

1

The General Assembly

The 2003 General Assembly convened on January 29, 2003, and adjourned on July 20, 2003, a brief session as odd-year sessions go, especially when compared to the eleven-month run of the 2001 session. This chapter provides an overview of the 2003 session, concentrating on the organization of each house, major legislation enacted, and unfinished business.

The House of Representatives

When the votes were finally counted and certified in the November 2002 election for members of the 2003 North Carolina General Assembly, sixty-one Republicans and fifty-nine Democrats had been elected to the House of Representatives. As a result, the Republicans had better-than-even odds of electing the speaker and claiming the committee chairmanships. Then, before the General Assembly convened in January, Representative Michael Decker, Forsyth County, changed his registration from Republican to Democrat, creating a 60–60 tie between Democrats and Republicans and presenting the House with an historic challenge in electing a speaker.

The House convened at noon on January 29, 2003, with Denise G. Weeks, the House Principal Clerk for the 2001 session, serving as presiding officer. This is the customary procedure on opening day, and the former principal clerk usually presides for fifteen minutes or so until the speaker's election (which has usually been predetermined some time before convening). Because of the 60–60 party division, however, the House was unable to elect a speaker until February 5, the fifth legislative day after convening. Ms. Weeks presided during those five days of considerable procedural wrangling with a ready wit and an authoritative gavel, demonstrating a mastery of the rules of order and a total absence of partisanship. Finally, on February 5, 2003, with the adoption of House Bill 2, James B. Black, Mecklenburg County, was elected Democratic Speaker, and Richard T. Morgan, Moore County, was elected Republican Speaker. On February 6, 2003, Denise G. Weeks was elected House Principal Clerk for the 2003 session of the General Assembly.

House Bill 2, the resolution by which Representatives Black and Morgan were elected speakers, provided that each would serve as presiding speaker on alternate days until December 31, 2004. The resolution further required that each House committee consist of an equal number of

Democrats and Republicans and that the committee chairs and cochairs be named jointly by both speakers. The leadership of all of the major House committees, with one exception, was equally divided between Democrats and Republicans. The exception was the House Rules Committee, which was chaired by Representative William T. Culpepper III, Chowan County, a Democrat.

The dual-Speaker arrangement did not result in deadlock, as some observers had predicted; to the contrary it worked quite well. That the General Assembly was able to enact an appropriations bill before July 1 and adjourn before August 1 is evidence of this. On the other hand, a number of important legislative issues were simply not addressed. When Speakers Black and Morgan could rally their shifting coalition of fifty to fifty-five Democrats and five to fifteen Republicans on any bill, that bill passed easily; when they determined that they could not muster the requisite votes, the measure usually did not even come to a vote.

The demographics of the 2003 House can be broken down as follows:

- twenty-eight women, one more than in 2001;
- ninety-two men;
- eighteen African-Americans, the same as in 2001;
- one Native American; and
- one representative of Hispanic ancestry.

Table 1-1 lists the 2003 House officers.

Table 1-1. Officers of the 2003 House of Representatives

James B. Black, Mecklenburg County, Democratic Speaker
Richard T. Morgan, Moore County, Republican Speaker
Joe Hackney, Orange County, Democratic Leader
Joe Kiser, Lincoln County, Republican Leader
Beverly Earle, Mecklenburg County, R. Phillip Haire, Jackson County, Marian N. McLawhorn, Pitt County, and Paul Miller, Durham County, Democratic Whips
Trudi Walend, Transylvania County, Republican Whip
Denise G. Weeks, Principal Clerk
Robert R. Samuels, Sergeant-at-Arms

The Senate

The Democrats retained their majority in the 2003 Senate, but the Republicans gained seven seats more than what they held in the 2001 session. There were twenty-eight Democrats, compared to thirty-five in 2001, and twenty-two Republicans, compared to fifteen in 2001. With the Democrats holding a clear, though slim, majority, the election of Senate officers lacked the high drama of the House elections, but Senator Marc Basnight, the President Pro Tempore of the Senate, ensured that the increase in Republican strength was recognized in his committee appointments. For example, Senator John A. Garwood, Republican, Wilkes County, serves as cochair of the Committee on Education and Higher Education; Senator Stan Bingham, Republican, Davidson County, serves as cochair of the Committee on Health and Human Services; and Senator Fletcher L. Hartsell Jr., Republican, Cabarrus County, serves as chair of the Judiciary II Committee. Seven women were elected to the Senate, compared to five in 2001, and six African-Americans were elected, compared to seven in 2001.

