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THE TERRIBLE TWOS: FLANAGAN, HEASTIE AND NEXT YEAR'S GROWING PAINS

BY JON LENTZ | SEP 20, 2015 |

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The 2015 state legislative session was one big surprise after another. Gov. Andrew Cuomo's State of the State was hastily postponed after the death of his father, former Gov. Mario Cuomo, and combined with the budget address a few weeks

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later. Senate Majority Leader Dean Skelos and Assembly Speaker Sheldon Silver joined the governor on stage at the address, but both were hit with corruption charges and ousted as legislative leaders before the session ended. The new Assembly speaker, Carl Heastie, came on in February, in time to negotiate a \$142 billion budget, and in his first major act he technically broke the governor's streak of four straight on-time budgets. State Senate Majority Leader John Flanagan took over in May, amid a fight over expiring rent regulations and real estate tax subsidies, mayoral control of New York City's schools and other hot-button issues that kept lawmakers in Albany past the scheduled end of session.

"These gentlemen were in a very difficult situation, to step in as a new leader," Cuomo said in late June as the bills of a final legislative deal were being printed. "And to step in under the circumstances that they stepped in was extraordinarily difficult, and to step in at a point in the process where everything was already in motion."

But for all the turbulence the two legislative leaders weathered in 2015, 2016 could be just as tough.

Battle lines will again be drawn over the budget, and while the improving economic climate will mean more funds for schools, transportation infrastructure and other government services, it's also more cash to quarrel over. Lawmakers took a Band-Aid approach to divisive issues like criminal justice reform and mayoral control, which will be up for debate for a second straight year. The controversial Common Core standards and teacher evaluations will again be scrutinized, with no guarantee that frustrated parents and opt-out advocates will be satisfied with another round of tweaks and adjustments. Issues like the Dream Act and the education investment tax credit will continue to simmer, with no clear path to becoming law. Cuomo's recent push to champion an across-the-board \$15 per hour minimum wage is vexing Senate Republicans, and the governor is sure to roll out additional proposals in next year's State of the State that will draw the ire of one house or the other.

Heastie and Flanagan will be far more prepared this time around, but they'll also be taking ownership for their conference's agendas and strategies – and for their eventual success or failure. As they embark on the long, slow journey of consolidating power, they'll have to balance competing regional demands, make important staffing decisions and fill open committee chairs. And it's all set to happen in an election year, a high-stakes test for any conference leader, especially for two rookies.

"First of all, they're both going to be evaluated on their capacity to bring in majorities, especially Flanagan, but Heastie on his capacity to sustain the size of his majority," said Gerald Benjamin,

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a longtime observer of Albany politics who is now associate vice president at SUNY New Paltz. “The measure at the end of the day is, did we win, and by how much? This next year is a precursor to that, it all points to that.”

Yet getting elected as leader is just the first step. While governors in New York have extraordinary structural advantages and invariably enjoy a honeymoon phase early on, legislative leaders have to build up loyalty over time. It can take years to string together a record of legislative victories at the negotiating table, and just as long to demonstrate an ability to protect vulnerable incumbents and to strategically reward lawmakers with sought-after committee chairmanships and leadership roles. Sheldon Silver, who developed a reputation as a savvy negotiator after being elected Assembly speaker in 1994, nonetheless faced a rebellion in 2000. Surviving the coup attempt, he altered his leadership style to be more responsive to his members – and shored up his position by rewarding those who stood by him.

“There’s a difference between consolidating power, which can happen right away by simply putting together a winning coalition, and actually cementing it, which involves earning and reaffirming loyalties by delivering legislation and money that individual members need – and of course protecting them if they should face a close election, particularly a primary,” said Lawrence Levy, the executive dean of Hofstra University’s National Center for Suburban Studies. “Shelly Silver earned a lot of points by helping members fend off challenges. Because in New York City, in a lot of districts, frankly, primaries are tantamount to election. The leader’s control of the campaign committees and patronage that can be used to influence decisions can go a long way toward cementing the loyalty of people.”

Heastie and Flanagan have gotten off to a good start. Both leaders took a relatively risk-averse approach during the tumultuous 2015 session, and neither had any major stumbles. Both men traveled the state this summer to visit districts of members of the conference, with Heastie in particular generating good press with dozens of stops in upstate locales far from his home in the Bronx. Heastie also notched a small but significant victory when Niagara County Assemblyman John Ceretto, a Republican, announced he would join the Assembly Democrats, a symbolically important addition to an already impressive majority. Flanagan, who squared off against Syracuse-area Assemblyman John DeFrancisco for the majority leadership in the spring, helped mend ties between his Long Island base and upstate by naming DeFrancisco deputy majority leader.

But new challenges are looming. Flanagan will have to pick a chairperson for the influential Senate Finance Committee, and will have to shuffle other committee roles that open as a result.

