

# An Interview With James E. Long



James E. (Jim) Long, 44, was elected Commissioner of Insurance in November 1984. Born and reared in Burlington, Long attended N.C. State University and earned a B.A. in political science and a law degree from the University of North Carolina at Chapel Hill. Active in politics since childhood, Long followed his father and grandfather into the N.C. House of Representatives, where he served from 1971 to 1975 (D-Alamance). In 1975-76, Long was Chief Deputy Commissioner of Insurance under former Commissioner John R. Ingram. From 1980 to 1984, Long served as counsel to Speaker of the House Liston B. Ramsey. He has chaired the North Carolina Property Tax Commission (1981-84) and practiced law with his father and his wife in Graham, N.C.

Bill Finger and Jody George conducted this interview on October 9, 1984.

*What are the main functions of the Commissioner of Insurance?*

Everything stems from two main functions—regulating rates and monitoring solvency. We have to assure that the rates are at the lowest level possible but at the same time, at an adequate level to maintain company solvency. It really comes down to balancing between the two goals of low rates, yet adequate rates. We have to regulate agents, regulate companies, serve the consumer, and monitor company solvency.

*What will be your primary goals if elected? Be as specific as possible.*

My primary goal is to re-establish the lines of communication between the Insurance Commissioner and other involved parties, including

the insurance companies doing business in North Carolina and the insurance agents licensed in this state. I don't believe an elected state official can regulate an industry without establishing rapport so that you can at least sit down and talk about mutual problems and concerns. The commissioner also needs to re-establish the lines of communication with the General Assembly and with consumer groups.

*How do the campaign contributions you've received affect how you might perform as commissioner?*

The last tracking we did on contributions, we had individual contributions from over 5,000 different people.<sup>1</sup> It represents most, if not all, of the counties in the state. We analyzed the contributions and found that about 38 to 40 percent came from insurance interests of some sort. The balance came from retired school teachers, doctors, lawyers, dentists, and about any segment of society that you could think of. It has been a close balance between the segments that are being regulated and that are buying insurance. We've been proud of that. We will continue to do that balancing.<sup>2</sup>

Taking a campaign contribution from anyone, be it an agent or an employee of an insurance company doesn't taint your thinking. It's similar to dealing with lobbyists in the legislative process. Fifteen years ago, when we did not have a fiscal research or legal research staff, we had to depend on lobbyists for a lot of leg work and research. You could either be independent in your thinking or be a tool of the lobbyists. I always had the philosophy as a legislator that lobbyists serve a very useful function. They furnish information to you.

Just taking contributions from various interests does not mean that I am going to be in their pocket. The only promises I made to them, and the only promise they have ever asked for me to make, is that I keep an open mind in my decisions, that I hear them out and make decisions on the evidence presented. I made that commitment—to always keep an open mind. I'm not always going to rule with them. There are going to be times of differences of opinion.

*If elected, how would you begin?*

We're already looking at the statutory and regulatory obligations of the department, to find out exactly what responsibilities we have to carry out. When we finish that, we will go back and try to determine the best alignment of the insurance department to carry out those obligations. Then we will try to determine what personnel we need to carry out those functions and duties and what people need to be in those slots. We need to do all this between the November election and the first of January.

We're going to have to work with the General Assembly to make sure we've got a sufficient budget—the personnel needed and specifically, computerization. The department is currently under a program to be computerized that is moving very slowly. The first division [being computerized] is licensing. I told the legislative Insurance Study Committee last week that we need to speed up that process, so we can get into the audit division—so we're no longer doing company audits with adding machines on the desk. In essence, we need to be in the 20th century. [The legislative Insurance Study Committee approved Long's requests.]<sup>3</sup>

These days, you have the electronic transfer of funds by insurance companies, banks, and individuals. We need instantaneous communication with the NAIC [National Association of Insurance Commissioners] computer to track these transfers. Otherwise, we're always behind.

*Do you want to be on-line with the statistical gathering groups, like the Insurance Services Office (ISO)?*

That would be a goal, assuming that we continue the current ratemaking procedures. We need to have on-line capability with whatever groups, including the companies. That presents a problem. Companies are not likely to want us having access to their main frame computer overnight to find out what they're up to. We'll have to build some safeguards into the system to make sure we don't violate their business ethics and principles. We need that capability so that we're getting the data overnight instead of 4 to 17 months later—when it's stale and really doesn't tell us a thing about what's going on now in a particular company. A fast shift of assets within a holding company, for example, creates a real problem for us.