The 2003 Senate officers and leadership are shown in Table 1-2.

Table 1-2. 2003 Senate Officers and Leadership

Beverly E. Perdue, Lieutenant Governor, President
Marc K. Basnight, Dare County, President Pro Tempore
Charlie S. Dannelly, Mecklenburg County, Deputy President Pro Tempore
Tony Rand, Cumberland County, Majority Leader
Patrick J. Ballantine Jr., New Hanover County, Minority Leader
James S. Forrester, Gaston County, Deputy Minority Leader
Jeanne H. Lucas, Durham County, Majority Whip
Fern Shubert, Union County, Minority Whip
Tom Apodaca, Henderson County, Deputy Minority Whip
R. C. Soles Jr., Columbus County, Chair, Democratic Caucus
Charlie Albertson, Duplin County, Secretary, Democratic Caucus
Phil Berger, Rockingham County, Secretary, Republican Caucus
Janet B. Pruitt, Principal Clerk
Ted Harrison, Reading Clerk
Cecil R. Goins, Sergeant-at-Arms
Mike Morris, Chaplain

Statistical Comparison

Table 1-3 compares the 2003 session with other odd-year sessions of the past ten years.

Table 1-3. Statistical Comparisons of Recent Odd-Year Sessions

	1993	1995	1997	1999	2001	2003
Date convened	Jan. 27	Jan. 25	Jan. 29	Jan. 27	Jan. 24	Jan. 29
Date adjourned	Jul. 24	Jul. 29	Aug. 28	Jul. 21	Dec. 6	Jul. 20
Senate legislative days	109	109	123	101	173	102
House legislative days	110	108	123	103	179	102
Senate bills introduced	1,299	1,103	1,089	1,175	1,109	1,028
House bills introduced	1,499	1,070	1,245	1,489	1,478	1,340
Total bills introduced	2,798	2,173	2,334	2,664	2,587	2,368
Session Laws Enacted	563	546	528	462	519	433
Vetoed			0	0	0	2
Joint resolutions ratified	31	15	33	22	36	32
Simple resolutions adopted	7	7	11	24	10	19
Total measures passed	601	568	572	508	565	484
% measures passed	21.5%	26.1%	24.5%	19.0%	21.8%	20.4%

Major Legislation Enacted by the 2003 General Assembly

The 2003 General Assembly enacted a number of significant pieces of legislation, some of which are listed here.

- **Administrative Procedures Act.** S.L. 2003-229 (H 1151) makes important changes to the Administrative Procedures Act, especially regarding temporary rule making. These changes are discussed in Chapter 22, "State Government."

- **Blount Street property.** Blount Street is one of the historic streets in downtown Raleigh. The Governor's Mansion is on Blount Street, as are a number of architecturally significant houses currently owned by the state and used as office space for state agencies. S.L. 2003-404 (S 819) directs that most of these properties be sold to private owners, subject to appropriate preservation or conservation agreements. This act is discussed in Chapter 22, "State Government."
- **Children in day care.** Two acts are designed to protect children while they are in day care facilities. S.L. 2003-406 (S 226) prohibits day care workers from administering medications to children in their charge without authorization from a parent or guardian, and S.L. 2003-407 (H 152) requires that children be placed on their backs while sleeping to prevent SIDS. Both of these new provisions are discussed in Chapter 3, "Children and Families."
- **DNA registry.** S.L. 2003-376 (H 79) expands the list of persons from whom DNA samples must be taken to include all persons convicted of a felony or found not guilty by reason of insanity. This act is covered in Chapter 6, "Criminal Law and Procedure."
- **Elections improvements.** The federal Help America Vote Act sets national standards for elections and provides funds to the states to assist them in meeting these standards. S.L. 2003-12 (H 548) and S.L. 2003-226 (H 842) are intended to aid North Carolina in meeting the standards and qualifying for the funds. These acts are discussed in Chapter 7, "Elections."
- **Internet access.** For several years the General Assembly has been concerned about providing adequate and affordable Internet access to the rural areas of the state. S.L. 2003-425 (H 1194) creates the e-NC Authority to address this concern. The authority and its charge are discussed in Chapter 12, "Information Technology."
- **Protection of turtles.** North Carolina has had no regulations regarding the commercial trapping of turtles. S.L. 2003-100 (S 825) remedies this deficiency by directing the Wildlife Resources Commission to adopt regulations to protect the turtle population. This act is discussed in Chapter 24, "Wildlife and Boating Regulation."
- **Psychiatric hospital.** S.L. 2003-284 (H 684) directs that a new 432-bed psychiatric hospital be built in Butner and authorizes the use of a variety of instruments of indebtedness to finance the hospital. This act is discussed in Chapter 23, "State Taxation."
- **State parks.** Two new state parks were created, one along the Haw River in Guilford and Rockingham counties [S.L. 2003-108 (H 1025)] and one on the Mayo River in Rockingham County [S.L. 2003-106 (H 1078)]. The bills establishing these parks are discussed in Chapter 9, "Environment and Natural Resources."
- **Roads and highways.** S.L. 2003-383 (H 48) makes substantial appropriations from the Highway Trust Fund for road improvements and maintenance and urban transportation and establishes a study commission to examine urban transportation needs. This act is discussed in Chapter 13, "Land Use, Community Planning, Code Enforcement, and Transportation."
- **Tax increment financing.** S.L. 2003-403 (S 725) proposes a constitutional amendment that would authorize cities and counties to use a method of project financing called tax increment financing. This initiative will be included on the November 2004 ballot. The proposed amendment and legislation to implement it are discussed in Chapter 14, "Local Government and Local Finance."
- **Tobacco products in schools.** S.L. 2003-421 (S 583) generally prohibits the use of all tobacco products in school buildings. This act is discussed in Chapter 8, "Elementary and Secondary Education."