Heastie, meanwhile, made clear his commitment to retaining Silver’s staff and keeping the same committee chairs, but he also had to deal with mid-session rumors that Silver was still running

things. Heastie will have to replace the veteran counsel Jim Yates, who is retiring, and he'll eventually leave his stamp when other committee chairs come open. Outside observers say that Democratic Assembly members will also be watching closely to see whether Heastie, who kept his interactions with reporters brief this past session, will grow comfortable as a spokesman for the conference and convey its message effectively.

Both leaders will have to get used to speaking for the conference as a whole, which can differ from what resonates in Heastie's Bronx or Flanagan's Suffolk County. And both men will have to juggle a large and diverse wish list. Flanagan, for example, already made a point of trying to reform the SAFE Act – which he had voted for in 2012 – to assuage upstate Republicans.

“The final test is how do they do on the substance, and how does the substance and politics interrelate, not only in getting good press, but within the conference do they feel their leader presided over a good budget and a good close of session?” said Bruce Gyory, a Democratic political consultant at Manatt, Phelps & Phillips. “The more of them you put in a row, do you string those hits and runs together so people over the course of a couple of sessions people feel they have a lot of confidence in you?”

The biggest test, of course, will come several months after the session ends during the fall elections. Although voters will cast their ballots long after the dust has settled on the budget and whatever final compromise package is agreed to, the mood of the electorate will never be far from the minds of Heastie and Flanagan during the flurry of legislating between January and June.

As rookie leaders, they will have to prove that they can maintain their numerical majorities, if not expand them. Flanagan, in particular, faces the daunting task of holding on to a razor-thin 32-seat majority. While Heastie has more breathing room and is at no risk of ceding control to the Assembly Republicans, Flanagan's Senate majority depends on retaining Tom Libous' vacant seat in Binghamton in a special election this year, as well as Democratic state Sen. Simcha Felder of Brooklyn continuing to conference with the GOP come January. Then, in November 2016, Flanagan has no room for error, unless he can fall back on a coalition with Sen. Jeff Klein's Independent Democratic Conference.

“Normally election years are the hardest, particularly when there's relatively more budget money on the table, which ratchets up expectations for all sorts of constituencies to get a piece of,” Levy said. The Senate Republicans “can't afford a single misstep. They can't afford to anger any significant portion of their base. At the same time, they can't lose the moderate swing voters who could very well decide several Long Island and Westchester and upstate suburban base districts. So it's a real balancing act for Flanagan, far more than for Heastie and with far more on the line.”

The calls for a statewide \$15 per hour minimum wage are already setting the stage for one of the major debates in 2016, one that could trip up Senate Republicans. Cuomo's sudden embrace of the wage hike is not a good sign for the GOP, given the combination of strong support for the measure in polls and ardent opposition among business owners and wealthy GOP donors. Flanagan and his fellow Republicans will undoubtedly scrutinize voter support for a higher minimum wage and could potentially consider more cautious counter-proposals, such as a less ambitious hike that's phased in over time and subject to legislative review. State Sen. Jack Martins, the Republican chairman of the Labor Committee, told City & State that the governor's \$15 figure is a "political number" that isn't backed up by any evidence or analysis, but the Long Island lawmaker didn't rule out a wage hike entirely.

The wage issue also demonstrates the governor's status as the wild card: He sets the agenda in his State of the State speech and the executive budget, and whether he finds a way to reach a minimum wage compromise acceptable to Flanagan and his conference could have an impact on the majority leader's ability to keep that majority. Other measures that Cuomo will introduce in January could introduce a similar dynamic for either leader.

"I don't see the governor being actively engaged in trying to generate alternatives to these guys, but I don't know how much he'll commit to helping them continue," Benjamin said. "His calculation might be, if I help these guys they're likely to continue, and if I help them gain visibility and status as effective, there'll be a net benefit for me after the interim election. So the calculation of the governor, not necessarily his active engagement but his calculation for credit-sharing and responsiveness to legislative priorities that might arise, will be partly based on his desire to be supportive of their continuity."

The common wisdom is that a higher turnout that accompanies a presidential election year will mean more minorities and younger voters at the polls and a bump for Democratic candidates. If Hillary Clinton, a former U.S. senator in New York, wins the Democratic primary, she could bolster her party in state and local races at the top of the ticket. Indeed, no matter what Heastie and Flanagan accomplish, or how well they avoid the mishaps that could threaten their numerical majorities, the electorate could get swept up in the national mood and swept away by the politics of a presidential race over which the legislative leaders have no control.

"Flanagan, if they lose the majority, it could be all because of the population dynamics and the political dynamics of the state, and the turnout rates in a presidential election, but Flanagan will be held accountable," Benjamin said. "If they retain a majority in a presidential year, he's in like Flynn."

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