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ACLU OF RI POSITION:
H-5007 – AMEND
H-5008 – OPPOSE
H-5010 – SUPPORT
H-5011 – OPPOSE
H-5012 – OPPOSE

Testimony on 25-H 5007, House Resolution Adopting the Rules of the House of Representatives for the Years 2025 and 2026
And
Testimony on 25-H 5008, H-5010, H-5011, and H-5012, House Resolutions Amending the Rules of the House of Representatives for the Years 2025 and 2026

January 15, 2025

The ACLU of RI appreciates the opportunity to submit testimony on these proposed Rules for the 2025-2026 session. We address the proposed resolutions in order.

H-5007. The proposed leadership resolution adopting House rules for the new session makes only minor amendments to those that were in place for the 2023-2024 session, and the ACLU has no comments to offer on those revisions. However, as we have done in the past, we believe it is worthwhile to resubmit commentary on *current* provisions in the House rules about which we raised concerns when they were first adopted. We appreciate that many positive innovations have also been added to the rules over the years, but we believe that some other prior changes deserve reexamination and review. To that end, we have included an appendix with those earlier comments and suggestions for the committee's consideration.

H-5008. This resolution generally limits to 18 the number of bills or resolutions that any Representative may submit during the legislative session. For a number of reasons, the ACLU of RI urges rejection of this proposed amendment.

First, we oppose the resolution on grounds that an individual limit on bill introductions interferes with a Representative's duties to their constituents. They should be allowed to submit as many bills as they deem appropriate or worthy of consideration. Although spreading themselves so thin by introducing so many bills may not be a *wise* decision by a Representative, that should nonetheless be their decision, not one made by their colleagues.

While the proposal contains a number of exceptions to the 18-bill limit, we believe that they only highlight the problems with the rule. For example, the proposal would allow a legislator to submit more than 18 bills "with the approval of the Speaker." This could thus very easily lead to exceptions being made based on whether the Representative is or is not politically aligned with the House leadership. Without in any way casting aspersions on the current House leadership, the potential for misuse in the wrong hands is undeniable.

The resolution makes numerous other exceptions to the 18-bill limit, but they further undercut the proposal's impact and any rationale for its imposition. Admittedly, many of the exceptions are for ceremonial and similar bills that are unlikely to generate any debate, but the non-innocuous or more substantive nature of a bill should not be a relevant criterion for cutting off its introduction. In any event, municipal bills and appropriations bills – two of the exceptions that don't count towards the 18-bill limit – certainly can be just as contentious as a bill on other substantive topics. If the rule's motivation is to avoid numerous lengthy committee hearings on the bills of one Representative, it is worth remembering that one controversial bill can take up a full evening and night, while 10 other bills might be taken care of in an hour or two.

In addition, a legislator sometimes has a choice of introducing one large omnibus bill on a particular topic or breaking it up into separate bills. There may be important logistical, political or practical reasons for choosing one path over the other, but it is unfair to punish the legislator who chooses the latter over the former approach.[1]

For all these reasons, despite the obviously well-meaning intentions behind this proposal, we urge its rejection.

H-5010: This bill would allow the Speaker and the R.I. Black, Latino, Indigenous, Asian American and Pacific Islander Caucus to "request the production of equity impact statements on up to five (5) proposed public bills." The ACLU strongly supports this proposal.

As the legacy of legislation, regulation and public policy has shown throughout the years, oftentimes a facially neutral policy or program can have severe and adverse consequences on certain demographics, including people of color and individuals with disabilities, to cite two obvious examples. This has been shown time and again in such diverse areas as housing policy, criminal justice policy, education policy and more. The effect can be long-lasting and deeply rooted discriminatory conduct that is hard to uproot because of the benign intent of those policies.

For this reason, we strongly support efforts to provide legislators with "equity impact statements" to accompany a small number of select bills each session to assess their impact on race, color, ethnicity, religion, sex, sexual orientation, gender expression, and disability,

[1] This testimony inadvertently offers a useful example. We have combined our testimony on five bills into one document since they all address the same topic. However, this could just as appropriately have been submitted as five separate pieces of testimony, and we suspect the committee clerk might have preferred it that way.

age or country of origin. Doing so would not only acknowledge that our governmental systems have sometimes worked, however unintentionally, to discriminate against vulnerable populations, but it would ensure that future legislation has considered from the beginning the possible ramifications of a law among disadvantaged groups.

In short, we believe this proposal embodies good public policy and represents a modest way of avoiding the further exacerbation of the many racial and other inequities that exist in our laws. Our only quibble with the resolution is that we believe the Speaker should have the ability to request more than five such statements if they so choose, and we would recommend an amendment to that effect.

H-5011: This bill would bar Representatives from displaying on their chamber desk "any flags or banners." The ACLU of RI opposes this bill as infringing on the free speech interests of Representatives. For many legislators, their chamber desk is, for all intents and purposes, their office. As long as it is not obstructive, they should be able to display anything they want on their desk, whether it is a flag, a granddaughter's gift of a bunny rabbit, or a copy of the Bill of Rights. We can conceive of no compelling reason for barring a legislator from patriotically displaying a U.S. flag on Flag Day or a gay pride banner on Pride Day. Because it would unduly interfere with the ability of legislators to silently and symbolically express their views in their own space, we urge rejection of this proposal.

H-5012: The ACLU opposes this bill, which would bar representatives from "dressing in a manner offensive to the decorum of the House," and specifically require males to wear a "coat and tie" and females to wear "dignified dress." Leaving aside the impracticalities – and torture – of requiring a coat and tie on days during the end of the session when the temperature in the building appears to reach water-boiling levels, there are innumerable forms of clearly "non-offensive" attire that House rules should not straitjacket Representatives from wearing (including, if stylish enough, straitjackets). Further, requiring "dignified dress" on women is, in our view, a Victorian standard that would put men in the very undignified position of deciding what constitutes "dignified" dress on women. Finally, the resolution fails to take into account the future presence of non-binary Representatives who will undoubtedly grace the House floor sometime in the near future, and do so in dignified, if not sex-designated, attire.

