, General Session of 1965, that the Legislative Reference Bureau be and is hereby requested to make a study of the operation of the Office of the Revisor of Statutes and of the staff workload and pay schedule; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau report its findings to the House of Representatives no later than twenty (20) days prior to the opening of the 1966 Budget Session; and

BE IT FURTHER RESOLVED that a duly authenticated copy of this Resolution be forwarded to the Director of the Legislative Reference Bureau.

(Adopted March 5, 1965)

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction	1
II. History of Statutory Revision in Hawaii . .	4
III. Methods of Statutory Revision	8
IV. Functions of Statutory Revision	12
V. Organization, Staffing, and Finance	19
VI. Work Procedures	35
VII. Evaluation and Summary	44

I. INTRODUCTION

This report incorporates our findings and recommendations resulting from an examination of the operations of the Office of the Revisor of Statutes, Supreme Court of Hawaii. Our examination was conducted during the period of September to November 1965. The examination was conducted pursuant to authority granted to the Auditor of the State of Hawaii under Article VI, Section 8, of the Constitution of the State of Hawaii and Sections 2-30 to 2-39 of the Revised Laws of Hawaii 1955, as amended.

The purpose of this examination was to ascertain whether the activities and programs of the Office of the Revisor of Statutes were being implemented in accordance with legislative appropriations and intent and whether they were also being implemented in an effective, efficient, and economical manner. In accordance with this objective we have:

(1) examined the laws relating to the Revisor of Statutes, and the history of statutory revision in Hawaii; (2) studied the alternative methods of statutory revision; (3) studied the functions of statutory revision agencies in other jurisdictions; and (4) reviewed the organization, staffing, financing, and work procedures of the Revisor's Office.

The questions we have raised in our examination are characteristic of those which management is expected to ask of itself, in order that it may continuously subject itself to searching self-scrutiny to ensure that it is effectively serving an essential mission.

Much of the general background information relating to statutory revision in Hawaii and in other jurisdictions was obtained from published library materials. However, in order to obtain more recent and complete information on statutory revision in other states, a survey questionnaire was prepared and sent to twenty-two states. The states queried represented a cross-section of the different approaches to statutory revision that are employed by the several states. States for which published information was not available locally were also queried.

Information on the legislative intent in establishing the Office of the Revisor of Statutes was obtained from legislative records stored in the State Archives. In addition, extensive interviews were held with legislators and other persons in government and in the community who were instrumental in establishing this agency in 1959.

Information on the operations of the Revisor's Office was obtained by firsthand observation in the field and by examination of the financial and other management records retained by the Revisor of Statutes. Supplemental information was obtained from interviews held with the Revisor and with

key administrative personnel in the Judiciary and Executive branches of government.

Sections II to VI of this report attempt to set forth the background information necessary to understand the general purpose, nature, and scope of the statutory revision function and to describe the operations and performance of the Hawaii Office of the Revisor of Statutes. Our evaluative comments and recommendations are presented in Section VII of this report.

II. HISTORY OF STATUTORY REVISION IN HAWAII

This section traces the events leading to the establishment of the Office of the Revisor of Statutes, and shows the available evidence of legislative intent in creating this Office. Its purpose is to familiarize the reader with the development of Hawaii's statutory revision system, and to document the original legislative intent.

Compilation of statutory law can be traced back to the 1842 "Blue Book." Subsequent compilations in the nineteenth century consisted of:

- 1850 Penal Code, containing the penal laws of the monarchy
- 1859 Civil Code, containing the civil laws of the monarchy
- 1869 Penal Code, updating the 1850 Penal Code
- 1884 Compiled Laws, updating the 1859 Civil Code, and containing penal laws enacted since 1869
- 1897 Penal Laws, updating the 1869 Penal Code
- 1897 Civil Laws, updating the civil laws portion of the 1884 Compiled Laws.

In 1905, the Revised Laws of Hawaii 1905 was published, incorporating all the statutory law then in force, including

that stemming from the monarchy, the enactments of the Provisional Government of 1893-1894, the Republic of Hawaii of 1894-1900, and the then infant Territory of Hawaii. The user of statutory law now had only one source to which he need refer.

That source, however, was amended almost as soon as it was published by the laws of the ensuing session. The user of laws was again faced with the task of referring to more and more session law publications as the years went by. Within 10 years, the Legislature decided to integrate into the 1905 Revised Laws the ensuing session laws, yielding the Revised Laws of Hawaii 1915. Subsequent bulk revisions were published in ten-year intervals, in 1925, 1935, 1945, and 1955.

In authorizing the 1935 bulk revision, the legislature decided to publish the session laws in the same order as their location in the body of the revised laws, rather than in the order of their enactment.^{1/} This practice was continued until 1953 after which the legislature mandated a reversion to the practice of publishing session laws arranged in the order of their becoming law.^{2/} At the same time, the legislature provided the further refinement of biennially publishing a cumulative supplement to the latest completely revised laws, thus obviating the need to refer to several volumes of session laws in addition to the basic revised laws.

^{1/}Act 10, Session Laws of Hawaii 1935.

^{2/}Act 76, Session Laws of Hawaii 1955.

This, then, is the form of the statutory law as we use it today--the Revised Laws of Hawaii 1955, updated by the most recent cumulative Supplement (1963) which cumulates all permanent acts from 1957 to 1963, and further augmented by the session law publications of 1964 and of 1965. When the 1965 Supplement becomes available, it will supplant the 1963 Supplement and the 1964 and 1965 Session Laws.

The decennial bulk revisions since 1905 had been performed under the direction of compilation commissions which were specially set up under specific legislative acts. The 1953 legislature, in establishing the compilation commission for the revised laws of 1955, further directed the commission to "make a study of methods of promulgating and providing copies of the laws enacted at each session of the legislature, and methods of cumulating and keeping current the compilation of the laws".^{3/} The recommendation of the commission, supported by a staff study of the Legislative Reference Bureau,^{4/} led to the establishment of the Office of the Revisor of Statutes.

The original legislative intent in creating this Office is indicated by the statement that "the present system of bulk revision every 10 years calls for large expenditures, difficulty in obtaining the services of people competent to revise large

^{3/} Act 179, Session Laws of Hawaii 1953.

^{4/} Awana, Henry T., "Revision of State or Territorial Statutes", Legislative Reference Bureau, University of Hawaii, 1958.

blocks of statutes, waste of setting up and training the necessary clerical force, and helplessness on the part of the legislature when it is presented with a bill several thousand pages long which purports to revise the entire body of statute law."^{5/} Further indication of legislative intent can be seen in the statements that the "commission method of revising the territorial laws had grown impracticable by reason of the volume of work to be done (and that) in terms of cost, a permanent office having the same responsibilities as have been granted to the revision committee and to the Secretary of Hawaii could effect a saving of public money while at the same time permit continuous and therefore more thorough work to be done."^{6/}

^{5/}House Standing Committee Report No. 596, 4/27/59, House Journal, 1959 Regular Session, page 798.

^{6/}Senate Standing Committee Report No. 63, 3/24/59, Senate Journal, 1959 Regular Session, page 652.

III. METHODS OF STATUTORY REVISION

The codification of statutory law is generally accepted as a government function. Compilations of the statutory law exist for all states. They are either made by a state agency or by a private publisher under the sponsorship of the state. The four basic methods for revising the statutory law are: (1) bulk revision, (2) single volume replacement, (3) frequent periodic publication, and (4) looseleaf binder publication. Once the law is thus revised, states have generally found it desirable to update the law continuously, by issuing supplemental volumes, pocket parts, or amended pages. This section discusses the methods used to revise and to update the statutes, and cites their features and chief advantages and disadvantages.

Bulk revision has been used in Hawaii through 1955. It consists of purifying the law at one point in time. The chief advantage is it is inexpensive when compared to other methods, since the only expenditure is for compilation, printing, and binding. There are no interim costs because there are no interim updatings. The disadvantages include difficulty in researching the law after many years have elapsed since the bulk revision and difficulties in obtaining the services of people competent to revise the statutes when such a revision is again decided upon.