Unfinished Business

The final days of a legislative session are always filled with stop-and-go floor sessions, last-minute committee reports that sometimes make radical changes in the original bills, and the revival of bills that many members thought had been quietly buried. The last days of the 2003 session were unusually hectic. The initial adjournment resolution called for the session to adjourn on Friday, July 18, 2003. When it became clear that adjournment could not be achieved by that date, the resolution was amended to call for adjournment on Sunday, July 20, 2003. As a result sessions were held on Saturday and Sunday, with the Sunday session convening at 11:00 AM—an uncommon hour for the conduct of government business in North Carolina. Both the Friday and Saturday sessions continued late into the evening; on Sunday the House adjourned a little after 7:00 PM, and the Senate followed about 9:00 PM. Much was accomplished during the two days before adjournment—action was completed on forty-six bills, some of them complex, controversial, or both—but because of differences between the House and Senate, bills authorizing various studies and making technical corrections were not passed. In addition, several bills important to a number of General Assembly members either did not pass both houses or were simply never brought to a vote. All of these bills are discussed below.

- **Studies.** For many years the General Assembly has enacted a comprehensive studies bill at the end of the session. The studies selected for inclusion in the bill usually originate in one of two ways: either (1) several members believe an issue facing the state deserves a thorough examination, or (2) a bill is considered too controversial to be brought to a vote but the subject of the bill is important enough to merit further consideration. Many studies are authorized to be undertaken by the Legislative Research Commission, a standing body of the General Assembly, and others are to be undertaken by specially appointed study commissions. This session each chamber proposed its own version of a studies bill, S 34 by the House and H 674 by the Senate. Because they could not agree on a single bill by the time of adjournment, however, no studies bill was passed. Both S 34 and H 674 are eligible for consideration in the 2004 session. Generally, though, because of the short time frame and reelection concerns, no substantial studies are undertaken and completed between the end of a short session and the beginning of the next odd-numbered year session. Apart from those in the studies bills, however, several important studies are authorized in other bills that were enacted, such as the appropriations act. These studies are discussed in detail in various chapters throughout the book.
- **Technical corrections.** Usually one of the last acts passed in every session is a technical corrections bill, the purpose of which is to correct technical errors in previously enacted bills. Such errors may include incorrect statutory references, omitted or extra words, or incorrect effective dates. The bill is important because without it state and local officials charged with administering new legislation and lawyers trying to interpret that legislation may be unable to ascertain—in cases where a nontrivial error was made—what the General Assembly intended. In the closing days of the session, each chamber proposed a technical corrections bill; the original bill, H 281, became the vehicle for so many Senate amendments that the House rejected it and adopted S 137 as its version of a technical corrections bill. One major objection the House had to the Senate version of H 281 involved an amendment providing for the establishment of a cancer center at UNC Chapel Hill. (A reader unacquainted with legislative practices might reasonably ask how such a provision was determined to be a technical correction.) The House and Senate could not reach a compromise before adjournment, and so no technical corrections bill was enacted. Both H 281 and S 137 are eligible for consideration in the 2004 session.
- **Death penalty study and moratorium.** Concern about the administration of the death penalty, both nationally and in North Carolina, has focused on three factors: the significant number of cases in which a person has been sentenced to death and is subsequently determined to have been innocent, the adequacy of legal counsel in many cases involving imposition of the death penalty, and racial disparities in the imposition of the death penalty. Senate Bill 972 would have required a study of the death penalty to

