

How health care blew up the 2015 session

Brandon Larrabee 11:19 p.m. EDT May 9, 2015



(Photo: AP files)

On Dec. 17, almost three months before the annual legislative session began, new Senate President Andy Gardiner met with reporters in the conference room of his Capitol office. He talked with the press for 30 minutes, touching on a wide variety of issues, including a plan by business groups and others that would use Medicaid expansion dollars to help lower-income Floridians purchase private health insurance.

“I think it’s intriguing,” Gardiner said, though he expressed continuing concern about how willing the federal government would be to grant the state flexibility in setting up a plan.

That lukewarm statement of support was the first indication of what would become the defining issue in a legislative session most notable for gridlock, dysfunction and inaction in the wake of a meltdown between the House and the Senate. Because of an inability to come to agreement on a spending plan for the budget year that begins July 1, lawmakers will have to return to Tallahassee in the coming weeks for a special session to carry out their one constitutionally required annual duty.

A review of the events of the regular session — including interviews with some key players in the House-Senate row — show how negotiations broke down: Dramatic miscalculations of each other’s motives and willingness to force a showdown conspired with the tight deadline of a 60-day session to derail lawmakers’ plans. And it gives indications of the pitfalls the Legislature must avoid if it hopes to end the month of June with a budget and avoid a shutdown that could further sap Floridians’ faith in the ability of their elected officials to lead.

Laying the groundwork

Every year, shortly before the beginning of the legislative session, the Associated Press holds what it calls a planning day in Tallahassee. Editors and reporters from across the state gather on the 22nd floor of the Capitol to grill legislative leaders from both parties, the governor, Cabinet members and political candidates.

When reporters started asking about Medicaid at this year’s Jan. 28 meeting, Gardiner and House Speaker Steve Crisafulli, R-Merritt Island, didn’t shy away from their different views on the issue. But neither gave an indication that the possibility of expansion would destroy the session.

Crisafulli, in a statement that would become somewhat famous, said he was “a never-say-never kind of guy,” even as he explained that the House had not changed its 2-year-long opposition to expansion.

For his part, Gardiner couched the Senate’s position in terms of being interested in a debate — not insisting that an expansion plan or something like it be approved before a budget could be finished.

The more-notable statement on health care funding might have come from Gov. Rick Scott, who was asked about how his budget handled the \$2.2-billion Low Income Pool, or LIP, program, which is set to expire June 30. Funded mostly by a mix of federal and local funds, LIP is largely used to send money to hospitals and other health providers that care for large numbers of low-income residents.

Scott’s response was that he had kept the money in his spending plan for the budget year that begins July 1.

“Right now, we’re hoping that we can continue to work with the federal government with regard to that,” he said.

By the time the legislative session opened March 3, Gardiner said the Senate had more than an interest in the expansion issue. The chamber now had an “obligation” to consider Medicaid expansion, in part because of the possibility that LIP could go away.

Two days later, the Senate unveiled legislation to establish the Florida Health Insurance Affordability Exchange Program — stylized as FHIX. The federally funded program would act as a “marketplace” for enrolling people in private insurance coverage.

Under the bill, applicants would be required to show proof of employment, on-the-job training or pursuit of education. A parent with a child under 18 would have to be taking part in such activities at least 20 hours a week, while childless adults would be required to spend 30 hours a week. And people enrolled would be required to pay monthly premiums.

Going to Washington, going to war

The Senate proposal continued to work its way through the process, eventually getting added to the upper chamber's budget plan. Meanwhile, the state Agency for Health Care Administration was negotiating with the federal government over the future of LIP.

On March 30, Gardiner dispatched Sen. Garrett Richter of Naples, the No. 2 Republican in the chamber, and Senate Health and Human Services Appropriations Chairman Rene Garcia, R-Hialeah, to Washington to discuss health care with federal officials.

The move would be questioned by, among others, Crisafulli.

"It's something that is under the purview of the governor's office to go do that. ... I would tell you as a business person, when you go to negotiate a deal, you don't send multiple people. You try to have one point of contact on it," he told reporters on April 1.

Hours later, AHCA Secretary Liz Dudek announced that the state was having trouble getting in touch with the lead federal negotiator on the LIP program. The Centers for Medicare & Medicaid Services said discussions were still ongoing.

In an interview last week, Gardiner defended his decision to send Richter and Garcia. He also questioned the story of a blow-up in the negotiations with the federal government shortly after Richter and Garcia's trip.