Supplemental volumes have been used by Hawaii since 1957. When used as a method of updating the bulk revision, it removes

some of the disadvantages of the bulk revision. A supplemental volume is a permanently bound volume containing changes to the basic law. The arrangement of material within the supplement is identical to the arrangement within the basic law. A supplement is usually cumulative back to the last bulk revision. Its merit may be argued in terms of cost, with supplements costing less than frequent complete re-publications but more than pocket parts (both discussed below). In Hawaii user familiarity with the cumulative supplement may be claimed as a distinct advantage for this method.

Single volume replacement involves the replacement of one or more volumes each year until the cycle of replacement is completed. This method is particularly suited to the older states which have a voluminous set of laws requiring several volumes. Its advantages over bulk revision are that it budgets the replacement over several years, and that it is possible to select for revision those volumes in which substantial changes have been made. Its chief disadvantage is that its usual updating device, pocket parts, can cause unwieldy volumes.

Pocket parts are supplemental sheets of amendments which are inserted into a slotted cover within the volume that the sheets amend. When pocket parts are used as the updating method, the basic law is usually published in several volumes. Advantages include: (1) lower cost than supplemental volume since pocket parts utilize the binding of the bulk publication, (2) the presence of the supplemental

pocket part in the volume it supplements thus accelerating any search for the most recent law, and (3) usually, the publication of the law in many volumes thus allowing for lower eventual costs through single volume replacement. The chief disadvantage is cumbersomeness, since a bound volume will hold only so many pocket parts before having its binding impaired and becoming unmanageable in size and handling.

Frequent periodic publication generally refers to quadrennial or biennial publication of the entire permanent statutory law. This is the most expensive method of keeping the statutes current, but is the easiest to use since the user need not refer to supplemental material.

Looseleaf binder publication refers to the practice of publishing the law on looseleaf pages which are placed in ring binders or post binders. It permits the practice of reprinting and replacing only those sections which have been changed, and of inserting the change in its exact location at the permanent body of law. Its chief advantages are the elimination of supplemental material and of frequent bulk re-publications, and a relatively low cost. Its major disadvantages are that successful use is dependent on the diligence of its users in inserting amendatory pages, the tendency of pages to tear out, and the possibility of much blank space among the pages.

Other combinations of revision and updating methods are possible, such as pocket parts with bulk revisions, or cumulative

supplements with single volume replacement. The latter is especially advantageous when extensive changes are made to the material in one volume, while the material in others are relative untouched.

IV. FUNCTIONS OF STATUTORY REVISION

This section outlines the functions of statutory revision and discusses how these functions are implemented in Hawaii. It describes the major outputs of the Office.

The purposes for having statutory revision can be expressed as a series of logical steps:

- (1) to determine what statutes are in force;
- (2) to eliminate from the statutes, the obsolete, antiquated, unconstitutional, and unnecessary sections;
- (3) to bring together, under a logical classification system, statutes relating to the same subject;
- (4) to simplify and clarify the statutes that remain by restating them in clear and uniform language;
- (5) to arrange the statutes within each subject in logical and consistent sequence;
- (6) to develop such research aids as cross-references, annotations, tables, and indexes; and
- (7) to publish the statutes in the most convenient and usable form.^{1/}

^{1/}Cullen, Robert K., "Mechanics of Statutory Revision", Oregon Law Review, Volume XXIV, Number 1, December 1944.

The most succinct way of indicating how these purposes are accomplished in Hawaii is by quoting section 1-52 of the Revised Laws of Hawaii 1955, as amended, which states that the "duties of the revisor, in the order of their priority, shall be (a) the publication of the session laws; (b) the publication of supplements to the revised laws; (c) the review of annotations to the revised laws; (d) the continuous revision of the statute laws of Hawaii; and (e) such other related duties as may be assigned by the supreme court."

These work activities of the Office of the Revisor of Statutes are best and most logically reflected in terms of a two-year cycle. Beginning with the adjournment of the budget session, the Revisor must compile and publish, as soon as possible, the acts enacted during that session, complete with index and tables of disposition showing the effect on the permanent body of law. Following its publication and preceding the following year's general session, the Revisor must prepare a report to the legislature consisting of changes to revised law sections which have been impliedly repealed or amended by subsequent legislation, and of corrections in form to the revised laws. Following the adjournment of the regular session, the Revisor must compile and publish the acts of that session together with index and disposition tables. Immediately following this, he

must prepare and publish a cumulative supplement to the revised laws, fitting into the previous supplement the laws passed in the previous two years, and in the form of the revised laws, completely indexed, and with tables of disposition. Any revisions or updating in the annotations are also placed in the supplement. A more detailed exposition of each of these activities follows.

Publication of the Session Laws

The session laws are compiled and published in book form following the close of each regular session. The acts are arranged in the order of their enactment. An index is constructed by subject, act number and page. Tables showing the effect of the acts on the revised laws are constructed and printed. The table of contents contains the act number, bill number, and the subject content of the act. The language of the act is identical to the language as enacted, except for patent typographical errors, e.g., substituting "these" for "this", but most errors are left in with footnotes to the effect that they are probable errors.

Publication of Supplements

The cumulative Supplement to the Revised Laws is published biennially following a general session, but only after the session laws for that general session have been compiled and indexed. The subject material is arranged serially from chapter 1, in the same manner as in the revised laws. It contains laws of a general and permanent nature, and omits special acts, such as acts granting a

person permission to sue the State and measures enacting the operating budget. When an act revises a section, the entire section is usually reprinted, including annotations. Exceptions are (a) for minor changes such as changing from "territory" to "state", and (b) a change in one subsection of a long involved section. Where sections have been repealed, this is noted in the body of the Supplement. The preface explains terms used in the contents, and explains how to use the Supplement. Editorial notes include cross-reference notes, notes on the reorganization of state government, notes showing the substance of citations, notes on apparent conflicts between sections in the revised laws, and historical and amendatory notes tracing the development of a revised law section. These editorial notes follow the section to which they apply. Also contained are tables of disposition to facilitate research of the source of the material in the current volume.

The revised laws limit the Revisor's discretion in the preparation of the Supplement, and do not permit his altering the sense, meaning, or effect of any act. Section 1-55 of the Revised Laws provides that "in preparing the supplements, the revisor may (a) number and renumber chapters, sections and parts of sections, (b) rearrange sections, (c) change reference numbers to agree with renumbered chapters, parts or sections, (d) substitute the proper section or chapter numbers for the terms 'the preceding section,' 'this act' and like terms, (e) strike out

figures where they are merely a repetition of written words,
(f) change capitalization for the purpose of uniformity,
(g) correct manifest clerical or typographical errors, and
(h) make such other changes in any act incorporated in the
supplements as shall be necessary to conform the style thereof
as near as may be with that of the last revision of the laws
of Hawaii."

Review of Annotations

Section 1-58 of the Revised Laws provides that "the revisor shall examine the annotations to the congressional acts and state statutes in the latest revised laws for the purpose of checking their accuracy and appropriateness and shall make the necessary corrections or other changes. The revised annotations, or appropriate parts thereof, when completed, shall be incorporated in the supplements to the revisions of the laws of the State". The sources of these annotations include the Hawaii Supreme Court decisions, Federal District Court decisions, Federal Circuit Court of Appeals decisions, United States Supreme Court decisions, opinions of the United States Attorney General, and opinions of the Hawaii State Attorney General.

An annotation is made whenever a case or opinion passes on the constitutionality or validity of the statute law, or is useful in the interpretation or application of the law.

The annotation consists of the citation of the source plus a concise statement of the substance of the ruling. This time-consuming function requires a substantial amount of reading by a technically competent person.

Continuous Statutory Revision

The major functional change made by Act 191, Session Laws of Hawaii 1959 was the instituting of a program involving the "systematic and continuing study of the laws of Hawaii for the purpose of reducing their number and bulk, removing inconsistencies, redundancies and unnecessary repetitions and otherwise improving their clarity". Section 1-59 of the Revised Laws of Hawaii 1955, as amended, which makes this provision also mandates that the Revisor must submit to the legislature at each general session a report and drafts of bills and resolutions to correct defects in the statutes, such as sections impliedly repealed or amended by more recent enactments. An example of this is found in Act 96, Session Laws of Hawaii 1965, originated by the Revisor, which made technical changes to various sections of the Revised Laws to bring them into conformity with the Administrative Procedures Act of 1961. Another example is found in Act 193, Session Laws of Hawaii 1963, also a revisor's bill, which resulted in corrections to various sections throughout the Revised Laws.