*What legacies have the 12-year Ingram administration left?*

I'm going to have a different style than Mr. Ingram. I'm willing to sit down with the different parties and try to work out their differences and listen to all the viewpoints they express before I make a decision. I think that's the way to regulate. Mr. Ingram has not always done that. What is right or wrong, I don't know. That's been



Jim Long (center) receives congratulations on his election victory at the November 8, 1984, meeting of the Insurance Study Committee.

his decision, and he has brought some innovative procedures to North Carolina, ones that are now being followed in other states. For example, he pushed very hard for the elimination of sex discrimination in auto insurance.

*How strong is the insurance industry lobby in the legislature?*

Very strong. It's always been rated by your organization as one of the stronger lobbying groups there.<sup>4</sup> Insurance is big business in North Carolina. They hire wealthy lobbyists, people who have a strong insurance background and who spend the necessary time and do the necessary homework to be able to present their case quickly to the legislators. [See list of the main lobbyists at right.]

In the 15 years I have been involved in the process, the insurance lobby has been very successful in the General Assembly. They have a great deal of influence in the legislative process. For example, in 1977, the General Assembly changed the law from a "prior approval" to a "file-and-use" system [see page 14 for explanations of these systems]. Obviously, the insurance lobbyists had a great role to play in that.

The insurance lobby has had more a winning record than a losing record in recent sessions. Some of that is due to this idea of an antagonistic commissioner or a lack of communication with all the parties involved in the system. Often, debates have come down to a contest in the legislative halls of who can round up more votes—Ingram or the lobbyists. The legislators have basically been caught in the middle of the process and have not always known who to listen to when they're making their decisions. For that reason, the lobbyists have been very successful.

Agents and companies don't always agree with each other, so every now and then you will see a fight among their lobbyists. Then the department would come down on one side or the other or with a third position. It's kept a lot of people employed as lobbyists.

*How strong is the consumer lobby regarding insurance?*

They are very weak. There are not very many and they are not adequately funded to reach the level of expertise that you find among the insurance or banking lobbyists. There is a consumer advocate position being expressed in the legislature. A lot of legislators, including myself when I was there, help express that position. But it is certainly not equally matched with the insurance lobbyists.

*As commissioner, would you become involved with the legislative process?*

Yes, because the commissioner, like the head of any state agency, has the responsibility to explain his position on various topics to the legislature. I will personally talk to legislators from time to time, but I won't be able to sit there every day in the halls as most of the lobbyists do and buttonhole legislators as they go back and forth to the various committee meetings. I have been involved in the legislative process as a member, as a lobbyist, and as counsel to the speaker. There are a lot of old time friends and acquaintances that I would want to see on a friendship basis, if nothing else.

*In rate hearings, does the commissioner function both as a representative of consumer interests and as a judicial hearing officer? Should these duties be divided?*

Under the Administrative Procedure Act (APA), which went into effect in February 1976, the responsibilities are already divided. When the commissioner sits as a hearing officer, the staff is responsible for presenting the public's viewpoint in a case. There's total isolation between the commissioner and the staff attorneys who are presenting the case. The hearing officer, who sits as an independent trial judge, cannot have any dealings with the staff presenting the case for the Insurance Department.

If the commissioner chooses to be involved in the hearing himself—by directing the staff, questioning the witnesses, case preparation, etc.—then under the APA, he must designate someone else to sit as the hearing officer.

*If the commissioner did choose to represent consumers on a rate case, he would be presenting evidence to his own designee, say a chief deputy. Does that work?*

If you pick good people, I don't see any problem with it.

*So you think that the system we have is a good one?*

Yes I do. I've seen it work with the Property Tax Commission, which I chair.<sup>5</sup> We sit there and rule on the basis of the evidence presented to us.

