



88th Texas Legislature Summary





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END OF SESSION REPORT

On Monday night, May 29th, the 88th Legislature gavelled out Sine Die after 140 days.

When the Legislature convened on January 10th, the session was predicted to be a historic one with a budgetary surplus of \$32.7 billion and promises to fund numerous state priorities that had gone unaddressed in prior sessions. This session did prove to be historic, just not in the ways we expected. At the beginning of the session, the Big Three (Governor Abbott, Lt. Governor Patrick and Speaker Phelan) seemed to be on the same page with respect to the top priorities: property tax relief, infrastructure improvements, teacher pay raises and school and border security. Abbott and Patrick also called for school choice (vouchers) while Phelan focused on mental health funding and championed other member-driven priorities (e.g., broadband and 12-month eligibility for Medicaid to new mothers) as well. Energy/grid reform was also front and center with the state's growing need for electricity to meet climate demands and population increases. With this unprecedented surplus, the legislature was poised to address these issues with the revenue to do so.

For us old-timers in this business, the current assessment is Texas is suffering from its past successes. The so-called "Texas Miracle" (where companies flock to Texas and our economy is booming) only occurred because of long fought battles over successful economic development tools, low utility costs, a staple workers' compensation system, tort reform and a predictable regulatory climate. Many of the legislators currently serving have no memory of the days when Texas was unable to successfully compete to attract business development or when our workers' compensation and civil justice systems were imploding. Unfortunately, with success has also come neglect. Instead of ensuring that the "Texas Miracle" continues to make the state the envy of the nation with pro-business and economic priorities, attention in both chambers shifted to satisfying the insatiable appetite for passing bills that addressed conservative social and cultural issues. More attention was placed on issues like banning kids at drag shows (SB 12), banning gender affirming care for minors (SB 14), prohibiting participation by trans women in college sports (SB 15), limiting professorial tenure (SB 18), banning diversity, equity and inclusion (DEI) practices (SB 17) than on making sure the traditional "bread and butter" issues like property tax relief got across the finish line.

Despite these challenges, there were some high points too. The revenue boom (HB 1 appropriating over \$300 billion) enabled the Legislature to fund some much-needed infrastructure projects like water (SB 28/SJR 75) and broadband (HB 9/HJR 125). The Legislature also extended Medicaid eligibility to 12 months for post-partum mothers (HB 12), cracked down on fentanyl poisoning (HB 6), shored up the electricity grid (HB 1500), established a new economic development incentive program (HB 5), and endowed another fund for higher ed research institutions (HB 1595).

In addition, when the regular legislative session ended without passing property tax relief, Governor Abbott announced the first, of what is promised to be multiple, special sessions on Monday night (May 29th). The proclamation directed the Legislature to "cut property-tax rates solely by reducing the school district maximum compressed tax rate in order to provide lasting property-tax relief for Texas taxpayers."



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The House passed such a bill the next day(May 30th), sent it to the Senate and promptly adjourned sine die. In response, the Governor praised the House for its quick work. As of this writing, the dysfunction between the House and the Senate continues with each chamber trying to outmaneuver the other. We'll keep you posted.

Finally, this session will also be remembered for the work of the House General Investigating Committee, which is charged with investigating ethics violations and official misconduct. Two major cases have thrust the Committee into the limelight. The first resulted in the expulsion of a member, Bryan Slaton, for inappropriate conduct with a 19-year-old staffer. The second case involves the impeachment of Attorney General Ken Paxton by the House of Representatives after the Committee found that Mr. Paxton engaged in 20 counts of official misconduct (and possible criminal conduct as well). Over 120 members of the House voted for the motion to impeach Paxton. On Memorial Day the Speaker named a bipartisan panel of 12 Impeachment Managers who will conduct the trial in the Senate. The Senate also had a bipartisan panel that is currently formulating rules for the impeachment trial, which will take place in the Senate sometime this year. Stay tuned!



2023 IMPEACHMENT OF TEXAS ATTORNEY GENERAL KEN PAXTON

May 24 The House Committee on General Investigating held a public hearing ([transcript](#) and [video](#)) to hear invited testimony and presentation of the evidence in the matter of Warren Kenneth Paxton (Proposed Settlement with Office of the Attorney General Whistleblowers and Conduct Related Thereto).

Chief committee counsel Erin Epley and counsels to the committee Terese Buess, Mark Donnelly, and Donna Cameron provided testimony.

Brian Benken, an attorney and investigator, and Dan McAnulty, an investigator and former captain with the House Police Department, were introduced but did not testify.

