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## **NCOIL LEADER TO NAIC: CLOSED DOOR MEETINGS DEFY SUNSHINE LAWS**

**Troy, New York, May 4, 2007**—In a strongly worded letter last week, NCOIL Vice President Brian Kennedy (RI) again communicated his concern to the National Association of Insurance Commissioners (NAIC) regarding its open meetings policy. The April 30 letter to Commissioner Walter Bell (AL), NAIC President, cautioned that NAIC closed sessions show regulators' disregard for their respective state "Sunshine Laws."

"The NAIC is abusing the use and purpose of Executive sessions," said Rep. Kennedy in the April letter—referencing NAIC private strategy meetings. He stressed the sessions are not in line with those authorized by state Open Meetings Laws, that allow for closed discussions of pending litigation, trade secrets, and character and competence.

The April 30 letter is but one in a volley of communications between NCOIL and NAIC leadership. While attending several recent NAIC conferences in his role as an NCOIL officer, Rep. Kennedy found unwarranted closing of meetings to be a common practice—and expressed his apprehension regarding the process at the NAIC Spring Meeting and subsequently to Commissioner Bell in a March 20 letter. Bell in early April responded in defense.

In a reply to Bell's April 9 communication that the NAIC, as a 501(c)(3) non-profit organization with voluntary membership, is not a governmental entity and therefore not subject to Open Meetings Laws, Rep. Kennedy states

While I can understand that you would like to defend present NAIC violations of the Open Meetings Laws, I continue to disagree with your interpretation. As an elected or appointed Insurance Commissioner or Insurance Supervisor, you sit in meetings by virtue of your oath of office. That oath includes abiding by state Open Meetings Laws, regardless of their scope, applicability, statute, rule or regulation. Without taking the oath of office for your respective state, you and every other Insurance Commissioner would not be provided a seat at the table during NAIC meetings and conferences.

In the letter, Rep. Kennedy cautions Commissioner Bell that

Your oath of office and rules of conduct do not cease when you cross state geographical boundaries into another jurisdiction. No Commissioner or Supervisor has the right to ignore the laws of their respective state and conduct such clandestine meetings. While

you may attempt to argue that the Sunshine Laws do not apply to the NAIC as an organization, those Open Meetings Laws do apply to YOU as individual Insurance Commissioners or Insurance Supervisors.”

Rep. Kennedy in the letter took to task Commissioner Bell’s April 9 allegation that “[w]hen individual insurance commissioners gather as members of the NAIC, they are not considered a governmental entity or public body as defined by the various Open Meetings Laws, but rather are a private group. As an organization, the NAIC does not have any regulatory authority.”

Rep. Kennedy in his April letter rejoins:

This is a troublesome and conflicting statement, since the NAIC has held up the standards of insurance accreditation to our States and Commonwealths and has utilized the accreditation standards to penalize those jurisdictions that have not adopted the necessary standards of practice. Now we find that the NAIC does not have any regulatory authority, and this brings into question many of the previous actions of the National Association of Insurance Commissioners.

Rep. Kennedy summarizes:

I was hoping that perhaps you would embrace and reconsider present NAIC by-law policy and adopt the necessary standards to promote the good government that we expect from our Insurance Commissioners and Supervisors. Instead, it would appear that you will continue to operate the NAIC in a surreptitious manner behind closed doors. It is ironic that my letter to you sought a simple change to your meeting practices, but you have provided new fodder that would indicate that perhaps the conduct of an NAIC meeting is only the tip of the iceberg, and that the NAIC may be far exceeding their authority as an organization to collect fees or enforce regulations that they promulgate.

In closing, Rep. Kennedy states, “I remain committed as an officer of the National Conference of Insurance Legislators to work cooperatively with Insurance Commissioners and Supervisors on behalf of the interests of insured people across the United States.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at [www.ncoil.org](http://www.ncoil.org).

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