*But as chairman of the Property Tax Commission, you are not the secretary of the Department of Revenue hearing your own employees present testimony.*

I don't see that as an important difference. If as commissioner, I help present the case and one of my employees is sitting as a hearing officer, I certainly am not going to fire a person that rules

## Major Insurance Industry Lobbyists

Lobbyist	Represents	Employer/Law Firm <sup>1</sup>
Brad Adcock	Blue Cross & Blue Shield of N.C.	Blue Cross & Blue Shield of N.C. (Durham)
J. Ruffin Bailey (former legislator)	American Insurance Assn.	Bailey, Dixon, Wooten, McDonald, Fountain & Walker (Raleigh)
Julian Bobbitt	Aetna Life & Casualty; Domestic Casualty Insurance Committee; Motors Insurance Co.	Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan (Raleigh)
John Bode	Independent Insurance Agents of N.C.	Bode, Bode & Call (Raleigh)
Richard Brantley	Independent Insurance Agents of N.C.	Independent Insurance Agents of N.C. (Raleigh)
J. Melville Broughton (former Highway Commissioner and candidate for governor)	Nationwide Insurance Co.	Broughton, Wilkes & Webb (Raleigh)
Charles Case	Alliance of American Insurers	Moore, Van Allen, Allen & Thigpen (Raleigh)
Philip P. Godwin (former legislator, Speaker of the House)	National Assn. of Independent Insurers	Godwin & Godwin (Gatesville)
B. Wade Isaacs	N.C. Automobile Dealers Assoc.	N.C. Automobile Dealers Assoc. (Raleigh)
Sam Johnson (former legislator)	N.C. Automobile Dealers Assoc.; N.C. Insurance Premium Services; N.C. Assoc. Industries/ Self-Insurers Trust	Johnson, Gamble, Hearn & Vinegar (Raleigh)
John R. Jordan Jr. (former legislator)	Assn. of N.C. Life Insurance Companies	Jordan, Brown, Price & Wall (Raleigh)
John B. McMillan <sup>2</sup>	Allstate Insurance Co.	Manning, Fulton & Skinner (Raleigh)
Howard Manning	Allstate Insurance Co.	Manning, Fulton & Skinner <sup>2</sup> (Raleigh)
Michael S. Olson	Carolina Assn. of Professional Insurance Agents	Olson Management Group Inc. (Raleigh)
David Permar	First Protection Life Insurance Co.	Hatch, Little, Bunn, Jones, Few & Berry (Raleigh)
A. Roger Philyaw	Blue Cross & Blue Shield of N.C., Sr. Vice-Pres.	Blue Cross & Blue Shield of N.C. (Durham)
W. Linville Roach	Pilot Life Insurance Co.	Pilot Life Insurance Co. (Greensboro)
Thomas A. Rose	Blue Cross & Blue Shield of N.C., President	Blue Cross & Blue Shield of N.C. (Durham)
Benjamin F. Seagle III	Aetna Life & Casualty	Aetna (Charlotte)
George M. Teague	State Farm Insurance Co.	Young, Moore, Henderson & Alvis (Raleigh)
Thomas J. White Jr. (former legislator and former chairman of the Advisory Budget Commission)	Interstate Insurers Inc.	White, Allen, Hooten, Hodges & Hines (Kinston)
Clyde Wootton	Blue Cross & Blue Shield of N.C., Gen. Counsel	Blue Cross & Blue Shield of N.C. (Durham)

### FOOTNOTES

<sup>1</sup>All of the groups with multiple names are law firms.

<sup>2</sup>In January 1985, John McMillan became legal counsel to Lieutenant Governor Robert B. Jordan III. The law firm will no longer do any lobbying work while McMillan is counsel to the Lieutenant Governor.

Source: N.C. Secretary of State, registration of lobbyists for 1984. Research by Sharon Moylan, Center intern.

against me. I expect a hearing officer to do a creditable job. Then, of course, everything is subject to appeal by either party.

Administrative law is a different animal from civil trial practice. There is a switching back and forth of roles. It bothered me, as a trial lawyer, going into the department as chief deputy in 1975. But once you get into it, the [hearing] system does work—even with what seem to be some inherent conflicts.

I was in the department before the APA passed, and there *was* communication between the hearing officer and the staff presenting the case. With the barrier the APA sets up, it's a lot better system than we had in the old days.<sup>6</sup>

*Do you see any need for a "public staff" similar to that in the utility regulation system?*

No, because there's this barrier created by the APA. A new public staff would mean a significant increase in staff. Insurance hearings cover everything from automobile and homeowners' insurance rates to licensing an agent and registration of a holding company. Under the current structure, we have the flexibility to shift to each case. To have a public staff capable of getting into all these areas would mean having 2 or 5 or even 10 experts in various areas who would sit there year round with nothing to do except wait for a case to come up.