The committee is composed of the following representatives:

- Andrew Murr (R-Junction), Chair
- Ann Johnson (D-Houston), Vice Chair
- Charlie Geren (R-Fort Worth)
- Oscar Longoria (D-Mission)
- David Spiller (R-Jacksboro)

May 26 The House Committee on General Investigating sent a [memorandum](#) to members of the House of Representatives, which summarized the impeachment process, set out proposed debate guidelines, and answered some questions from Members.

May 27 The House of Representatives passed [HR 2377](#) (121-23) to impeach Attorney General Ken Paxton based on enumerated Articles of Impeachment ([floor debate](#)):

- | | |
|--------------|---|
| Article I | Disregard of Official Duty - Protection of Charitable Organization |
| Article II | Disregard of Official Duty - Abuse of the Opinion Process |
| Article III | Disregard of Official Duty - Abuse of the Open Records Process |
| Article IV | Disregard of Official Duty - Misuse of Official Information |
| Article V | Disregard of Official Duty - Engagement of Cammack |
| Article VI | Disregard of Official Duty - Termination of Whistleblowers |
| Article VII | Misapplication of Public Resources - Whistleblower Investigation and Report |
| Article VIII | Disregard of Official Duty-Settlement Agreement |
| Article IX | Constitutional Bribery - Paul's Employment of Mistress |
| Article X | Constitutional Bribery - Paul's Providing Renovations to Paxton Home |
| Article XI | Obstruction of Justice - Abuse of Judicial Process |
| Article XII | Obstruction of Justice - Abuse of Judicial Process |
| Article XIII | False Statements in Official Records - State Securities Board Investigation |
| Article XIV | False Statements in Official Records - Personal Financial Statements |



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- Article XV False Statements in Official Records - Whistleblower Response Report
- Article XVI Conspiracy and Attempted Conspiracy
- Article XVII Misappropriation of Public Resources
- Article XVIII Dereliction of Duty
- Article XIX Unfitness for Office
- Article XX Abuse of Public Trust

May 27

Vote on HR 2377:

Nays: Anderson, Doc (R); Bell, Cecil (R); Clardy, Travis (R); Craddick, Tom (R); Cunningham, Charles (R); Dorazio, Mark (R); Harless, Sam (R); Harris, Caroline (R); Harrison, Brian (R); Isaac, Carrie (R); Leo-Wilson, Terri (R); Morrison, Geanie (R); Paul, Dennis (R); Price, Four (R); Schaefer, Matt (R); Schatzline, Nate (R); Schofield, Mike (R); Slawson, Shelby (R); Smithee, John (R); Swanson, Valoree (R); Thompson, Ed (R); Tinderholt, Tony (R); Toth, Steve (R)

PNV: Dutton, Harold (D); Hayes, Richard (R)

Absent: Herrero, Abel (D); Oliverson, Tom (R)—*Excused*; Thierry, Shawn (D);

Attorney General Paxton issued a [press release](#) with links to two reports ([initial](#) and [outside law firm](#)) refuting the allegations in the Articles of Impeachment.

May 29

The House of Representatives passed [HR 2547](#) to establish a 12-member Board of Managers to be appointed by the Speaker of the House to present to the Senate Articles of Impeachment against Attorney General Ken Paxton.

Speaker Phelan announced the appointment of the following representatives to the Board of Managers:

- Andrew Murr (R-Junction), Chair
- Ann Johnson (D-Houston), Vice Chair
- Briscoe Cain (R-Deer Park)
- Terry Canales (D-Edinburg)
- Erin Gamez (D-Brownsville)
- Charlie Geren (R-Fort Worth)
- Jeff Leach (R-Plano)
- Oscar Longoria (D-Mission)
- Morgan Meyer (R-University Park)
- Joe Moody (D-El Paso)
- David Spiller (R-Jacksboro)
- Cody Vasut (R-Angleton)



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May 29

The Senate unanimously passed [SR 735](#), by Whitmire ([video](#)), to:

- create a special committee of seven members appointed by the lieutenant governor to present to a caucus of the Senate to be held on June 20, 2023, rules of procedures to govern the impeachment trial of Attorney General Ken Paxton; and
- authorize the lieutenant governor to issue a proclamation setting a date, and time not later than August 28, 2023, for the Senate to convene as a Court of Impeachment.

