INTRODUCTION

Health and human services issues were prominent in both the 83rd regular session of the Texas Legislature, as well as the first, two special sessions that followed. With Texas Governor Rick Perry and several legislators firmly against Medicaid expansion in Texas, any legislative move to collect federal funds to expand the program was going to be difficult. It proved impossible during the regular session. Thereafter, abortion became a prominent legislative issue in the first, two special legislative sessions, prompting one of the most remarkable protests in recent State Capitol history and ending with passage of a wide-ranging abortion restrictions bill.

* This report is one in a series that looks back at issues and bills from the 83rd Legislative Session of the Texas Legislature. The Barbara Jordan Institute for Policy Research at Texas Southern University contributed to this report.
MEDICAID EXPANSION

Passed by Congress and signed by President Obama in 2010, the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) called for states to expand Medicaid to provide healthcare to more low-income people. However, the US Supreme Court in 2012 ruled that the federal government could not require states to expand the program, thus the expansion, set to begin January 2014, became optional for states. As early as July 2012, Perry indicated his opposition to the expansion, sharply ridiculing the Affordable Care Act and the federal Medicaid program in a letter to the secretary of the US Department of Health and Human Services (Perry, 2012). Meanwhile, proponents of the expansion pointed to the positives that could come from providing Medicaid to more people. These two opposing views met in the 2013 regular legislative session.

Expansion Bill

Representative Sylvestre Turner and other legislators filed bills requiring the Texas Health and Human Services Commission to expand Medicaid in accordance with the Affordable Care Act. Considering Governor Perry’s stance and veto power, all of this legislation had little chance of becoming law. Nonetheless, Turner’s bill, House Bill (HB) 3376, was heard in a House appropriations subcommittee, where it died. Had it passed, the impact likely would have been significant.

Expanding Medicaid would have provided healthcare to at least one million additional Texans, significantly reducing the uninsured population of 6.1 million in the state. The number of newly insured would have included an estimated 400,000 children who were already eligible but not enrolled in Medicaid (Dunkelberg, 2013). Meanwhile, Texas lost nearly $90 billion in Medicaid federal funding over the next 10 years. The Affordable Care Act prescribes that the federal government will pay for the expansion at the rate of 100 percent for the first three years, 95 percent in 2017, 94 percent in 2018, 93 percent in 2019, and not less than 90 percent for every year thereafter. Estimates indicated that over the first 10 years the state would pay $15.6 billion while the federal government would increase its Medicaid payments to Texas by $89.9 billion (Perryman, 2012).

Expanding Medicaid would have provided healthcare to at least one million additional Texans, significantly reducing the uninsured population of 6.1 million in the state. The number of newly insured would have included an estimated 400,000 children who were already eligible but not enrolled in Medicaid.

However, the governor and other opponents argued that Medicaid is a flawed system that should be reformed instead of expanded.
Waiver Bill

As some legislators sought Medicaid expansion, other legislators tried to find an alternative way to access federal funds and cover more people via the state Medicaid program. The main bill in this regard was Representative John Zerwas’ HB 3791. The bill’s final caption read, “Relating to a ‘Texas solution’ to reforming and addressing issues related to the Medicaid program, including the creation of an alternative program designed to ensure health benefit plan coverage to certain low-income individuals through the private marketplace.” The bill was passed out of a subcommittee and the House appropriations committee, but never made it onto a House calendar for floor consideration. Zerwas’ bill would have required the Texas Health and Human Services Commission to pursue a waiver or authorization from the federal government to reform Medicaid in a way that expanded coverage to more people. However, Zerwas emphasized that the reform would include co-pays, deductibles, private market health savings accounts, and other “private marketplace” elements. The bill aimed to take advantage of the federal government’s offer to provide waivers and ample Medicaid funding for alternative expansion plans designed and developed at the state level.

Surprise Amendment

As Zerwas tried to insert the language of his eventually dead bill into the budget, some legislators indicated that they would not vote for a budget that included any language on expanding Medicaid in any way (Aaronson & Batheja 2013). That sentiment resulted in a surprise amendment to an unrelated Medicaid services bill, Senate Bill (SB) 7, which concerned Medicaid services for people with intellectual and physical disabilities. The pertinent language said, “the Health and Human Services Commission may only provide medical assistance to a person who would have been otherwise eligible for medical assistance or for whom federal matching funds were available under the eligibility criteria for medical assistance in effect on December 31, 2013.” The language was designed to preclude any Affordable Care Act-related Medicaid expansion or Medicaid waiver. It passed and was included in the version of SB 7 that became law. Thus, the Legislature would have to reconvene and pass more legislation to make possible Medicaid expansion or a waiver to expand coverage in Texas.
ABORTION RESTRICTIONS

At least 24 abortion restrictions bills were filed during the regular session. None found their way to the floor of either house. Then, as the regular session came to an end, Lieutenant Governor David Dewhurst and other legislators implored Perry to call a special session involving abortion issues. The governor obliged. After two special sessions, a remarkable, nationally watched 11-hour filibuster by Senator Wendy Davis, and an even more remarkable protest in the Senate Gallery that helped kill the bill in the first special session, the Texas Legislature passed and the governor signed a wide-ranging abortion restrictions bill.