We don't have the volume of cases that the Utilities Commission has. We usually get one annual rate filing from the Rate Bureau. Each individual company doesn't file separate rates, like you have with utility companies. With a public staff, you would probably have a waste of time.

*What is the role of the Attorney General's office in rate cases or other types of hearings?*

The Attorney General represents the department's position in court. The department's staff attorneys represent the department's public policy position at the hearing level. Once an appeal is taken into the courts, then the AG's office steps in and acts as our lawyer.

*The AG's consumer affairs division doesn't become involved in the case at the hearing level?*

Not to my knowledge.

*How do you view the role of the N.C. Rate Bureau?*

The Rate Bureau acts in essence as one big insurance company. All its member companies make up the board and pay for the operation expenses. The Bureau serves as a statistical

gathering mechanism—instead of the department having to analyze the data from each individual company. The Bureau basically acts as an information center in pulling that data together into one filing to the commissioner. [See article on page 12 for more on the ratemaking process.]

*How would you deal with company requests for deviations from the industrywide rate schedule developed by the Rate Bureau?*

In the past years, the general trend has been to approve deviations very routinely. I think all of them have always been downward rate requests. One of the things we'll have to watch in future years is to make sure that the downward deviation requests don't jeopardize company solvency.

*Larger companies say the Rate Bureau serves mainly the small companies. Do you agree?*

Yes. The larger the company, the more likely they are to have the necessary staff and expertise and mechanical processes to gather their own data, analyze it, and—in essence, if they could under state law—set their own rates. The smaller companies are less likely to have the in-house expertise and computerization necessary to do the statistical gathering and analyzing. From that standpoint, the Rate Bureau does help the small companies more than the large.

*Should the Department of Insurance collect and distribute data on insurance risks and rates?*

With the current staffing we have, we best serve as independent auditors of what the Rate Bureau or the ISO [Insurance Services Office] do. We don't have the capability to do our own data gathering and analysis now. If we're going to gather the data from the 300 or so companies writing auto policies in North Carolina, we've got to have the capability to perform test audits on those companies to make sure the data is credible.

At this point, what we can do is analyze and perform tests on the data being furnished to us by the Rate Bureau.

*Assuming you had the people, would data gathering be a good role for the department?*

It's a good role if the data being collected by the Rate Bureau is not valid. Not being in there yet, it's hard for me to be able to determine if the data is valid or not valid. After January 1st, we're going to start looking at the best system for gathering data. That will help determine the best regulatory system for North Carolina. With competitive rating—that is, open competition—you don't need all the data.

*Do you need a rate bureau with open competition in rates?*

Only for a limited purpose, to help do inspections of buildings for commercial risk ratings, for example. But if you go to competitive rating for auto or homeowners' insurance, you do not use a rate bureau. Then you get into lots of questions. For example, suppose company A sells auto liability policy form XXX for \$100 a policy and company B sells the same standard policy for \$95. Does the commissioner have the responsibility to check behind those rates? If we go to something like competitive rating, the legislature would have to work out those kinds of questions.

*So North Carolina does not have competitive ratemaking now?*

Not officially. We do in the sense that downward deviations are allowed. So we have some competition.

*How did the 1977 changes in the regulatory system affect the commissioner's role?*

Whatever the legislature tells us the law is going to be, we have to follow that and carry it out to the best of our ability. The 1977 change—from the prior approval system we had in North Carolina for 30 years to a file-and-use system—did alter the commissioner's role. Under prior approval, the rate filing had to be absolutely approved by the commissioner, subject to the final appeal through the court system. Now, the Rate Bureau can in essence put the rate increase into effect, pending appeal.

*Does the current ratemaking system allow for a proper balance between the interests of consumers and the insurance industry?*

Yes and no. There's no definite answer for you. Regardless of the system in place—be it file and use or prior approval—the system will work. The question is whether the details of the system are properly placed.

For example, with the SDIP [Safe Driver Insurance Plan] point schedule, the penalties for running a stop sign or speeding 70 in a 55 zone may be too steep. One theory has it that we are not collecting enough premiums from the safe driver and over-penalizing the driver with the infractions. We've got to find out where the responsibility for premium payment should be and whether it is now being collected from the various groups of drivers fairly. I have not seen any valid statistical analysis of whether safe drivers are paying too little or too much or whether drivers with say 6 SDIP points are paying too little or too much. That's one of the problems. [See auto section for more on this,

particularly the statistical sections, pages 41-46.]