"Obviously, the governor wasn't happy about them going, and I think that's why, when they called CMS the next day and couldn't get an appointment, they said, 'Aha! Let's let the Senate take the rap for this,' and then ultimately found out that the person they were trying to meet with was going on a vacation that he'd planned for a year," Gardiner said.

On the same day, House Appropriations Chairman Richard Corcoran, R-Land O' Lakes, blasted the Senate and special interests supporting the FHIX plan in an intense floor speech before the House voted on its version of the budget.

"They want us to come dance," Corcoran said of the Senate. "We're not dancing. We're not dancing this session, we're not dancing next session, we're not dancing next summer."

Toward lobbyists, Corcoran's language was literally militant.

"The great enemy is the power of the status quo," he proclaimed. "Come with us. I'll proudly declare war on all the special interests, every single one of which ... wants Medicaid expansion."

House Minority Leader Mark Pafford, D-West Palm Beach, said later that he realized then that there was a real problem.

"I think at that moment is when the train actually came off the rails," Pafford said.

Miscalculations

By that time, House leaders had made a fateful miscalculation. According to House Rules Chairman Ritch Workman, a Melbourne Republican and key lieutenant to Crisafulli, they assumed that the talk of a Medicaid expansion alternative was nothing more than a negotiating stance for when Crisafulli and Gardiner worked out numbers for a broad budget outline and House-Senate conference committees hammered out the details.

They did not realize how far Gardiner was willing to push the issue.

"I don't think any of us believed for a second that President Gardiner was going to have us leave session with not even a single conference (meeting) under our belt," Workman said.

The Senate had, after all, proposed a plan similar to FHIX before. In 2013, Scott announced his reluctant support for Medicaid expansion. In response, the Senate crafted a proposal built on some of the same principles that would be in FHIX. But the House disagreed, and Senate leaders dropped it.

Gardiner said if the Senate seemed more resolute in 2015, it was at least in part because of the threat of losing billions of dollars.

"Now I would say, what changes this and I actually think has raised it to the (current) level is the Low Income Pool situation," Gardiner said. "Before, it was, 'Well, they're just going to fund Low Income Pool, \$2.2 billion, it's no big deal.'"

Gardiner had made his own miscalculation, not realizing that Scott was about to oppose Medicaid expansion again.

"You also think you're going into a dialogue where you have a governor that's supportive of it, because he did a press conference two years ago where he said he (backed expansion)," Gardiner said.

But on April 6, as lawmakers were returning from the Easter holiday, Scott announced that was no longer the case.

Links and lawsuits

On April 14, as some reporters worked on a story about public records from AHCA dealing with the LIP debacle, the agency issued a statement reiterating that it was having no luck getting a meeting with officials in Washington.

The Centers for Medicare & Medicaid Services responded with a letter that cleared up one point of dispute among those at the state Capitol: What happened with LIP was tied to what happened with Medicaid expansion.

“Medicaid expansion would reduce uncompensated care in the state, and therefore have an impact on the LIP, which is why the state’s expansion status is an important consideration in our approach regarding extending the LIP beyond June,” wrote Vikki Wachino, a high-ranking CMS official.

If the intent of the letter was to soften resistance from the House or Scott, it failed. Both dug in deeper against Medicaid expansion.

Two days after the letter, Scott announced he would file a lawsuit against federal officials saying CMS was trying to unconstitutionally coerce Florida into expanding Medicaid.

Scott was beginning to get more aggressively involved in the showdown, but only sporadically so. Several days later, he would float the idea of a “continuation budget” — something that some Senate leaders quickly dismissed, with Senate Appropriations Chairman Tom Lee, R-Brandon, memorably calling it “a made-up word.”

On the same day Scott issued his continuation budget suggestions, leaders in both chambers were rallying their members. The Senate held an Appropriations Committee meeting which all senators could attend, at which they heard terrible tales of what might happen if LIP expired.

Meanwhile, House Republicans huddled in the House Majority Office for an hour-long, closed door meeting. One reporter pressed his ear against the door, overhearing Crisafulli urge the Republicans to “stand like a rock” and plead with his GOP members to “please trust us.”

End game

On April 23, with the hours ticking down on the session and lawmakers already resolved to the fact that they wouldn’t pass a budget, the House decided to try to jar the process back on track. In a move rarely made public, Crisafulli sent an offer to Gardiner on the broad outlines of a spending plan.

The offer would have used \$200 million in state money, and drawn down another \$300 million in federal funding, to offset potential losses to hospitals from LIP. The Senate responded with an offer to set aside \$600 million in recurring funds for hospitals, while using savings that leaders said FHIX would create to fund additional education spending.

