

## Progressives learn hard lesson in budget

ALBANY — Young progressives who won fall elections to help create the new Democrat-led State Legislature entered this session with a fiery idealism, planning to shun the old way of doing things.

There were some quick wins, including laws passed to authorize early voting, more gun control, codifying abortion rights in state law and protections for transgender people. In addition, in a rare move, Assembly Speaker Carl Heastie and Senate Majority Leader Andrea Stewart-Cousins on March 13 stripped out dozens of Gov. Andrew M. Cuomo's policy proposals from their budget proposals to avoid being forced to approve policy deals in order to pass a state budget.

Then reality set in. Cuomo ended up getting his top policy priorities in the \$175.5 billion budget adopted April 1 in a process which was still largely under his control.

"The process is whack," tweeted Sen. Julia Salazar (D- Brooklyn). The 28-year-old progressive, like many of the new progressives, won office by taking on her own party in a primary.

"I'm very upset at this vote," said Assemb. Yuh-Line Niou (D-Manhattan), 32, in floor speech casting her vote for the budget April 1. "This way of voting with no transparency makes it so that we are given false choices to make."

In the end, Cuomo got his permanent cap on the growth of property tax levies, a congestion pricing plan to reduce traffic in Manhattan while providing a funding stream to improve subways and commuter rails, and a management overhaul with massive new capital funding for the Metropolitan Transportation Authority. He also held the increase in school aid in hard fiscal times to \$50 million over his proposal, compared to the up to \$1.6 billion more sought by the legislature; and secured most of his criminal justice reforms.

In the final 24 hours of closed-door negotiations, Cuomo also used his considerable leverage under budget law to include new items into the discussion including sealing his own 40 percent pay raise — bringing it to \$250,000 in 2021 — approved by a commission in December. He also was able to create another commission to decide on whether and how to implement public financing of campaigns, which took the issue away from progressive rank-and-file members who made that issue a major goal of the budget.

The budget session so frustrated some of the progressives that they are now pushing to limit Cuomo's budget power through legislation or in a new court ruling. The effort comes amid some friction within the Democratic Party as the progressives try to push for change harder and faster than the older guard considers prudent.

Cuomo has called this budget his strongest progressive one and made no apologies for the process.

"The last time someone tried to change the process it went down in flames after New Yorkers rejected it by an embarrassing 2 to 1 margin," said Cuomo spokesman Rich Azzopardi. He referred to challengers to Cuomo in 2018 by Democratic progressive

activist Cynthia Nixon in the primary and Republican Marc Molinaro in the general election.

The legislature can rightly claim a piece of the victories, particularly in what it said was its large role in approving the criminal justice reform package, which included ending cash bail for most misdemeanors and nonviolent felonies.

“For those who were hoping for intraparty fireworks, they must have been disappointed,” said Lawrence Levy, executive dean of Hofstra University’s National Center for Suburban Studies. “The majority members, especially the new ones in the Senate, took a while to be sure of their footing.”

Now, these freshmen and sophomores are looking to rally after Cuomo’s continued mastery of the budget process. Fifteen of the 39 Democrats in the Senate majority are freshmen, an unusually large incoming class.

“We’ve seen how this process is done,” said Sen. Alessandra Biaggi (D-Bronx). In casting her vote for the budget, the 33-year-old freshman reminded her colleagues “too many members in this chamber left in handcuffs” and the budget process this year showed the corrupting influence of money in Albany.

“It is illuminating, it is inspiring and we look forward to transforming it,” she said. “We will do better because our time has just begun.”

Past legislatures, however, have railed against the legal leverage of governors under state law, but rarely dared change it.

One of the legislature’s own toughest critics, veteran Assemb. Charles Barron (D-Brooklyn), said the legislature again failed to push back at Cuomo, but he sees a glimmer of hope. He noted that 16 Democrats in the Assembly majority voted against the “big ugly” omnibus budget bill on April 1.

“That’s never happened before,” said Barron, 68, who as a longtime leading progressive voted against the budget saying it did too little for the poor and for education. “I’m hoping they will do more votes like that earlier ... they need to prioritize the people over party.”

The view outside Albany also showed a mixed bag.

“There was still far too much done in the budget, enhancing an already strong governorship beyond what was intended or is desirable,” said Gerald Benjamin, distinguished professor of political science at the State University of New York at New Paltz.

“I think we are headed in the right direction,” said Susan Lerner, executive director of the Common Cause-NY good-government group which has long supported opening the budget process more to rank-and-file legislators and the public. “They still don’t know how to do a legislative process.”

The governor’s power comes from a 2004 Court of Appeals decision that has haunted legislators. The decision — *Silver v. Pataki* — said the state constitution provides governors with the power to include policy in the budget, giving the legislature only the power to delete or reduce items or to try to negotiate changes. If the April 1 deadline passes without a budget, a governor can include his or her budget in

emergency spending extenders, which leaves the legislature with the option of approving the extenders or rejecting them and risk shutting down government.

“This is not a monarchy,” said veteran Sen. Gustavo Rivera (D-Bronx). “This is supposed to be a democracy.”

The conflict dates back more than 90 years. Several attempts had been made by that time to reduce the legislature’s power in crafting a budget after pork-barrel spending bloated spending. Back then, governors could only veto spending bills subject to override by the legislature. In 1927, Gov. Al Smith eventually pushed for a constitutional amendment — which voters approved — that gave governors the power and responsibility of the state’s fiscal plan and leverage over the legislature.

The Democratic majorities of the Senate and Assembly could try to legislate more power in budget crafting or propose a constitutional amendment to voters. But those efforts would be subject to a likely veto by Cuomo, requiring an uncertain override by two-thirds of each house.

The legislature also could go to court to argue for a new interpretation of the state constitution under *Silver v. Pataki*, but past legislative leaders worry they might lose even more leverage.

“In terms of the budget-making power, it’s too far tilted toward the executive,” said freshman Sen. John Liu, 52, a Queens freshman with extensive political experience as the New York City comptroller and city councilman. “There does need to be clarification in the balance ... My colleagues are looking at it from all points of view.”

Last week legislative leaders responded to the progressives' demand for a stronger hand.

“We have to look at a way to equalize our power, certainly in the context of the budget,” Senate Majority Leader Andrea Stewart-Cousins said.

“It’s something that members always want to talk about and at some point we will talk about it,” said Heastie.

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