Lieutenant Governor Patrick announced the appointment of the following senators to a Special Committee to Recommend Rules and Procedures for Court of Impeachment:

- Brian Birdwell (R-Granbury), Chair
- Juan “Chuy” Hinojosa (D-McAllen), Vice Chair
- Brandon Creighton (R-Conroe)
- Pete Flores (R-Pleasanton)
- Joan Huffman (R-Houston)
- Phil King (R-Weatherford)
- Royce West (D-Dallas)

The lieutenant governor announced that once the rules are drafted, he will set a date for the Senate to resolve into a court of impeachment to consider the articles of impeachment.

June 20

Senate Caucus on impeachment of Attorney General Paxton



**TEXAS CONSTITUTION
ARTICLE 15. IMPEACHMENT**

Sec. 1. IMPEACHMENT BY HOUSE OF REPRESENTATIVES. The power of impeachment shall be vested in the House of Representatives. *(Feb. 15, 1876.)*

Sec. 2. TRIAL OF IMPEACHMENT OF CERTAIN OFFICERS BY SENATE. Impeachment of the Governor, Lieutenant Governor, Attorney General, Commissioner of the General Land Office, Comptroller and the Judges of the Supreme Court, Court of Appeals and District Court shall be tried by the Senate. *(Feb. 15, 1876. Amended Nov. 7, 1995.)*

Sec. 3. IMPARTIAL TRIAL BY SENATE; CONCURRENCE OF TWO-THIRDS REQUIRED. When the Senate is sitting as a Court of Impeachment, the Senators shall be on oath, or affirmation impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the Senators present. *(Feb. 15, 1876.)*

Sec. 4. JUDGMENT TO REMOVE AND DISQUALIFY; PUNISHMENT UNDER OTHER LAW PERMITTED. Judgement† in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust or profit under this State. A. Party† convicted on impeachment shall also be subject to indictment† trial and punishment according to law. *(Feb. 15, 1876.)*

† *The language of this provision is identical to the language of the official legislative measure that originally proposed the provision. A digital image of the original text of the official enrolled measure can be found [here](#).*

Sec. 5. SUSPENSION PENDING IMPEACHMENT; PROVISIONAL APPOINTMENT. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office, during the pendency of such impeachment. The Governor may make a provisional appointment to fill the vacancy,† occasioned by the suspension of an officer until the decision on the impeachment. *(Feb. 15, 1876.)*

† *The language of this provision is identical to the language of the official legislative measure that originally proposed the provision. A digital image of the original text of the official enrolled measure can be found [here](#).*

Sec. 6. REMOVAL OF DISTRICT JUDGES BY SUPREME COURT. Any Judge of the District Courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as Judge; or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the Supreme Court. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some Judge of a court of record of not less than ten lawyers, practicing in the courts held by such Judge, and licensed to practice in the Supreme Court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable. *(Feb. 15, 1876.)*



Sec. 7. REMOVAL OF OFFICERS WHEN MODE NOT PROVIDED IN CONSTITUTION. The Legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution. *(Feb. 15, 1876.)*

Sec. 8. REMOVAL OF JUDGES BY GOVERNOR ON ADDRESS OF TWO-THIRDS OF EACH HOUSE OF LEGISLATURE. The Judges of the Supreme Court, Court of Appeals and District Courts, shall be removed by the Governor on the address of two-thirds of each House of the Legislature, for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment; provided[†] however, that the cause or causes for which such removal,[†] shall be required, shall be stated at length in such address and entered on the journals of each House; and provided further, that the cause or causes shall be notified to the Judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass, and in all such cases, the vote shall be taken by yeas and nays and entered on the journals of each House respectively. *(Feb. 15, 1876.)*

[†] *The language of this provision is identical to the language of the official legislative measure that originally proposed the provision. A digital image of the original text of the official enrolled measure can be found [here](#).*

Sec. 9. REMOVAL OF PUBLIC OFFICER BY APPOINTING GOVERNOR WITH ADVICE AND CONSENT OF SENATE.

- (a) In addition to the other procedures provided by law for removal of public officers, the governor who appoints an officer may remove the officer with the advice and consent of two-thirds of the members of the senate present.
- (b) If the legislature is not in session when the governor desires to remove an officer, the governor shall call a special session of the senate for consideration of the proposed removal. The session may not exceed two days in duration. *(Added Nov. 4, 1980.)*

GOVERNMENT CODE

CHAPTER 665. IMPEACHMENT AND REMOVAL

SUBCHAPTER A. IMPEACHMENT BY HOUSE

Sec. 665.001. IMPEACHMENT PROCEEDING. In this subchapter, "impeachment proceeding" includes:

- (1) presenting an article of impeachment;
- (2) investigating a matter relating to a contemplated impeachment; and
- (3) acting on an article of impeachment.