The bill that came to the forefront does four main things: 1) it bans abortion 20 weeks post-fertilization; 2) it requires doctors performing abortions to have hospital admittance privileges within 30 miles of the facility in which the abortions are being performed; 3) it requires doctors to administer the abortion-inducing drug RU-486 in person, rather than allowing the woman to take it at home; and 4) it requires abortions to be performed in facilities that meet ambulatory surgical center standards, which are exceedingly demanding and expensive. The bill came just two years after the Legislature passed a bill that requires a woman to, in most cases, undergo an ultrasound before obtaining an abortion. The bill does not exempt victims of rape or incest.

Reports have indicated that most of the state’s abortion clinics do not meet ambulatory surgical center standards (Associated Press, 2013). Whether it would be financially possible for the clinics to convert to meet the standards, instead of closing, remained a contentious question throughout the debates on the bill. Furthermore, at least four, rural abortion clinics are closing because of the law’s requirement that doctors performing abortions have hospital admittance privileges within 30 miles of the facility in which they perform abortions (Martin, 2013).

Proponents of the bill—which was SB 5 in the first special session and nearly identical as HB 2 in the second special session and as finally passed—said the new restrictions would make abortion safer. Opponents said proponents were simply trying to undermine a woman’s right to choose to have an abortion by making the procedure unattainable for many Texas women.

The bill sparked huge protests at the Capitol, unlike any that have been seen in years. During a last-day effort to pass the abortion restrictions bill in the first special session, Davis filibustered the bill for 11 hours before parliamentary tactics were used by Dewhurst to end Davis’ effort to kill the bill. Then other opponents of the bill used parliamentary maneuvers to try to delay till the midnight deadline for passage of the bill. In the end, it was dozens of protestors opposing the bill by yelling from the Senate Gallery that so disturbed the efforts to pass the bill that proponents failed to do so by the midnight deadline. Perry swiftly called another special session on abortion issues. Meanwhile, Davis, the bill, and the protests had garnered substantial nationwide press coverage.

In the second session, the bill sailed through the House and Senate, with proponents determined to pass it. One change that was made to the second session version of the bill was to exempt abortions where the fetus is found to have severe fetal abnormalities.
Table 1. Texas 2011: Latest Abortion Statistics Available

- **72,470** reported abortions performed
- **0** women died of abortion-related causes
- Less than **1%** of terminated pregnancies were terminated more than 20 weeks post fertilization
- **36** abortion clinics currently in the entire state, most of which are in large, urban areas
- **4** abortions performed by ambulatory surgical centers, the new standard for abortion clinics

Source: Texas Department of State Health Services, 2011; Egerton, 2013

Assuming a lawsuit (most likely based on the well-known US Supreme Court case, Roe v. Wade) does not halt the implementation of the abortion restrictions bill, it will be important to watch Department of State Health Services abortion statistics to see how the bill affects women in each of the state’s counties. The restrictions could most affect Black or African American women, because they have the highest relative rates of abortion in the state. Blacks or African Americans comprise about 12 percent of the population and had about 25 percent of abortions performed in 2011, the latest data year available. Latina women had 38 percent of abortions, while Latinos make up about the same proportion of the general population in Texas. White women had about 31 percent of abortions, while Whites make up about 45 percent of the population (Texas Department of State Health Services, 2011).

**BUDGET HIGHLIGHTS**

Lawmakers budgeted $71 million for the Texas Women’s Health Program, a program to provide low-income women with contraception and family-planning services, cancer screenings, and other services. In 2011, the Legislature removed Planned Parenthood and other abortion providers from the program, prompting the federal government to stop federal funding. The budgeted amount takes the program above 2011 funding levels, but with the limited providers, services may continue to be limited, too.

In the wake of the Sandy Hook Elementary shooting, the Texas Legislature increased appropriations for the Department of State Health Services by $263 million to expand behavioral health and substance abuse services, reduce community mental health services waitlists, and renovate and support state and community hospitals.

