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ACLU OF RI POSITION: AMEND

TESTIMONY ON 26-S 3327,
RELATING TO STATE AFFAIRS AND GOVERNMENT –
OFFICE OF INSPECTOR GENERAL
May 28, 2026

The ACLU of Rhode Island has no formal position on the establishment of an office of inspector general ("IG"). However, with transparency and accountability clearly being a critical part of the role that this position is designed to play in government, we wish to offer comments on some provisions in the bill that address that particular issue. Specifically, we believe the legislation could be strengthened by more clearly promoting transparency and greater public access to documents that will be in the possession of this office relating to its work. We say this while fully acknowledging that confidentiality also must be an important consideration in the work of the IG.

1. Under the bill, candidates for the IG position "must provide prior professional opinions, positions, or actions that may influence the candidate's approach to the role," but that information "will be subject to public disclosure *to the extent permitted under law*." [Page 3, lines 13-15] We cannot think of a reason that any submitted information relating to an applicant's professional opinions or actions should be withheld from the public. Yet the final clause in the sentence quoted above creates ambiguity by suggesting that some of this "professional" information may be suppressed. This can only generate unnecessary disputes about access to this application information. We would urge deletion of that phrase.

2. The bill provides for the release of a report of an investigation that has led to a finding of "fraud, waste, abuse or mismanagement," but would allow the report to be withheld if it would "otherwise be exempt from disclosure" under the Access to Public Records Act. [Page 6, lines 26-32] This exception may swallow the rule. Since the report precedes a *final* decision issued by the office, which may include responses from the person(s) subject to the decision, one could argue that these reports are *always* exempt from disclosure as APRA-exempt "preliminary drafts" or "working papers." R.I.G.L. 38-2-2(4)(K). To avoid this scenario, we urge deletion of the language allowing the report to be exempt from disclosure.

3. The bill prohibits the disclosure by the inspector general of any information in their decision that is confidential under APRA. [Page 8, lines 6-8] However, it is important to keep in mind that APRA exemptions are discretionary, not mandatory. Public bodies remain free to disclose records that might otherwise be exempt. The inspector general should not be subject to greater constraints than other public bodies and be completely barred from releasing information merely because it *can* be withheld, even if the IG determines that it is worthy of public knowledge and dissemination. We urge that this language be made discretionary, not mandatory.

4. Another reference to confidentiality of information in the bill is confusing, as it references Section 38-2-13 of APRA, which does not appear to be the relevant section of the statute that the sentence seeks to refer to. As a result, we are unsure of the intent of this provision. [Page 8, lines 19-22]

5. The bill provides that *all* investigatory records "*are confidential and exempt* from disclosure" under APRA. [Page 9, lines 26-28] For reasons similar to those mentioned in point 3 above, we urge that this language be amended and limited to situations where no fraud, waste, abuse, or mismanagement has been found. In those instances where there is a finding of fraud, etc., it may often be perfectly appropriate and in the public interest to release some or all of the office's investigatory records, and the bill should give the IG discretion in deciding whether to release any of them.

Finally, we wish to offer two more general procedural points about the bill.

1. The bill allows the Governor to remove the inspector general "for cause." [Page 4, lines 22-25] We believe there should be some obligation on the Governor, at a minimum, to provide a substantive written, public explanation explaining the "cause" for taking this severe action.

2. We have not had a chance to review other states' IG statutes, but we would encourage consideration of the adoption of a definition of "fraud, waste, abuse or mismanagement" so there is a clearer boundary set on the duties of the position. For example, concerns about "abuse" or "mismanagement" could lead to intrusive investigations into matters that go far beyond the financial and related issues that would seem to be at the heart of an IG's role. In other words, in light of the broad investigatory powers provided to the IG by the bill, some definitional guardrails would be useful to prevent unconstrained civil investigations of suspected or alleged impropriety in questionable circumstances or the IG's involvement in matters that are directly under the purview of other agencies.

We hope that these recommendations are helpful and will be given favorable consideration. We believe that by better promoting transparency, these amendments will make the office a much more open one in its work.