*How will you give consumers better protection in rate filings, as your campaign material promises?*

The employment of a property and casualty actuary is essential to provide the expert testimony in rate case hearings and to provide the analysis needed in policy form approvals. There's currently no actuary employed in the Insurance Department, even though the law mandates that. A life/accident/health actuary is also critical. Currently, staff people serve the function of an actuary but are not fully rated as actuaries. An actuary commands a very high salary, from \$60,000 to \$85,000 a year.

We need to look at the qualifications of current employees in the department. If they need further education or if we need better qualified people, we ought to have the wherewithal to hire them or send them back to school. We need the best technicians that we can afford on state salaries. They deal with the company examination process, the rate approval process, the policy form approval process, and the consumer complaint analysis.

*Should the Rate Bureau include all investment income in calculating their rate schedule?*

We're going to have to review that question. Right now, companies are running a combined loss ratio (losses paid plus claims expenses) of anywhere from 106 to 130 percent over and above the premiums. So they're losing money on every property and casualty line, including auto. They're making up for that loss with investment income.

*Is it misleading to say an insurance company is "losing money" when you're referring to underwriting losses?*

When payment on claims plus loss-adjustment expenses—for adjustors, for selling the policy initially, etc.—exceeds the premium dollar, there are underwriting losses.

*But premiums are only one source of income for an insurance company.*

Sure. When you send a \$100 premium check into the company and it doesn't have to pay a claim for six months or six years, the company is obviously making money on that investment. So that is what is keeping the companies afloat right now.

*What portion of the investment income should be included in rate cases?*

A North Carolina case in the last two or three years defined the part of investment income that should be considered in the rate base.<sup>7</sup>

*In his 12-year tenure, Commissioner Ingram was involved in some 44 appellate cases and won about 3. Should the courts be so involved in insurance?*

The "44" doesn't concern me. The courts are always going to have the final control over insurance and any other administrative decisions made in the state agencies. That's the nature of government in this country—the three-way balancing between the executive, legislative, and judicial branches. You always have relief either through the legislative or the judicial process. The court's involvement doesn't concern me. It's a helpful part of the system.

But the [Ingram] track record in the appellate courts *does* concern me. We'll have to make sure that when our cases are appealed through the court system that we are fully prepared. I come

back to my experience as chairman of the Property Tax Commission. Our cases are subject to appeals, and we get appealed on a regular basis. In my three years as chairman, we have been reversed twice now, I think.

There's always that right to appeal, but I will be more inclined to explore the possibilities of settling a case. I can't do that if I'm sitting as hearing officer, which I anticipate doing in some cases. But in many cases, I expect to be more of an advocate, trying to determine where the middle ground is. I fully anticipate sitting down with the opposing side in a rate case, or whatever the controversy may be, and trying to work out a possible grounds of compromise before the hearing officer has even given a decision.

I would act as any good trial lawyer would do in exploring with the other side any reasonable

## Insurance Commissioner—Elected or Appointed?

When the General Assembly created the office of Commissioner of Insurance in 1899, it called for the commissioner to be elected by the legislature for the first four-year term and thereafter to be appointed by the governor. Eight years later, however, the legislature made it an elected post.

In 1944, the position became a constitutional office and the commissioner a member of the Council of State.<sup>1</sup> Although the office is now a constitutional one, the commissioner's power and authority emanate from the General Assembly and are limited by legislative prescription, according to recent litigation.<sup>2</sup>

Since 1899, eight commissioners have served an average of 10.75 years.<sup>3</sup> James E. Long, the ninth person to hold this office, believes the commissioner ought to be elected. "We have traditionally had a long ballot in this state," he says. "An elected official can be more responsive to the demands of the public. We need to keep in mind the old maxim that the most effective government is that which is closest to those being governed."

In 1968, the N.C. State Constitution Study Committee released a report concerning possible changes to the state constitution. Among them, the committee suggested that the Commissioner of Insurance (and several other members of the Council of State) be appointed rather than elected.<sup>4</sup> The report said the commissioner performed essentially a

regulatory function and hence should be appointed, as were most others in the country.