Sec. 665.002. INDIVIDUALS WHO MAY BE IMPEACHED. An individual may be removed from an office or a position by impeachment in the manner provided by the constitution and this chapter if the individual is:

- (1) a state officer;
- (2) a head of a state department or state institution; or
- (3) a member, regent, trustee, or commissioner having control or management of a state institution or enterprise.

Sec. 665.003. IMPEACHMENT WHEN HOUSE IS IN SESSION.



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- (a) The house of representatives may conduct an impeachment proceeding at a regular or called session at its pleasure without further call or action.
- (b) If the house is conducting an impeachment proceeding at the time a session expires or ends by house or senate adjournment on legislative matters, the house may:
 - (1) continue in session to conduct the impeachment proceeding; or
 - (2) adjourn to a later time to conclude the impeachment proceeding.
- (c) If the house adjourns under Subsection (b)(2), it may continue the impeachment proceeding through committees or agents.

Sec. 665.004. CONVENING HOUSE FOR IMPEACHMENT PURPOSES WHEN HOUSE IS NOT IN SESSION.

- (a) When the house is not in session it may be convened to conduct an impeachment proceeding:
 - (1) by proclamation of the governor;
 - (2) by proclamation of the speaker of the house if the speaker is petitioned in writing by 50 or more members of the house; or
 - (3) by proclamation in writing signed by a majority of the members of the house.
- (b) Each member of the house who is in the state and accessible must be given a copy of the proclamation in person or by registered mail:
 - (1) by the speaker of the house or under the direction of the speaker; or
 - (2) by the members signing the proclamation or one or more individuals who signed the proclamation designated by the members that signed the proclamation if the proclamation was issued under Subsection (a)(3).
- (c) The proclamation must:
 - (1) state in general terms the reason for convening the house;
 - (2) state a time for the house to convene; and
 - (3) be published in at least three daily newspapers of general circulation.

Sec. 665.005. POWERS OF HOUSE DURING IMPEACHMENT PROCEEDING. When conducting an impeachment proceeding, the house or a house committee may:

- (1) send for persons or papers;
- (2) compel the giving of testimony; and
- (3) punish for contempt to the same extent as a district court of this state.

Sec. 665.006. PER DIEM AND MILEAGE DURING IMPEACHMENT PROCEEDING.

- (a) A member of the house is entitled to a per diem when the house is in session for an impeachment proceeding but not for legislative purposes.
- (b) A member of a house committee is entitled to a per diem when the committee is meeting for an impeachment proceeding and the house is not in session.
- (c) A member of the house is entitled to mileage when the house is convened by proclamation under Section [665.004](#).
- (d) The amount of a per diem and the mileage authorized by this section is the same as the amounts for those items fixed for members of the legislature when in legislative session.



(e) The house may pay agents to assist in conducting an impeachment proceeding.

Sec. 665.007. CUMULATIVE REMEDY. The remedy of impeachment as provided in this chapter is cumulative of all other remedies regarding the impeachment or removal of public officers.

SUBCHAPTER B. REMOVAL AFTER IMPEACHMENT

Sec. 665.021. SENATE MEETS AS COURT OF IMPEACHMENT. If the house prefers articles of impeachment against an individual, the senate shall meet as a court of impeachment in a trial of the individual in the manner provided by Article XV of the Texas Constitution.

Sec. 665.022. PROCEDURE WHEN SENATE IS IN SESSION.

- (a) If the senate is in a regular or called session when articles of impeachment are preferred by the house, the senate shall receive the articles when they are presented. The senate shall set a day and time to resolve into a court of impeachment to consider the articles.
- (b) The senate may continue in session as a court of impeachment beyond the end of the session for legislative purposes or may adjourn as a court of impeachment to a day and time set by the senate.

Sec. 665.023. PROCEDURE WHEN SENATE IS NOT IN SESSION.

- (a) If the senate is not in a regular or called session when articles of impeachment are preferred by the house, the house shall deliver by personal messenger or certified or registered mail a certified copy of the articles of impeachment to the governor, lieutenant governor, and each member of the senate. A record of the deliveries and a copy of the record shall be delivered to the lieutenant governor and the president pro tempore of the senate.
- (b) After the deliveries are made as required by Subsection (a), the senate shall be convened to consider the articles of impeachment:
 - (1) by proclamation of the governor; or
 - (2) if the governor fails to issue the proclamation within 10 days from the date the articles of impeachment are preferred by the house, by proclamation of the lieutenant governor; or
 - (3) if the lieutenant governor fails to issue the proclamation within 15 days from the date the articles of impeachment are preferred by the house, by proclamation of the president pro tempore of the senate; or
 - (4) if the president pro tempore of the senate fails to issue the proclamation within 20 days from the date the articles of impeachment are preferred by the house, by proclamation signed by a majority of the members of the senate.
- (c) A proclamation issued under Subsection (b) must:
 - (1) be in writing;
 - (2) state the purposes for which the senate is to be convened;
 - (3) fix a date not later than the 20th day after the date of the issuance of the proclamation for convening the senate; and
 - (4) be published in at least three daily newspapers of general circulation.