Further examples are found in the projects now in progress intended to conform the statutes to changes made by the Honolulu Charter and the Hawaii rules of civil and criminal procedure.

While these projects are not yet in the form of bills, a considerable amount of work and research has been accomplished in the way of identifying the sections affected and in determining the extent and scope of the inconsistencies.

Bulk Revision

Section 1-59 provides that the Revisor shall "prepare for submission to the legislature, from time to time, a re-writing and revision, either complete, partial or topical of the laws of Hawaii." A topical revision involves the revision of all statutes which are closely related in subject matter and can thus logically be revised together as a single subdivision of the statutory law. A complete revision, or bulk revision, would involve the corrective revision of the entire body of statutory law.

Related Functions Not Performed by the Revisor

The Office of the Lieutenant Governor recommends the number of copies to order, establishes the selling price, and distributes and sells the Revised Laws, Supplements, and Session Laws. Revised Laws Section 1-57 provides that the "session laws and supplements shall be sold and distributed by the lieutenant governor at a price fixed by him (and that he) may furnish the session laws and supplements to public officials for official use free of charge."

V. ORGANIZATION, STAFFING, AND FINANCE

Organization and staffing are major concerns of any management survey. The attainment of maximum efficiency and effectiveness is enhanced by proper organizational placement and adequate staffing. This section outlines the various organizational patterns used, the features of Hawaii's current organization for statutory revision and the events leading to the establishment of Hawaii's current organizational pattern. It also contains data on duties, responsibilities, and pay of each of the five positions in the office.

Organization

A review of other states' organization for statutory revision reveals a variety of organizational patterns. Nebraska's statutory revision is a function of the Judicial Branch, and its Revisor also serves as Supreme Court Reporter. Rhode Island's Revisor, called the Assistant in Charge of Law Revision, is appointed by the Secretary of State. Florida's Statutory Revision Department is a

division of the Attorney General's Office. Tennessee has a Code Commission, which supervises a private publisher in compiling and publishing its annotated code and cumulative supplements. Wisconsin's Revisor of Statutes is appointed by and operates under a joint legislative committee. These five organizational locations are representative of the organizational patterns found in the states.

Nevada recently underwent a reorganization of legislative services which involved its statutory revision function. This was previously performed by a Statute Revision Commission, created in 1951 and composed of the three justices of the Nevada Supreme Court. The Commission employed a statute revisor who in 1953 acquired all bill drafting functions from the Attorney General. In 1963 the legislature consolidated the Statute Revision Commission's functions with the Legislative Council Bureau, which previously had confined itself to advising the Legislative Interim Committee and to conducting legislative research. The reorganized Legislative Council Bureau now contains three divisions: fiscal and auditing, legal, and research. The Bureau's director also serves as the head of the legal division, which is the operating unit responsible for bill drafting and statute revision duties.

In Hawaii the Office of the Revisor of Statutes is organizationally situated in the Judicial branch. The Revisor of Statutes is appointed by and is responsible to the State Supreme Court.

The original bill in 1959 calling for the establishment of this Office, Senate Bill No. 512 which became Act 191, Session Laws of Hawaii 1959, placed the Revisor within the Department of the Attorney General. In Senate Draft 1, this organizational placement was switched to the Legislative Reference Bureau. Committee Report No. 63 noted that the Legislative Reference Bureau was most appropriate "by reason of the staff and reference materials now within that department." It further noted "that at some future date when the functions of the office have been established it would be appropriate to place this activity under the Supreme Court and to combine it with the function of the Supreme Court Reporter, so that the work of publishing court decisions as well as the statute laws of the Territory could be coordinated."^{1/}

^{1/}Senate Standing Committee Report No. 63, 3/24/59,
Senate Journal, 1959 Regular Session, page 652.

Senate Draft 2 retained the Revisor in the Legislative Reference Bureau but provided that his appointment would be made by the Supreme Court. House Draft 1, which was enacted, changed its organizational location to the Supreme Court.

The Chief Justice is the administrative head of the judiciary. As such, he is the Revisor's supervisor. But the Chief Justice has delegated his supervision to his Administrative Director of the Courts. The Revisor thus receives direction and control from the Administrative Director. The Revisor is free to act on his own will on the internal operations of his office, such as distributing the work, granting leaves, and initiating his budget. On other matters, the Revisor clears with the Administrative Director.

The 1960 Annual Report of the Judiciary, page 17, notes that "it appears, however, that the type of work performed by the Revisor of Statutes is one which is more closely related to the legislative or legal branches of the State than the judiciary. Consideration might be given by the Legislature as to whether it might not be functionally more appropriate and consistent to attach that Office to the Attorney General's Department or the Legislative Reference Bureau." The recent views of the Chief Justice were substantially unchanged. While he stated that the presence of the Revisor in his organization does not hamper other functions, neither is it functionally interrelated with any other of the Supreme Court's

organizational subunits or subfunctions.

Staffing and Pay

House Resolution No. 29 which was adopted by the House of Representatives in the General Session of 1965 specifically requested that a study of the staff workload and pay schedule be made. We have therefore incorporated into this report extensive discussions of each of the positions in the Office of the Revisor of Statutes.

The Office contains five positions: Revisor of Statutes, Assistant Revisor of Statutes, Law Clerk, Statute Revision Clerk-Stenographer, and a temporary position of Clerk II. The duties and responsibilities of each of these positions are discussed below.

Revisor of Statutes. This position was created by Act 191, Session Laws of Hawaii 1959. The Revisor is selected by the Supreme Court. He is not subject to the civil service and compensation laws. The Revisor has direct supervision and control of that Office, and selects with the approval of the Supreme Court all personnel of his Office.

The major part of the Revisor's time is spent in technical statutory revision work. This includes editing, indexing, annotating, and cross-referencing both the session laws and the supplement. He is also primarily responsible for continuous revision activities, including the selection of topics for inclusion in

the revisor's bill to correct and update the statutes. As administrator of the program, he must plan and direct its activities.

The Revised Laws state that the Revisor shall be a "duly qualified person." The Legislature in 1959 had considered establishing as a minimum qualification that he be a member of the Bar. This qualification was omitted prior to final passage of that bill.

The original law in 1959 provided that the Revisor's salary would be set by the Supreme Court within a range of \$9,000 to \$14,000 per year. The maximum salary was raised five percent to \$14,700 in mid-1962, and later raised by ten percent to \$16,170 effective January 1966.

The rationale behind establishing of the salary is expressed in Senate Standing Committee Report No. 63 of the 1959 Regular Session which stated that the salary of the Revisor of Statutes should be comparable to that which is paid the Assistant Attorney General. This had a direct bearing on the organizational location of this Office, for if the Revisor had been placed in the Legislative Reference Bureau at that salary, he would have been paid higher than the director of the Bureau.

The first Revisor was appointed on July 6, 1959, and has served continuously since that date. His pay has been set at the maximum permitted by law. He previously served as

deputy attorney general and in that capacity became quite familiar with statutory revision by serving as technical staff to the 1955 Compilation Commission and also by assisting the Legislative Reference Bureau in publishing the 1957 Cumulative Supplement.

Assistant Revisor of Statutes. This position is also specifically mentioned in the legislation which created this Office. The Assistant Revisor is appointed by the Revisor with the approval of the Supreme Court. He must possess the same qualifications as the Revisor. His pay shall not exceed 90 percent of that of the Revisor. He serves as the principal technical assistant to the Revisor and may be designated as acting director.

The duties of the Assistant Revisor are essentially the same as those of the Revisor, with the exception of continuing administrative duties which the Revisor alone handles. The Assistant Revisor participates in all phases of technical statutory revision work. Under the current distribution of work, he is primarily responsible for making revisions to the statutes which were caused by the City and County Charter and the State Reorganization Act of 1959.

The 1959 Legislature considered establishing as minimum qualification for this position the requirement that he be a member of the Bar. As in the case of the Revisor, this qualification was dropped prior to final enactment of the bill.

Section 1-51 of the Revised Laws limits the Assistant Revisor's salary to no more than 90 percent of the Revisor's. This means that the maximum allowable salary was \$12,600 per year from 1959 to mid-1962; \$13,200 from mid-1962 through 1965; and \$14,553 beginning January 1966.