In 1969, the General Assembly considered this recommendation but the bill was killed in committee.<sup>5</sup> Hence, in the 1971 new state constitution, all Council of State offices remained elected positions.

Among the 50 states, only 10 have elected commissioners of insurance (see chart at right). Of these 10, 7 are by constitutional provision and 3 are by statute. In 40 states, insurance commissioners are appointed in various ways—25 of them by the governor.

"With an elected commissioner," says Long, "you don't concentrate control in one or two constitutional officers, primarily the governor." □

### FOOTNOTES

<sup>1</sup>*Constitution of the State of North Carolina*, Article III, Section 7(1).

<sup>2</sup>*State ex rel. Commissioner of Ins. v. North Carolina Rate Bureau*, 61 N.C. App. 262, 300 S.E.2d 586, cert. denied, 308 N.C. 548, 304 S.E.2d 242 (1983).

<sup>3</sup>For a list of the commissioners and their terms, see *North Carolina Manual*, published by the N.C. Secretary of State, 1983, p. 589.

<sup>4</sup>*Report of North Carolina State Constitution Study Committee*, published by this committee, Raleigh, 1968, see pp. 113-121. The N.C. State Bar and the N.C. Bar Association formed this blue-ribbon committee of North Carolinians following an address by then Gov. Dan K. Moore encouraging such a committee. For a good summary of the committee and the resulting revisions to the constitution, see "State Constitution Revisions" by John Sanders, *Popular Government*, Institute of Government, Vol. 36, No. 1, September 1969, p. 86.

<sup>5</sup>HB 880, killed by the House Committee on Constitutional Amendments, 1969 General Assembly.

compromise. Like most cases tried in civil court, many compromises are struck as you walk through the courthouse door together. If we cannot reach a compromise, so be it. We'll try it out and if we lose, we'll yield. If the other side loses, they'll yield. The ultimate decision rests with the N.C. Supreme Court.

*Do you think more of the regulatory process should revert from the legislature and courts to the commissioner?*

Yes, I think so. Let's resolve these problems in advance of even having to go to the formal hearing process. There will be a lot more communication between the various parties before a formal hearing—formal filing of documentation, lining up witnesses, and the things you go through.

*What about a group concept for credit insurance? Debates over credit insurance have focused on the rate of return merchants are allowed to charge individual consumers. What about a proposal to allow the merchants to purchase group policies to protect themselves, without charging the individual customers credit insurance?*

That might be an answer to some of the debate over the credit insurance rates. I have not thought that one through. The group concept is something I certainly would want to take a look at. That could be a very viable alternative to the current system we have. Anytime you're selling insurance on a group rather than an individual basis, the economy of scale should reduce the price.

## I. ELECTED (10 States)

### By Constitutional Provision

Delaware  
Florida<sup>1</sup>  
Georgia<sup>2</sup>  
Louisiana

**NORTH CAROLINA**  
North Dakota  
Oklahoma

### By Statute

Kansas  
Mississippi  
Washington

## II. APPOINTED (40 States)

### A. BY GOVERNOR

#### No Confirmation

Alabama  
Indiana  
Kentucky  
Massachusetts  
Rhode Island  
Tennessee

#### Confirmed by Senate

Arizona New Jersey  
California New York  
Idaho Ohio  
Illinois Pennsylvania  
Iowa Utah  
Maryland Vermont<sup>3</sup>  
Michigan West Virginia  
Nebraska Wisconsin

#### Confirmed by Other

Connecticut (either house)  
Maine (appropriate legislative committee and Senate)  
New Hampshire (council)

### B. BY AGENCY HEAD

#### No Confirmation

Alaska  
Colorado  
Montana<sup>4</sup>  
Nevada  
South Dakota

#### Confirmed by Senate

Missouri

#### Confirmed by Governor

Arkansas  
Hawaii  
Oregon

### C. BY BOARD OR COMMISSION

#### No Confirmation

New Mexico  
South Carolina  
Texas  
Virginia<sup>5</sup>  
Wyoming

#### Confirmed by Senate

Minnesota

Source: Compiled by Jody George from data in *Book of the States 1984-85*, the Council of State Government, Lexington, Ky., 1984, pp. 72-77.

#### FOOTNOTES

<sup>1</sup>State Treasurer also serves as Insurance Commissioner.

