

Uncertainty, deep tension mark the end of the 85th regular session

The 85th legislative session came to a close Monday amid uncertainty over whether Gov. Greg Abbott would call lawmakers back for overtime. Tensions ran high up until the session's end.

BY [PATRICK SVITEK](#) MAY 29, 2017 5 PM

Texas' 85th legislative session has come to an uncertain, rancorous end after a 140-day period that saw the state extend its rightward march and tensions between the two chambers reach new heights — largely because of disagreements within the ruling Republican Party.

Lawmakers gaveled out Monday afternoon — first the House, then the Senate — under a cloud of uncertainty over whether Gov. [Greg Abbott](#) would call a special session, which Lt. Gov. [Dan Patrick](#) has been pushing for to deal with a number of incomplete priorities. Abbott was coy Monday morning, [saying he would announce his decision "later in the week"](#) — and making clear that he would be in charge in the event of an overtime round.

"I would normally say, 'I'll see you in 18 months,' God willing," Patrick told senators as the chamber prepared to adjourn for the last time in the regular session. "But we'll see you a little sooner than that."

The final day was also consumed by a scuffle on the House floor that seemed to embody some of the sharpest tensions of the session: State Rep. [Matt Rinaldi](#), R-Irving, [traded accusations](#) with House Democrats after Rinaldi said he called immigration authorities on people in the gallery protesting the state's new "sanctuary cities" law. The dustup punctuated a session in which Democrats and Republicans alike waged fierce battles over illegal immigration, abortion and LGBT rights.

"This session has been very, very difficult and emotional in many different ways, in many layers, over contentious issues, and there are enough of us here to remember a time in Texas when respect and decorum ruled the day," state Rep. [Celia Israel](#), D-Austin, said Monday at a news conference held by House Democrats. "It's just ironic — my senior members that have been here dozens of years have told me this is the worst session they've ever seen."

Even after both chambers gaveled out Monday afternoon, the fault lines were clearer than ever. Patrick issued a statement that accused the House of killing several of his priorities, including those related to property taxes and bathrooms, which the lieutenant governor said remain "must-pass legislation." Straus, for his part, issued a statement saying his chamber "feels very good about where we ended up, and now we look forward to returning home."

The session got underway on Jan. 10 in the shadow of Comptroller Glenn Hegar's dour revenue estimate, in part due to the downturn in oil prices, ensuring budget writers had their work cut out for them. For weeks, the two chambers sparred over the best way to balance the budget, with the Senate using an accounting trick to free up \$2.5 billion — Straus called it "cooking the books" — and the House turning to the state's savings account, colloquially known as the Rainy Day Fund.

Budget writers ultimately struck a deal that relied on a bit of both methods.

The session also opened against the backdrop of a new Republican administration in Washington led by President Donald Trump. Texas Republicans were hopeful Trump would provide some relief for a state that spent the last eight years at war with a Democrat-led federal government, but the benefits ultimately appeared to be limited.

On one of the items where Texas Republicans have long sought assistance from the federal government — border security — budget writers maintained the current spending level of \$800 million.

That did not mean Trump's influence was not felt under the pink dome. His hardline stance against illegal immigration dovetailed with Abbott's push for a ban on "sanctuary cities," arguably the most rancorous proposal of the session. After the Senate passed the legislation, Senate Bill 4, House leadership sought to water it down, an ultimately unsuccessful endeavor thanks to a polarizing amendment by state Rep. Matt Schaefer, R-Tyler.

The amendment allows law enforcement officials to ask the immigration status of anyone they detain — not just those they arrest. Its passage, mainly along party lines, marked something of a coming-out party for the newly formed House Freedom Caucus, a group of 12 conservative lawmakers who spent the session working to advance their priorities through their knowledge of the rules and procedure.

"Our fingerprints are on many pieces of policy," Schaefer said in an interview earlier this month, "and that's not by accident."

The sanctuary cities ban was one of four emergency items Abbott declared in his State of the State address, and he signed it into law weeks before the session concluded. He did so without advance notice on a Sunday evening on Facebook Live, spawning another round of protests against the bill.

While Abbott, Patrick and Straus were generally on the same page regarding SB 4, they were far more splintered on a "bathroom bill" that would require transgender people to use the restroom that matches their birth gender. Patrick charged into the session vowing to fight for it, while Abbott kept his distance and Straus made clear he viewed it as potentially bad for the state's economy.

There were few big surprises regarding the issue during the first half of session. The Senate approved its bathroom bill, [Senate Bill 6](#), early on and sent it to the House, where it languished amid continued resistance from House leadership. But in April, the House debuted what some had hoped would be an alternative to SB 6, [House Bill 2899](#), and got the governor to break his silence — Abbott called it a "thoughtful proposal."

Still, HB 2899, which would have invalidated local trans-inclusive policies and school accommodations for transgender students, remained stuck in a House committee — even as it accrued a total of 80 co-authors. The issue wouldn't show signs of life again until after a remarkable turn of events that began May 11, when the Freedom Caucus, at a boiling point with House leadership, went on a bill-killing spree that claimed what is known as the sunset safety net bill. In the House, the failure of the measure, which keeps some state agencies from shuttering, meant the Senate would have to pass it to avoid a likely special session.

Patrick seized the opportunity, vowing to hold the bill hostage until the House acted on a bathroom bill and property tax reform. Abbott aligned himself with Patrick, calling them priorities in the home stretch — but stopped short of threatening a special session over them.

"It definitely, I think, kind of shifted the balance, so to speak, or shifted the playing field on what was going to get done in the session or whether there was going to be leverage at all for this issue or the property tax issue," one Freedom Caucus member, state Rep. [Matt Krause](#) of Fort Worth, recalled Sunday.

With time running out, the House worked to appease Patrick, passing measures that dealt with the two issues more narrowly than the lieutenant governor had preferred. The period marked the apex of pressure that Patrick had been applying on the House since the session's early days, hoping to bend it to his chamber's more conservative will.

"I think Speaker Straus did a terrific job of being basically the voice of reason in that regard," state Rep. [John Zerwas](#), R-Richmond, said Monday, reflecting on the Senate pressures. The House had its priorities, Zerwas added, "we got them done, and the lieutenant governor had some of his priorities that didn't really sync up with our leadership here, so you know, I think ultimately that's how the political process works. I think we got done the things the state, the citizens, expect us to get done."

In the final days of the regular session, there appeared to be some hope lawmakers could work out a deal to avoid overtime — Abbott sounded optimistic as of Friday morning. But whatever chance there was for compromise seemed to plummet over the weekend, when the chamber leaders held dueling news conferences — twice — to assign blame to the other side for putting lawmakers on the brink of a special session.

By Monday morning, Abbott, known for his aversion to special sessions, was striking a somewhat different tone. Asked at a bill-signing ceremony whether he planned to call lawmakers back to Austin, he raised the possibility for the first time in 140 days. "I'll be making an announcement later this week," the governor said.