The present Assistant Revisor of statutes was first appointed on July 13, 1959 and has served continuously since that date. He has had legal training and has served as a researcher with the Legislative Reference Bureau. He participated in the compilation of the 1955 Revised Laws and in the production of the 1957 Cumulative Supplement. The Assistant Revisor was initially paid at an annual rate of \$7,800 per year. This was raised to \$8,700 per year in January 1960, and further raised to \$9,600 in July 1960. In July 1961, his salary was raised to \$12,600, and he has since been paid at the maximum allowable by law.

Law Clerk. This is the third technical position in the Office. It was created in September 1960. The law clerk is hired by the Revisor, with the approval of the Supreme Court, from a civil service eligible list. The law clerk's salary rate is SR-18, with a normal salary range of \$6,996 to \$8,928. The maximum longevity step pays \$10,848 per year.

The law clerk may participate in all phases of technical statutory revision work. This includes editing, indexing, annotating, and cross-referencing. Under the current division

of work, the law clerk is responsible for revising the annotations to statutes. The first eleven of the 48 current volumes of the Hawaii Reports have been completed. The remaining 75 percent of the unfinished work in this task will require a full-time equivalent of 16 to 18 man-months to complete.

The minimum qualifications noted on the law clerk's position description are graduation from an approved school of law and a knowledge of the law, principles of preparing indexes, and principles and technique of bill drafting.

The first law clerk was hired in September 1961 and resigned in January 1964. His replacement was hired in April 1964 and transferred to the City's Office of the Corporation Counsel in April 1965. Thus, the law clerk position has been vacant for a total of two years since its creation.

This law clerk's position is unique by the fact that it is the only one in the State which is in the classified civil service. In 1961 the Revisor sought to remove this position from the classified system by proposing the enactment of a bill, S.B. 597 (companion measure H.B. 898), which would have authorized the appointment of a second assistant revisor exempt from the civil service and compensation laws. It passed the Senate but not the House.

The difficulties of having the law clerk position in the civil service were cited by the Revisor in his letter to the House Judiciary Committee, dated April 27, 1961 as follows:

"We feel that this classification is an unworkable one. In the first place we would have much difficulty in recruiting suitable persons in view of the low salary. Probably the only persons seeking our position would be law school graduates waiting to take the bar examination. Secondly we would have difficulty in retaining an employee, for if the employee should pass the bar examination he would probably seek other government legal offices, where the pay is much better, or enter the private practice of law, rather than remain as a permanent law clerk in the revisor's office."

Statute Revision Clerk-Stenographer. This position was created in August of 1959 and initially called a legal stenographer, SR-13. It was upgraded in December of 1963 to salary range 16. It is the only full time clerical position in the Office. The original incumbent is still with the Office and is paid at the rate of \$8,508 per year.

His specific duties in the preparation of the session laws and supplements include the preparatory work of assembling and organizing the material, preparing tables showing the effect of session laws on the existing laws, preparing cross references, compiling the index, proofreading, preparing legal advertisements, and maintaining the control files. He also performs all secretarial and required office service functions.

Clerk II. This is a temporary position usually funded for six months in the fiscal year during which the cumulative supplement must be prepared. Its duties consist of proof-reading the session laws and supplements, and typing the manuscripts for the printer. Its six-month cost totals \$2,040. It was reallocated from clerk I to clerk II in October of 1963. It is paid at salary range 7.

Finance

The appropriation for fiscal 1966 amounted to more than \$104,000. This increase from the fiscal 1965 appropriation of \$50,000 was the result of the cost of printing the biennial Supplement, and the higher cost of printing general session laws. The fiscal 1966 figure includes \$46,000 for salaries of the four full-time and one half-time positions; \$58,000 for supplies including \$15,000 for printing the session laws and \$42,000 for printing the Supplement; and a small amount for equipment. Act 223, Session Laws of Hawaii 1965, raised all employees' salaries effective January 1966, and will result in higher salary costs provided all positions are filled.

Expenditures for the first six years of operations ended June 20, 1965 totaled \$343,862, or an average of \$57,310 per year. The following table shows the annual appropriations, and expenditures by class, by fiscal year.

	<u>APPROPRIATED</u>	<u>TOTAL</u>	<u>EXPENDED</u>		
			<u>SALARIES</u>	<u>SUPPLIES</u>	<u>EQUIPMENT</u>
1966	104,157	--	--	--	--
1965	50,036	47,509	41,484	6,025	--
1964	89,312	79,470	42,586	36,628	256
1963	51,626	49,110	41,190	7,735	185
1962	51,697	42,401	40,317	1,260	824
1961	71,542	63,714	30,866	31,179	1,669
1960	67,050*	<u>61,658</u>	<u>26,690</u>	<u>32,826</u>	<u>2,142</u>
Total		343,862	223,133	115,653	5,076
Percent of Total		100.0%	64.9%	33.6%	1.5%

*Includes \$7,425 supplementary appropriation by Act 21, SLH 1960, and \$1,140 in accumulated vacation leave credits.

Sixty-five percent of all expenditures was spent for salaries. Another twenty-seven percent was spent for printing the session laws and supplements and is reflected above within the supplies figure. The unexpended portion of the appropriation averaged ten percent per year, caused principally by overestimation in printing costs.

All appropriations are made from the general fund. Program earnings of about \$8,500 per year from sale of law books are deposited into the general fund.

Actual printing costs of session laws and supplements which were charged to the Revisor's appropriations over the last six completed fiscal years total \$93,364 as detailed in column 1 of the table below.

PRINTING COSTS OF SESSION LAWS AND SUPPLEMENTS

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
	Total Printing Cost	Number of Copies	Pages Per Copy	Unit Page Cost (in cents)
SESSION LAWS				
1965 (2 Vol.)	\$12,375	1,500	775	1.1
1964	2,884	1,500	156	1.2
1963	7,368	1,250	394	1.5
1962	3,520	1,200	176	1.7
1961	9,029	1,250	439	1.6
1960	3,479	1,500	126	1.8
1959 Spec.	2,839	1,500	140	1.4
SUPPLEMENTS				
1963	24,854	2,000	1,144	1.1
1961	21,378	2,000	844	1.3
1960	18,013	1,750	676	1.5

This table also provides data for cost trend analysis. The figures in column 4, unit page cost, are computed by multiplying column 2 by column 3 and dividing the product into column 1. The data show a definite trend toward a reduction in the unit page cost.

Salary

Some comparative data are available on the salaries of statute revisors in other states. These figures were sought for the 1959 period when the Hawaii office was established and for the 1965 period for comparison with today's salaries.

Salary data for the 1959 period are sketchy. Two Council of State Government booklets published in 1959^{2/} and 1960^{3/} contained tables which showed, among other things, some information on salaries of revisors. These two booklets could yield but ten usable salaries for the 1959-1960 period.

REVISORS' SALARIES, 1959-1960

<u>STATE</u>	<u>TITLE</u>	<u>SALARY</u>	<u>YEAR</u>
Arizona	Code Revisor	\$ 8,400	1959
Colorado	Revisor of Statutes	12,000	1960
Kansas	"	10,500	1960
Kentucky	"	8,940	1959
Minnesota	"	15,000	1960
Missouri	"	12,000	1959
North Carolina	"	6,500	1960
North Dakota	Code Revisor	7,200	1959
South Carolina	Code Commissioner	10,000	1959
Washington	Revisor	15,000	1960

^{2/}"Legislative Councils: Organization, Staffing and Appropriations", Council of State Governments, September 1959.

^{3/}"Legal Services for State Legislatures", Council of State Governments, August 1960.

These ten ranged from \$6,500 to \$15,000 per year. They averaged \$10,554 as compared with Hawaii's \$14,000 for that period.

Available current salary data are incomplete. Our recent questionnaire which was sent to selected states yielded but four usable revisors' salaries out of seventeen replies.

REVISORS' SALARIES, 1965

<u>STATE</u>	<u>TITLE</u>	<u>SALARY</u>
Florida	Director, Statutory Revision	\$17,200
Iowa	Code Editor	10,000
Rhode Island	Assistant-in-Charge of Law Revision	8,242
Wisconsin	Revisor of Statutes	13,500

The average for these four was \$12,236 as compared with Hawaii's then current \$14,700 and January 1966's \$16,170.