<sup>2</sup>Comptroller General is ex-officio Insurance Commissioner.

<sup>3</sup>The Insurance Commissioner's full title is "Commissioner of Banking and Insurance."

<sup>4</sup>State Auditor performs the function of Insurance Commissioner.

<sup>5</sup>The Insurance Commissioner is part of the Virginia Corporation Commission and is appointed by the three state corporation commissioners (also known as judges). The General Assembly elects the three corporation commissioners.



*Should employers be allowed to offer group auto coverage just as they do health coverage? Should this "anti-group" statute be repealed?*

The statute applies to auto and homeowners' insurance. I have not been able to find out why that law is on the books. I want to find out why and if there's a valid reason for it, we'll find out what the results would be if that statute is repealed—to see if that would result in lower rates or less service for policyholders.

*Do you think mandatory automobile insurance should be expanded to include collision as well as liability? Or should mandatory liability be repealed?*

As long as you are financing the purchase of an automobile, collision is mandatory in a practical sense. I have never heard of a lending institution not requiring collision coverage. It is not mandated by state law, but by the marketplace. I don't think that the state or society in general has an interest in whether you have physical damage coverage on your auto. If you want to assume the risk of your car being totally destroyed, that probably should be your own decision. The lenders obviously have some say-so in that, since it's their money on the line.

We'll have to take a look at the question of dropping mandatory liability coverage. It's one of the issues I want the legislative study commission that I've already proposed to be created in the 1985 session to take a look at. We've had mandatory liability in North Carolina since 1957. My understanding is it came about because we did not have uninsured motorist coverage at the time. If you abolish mandatory liability, you take some pressure off the ratemaking system. Whether you can make a more inherently fair system by mandating or not mandating liability coverage, I don't know. [For more on mandatory liability, see page 36.]

*When you say relieve pressure on the system, are you thinking primarily of the Reinsurance Facility?*

Primarily. We have a large number of people under the Reinsurance Facility now, about 21 percent, in that range—much higher than nearly every other state. [See page 49 for more on the Reinsurance Facility.]

*Why do we have such a high percentage?*

One theory is that we have inadequate rates on the voluntary market and that the losses are made up in the involuntary market, the Reinsurance Facility. Yet the safe drivers in the facility cause more losses in the system than those with SDIP points. The ones put in the facility without points are causing the most losses but they're not

paying the penalty. So the system has gotten so very much out of kilter with the various details in it. I've told the legislature and anyone who will listen, let's quit worrying about the various details, like the SDIP schedule, and figure out the best overall system. Then we'll go back and piece together the details and make that system the most effective we can devise. The approach we've taken in recent years in the legislative halls has been to tinker with one particular aspect of the system. [For more, see the auto section, particularly the recommendations.]

*How do you figure out the best system to use?*

I proposed to the Insurance Study Committee last week that, during the 1985 session, an Insurance Study Commission be appointed with membership including the commissioner and House and Senate members. [The Insurance Study Committee adopted this proposal as part of its recommendations to the 1985 General Assembly.]

This commission would take the following 18 months to study the system and hopefully propose to the 1987 General Assembly a rewrite of the property and casualty insurance laws of this state. That commission would be charged to find the best auto rating system available and by 1987 to work out the details and present an overall, coherent plan. This means looking around the country and at neighboring states. Then, by the '89 session, I would hope to have a proposed rewrite of the life/accident/health laws.

*Are you unclear as to which system will work best in North Carolina because of the flux of the Ingram years or because of the changes in the insurance industry?*

There's a great deal of flux in the industry. Look at life insurance, for example. Thirty years ago, the only term we heard was whole life. Then term life came on the scene. Now we have universal life, annuities, you name it, with rates dropping rapidly. New policy forms are being developed in all lines of insurance very rapidly. The Insurance Department and the legislature have to be much quicker in their response time to these developments. The same things holds true for rating systems. There is no clear-cut answer to the best system for North Carolina. It's a very frustrating process for me to try to tell you the best system because I don't know it myself and in 14 months [of campaigning] I've tried my best to find the answer.

*As commissioner, how would you regulate health maintenance organizations (HMOs)?*

HMOs are currently regulated by the Insurance Department. We need to assure the solvency

of HMOs, that protection is there for consumers when called upon for payment. I see my role as encouraging HMOs, so long as we make sure they're financially solvent. Same thing for PPOs, preferred provider organizations, which are coming into North Carolina, and other concepts in the vanguard of the health insurance industry. HMOs are regulated. Currently, PPOs are not regulated, but they should be.