examine these three factors, among others, and would have imposed a two-year moratorium on executions during the period of the study. Senate Bill 972 passed the Senate and remained in a House committee at adjournment. It is therefore eligible for consideration in the 2004 session.

- **State-sponsored lottery.** Ever since Governor Easley assumed office, he has pressed for a state-run lottery, the proceeds of which would be used to fund various programs in public education. The General Assembly has thus far not seen fit to enact such an initiative. This session's lottery proposal was H 5, calling for a referendum on whether the General Assembly should establish a lottery to fund programs in primary and secondary education. House Bill 5 remained in the House Rules Committee at adjournment.
- **Video poker.** For the last two sessions, many North Carolina law enforcement officers have campaigned for a ban on video poker machines. Senate Bill 6 proposes to ban the machines everywhere except on certain Indian reservations. Senate Bill 6 passed the Senate and remained in the House Rules Committee at adjournment. It is eligible for consideration in the 2004 session.
- **Cigarette tax.** Seven bills (H 254, H 378, H 1238, H 1313, S 915, S 917, and S 988) were introduced to increase the tax on cigarettes. Even though the state is suffering from an unprecedented financial crisis and has one of the lowest cigarette taxes in the nation, and even though the relationship between the increase in the cost of cigarettes and a reduction in smoking by young people has been clearly demonstrated, not one of the seven bills even made it out of committee.

The Governor's Vetoes

Governor Easley vetoed two bills enacted by the 2003 General Assembly, S 931 and H 917. Senate Bill 931 prohibited the State Board of Education from requiring a portfolio of materials from teachers seeking certification, but it also contained the following provision: "No new requirement added by the State Board of Education to the teacher certification process may be required for licensure now or in the future without explicit legislative authorization." The Governor stated in his veto message that this provision was very likely unconstitutional because the constitution grants the State Board general authority to administer the public school system. Governor Easley vetoed the bill on June 8, 2003, and on June 9, 2003, the Senate rereferred the bill to the Rules Committee, effectively sustaining the veto.

H 917 modified the statutes regarding mortgage rates charged by certain lenders, allowing increases in some of these rates. In his veto message, Governor Easley stated: "During a national recession, many families are struggling to make ends meet. However, the five large national and international conglomerates that make the vast number of consumer finance loans are thriving. This legislation has no economic benefit to North Carolina or our working families. It would simply increase the cost of loans for North Carolina citizens at a time that they can afford it least." Governor Easley vetoed the bill on August 19, 2003, just within the thirty-day constitutional deadline for vetoing bills after the General Assembly has adjourned. The General Assembly reconvened on August 27, 2003, to consider the veto, and the House rereferred the bill to the Rules Committee, effectively sustaining the veto.

The 2004 Session

The adjournment resolution, Res. 2003-31 (H 1335), provides that the Senate is to convene on September 15, 2003, to consider only matters relating to economic development and civil justice and insurance reform and is to adjourn no later than September 19, 2003. It further provides that the regular 2004 session of the General Assembly is to convene at noon on May 10, 2004. Only the following may be considered during that session:

- bills directly affecting the budget for fiscal 2004–2005, provided they are introduced by May 27, 2004;
- bills introduced in 2003 and having passed third reading in the house of introduction and not unfavorably disposed of in the other house;
- bills implementing recommendations of study commissions, commissions directed to report to the General Assembly, the House Ethics Committee, or the Joint Legislative Ethics Committee, provided they are introduced by May 19, 2004;
- noncontroversial local bills, provided they are introduced by May 26, 2004;
- bills making appointments;
- bills authorized for introduction by a two-thirds vote of both houses;
- bills affecting state or local pension or retirement programs, provided they are introduced by May 26, 2004;
- bills proposing constitutional amendments;
- resolutions regarding state government reorganization;
- memorial resolutions;
- resolutions disapproving administrative rules; and
- adjournment resolutions.

Blank bills may not be introduced in the House of Representatives during the 2004 session.

William A. Campbell