Several factors may enter into the setting of a revisor's salary. In some states, a revisor's salary may be influenced by the extent and complexity of non-statutory revision duties he performs. In other states, the level of organizational placement might dictate the maximum allowable salary. In still others, comparison with jobs

of similar complexity and responsibility within the state may well override comparisons with revisors' jobs in other states. These qualifications, plus the limited number of entries in the samples, should be kept in mind when using the comparative salaries.

VI. WORK PROCEDURES

The investigation in depth of the work procedures of an agency is mandatory for adequate comprehension of the full scope and impact of an operation. An understanding of a process is a prerequisite to an evaluation as to the effectiveness and efficiency of an office.

The procedures which we must be concerned with are (a) preparation of the session laws and (b) preparation of the cumulative supplement, as these are currently the Revisor's major time-consuming operations. This material is prefaced by file descriptions to provide a more accurate picture. The main source of these data was the Revisor's procedural guides for new workers.

WORKING MATERIALS

Working materials consist of printed copies of the material to be revised, and files of index cards which are used to keep track of the multiple interrelationships between sections of the law. The files are described below.

1. Master Supplement Control File -- one card for each section in the most recent Supplement. Each card either contains the amendments, explanatory notes, and annotations for the section, or shows that the section was repealed. The cards are filed by section number. The file is used to update the Supplement.

2. Master Index-Supplement File -- one card for each section in the Supplement. Each card contains all index entries for a section, and also the location of all cross references to the section. The cards are filed by section number. The file is used to maintain and keep current the index.
3. Intersectional Control File -- one card for each section which is referred to by another section. The cards are filed by section number. The file is used to determine which other sections are affected whenever the subject section is amended or repealed.
4. Alphabetic Index-Supplement File -- one card for each entry in the Supplement's index. The cards are filed alphabetically. New index entries are inter-filed, and entries for repealed sections are removed. This file is used to facilitate final preparation and editing of the manuscript.
5. Case Annotation Control File -- one card for each case for which an annotation appears in a section of the law. Each card contains the citation, annotation, revised law section affected, and changes in rulings. The cards are filed by case citation. This file is used to correct revised law section annotations. The file is kept current by review of the Hawaii Reports, the United States

Reports, the Federal Reports, the Federal Supplement, the opinions of the Hawaii State Attorney General, and the opinions of the United States Attorney General.

PREPARATION OF THE SESSION LAWS

The Session Laws are printed with a minimum of editorial changes to make the publication available as quickly as possible. In summary, the process calls for (a) preparing the Acts themselves for the printer, (b) preparing research aids such as the index, the list of Acts, and the table showing the effect of Acts on Revised Law sections, (c) getting a printer, and (d) checking and correcting the printer's copy. The step-by-step description of the operations follows.

1. Get Acts. Two copies of each enrolled Act are received from the Lieutenant Governor.
2. Prepare one copy for printer. On one copy is indicated the style of type (italics, bold face, capitalization), size of type (10 point, 8 point, 6 point), size of margins, indentations, columnar structure, and extraneous material. The copy is checked for completeness of data.
3. Prepare a worksheet. This involves noting the identification data (bill no., act no., year); devising a short, descriptive title; developing index titles; and noting the revised law sections affected and the types of effect (amended, repealed, new section). This worksheet is checked, and then used in the next three steps.

4. Prepare the index. Each index title from the worksheet is typed on an index card and proof-read (index cards for the operating and capital budgets are usually carried over from year to year on color-coded cards). The cards are filed alphabetically. After all cards are filed, the file is edited to eliminate overlapping and conform language. The index copy for the printer is typed from the corrected file.
5. Prepare the table of sections affected. The information on each section affected is typed from the worksheet onto an index card, and proof-read. The cards are filed by section number. After all cards are filed, the file is edited to combine entries if two acts pertain to the same section. The tables are typed from the corrected file, for sending to the printer, the courts, the Legislative Reference Bureau, the House and the Senate.
6. Prepare the list of acts. The short titles from the worksheets are listed sequentially by act numbers. Information typed consists of act number, bill number, and subject title. The list is later sent to the printer.
7. Get a printer. The Revisor prepares bid specifications, processes the bids, prepares a contract, and awards the contract. This step need not await the completion of previous steps. Its processing

is overlapped with other steps. The above material is combined into a manuscript which is sent to the printer.

8. Correct the galley proofs. The printer feeds the material to the Revisor on a strict time schedule specified in the contract. Proofreading is performed by three persons--one reading and two checking. The corrected galleys are returned to the printer.
9. Correct the first page-proofs. The printer sends these proofs to the Revisor on a strict time schedule specified in the contract. They are checked against the corrected galley proofs. The corrected first page-proofs are returned to the printer.
10. Correct the revised page-proof. The printer sends these proofs to the Revisor on a strict time schedule specified in the contract. They are checked against the corrected first page-proofs. The corrected revised page-proofs are returned to the printer, marked "OK" for printing.
11. Receive publication. Unbound advance sheets of the session laws are received. Its pages are spot checked as time permits. Bound copies are delivered to the Lieutenant Governor, who is responsible for distribution and sale.

PREPARATION OF THE CUMULATIVE SUPPLEMENT

This function follows the preparation of the Session Laws after general sessions of the Legislature. The major work activities are (a) revising the main text of the previous supplement by inserting material from the subsequent session laws, (b) revising the index, (c) revising and adding to the research aids (annotations, table of disposition, etc.), (d) getting a printer, and (e) checking and correcting the printer's copy. The step-by-step operations follows.

1. Paste-up supplement and acts. Each section of the most recent Supplement is pasted onto a sheet of paper, with a maximum of one column to a sheet.
2. Prepare master supplement control file cards.

A file card is prepared for each session law section which will appear in the supplement. From these cards, a preliminary table of disposition is made up. Then the cards are filed into the Master Supplement Control File, by section number affected, with these qualifications:

- a. if there is a section card already on file, the information is consolidated on the card;
- b. if this will be an entirely new section, a supplementary listing of new sections is prepared for use in revising the index;
- c. if no card is in the master file and the section is one found in the Revised Laws, a supplementary listing, "List of RLH

sections to be added", is prepared for guidance in getting additional paste-ups.

3. Prepare the text. The paste-ups are matched with the Master Supplement Control File cards. Allowable style changes and corrections are made (change in capitalization, corrections of manifest clerical or typographical errors, substitution of section or chapter numbers for terms like "the preceding section" and "this act"). Source notes and cross-reference notes are made. Whenever a section is deleted, its index titles and cross-references to it are removed.
4. Prepare the annotations. Material that has been added to the Case Annotation Control File since the last supplement is added to the paste-ups.
5. Prepare the index. Index entries are transferred from a worksheet to duplicate sets of index cards. One set is filed in the Alphabetic Index-Supplement File, which latter is used as the source when typing out the index copy.
6. Prepare the tables of disposition. A table of disposition shows, by session, act, and section, the section's assigned revised laws number or whether it repealed a section or whether it was omitted or is located elsewhere in the law (appendix, Hawaiian Homes Commission Act, etc.). Tables of disposition from the previous supplement are corrected for renumbered sections or revisions.

The preliminary table constructed in step 2 above is checked and then added to the previous tables.

7. Prepare the auxiliary material. This material consists of the title page, authority, preface, abbreviations and symbols, table of contents, Constitution of the United States, Admission Act, Constitution of the State of Hawaii, Organic Act amendments, Hawaiian Homes Commission Act of 1920, the Appendix (including the Charter of the City and County of Honolulu), and Chronological Notes of Federal Acts Affecting Hawaii. Most of it can be reproduced in its entirety from the previous Supplement.
8. Get a printer. The Revisor prepares bid specifications, processes the bids, prepares a contract, and awards the contract. The material for the Supplement is combined into a manuscript and sent to the printer.
9. Correct the galley proofs. The printer feeds the material to the Revisor on a strict time schedule specified in the contract. Proofreading is performed by three persons--one reading and two checking. The corrected galleys are returned to the printer.