**CONCLUSION**

Health and human services bills were again major issues for the Legislature in 2013, with Medicaid expansion and abortion restrictions at the forefront. The Affordable Care Act’s Medicaid expansion will not happen in Texas unless the Legislature reconvenes and passes legislation—and the governor signs the legislation—to allow the expansion. Also, abortions may become much more difficult to receive if the second special session’s abortion restrictions bill is implemented, depending largely on how abortion clinics react to new, stricter facility and credential standards.
<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Author</th>
<th>Final Caption</th>
<th>Impact Statement</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 11</td>
<td>Sen. Nelson</td>
<td>Relating to the drug testing of certain persons seeking financial assistance benefits.</td>
<td>Requires drug screening and testing of certain new and renewing financial assistance seekers.</td>
<td>Passed Senate; Failed on House floor</td>
</tr>
<tr>
<td>SB 191</td>
<td>Sen. Birdwell</td>
<td>Relating to Temporary Assistance for Needy Families benefits accounts.</td>
<td>Requires photo identification for making certain cash withdraws of financial assistance.</td>
<td>Passed out of Senate Health &amp; Human Services Committee; Never considered on the Senate floor</td>
</tr>
<tr>
<td>SB 495</td>
<td>Sen. Huffman</td>
<td>Relating to the creation of a task force to study maternal mortality and serve maternal morbidity.</td>
<td>Creates a racially and ethnically diverse task force to study maternal mortality and morbidity.</td>
<td>Effective September 1, 2013</td>
</tr>
<tr>
<td>HB 1072</td>
<td>Rep. Allen</td>
<td>Relating to the eligibility of certain persons for the supplemental nutrition assistance program.</td>
<td>Allows family members to continue to get SNAP benefits even if the head of household is deemed ineligible because of failure to comply with work or training requirements.</td>
<td>Passed out of House Human Services Committee; Never considered on House floor</td>
</tr>
<tr>
<td>SB 1753</td>
<td>Sen. Uresti</td>
<td>Relating to ensuring the continuation of medical assistance benefits for individuals after release or discharge from certain facilities.</td>
<td>Suspends Medicaid eligibility during incarceration or admittance in a mental health facility and automatically reinstates eligibility after release or discharge, as allowed by federal law.</td>
<td>Referred to the House &amp; Human Services Committee, never received a hearing</td>
</tr>
<tr>
<td>HB 2038</td>
<td>Rep. Dukes</td>
<td>Relating to addressing disproportionality and disparities in the education, juvenile justice, child welfare, health, and mental health systems, the continuation and operation of the Interagency Council for Addressing Disproportionality, and the duties of the Center to for the Elimination of Disproportionality and Disparities.</td>
<td>Requires the Center for Elimination of Disproportionality and Disparities to identify, monitor, assist, and implement for efforts to eliminate health and human services disproportionality and disparity. Requires the Interagency Council on Elimination for Addressing Disproportionality to develop a Texas model for addressing disproportionality and disparity in education, juvenile justice, child welfare, health, and mental health.</td>
<td>Passed House; Referred to Senate Health &amp; Human Services Committee, never received a hearing</td>
</tr>
<tr>
<td>Bill Number</td>
<td>Rep.</td>
<td>Final Caption</td>
<td>Impact Statement</td>
<td>Status</td>
</tr>
<tr>
<td>------------</td>
<td>------</td>
<td>-------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>HB 3238</td>
<td>McClendon</td>
<td>Relating to disease control pilot programs to reduce the risk of certain communicable disease; authorizing a fee.</td>
<td>Creates a pilot program for needle exchange in several counties throughout the state.</td>
<td>Failed on the House floor</td>
</tr>
<tr>
<td>HB 3401</td>
<td>Raymond</td>
<td>Relating to nutrition and wellness education for certain recipients of certain state benefits.</td>
<td>Requires the Health and Human Services Commission to work with community-based organizations to encourage individuals receiving Medicaid, SNAP, or financial benefits to get information regarding nutrition and wellness.</td>
<td>Effective September 1, 2013</td>
</tr>
<tr>
<td>HB 3434</td>
<td>Raymond</td>
<td>Relating to incentives for using supplemental nutrition assistance program benefits to purchase nutritious foods.</td>
<td>Requires the Department of Human Services to start a pilot program in which a SNAP benefits recipient receives additional benefits for purchasing nutritious food.</td>
<td>Passed House; Left pending in Senate Health &amp; Human Services Committee</td>
</tr>
</tbody>
</table>
REFERENCES


The Institute for Urban Policy Research & Analysis
The University of Texas at Austin

Mission:
To advocate for equality of access, opportunity, and choice for populations of color and the poor through applied policy research.

King Davis, PhD
Director & Professor

Shetal Vohra-Gupta, PhD
Research Scientist

Kathryn A. Freeman, JD
Policy Coordinator

Victor O. Obaseki, JD
Policy Coordinator

Celeste Henery, PhD
Postdoctoral Fellow

Albert Thompkins, PhD
Postdoctoral Fellow

Chunhui Ren, PhD
Postdoctoral Fellow

Leonie Jones, BA
Administrative Associate

Seth A. Kessler, MPA
Graduate Research Assistant

Kristy Gillespie, MSW
Graduate Research Assistant

Jina Jung, MSW
Graduate Research Assistant

Jennifer Alexander, MA
Graduate Research Assistant

Marian Morris, MPH, RN
Graduate Research Assistant

http://www.utexas.edu/cola/insts/iupra/