- (d) A copy of the proclamation shall be sent by registered or certified mail to each member of the senate and the lieutenant governor.
- (e) The senate shall convene on the day set in the proclamation and receive the articles of impeachment. The senate shall then act as a court of impeachment to consider the articles of impeachment.

Sec. 665.024. ADOPTION OF RULES. The senate shall adopt rules of procedure when it resolves into a court of impeachment. After the senate has adopted the rules it shall consider the articles of impeachment.

Sec. 665.025. CONVENING AND ADJOURNING SENATE. The senate may recess or adjourn during the impeachment trial to a time to be set by the senate. The senate may condition reconvening on the occurrence of an event specified in the motion.

Sec. 665.026. ATTENDANCE OF SENATORS. Each member of the senate shall be in attendance when the senate is meeting as a court of impeachment.

Sec. 665.027. POWERS OF SENATE MEETING AS A COURT OF IMPEACHMENT.

- (a) The senate may:
 - (1) send for persons, papers, books, and other documents;
 - (2) compel the giving of testimony;
 - (3) punish for contempt to the same extent as a district court;
 - (4) meet in closed session for purposes of deliberation; and
 - (5) exercise any other power necessary to carry out its duties under Article XV of the Texas Constitution.
- (b) The senate may employ assistance to enforce and execute the lawful orders, mandates, writs, process, and precepts of the senate meeting as a court of impeachment.

Sec. 665.028. PER DIEM WHILE SENATE IS MEETING AS A COURT OF IMPEACHMENT.

- (a) When meeting as a court of impeachment the members of the senate and the lieutenant governor receive the same mileage and per diem as is provided for members of the legislature when it is in legislative session.
- (b) If the senate is not in session as a court of impeachment for more than four consecutive days because of recess or adjournment, the members of the senate and the lieutenant governor are not entitled to the per diem for those days.

SUBCHAPTER C. REMOVAL BY ADDRESS

Sec. 665.051. INDIVIDUALS SUBJECT TO REMOVAL. Only the following individuals are subject to removal from office by address under this subchapter:

- (1) a justice of the supreme court;
- (2) a judge of the court of criminal appeals;
- (3) a justice of a court of appeals;



- (4) a judge of a district court;
- (5) a judge of a criminal district court;
- (6) the commissioner of agriculture;
- (7) the commissioner of insurance; and
- (8) the banking commissioner.

Sec. 665.052. CAUSES FOR REMOVAL.

- (a) An individual may be removed from office by address for:
 - (1) wilful neglect of duty;
 - (2) incompetency;
 - (3) habitual drunkenness;
 - (4) oppression in office;
 - (5) breach of trust; or
 - (6) any other reasonable cause that is not a sufficient ground for impeachment.
- (b) In this section, "incompetency" means:
 - (1) gross ignorance of official duties;
 - (2) gross carelessness in the discharge of official duties; or
 - (3) inability or unfitness to discharge promptly and properly official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.

Sec. 665.053. NOTICE AND HEARING.

- (a) Notice of the reason for removal by address must be given to the officer who is to be removed.
- (b) The officer must be allowed to appear at a hearing in the officer's defense before the vote for removal by address is taken.
- (c) The cause for removal shall be stated at length in the address and entered in the journal of each house.

Sec. 665.054. REMOVAL VOTE.

- (a) The governor shall remove from office a person on the address of two-thirds of each house of the legislature.
- (b) The vote of each member shall be recorded in the journal of each house.

SUBCHAPTER D. OTHER REMOVAL PROVISIONS

Sec. 665.081. NO REMOVAL FOR ACTS COMMITTED BEFORE ELECTION TO OFFICE.

- (a) An officer in this state may not be removed from office for an act the officer may have committed before the officer's election to office.
- (b) The prohibition against the removal from office for an act the officer commits before the officer's election is covered by:



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- (1) Section [21.002](#), Local Government Code, for a mayor or alderman of a general law municipality; or
- (2) Chapter [87](#), Local Government Code, for a county or precinct officer.