10. Correct the first page-proofs. The printer sends these proofs to the Revisor on a strict time schedule specified in the contract. They are checked against the corrected galley proofs. The corrected first page-proofs are returned to the printer.
11. Correct the revised page-proof. The printer sends these proofs to the Revisor on a strict time schedule specified in the contract. They are checked against the corrected first page-proofs. The corrected revised page-proofs are returned to the printer for final printing and binding.
12. Receive publication. Unbound advance sheets of the Supplement are received, and spot checked as time permits. Bound copies are delivered to the Lieutenant Governor, who is responsible for distribution and sale.

VII. EVALUATION AND SUMMARY

This concluding section is concerned with presenting our evaluative comments on the operations of the Office of the Revisor of Statutes. Our recommendations for the further improvement of the effectiveness, efficiency, and economy of the Revisor's Office are also incorporated herein.

Significance of Statutory Revision

Statutory revision is an important and critical function of government. That State laws affect the lives of every individual in the State is self-evident. It is particularly important, therefore, that these laws be compiled and revised with great technical accuracy and be published as expeditiously as possible. This can best be accomplished by a permanent governmental agency staffed with personnel of high integrity and professional competency.

In every state of the Union, the compilation and revision of the statutory law are either performed by a governmental agency or by a private publisher under governmental sponsorship. In Hawaii the history of statutory revision by government stretches back to the days of the monarchy. Since 1959, continuous statutory revision has been carried on by a permanent governmental agency--the Office of the Revisor of Statutes.

Functions

What functions should a statutory revision agency perform? All the functions now performed by the Office of the Revisor of Statutes are related solely to statutory revision. The Book of the States, 1964-65, published by the Council of State Governments, shows that of the 50 states, 41 have permanent governmental bodies responsible for statutory revision. Of the 41, only 5 (including Hawaii) have agencies with no other responsibilities besides statutory revision. In each of the remaining 36 states, the organizational unit responsible for statutory revision also performs some other legislative service functions such as bill drafting (32 states), legal counseling (28), spot research (27), and research reporting (19).

These legislative service functions may logically be divided into three groups. The first is composed of corrective actions taken to revise the statutes, including the compilation of statutes, revision to the form of the statutory law, and the substantive revision of statutes. The second group consists of functions related to the preventive maintenance of the statutes, including bill drafting, review of bills prior to introduction, and review of bills prior to third reading. The third group may be termed other legislative service functions, and mainly consists of research, legal counseling, and budgetary review and analysis.

One advantage in combining functions is that personnel skilled in the corrective process of statutory revision could use their skills to work effectively in the drafting of bills

and the review of legislation. An involvement in these preventive actions can result in the correction of errors prior to the enactment of legislation, thus reducing corrective work in statutory revision.

Another advantage stemming from the combining of functions is that peak workloads in each function can adequately be handled by shifting staff members to the function with a peakload. This is possible since there is little overlap in peakloads. In statutory revision the peak workload occurs just after the legislative session, while for bill drafting it occurs just prior to and in the early part of the session, and for the third reading file it occurs during the session.

Still another advantage is that the statute revisor can well be made responsible for composing and publishing a bill drafting manual, and for training bill drafters as to proper drafting form and language.

Thus, a marriage of the statutory revision, bill drafting, and third reading file review functions would make possible not only the application of common background and knowledge to related jobs, but also the expeditious handling of peak workloads.

Organizational Placement

The Office of the Revisor of Statutes is presently situated in the Judicial branch of government. If the functions of this Office were limited solely to statutory revision, as is presently the case, its placement in the Judiciary appears to be appropriate.

However, if the Revisor's functions were to be expanded to include the preventive maintenance of the statutes and thus involve this Office in the legislative process through activities such as bill drafting and the review of bills before enactment, we are of the opinion that the Revisor's Office should be transferred to the legislative branch or a legislative service agency. Recent experience has shown that the legislature can not rely on a coordinate branch of government for supportive services in reviewing bills for technical accuracy before final legislative action. In 1965, the House of Representatives requested this type of services from the Revisor's Office. This request was denied by the Administrative Director of the Courts on the grounds that this was not a statutory function of the Revisor's Office.

Moreover, the inclusion of the Revisor's Office in the legislative branch or a legislative service agency would permit better coordination and more efficient and effective planning and implementation of all services essential to the legislative process. The Judiciary, on the other hand, should experience no real adverse effects from this transfer since the Revisor's Office is neither functionally nor organizationally interrelated with any of the other subfunctions or subunits which comprise the Judiciary branch.

The Revisor's Office could either be established as a separate agency within the legislative branch or it could be merged into an existing legislative service agency, namely, the Legislative Reference Bureau. The latter course appears to be more advantageous for the following reasons:

(1) The bill drafting function is already carried on by the Legislative Reference Bureau and the establishment of a separate agency with similar or related capabilities may needlessly cause problems of coordination and division of responsibilities.

(2) The Bureau, as is the Revisor's Office, is a permanent year-round agency.

(3) The Bureau has already established a close and effective relationship with the legislature and the legislative process.

(4) The Bureau in carrying out its other functional responsibilities could benefit from the technical competence and close familiarity with the law acquired by an experienced statutory revision staff.

(5) The State could realize a more effective, efficient and economical use of manpower, owing to the flexibility possible with a larger group of both technical and clerical personnel. For example, publication deadlines could be shortened by assigning other Bureau personnel to statutory revision work when necessary.

(6) More personnel can receive training in statutory revision work, thus obviating future shortages in personnel skilled in technical revision work.

To be sure, there will be certain administrative-type problems associated with this merger which should be noted:

First, the Bureau would probably have to undergo an organizational realignment to achieve effectively the benefits anticipated by this merger. The mere addition of a new division in the Bureau may not be the best approach to such a reorganization. Secondly, the Bureau may have difficulty locating adequate housing on the University of Hawaii campus for the added staff. If such is the case, the temporary offices in the State civic center might be utilized. The use of two office locations may cause some inconvenience and difficulty, particularly in the areas of communication and control. Thirdly, the setting of adequate and equitable salaries for the technical staff of the Revisor's Office in terms of the University salary schedule and internal salary relationships within the Bureau will have to be accomplished.

Method of Revision

The practice of automatic decennial bulk revisions need not be continued. It would be unwise to confine ourselves to such an arbitrary time span, since modern updating methods such as cumulative supplemental publications may keep the basic law publication serviceable for longer durations.

There are indications of a growing concern by legislators and other users that the Revised Laws of Hawaii 1955 is in need of bulk revision. The Revisor of Statutes suggests that the following listed criteria be used to measure the need for a bulk revision.

1. How bulky is the supplement? If too many years are permitted to intervene between revisions, the amendatory statute may balloon the size of the supplement to the extent

that it becomes too large and unwieldy. There are definite maximum size standards to use, this is dependent on personal judgment.

2. How disruptive has been the interim reorganization of the basic structure of law between supplement and revised laws?

The adoption of uniform codes usually mean wholesale disruptive changes to the statutes, as does adoption of procedural acts whose provisions affect a great many scattered sections of the law.

3. Is a vigorous legislative program involving considerable changes expected?

One factor to consider is how much of basic law changes have been enacted. Other factors being equal, if substantial substantive changes are anticipated, it would be prudent to delay bulk revision until after their enactment to avoid a voluminous supplement from the very start and to avoid having to carry substantial changes in the supplement for a great many years.

4. Are there many unsold or undistributed basic sets still available? When the new bulk revision is made available, these old basic sets must be discarded and will have become worthless.

5. Is the compilation properly timed? Its start should be timed so that the expected completion date falls just after a general session. Statute changes and additions made during that session could then be included in the bulk revision, thus making the publishing of a supplement unnecessary in that year.

The application of the above criteria clearly indicates that a bulk revision is needed. The 1963 Supplement which

contains all amendatory legislation enacted from 1957 to 1963 is already large and unwieldy. It is at least as large as Volume I or II of the Revised Laws of Hawaii 1955 and is expected to continue increasing in size, since not much more printed matter can be squeezed onto the printed pages.

In addition to the matter of the Supplement's size, our statutory law since Statehood has been subject to many major disruptive changes. Legislation which has caused wholesale changes to the statutes includes the Statehood Admission Act, the Administrative Procedures Act, the Hawaii State Government Reorganization Act of 1959, the Uniform Commercial Code, the Charter of the City and County of Honolulu and the 1965 act transferring certain county functions to the State. Assuming that further enactment of major and basic changes to the statutory law is not imminent, bulk revision at this time appears to be proper.