We appreciate the committee's consideration of our views on these proposals.

Submitted by: Steven Brown, Executive Director

APPENDIX: Comments Previously Submitted on Provisions in the Current Rules

1. In 2015, the House adopted language, which currently appears within Rule 9 on page 4, that eliminates a Representative's ability to remove items from the consent calendar for an individual vote. Instead, it is at the Speaker's complete discretion whether to allow the removal of bills for a vote (page 4, line 32-33). We believe that this is an unfair restriction on legislators and their accountability to constituents. Representatives should not be effectively barred from recording themselves in opposition to a particular bill unless they are willing to also be recorded as voting against every other bill that is on that calendar. Recorded votes are among the most important measures of accountability, and they lose meaning if they can be buried among many other bills in one vote.

It is true that bills are placed on the consent calendar only with the approval of the Speaker, Majority Leader, and the Minority Leader, but most bills transcend party labels, and a Representative should not be prohibited from having a recorded vote on a specific bill merely because the leaders of his or her party have decided against it. To the argument that bills placed on the consent calendar are often minor or duplicate pieces of legislation, that is all the more reason to respect a Representative's wishes on those few occasions when he or she may believe a separate vote on a bill is warranted.

2. Another amendment adopted in 2015 that remains codified in Rule 12(a)(1) on page 7 authorizes denial of a committee hearing on a properly introduced bill if it is introduced after "the hearing of a grouping of bills on the same subject matter." Though this power has not been abused, we believe the rule creates a great potential to undercut a Representative's legitimate right to have a committee hearing on a bill he or she has introduced. First, the term "same subject matter" is not defined and could indiscriminately encompass a wide array of bills. If the finance committee holds a hearing on a variety of tax bills, is any later-introduced bill relating to taxes potentially off limits for a hearing? If there is a hearing on bills to eliminate the sales tax, does a Representative lose their chance to have a hearing on a bill to raise it? We appreciate the intent behind this rule, but it fails to take into account the way it could inadvertently impose premature deadlines on bills. Since committees begin holding hearings on legislation even before the introduction deadline has passed, the possibility exists under this Rule that a Representative who introduces a bill within the initial deadline period could lose the right to a hearing on it.

3. Rule 12(b), on page 7, addresses committee consideration of bills that have not been previously distributed in print or electronically to its members. In order to promote the public's right to know, we ask that this rule be amended to make clear that members of the public also have a contemporaneous right to access such bills. This is in keeping with the requirement that Sub As be posted in advance of committee meetings. The public's right to attend committee hearings and hear committee deliberations is obviously diminished significantly if people have no idea what is being discussed.

4. Rule 13(a) on page 10 provides that committee votes "shall be public records and available to any member and to any person upon written request." Now that committee votes are posted online, this provision is somewhat outdated. In any event, the requirement that

such requests be in writing is burdensome and unnecessary. The Access to Public Records Act specifically provides that a public body cannot require written requests for documents "prepared for or readily available to the public," R.I.G.L. §38-2-3(d). Voting records would certainly fit in that category. We urge the House to abide by the spirit of that law by eliminating this requirement.

5. We have consistently raised concerns about the short timeframe established in past years' Rules for allowing bills to be considered on the floor after passing out of committee. A two-day rule for consideration was replaced in 2005 with a very short one-day rule, *see* Rule 14(c). By allowing a bill to be considered on the House floor after having been made available only at the rise of the previous legislative day, the opportunity for public review or input may be negligible. The two-day rule was, understandably, often waived during the hectic last days of the session, but we see no reason why that should be applied throughout the session.

Unfortunately, this problem was heightened in 2023 when the rules changed from 3 PM to 12 noon the day of a vote as the time by which floor amendments have to be submitted to Legislative Council. It can be very difficult for legislators, much less members of the public, to ensure an amendment is prepared and submitted by noon when the bill itself, which could be ten or twenty pages long, may only have been posted as a "Sub A" on the calendar the night before. At the very least, we believe the 3 p.m. deadline should be reinstated.

6. A major addition to the Rules in 2021 was the approval of Rule 47, adopted in response to the Covid-19 pandemic. With legislative proceedings back to normal, we think it would be worthwhile to reexamine this rule and make some revisions well in advance of the next time an emergency arises that warrants the invocation of these emergency procedures.

a. The preamble to Rule 47 gives the Speaker sole discretion to determine if there is an emergency warranting remote committee meetings and hearings. We believe that the term should be more specifically defined, and there should be an opportunity for committee members to object to a Committee chair's determination to have remote meetings. An "emergency" that "could pose a risk" to "health and safety" could range in scope from a pandemic to a heavy snow day affecting one part of the state. It is important not to allow "emergencies" that authorize remote meetings to become normalized.

b. Rule 47(a)(ii) allows remote participation by members and witnesses "through the use of any means of communications." We believe that, absent extraordinary circumstances, the meetings should require video, not just audio, participation by both members and witnesses. If the COVID years taught us anything, it is that it is quite feasible to have video livestreaming that allows for direct participation by both public officials and members of the public.

c. Rule 47(a)(viii) provides that any "technological failure" that prevents or severely limits public access "shall not invalidate a remote meeting or any action taken at a remote meeting." This is concerning. If technology prevents public viewing of, or participation in, a meeting, the meeting should be rescheduled. Technology problems should not serve as an excuse to allow meetings to essentially be held in secret.