Recurring funds go from year to year, while non-recurring funds expire after one year.

The House upped its offer, in a way: It would give the Senate an offer with \$600 million in state funds — it did not specify whether they would be recurring or non-recurring — but that would come 24 hours after the Senate would drop its Medicaid-like expansion plan.

Workman figured that the Senate was looking for a “soft place to land” while ditching Medicaid expansion.

“I thought we offered that up with our second budget proposal,” Workman said.

The Senate said no. Gardiner said it was impossible to gauge how serious the offer was without details on where the money was coming from.

“There was nothing that has given us an indication that they are setting aside recurring dollars,” he said in an interview. “If everybody’s going to sit here and talk about a one-year, let’s just pump \$600 million in there in non-recurring, then we’re right back here next year having this same fight.”

By the weekend before the session ended, the talks were off again. But Crisafulli was talking about an even more dramatic move with some of his lieutenants. Workman said Crisafulli began asking for thoughts about an early end to the 2015 session, scheduled to close on May 1.

On the morning of April 28, a Tuesday, Gardiner called Crisafulli to start discussions on how to orchestrate an ending to the session without any surprises. Both men knew the budget would wait for an extended or special session, but there was still some policy work Gardiner thought could get done.

Gardiner said he would designate two former Senate presidents — Lee and Sen. Don Gaetz, R-Niceville — to handle the talks.

"I said, 'I would like to send over President Lee and President Gaetz to meet with whoever you tell them to meet with to start looking at all these things. ... The speaker was very receptive to it. He was like, 'Yeah, OK, let me get back to you as to who to talk to and start looking at all these things,'" Gardiner said.

Around 1 p.m., Crisafulli tried unsuccessfully to reach Gardiner on his cellphone, and instead left a voice message. The House was going home.

"With our policy and Work Plan agenda completed but with budget negotiations at an impasse over a difference in opinion of policy and no reason to believe the federal government would respond before the 2015 legislative session concluded, the House adjourned sine die on Tuesday, April 28th," Crisafulli, who declined through a spokesman to be interviewed for this article, said in a statement.

Gardiner was in his office discussing the confirmation of some of Scott's appointments with Richter when a staffer came in and told him the speaker was addressing the House. Gardiner went to his press secretary's office and watched on television as Crisafulli brought down the final gavel.

The Senate would spend another day and a half considering legislation. On Wednesday, senators took a temporary adjournment, saying the House had violated the Constitution and should come back. A majority of the Supreme Court later said the House move was unconstitutional, but declined to order lawmakers to return to session.

The Senate never returned after Wednesday. At 11:59 p.m. on May 1, the 2015 legislative session officially ended.

Despite the ill will at the end of the regular session, most of the players seem to think the special session, tentatively scheduled to begin June 1, can mend the differences.

"The House and Senate have come together on significant policy issues to benefit Floridians this session," Crisafulli said. "I am confident that in a special session, the House and Senate can develop a reasonable allocation plan and complete our work to craft a balanced budget."

Workman pointed to his hope that the House's last budget offer would be the framework for a deal. "Maybe it still can be," he said.

But Gardiner still hopes that something will be done to at least deal with the status of the uninsured people who would be covered by FHIX.

"We'll go home, and we'll spend time with our families and get some sun and regroup," he said. "We'll come back. The personalities will be fine. The relationship with the speaker in my opinion is going to be fine. Fresh air will clear out a lot of cobwebs. But the gap that still has to be addressed is the coverage gap for individuals that don't have insurance in the state."

Read or Share this story: <http://on.tdo.com/1bH5IWF>

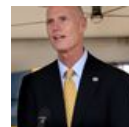
MORE STORIES



Your Graduation Photos
(/picture-

(/picture-
gallery/news/local/2015/05/02/your-
graduation-
photos/26766575/)
gallery/news/local/2015/05/02/your-graduation-
photos/26766575/)

May 5, 2015, 7:49 a.m.



Scott calls for hospitals to
share profits

(/story/news/politics/2015/05/09/scott-
calls-hospitals-
share-
profits/27048207/)
(/story/news/politics/2015/05/09/scott-calls-
hospitals-share-profits/27048207/)

May 9, 2015, 3:22 p.m.

Elected superintendent has survived many



referendums

**(/story/news/politics/2015/05/08/appointment-
destiny/27004907/)**

**(/story/news/politics/2015/05/08/appointment-
destiny/27004907/)**

May 9, 2015, 8:16 a.m.