One factor which tends to mitigate against bulk revision at this time is the large supply of basic sets of the Revised Laws of Hawaii 1955 which is still in inventory. Of the 3,500 sets that were originally printed, about 1,050 sets are still on hand. The new bulk revision when published would obviously make these sets obsolete and valueless. At the current selling price of \$35 per set of the Revised Laws, the cost of obsolescence to the State would amount to \$36,750. However, when one considers that it would take about 20 years to deplete our inventory, based on our current experience of an outflow of 50 sets per year, a short term postponement of

bulk revision would not result in any substantial reduction in the cost of obsolescence to the State.

A bulk revision could be timed to start following the printing of the Session Laws of 1966 and be scheduled for completion within two years. If this is done, the 1967 Supplement need not be published, since the new revised laws would immediately make that supplement obsolete. The staff time saved by not compiling the 1967 Supplement could be spent on the bulk revision.

The establishment of the Revisor's Office has obviated the need to depend on a compilation commission for bulk revision. Paragraph (b) of Section 1-59, Revised Laws of Hawaii 1955, as amended, provides that the Revisor shall: "Prepare for submission to the legislature, from time to time, a rewriting and revision, either complete, partial, or topical of the laws of Hawaii."

It should be recognized, however, that while from a technical aspect bulk revision by a continuous and experienced agency, such as the Revisor's Office, is probably superior to revision by an ad hoc commission, one of the major measures of the worth of any revision is whether it serves the needs of the public. From this latter standpoint, it may be prudent to have public participation in the preparation of the bulk revision.

One way in which this participation can be achieved is through the establishment of an advisory committee by the Revisor of Statutes. The composition of this committee could

include representatives of the Legislature, the Bar, the Judiciary and other primary users of law books, as well as representatives of the community at large. The committee's functions could be to advise the Revisor on policy matters relating to bulk revision. Questions on policies would include the method of revision to be used, the method of keeping the statutes current, the type and scope of research aids to include in the revised laws, the timing of bulk revisions, the number and size of the volumes of the revised laws, the sequence and numbering of the chapters, and other publication matters which may facilitate utilization of law books.

Operational Effectiveness and Efficiency and Economy

In evaluating how effective and efficient the Office of the Revisor of Statutes has been, it should be noted that the Revisor provides a service which was previously not available-- that of continuous revision to make the law clearer and easier to use. Its benefits are therefore quantitatively unmeasurable, except by a general statement of the cumulative time saved by the users of the statute laws.

One of its most pronounced positive accomplishments has been in the reduction of the elapsed time between the end of the session and the availability of the published session law books. Prior to the establishment of the Office, the elapsed time ranged from one to two years. In fact, the elapsed time for the five volumes immediately preceding the establishment of the Office was 18 months, whereas the Revisor's publications have been available on the average of 4.5 months after session's end.

While this acceleration of the availability of the product is commendable, it appears possible that still further reductions may be in order. When Hawaii is compared with her sister states, we find that fully 31 states are able to make their publications available faster than Hawaii, while 16 states are slower and 2 experienced an identical elapsed time. The source of this information, the most recent edition of the Book of the States, also shows that the range for all states is from 2 to 9 months, and that Hawaii's publication is made available in 4 to 6 months.

Several factors contribute to this delay. The most significant factor mentioned by the Revisor is the slow production rate of local printers. He claims that while his staff can proofread at the rate of 20 to 25 galleys of proof a day, local printers can produce at only half this rate. He has therefore specified a comparatively low rate of production in his bid specifications so as not to exclude local printers from the bidding. Another factor mentioned by the Revisor is the delay in receiving a certification from the Department of Accounting and General Services of the availability of funds prior to executing the printing contract. He has experienced delays of 3 to 4 weeks in securing this approval. Another factor is the delay which occurs in the distribution of Acts, when the copies for the Revisor are often not immediately available after the Acts are signed by the Governor. Other factors contributing to this delay include, the uncertainty as to the fate of unsigned bills before adjournment and on which final action

may be delayed until 45 days after adjournment and the time-consuming processes of indexing and proofreading.

Delays in the publication of the session laws contribute to delays in the publication of the supplement. Although the publication of the supplement by law has a lower priority than the publication of the session laws, it is significant that section 1-54, Revised Laws of Hawaii 1955, as amended, provides that the Revisor shall prepare for publication a cumulative supplement "as soon as possible after the close of each general session of the legislature". The elapsed times between session's and distribution of the supplements were as follows: for the 1960 Supplement, seven months; for the 1961 Supplement, twelve months; and for 1963 Supplement, twelve months. It would appear that greater efforts need to be made in reducing the time lag in making the supplements available to the public.

A high degree of accuracy is demanded of the final published product. Galley proofs are proofread by a minimum of three people. As this Office has but two clerical positions, one permanent and one temporary, this practice has resulted in the utilization of one and sometimes even two technical persons in the proofreading process. In justification of this seemingly inefficient use of technical personnel, the Revisor notes that not only errors in printing but also errors in substance have been detected by technical personnel in the proofreading process.

Nevertheless, it appears that it would be far more efficient to reduce the number of technical people employed in the proofreading process by substituting clerks for the higher priced technical people now used.

The procedures developed by the Revisor are quite well documented. They provide adequate controls to ensure accuracy and to make possible the reconstruction of material which may be lost in transit between the Revisor and the printer. Use of mechanical devices could have simplified the process of establishing card files. For example, master index files were produced by typing each index entry with its revised law section number on a separate index card and then manually sorting the thousands of cards into numerical order. The time required to perform this chore could have been drastically reduced by keypunching the index entries and then simply arranging them numerically by mechanical sorter.

Electronic Data Processing. Some legislative and legal processes are capable of being mechanized. Statutory information retrieval was pioneered at the Health Law Center at the University of Pittsburgh. The program developed there makes it possible to search rapidly through a full body of statutes to select those sections which conform to keywords stipulated by the user. Such a system permits the automatic collection of related legal materials, provides a simple source for legal research, and insures complete, accurate, and speedy researching and codifying.

Bill drafting is a time-consuming process involving many hours of typing and retyping as changes are made throughout the legislative process. A system is being developed which computerizes bill drafting in order to save time and effort. Whenever changes are made, only the changes are typed, and the computer makes the changes and produces a complete corrected copy of the bill. A test of this system in Oregon resulted in significant time savings through the elimination of duplicated effort.

Two aspects of indexing can be automated. Computers can be programmed to scan material and determine index entries. They can also arrange these index entries in proper publication order.

The Revisor may find it profitable to explore these areas with the State's data processing staff and with computer manufacturers' representatives.

System Improvements. Certain opportunities for significant general improvements to the system of revising and publishing the statute laws should be noted. Our suggestions have been based and were tested against the following criteria for changes: any proposal for change must result in reduced printing costs, in reduced personnel time expended for clerical work such as typing and proofreading, and in reduced time-lag required to make available the legal publication; and the final output must contain clear, sharp, legible words.

The key to improvement of the system appears to exist in achieving standardization among all published versions of the statute law. The Revisor could, for example, standardize the page size, page layout, column width, and type used for the revised laws, the supplement (or other updating medium), and the session laws. This will make possible the mechanical transfer of the exact image, unchanged in form, from the session laws, to the updating medium, to the revised laws. Such a mechanical or photographic transfer would reduce printing and clerical costs.

Additional economies could be realized by extending the process back to the point of initiation of the law. For example, it may be feasible to type the bills upon final enactment on typewriting devices which would produce, as an automatic by-product, either a paper tape or a direct entry into a computer. If a paper tape is produced, it could be entered into a computer. The computer could be programmed to reproduce the material in the final printing form. If desired, it could even provide right justified margins and double columns. The printed output could be photo-reduced and made into a plate ready for actual printing.

In any event, some systems improvements appear to be needed and possible. The Revisor should intensively investigate and install appropriate systems improvements. Even if portions of the system in principle are not immediately feasible, rapid technological advances make it mandatory that the Revisor continuously search out systems improvements.

Ordering and Sale of Publication

The responsibility for ordering, selling, and distributing Hawaii's law book publications is assigned to the Office of the Lieutenant Governor. The table below summarizes the number of copies of the 1959 to 1965 Session Laws and the 1960 to 1963 Supplements ordered and the sale price charged per copy.