And we need to take a look at life-care communities for the elderly. That's a type of insurance, where you're paying a fee to be admitted to a facility and paying monthly maintenance fees. Investing your money and expecting something in return down the road is the same concept as life insurance, an annuity. In this case, the return is a service rather than a dollar return.

You get into the solvency issue again. Will that facility, three or four or five years down the road, be solvent? If one of those facilities goes bankrupt, the people who have invested their money in it have no place to go for housing, medical needs. And they may be completely bedridden by that point.

*Is there any area of insurance that the state does not regulate for solvency?*

None that I can think of. Solvency is going to be the problem area in insurance for the rest of the decade, not just in North Carolina but everywhere. We're seeing companies going insolvent right now. Accounting procedures for insurance companies haven't changed over the years, but the nature of the business is changing. People are investing their money in very different ways these days. Plus, banks are getting into the insurance business, which makes for an interesting discussion.



Commissioner Long with lobbyist Henry Mitchell of the law firm of Smith, Anderson, Blount, Dorsett, Mitchell, and Jernigan at an Insurance Study Committee meeting.

A bank's main thrust is to make money on its investment. An insurance company's main thrust is to make sure that the investment remains safe and provides a reasonable return. Insurance companies expect to pay losses. They expect to pay out money. Banks do not expect to pay losses. The whole concept of insurance is that the loss is going to be paid sooner or later. The only question is the timing of it. The lines between banking and insurance are becoming blurred. □

#### FOOTNOTES

<sup>1</sup>Through May 11, 1984, 193 contributors gave over \$100 to Long; another 459 persons contributed over \$100 through November 9, 1984, totaling 652 contributors. Only one person contributed over \$100 to Richard Morgan, the Republican nominee. Also, one person gave over \$100 to Billy Martin, a Democratic candidate defeated by Long in the primary.

<sup>2</sup>Post-election coverage of the Long campaign has pointed out that insurance company officials sponsored a "victory celebration" (at \$250 a head) at a Greensboro Country Club. One company official apparently encouraged employees to contribute to the Long campaign before the election (see *The News and Observer* of Raleigh, Dec. 7, 1984, p. 1A).

<sup>3</sup>In its final report, "Insurance Regulation" (December 13, 1984), the Insurance Study Committee of the Legislative Research Commission recommended that the Insurance Department be provided "with the electronic data processing equipment and additional in-house examiners and other personnel that will enable the Department to instantaneously verify the accuracy of financial statements, and run test ratios on the data in the statements similar to those in the NAIC early warning system" (p. 16). The committee did not recommend an appropriation level to accomplish that goal, however. "No appropriation amount was determined," says Long, "because the study committee was unable to get information from the Insurance Department as to the current expenditures for computerization or the projected costs for further computerization."

<sup>4</sup>Long is referring to the Center's series of publications called, *Article II, A Guide to the N.C. Legislature*. In the fourth edition, for the 1983-84 legislature, the Center listed the 15 "most influential" lobbyists, according to questionnaires completed by legislators, lobbyists, and capital correspondents (p. 214). The ranking did not cover industry groups but did include among the top 15 lobbyists those who have major insurance groups as clients—most prominently, John Jordan (ranked 1st, Association of Life Insurance Companies) and J. Ruffin Bailey (ranked 4th, American Insurance Association).

<sup>5</sup>Long's term as chairman of the Property Tax Commission was scheduled to end June 30, 1985. After being elected Commissioner of Insurance, Long resigned, effective December 1984.

<sup>6</sup>In recent legislative sessions, several attempts have been made to repeal or alter the Administrative Procedure Act. One proposal would have exempted Insurance Department hearings from the APA. The fate of the APA seems to rest, in large part, with the 1985 General Assembly.

<sup>7</sup>See *Comr. of Insurance v. Rate Bureau*, 300 N.C. 381 (1980), especially Part D, "Summary." The court, in essence, confirmed the statute (NCGS 58-124.19): "that investment income from unearned premiums and loss reserve funds are appropriately considered in a ratemaking hearing. . . . Neither prior cases nor statutes, however, have permitted consideration of invested income from investment capital" (p. 446).