NUMBER OF COPIES OF LAW BOOKS PUBLISHED AND SELLING PRICES CHARGED - 1959 TO 1965

<u>Session Laws</u>	<u>Number Copies Published</u>	<u>Sale Price Per Copy</u>
1965, vol. 1	1,500	\$10.00
1965, vol. 2	1,500	5.00
1964	1,500	4.00
1963	1,250	8.00
1962	1,200	4.00
1961	1,250	8.00
1960	1,500	4.00
1959 Spec.	1,500	4.00
<u>Supplements</u>		
1963	1,750	\$17.50
1961	2,000	15.00
1960	2,000	15.00

For the annual session laws, approximately 1,350 copies are distributed in the first year. Of this amount, about 1,100 copies are distributed free of charge to government agencies and the remaining amounts are sold to private

users. The demand for these law books, however, drops off sharply after the first year. Nevertheless experience has shown that it is prudent to order a rather generous number of copies of the session laws as requests for copies continue for many years. The 1,200 to 1,250 copies ordered for the 1961, 1962 and 1963 Session Laws have proven to be inadequate to meet the demand. The Office of the Lieutenant Governor has properly increased the order for the 1964 and 1965 Session Laws to 1,500.

The ordering of the biennial supplements, however, differs from the session laws in that the supplements have a useful lifespan of only two years. Each supplement is made obsolete as a completely useful research aid by the succeeding supplement. For this reason, it is necessary that the demand for the supplements be more accurately estimated than for the session laws.

The table below indicates that the demand for the supplements has regularly been over-estimated. About 28 percent of the 1961 Supplement ordered became obsolete and indications are that about 26 percent of 1963 Supplement will become obsolete with the publication of the 1965 Supplement. Based on the printing cost per copy, the cost of obsolescence for the 1961 and 1963 Supplements amounts to about \$6,000 each. The cost of obsolescence would amount to \$8,000 each if the selling price is used as a computational base.

	<u>1960</u> <u>Supplement</u>	<u>1961</u> <u>Supplement</u>	<u>1963</u> <u>Supplement</u>
1. Number ordered	2,000	2,000	1,750
2. Number distributed and sold	1,696	1,440	1,290
3. Number on hand (line 1 - line 2)	304	560	460
4. Percent on hand (line 3 ÷ line 1)	15%	28%	26%
5. Printing cost per copy	\$10.29	\$10.69	\$12.42
6. Sale price per copy	\$15.00	\$15.00	\$17.50
7. Printing cost of copies on hand (line 3 x line 5)	\$3,128	\$5,986	\$5,713
8. Potential receipts from sale of copies on hand (line 3 x line 6)	\$4,560	\$8,400	\$8,050

Sale prices of session laws and supplements are based on the per copy cost of printing. Recent prices for session laws have been set at four dollars if this amount covers the single copy printing cost. Otherwise, eight dollars is charged. The exception is the two volume 1965 Session Laws, for which \$10 is charged for Volume 1 and \$5 for Volume 2. The price of the 1963 Supplement was derived by assessing a forty percent markup and rounding the result upward to the half-dollar.

As a result of these price setting methods, markups over the years display a random pattern, whether measured as a percent of the printing cost or as an amount added to the printing cost. (See table below.) For example, the markup percentages for the session laws have ranged from a high of 112 percent for the 1959 Special Session Laws to a low of 11 percent for the 1961 Session Laws. In dollar amounts, the markups have ranged from a high of \$4.15 for Volume 1 of the 1965 Session Laws to a low of \$.78 for the 1961 Session Laws.

	<u>Printing cost per copy</u>	<u>Sale price per copy</u>	<u>Percent markup</u>	<u>Amount markup</u>
<u>SESSION LAWS</u>				
1965, vol. 1	\$ 5.85	\$10.00	71%	\$4.15
1965, vol. 2	2.40	5.00	108	2.60
1964	1.92	4.00	108	2.08
1963	5.89	8.00	36	2.11
1962	2.93	4.00	37	1.07
1961	7.22	8.00	11	.78
1960	2.32	4.00	72	1.68
1959 Spec.	1.89	4.00	112	2.11
<u>SUPPLEMENTS</u>				
1963	\$12.42	\$17.50	41%	\$5.08
1961	10.69	15.00	40	4.31
1960	10.29	15.00	46	4.71

The table above clearly indicates that the markup entering the price charged non-government purchasers of the statute books should be rationalized. If the State is passing distribution costs onto the purchaser, the markup may well be reflected as a fixed amount, since the effort required to distribute thick or thin volumes is almost identical. If,

however, the State is passing on compilation and revision costs, the markup should be reflected as a percent of the printing cost, because compilation and revision costs vary in proportion to the size of volume.

In any event, it appears that a charge is justified where the law book will be used for private benefit. This charge may well include actual printing costs plus fairly assessed storage and distribution costs. Compilation and revision costs may be considered as government expenditures necessary for the general welfare and, as such, they need not be included in the sale price.

CONCLUSION

Our detailed examination of the operations of the Office of the Revisor of Statutes indicates that this Office is generally managed in an effective, efficient, and economical manner. We find that the Revisor has developed well-defined and logical systems of work procedures for statutory revision and publication. It is noted that the Revisor has been able to reduce significantly the elapsed time between the end of the legislative session and the publication of the session laws from an average of 18 months for the five volumes immediately preceding the establishment of his Office to an average of 4.5 months.

We have, however, identified a number of opportunities for further improving the effectiveness, efficiency, and economy of the Revisor's Office. These recommendations are described in appropriate detail earlier in this report and thus need only be summarized in this concluding section.

Functions

We recommend that the functions of the Revisor of Statutes be expanded to include preventive maintenance of the statutes. Preventive activities would include bill drafting, and the review of bills prior to introduction and prior to passage on third reading. Preventive efforts will reduce the amount of corrective work required of the Revisor. The addition of this new function could be expeditiously handled by the Revisor's staff since preventive and corrective activities both require the application of the same skills and knowledge and since there is no significant overlapping of peak workload periods between these two activities.

Organization

We recommend that the statutory revision function be transferred from the Supreme Court to the Legislative Reference Bureau. Compatible and related legislative service functions would thus be situated under one organization. Moreover, this merger will make possible the elimination of many of the existing operating inefficiencies of the Revisor's Office which are caused mainly by the inflexibilities of manpower utilization imposed on a small organization. Finally, this merger of organizations will permit the training of more technical personnel on statutory revision thus obviating future shortages of skilled personnel.

Operations

1. We recommend that the Revisor exercise his statutory powers to initiate work on a bulk revision of our statutory

law. There is sufficient evidence to warrant this action. Request for funds should be submitted to the 1966 Session of the Legislature to permit the publication of the new revised laws by 1968.

2. We recommend that the Revisor explore the possibility of mechanizing certain of his activities through the use of electronic data processing equipment. Experiments conducted by the University of Pittsburgh and the State of Oregon have shown the great potential of such equipment in making certain statutory and legislative work procedures more effective, efficient, and economical.

3. We recommend that the Revisor consider the merits of the gains in efficiency and economy resulting from standardizing the page in size, page layout, column width, and the type used in the revised laws, the updating medium, and the session laws. Standardization would permit the mechanical or photographic transfer of information from the session laws to the updating medium and to the revised laws and thus significantly reduce staff and printing costs and the time lag required between the enactment of laws and their publication.

4. We recommend that the Revisor immediately take steps to shorten the time between the end of the session and the distribution of the published session laws and supplements. His bid specifications on the rate of delivery of galley proofs should be constructed on the basis of how fast his staff can

perform proofreading and not on the present basis which makes allowance for the rate of production of local printers.

5. We recommend that the Department of Accounting and General Services review its present procedures in order that it may expedite its check for the availability of funds.

6. We recommend that the Revisor make appropriate arrangements with the Lieutenant Governor's and Governor's Offices in order that he might receive copies of signed and certified acts as soon as practicable.

7. We recommend that the Office of the Lieutenant Governor give close consideration to data on the number of law books sold before ordering copies of law books henceforth to be published. Ordering of the supplements should particularly be made with care since they become obsolete and have no value within two years from the date of publication.

8. We recommend that the Office of the Lieutenant Governor re-examine its markup policies in establishing the selling price of law book publications.