

Government by the People

*An agenda for curbing the corrupting influence of big money
and amplifying the voices of New Yorkers*

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Introduction

Eight years ago, Andrew Cuomo stood in front of Tweed Courthouse and launched his campaign with a promise to clean up Albany. Today, just a few feet from that spot, Cuomo's associate Alain Kaloyeros is on trial for rigging contract bidding to benefit two large Cuomo donors.

Sadly, this is just one of many corruption scandals that have exposed the hypocrisy of the Governor's promise eight years ago. Andrew Cuomo's personal friend and former top aide, Joe Percoco, was convicted in March of accepting \$300,000 in bribes. Last night, reporters revealed that the FBI is investigating Crystal Run Healthcare for making a series of orchestrated campaign contributions to Cuomo and later receiving over \$25 million in state grants. Additionally, the Central New York Film Hub, a \$15 million project built by Cuomo donors who are now facing federal corruption charges, sold for \$1 last month after it ultimately failed to produce the hundreds of jobs Cuomo promised. Incredibly, this is only a summary of the corruption scandals the Cuomo administration has faced in the last four months. A more comprehensive account can be found [here](#).

The unchecked influence of big money in state politics is why our state government currently serves to benefit corporations and the rich, leaving the rest of us behind. It's why Andrew Cuomo sells off state contract after state contract to the highest bidder to amass a massive campaign war chest. It's why Andrew Cuomo won't enact a millionaires tax to increase funding for our public schools. It's why he doesn't make fixing our subways a priority - his donors don't use them. It's why the Governor can dissolve the Moreland Commission when it starts looking into his ethical violations, but countless people sit in jail for non-violent offenses because they can't afford de minimis amounts of bail. It's why there is a different set of rules for white, wealthy men on Wall Street than there are for poor, black men in communities of color.

In order for our elected officials in Albany to start thinking about what's good for their voters, not what's good for their donors, we have to fundamentally shift our system away from large donors towards a system that lifts up small donors. When candidates have to immediately start asking the wealthy for contributions, and the amount they can donate is essentially limitless, the culture of pay-to-play becomes inescapable. It's time to get big money out of state politics and create a government accountable to the many, to the people.

Our state could be a place where every single New Yorker has what we need to thrive, if only we could stop our governor from selling New York off to the highest bidder. The following outlines Cynthia's agenda for curbing the corrupting influence of big money and amplifying the voices of everyday New Yorkers.

Restoring the Voice of the People: Creating a Public Funding System for Elections

The current campaign finance system enables the wealthiest individuals and corporations to drown out the voices of ordinary New Yorkers. Their large contributions enable them to buy influence and shape public policy to meet their needs instead of the needs of all the rest of us. In contrast, 27 states and local governments across the country have created successful public funding systems that enable diverse candidates to run and win by providing limited public funds to candidates who can show public support.¹ Public funding systems reduce the power of big money and elevate the voices of ordinary voters.^{2 3}

New York state needs a voluntary system of public funding of elections for all state legislative and statewide races in order to give every voter an equal say and an equal voice in our democracy. Candidates who choose to opt into the system and can demonstrate public support would receive public matching funds. This will enable candidates without wealth to run, and will turn ordinary voters into important donors to campaigns.

Cynthia would also explore expanding this public financing system to candidates for District Attorney and State Supreme Court in order to enable more diverse candidates to run for these offices, and to reduce the influence of big money on our justice system.

Cynthia's public financing plan would include the following tenets:

Matching Contributions for Small Donations

The core of an effective campaign finance system that empowers small donors is a small donor matching system. By matching small donations with public funds, a small donor matching system enables candidates to run with only small donations and still

¹https://www.google.com/url?q=http://www.demos.org/publication/public-funding-electoral-campaigns-how-27-states-counties-and-municipalities-empower-sma&sa=D&ust=1529159554783000&usg=AFQjCNEeILAGx_FDTq14SBRzT0bfrpj9iA

² <https://www.brennancenter.org/analysis/public-financing-can-curb-albany-corruption>

³ <https://www.brennancenter.org/analysis/more-combating-corruption-other-benefits-public-financing>

have the resources to win, as well as empowering the voice and value of diverse small donors.

Under Cynthia's plan, all contributions up to \$175 from eligible natural persons residing in New York State to candidates participating in the public financing system would be matched 6-1. An enhanced match of 9-1 would apply to even smaller donors, those who make a contribution of \$50 or less. This would encourage candidates to seek truly small donors and value those small donors in the system.

Under Cynthia's plan, contributions would be matchable when made after January 1st of the year of the election; or in the case of special elections, when made within six months of the special election.

Cynthia's plan would also incentivize participation in this system by dictating that no public funds would be available to a candidate in a general election if that candidate did not participate in the public funding program in the primary election.

Qualifying Thresholds

In order to qualify for public matching funds, each candidate will be required to raise a minimum amount of money and a minimum number of matchable contributions. These qualifying requirements ensure that public funds are only going to candidates with significant public support.

Office	Threshold
Governor	\$500,000 including at least 5,000 matchable contributions of more than \$10. 100 contributions from each of half of the Congressional Districts throughout New York State.
Lieutenant Governor, Attorney General & Comptroller	\$200,000 from at least 2,000 matchable contributions of more than \$10. 100 from each of half of the Congressional Districts throughout New York State.
State Senate	\$20,000, including at least 200 matchable contributions of more than \$10 from contributors in the district

State Assembly	\$10,000, including at least 200 matchable contributions of more than \$10 from contributors in the district
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Caps on Matching Funds

The following caps would be placed on the overall amount of public funds participating candidates could receive in order to limit the total expenditure of public funding.

Office	Primary Cap	General Cap
Governor	\$6,000,000	\$8,000,000
Lieutenant Governor, Attorney General & Comptroller	\$4,000,000	\$4,000,000
State Senate	\$375,000	\$375,000
State Assembly	\$150,000	\$200,000

These caps are in a similar range to those considered by the legislature in 2014.

General election candidates would be eligible for only one-third of matching funds if unopposed. Candidates in an uncontested primary get matching funds up to half the funding cap if the Democrat or Republican primary for the same office is contested.

Contribution Limits for Participating Candidates

Contribution limits would be the same as Congressional limits, \$2,700 per election (\$5,400 total for both primary and general) for all candidates regardless of office, and limits would rise at the same rate as Congressional limits.

Contribution limits are the same for participating and nonparticipating candidates, to help incentivise use of the public financing, small donor focused system, and to reduce the impact of big donors on non-participating candidates.

Membership organizations would be allowed to spend up to \$25/member to support volunteering and this would be excluded from the definition of contribution. Similarly, up to \$500 could be spent by volunteers for house party expenses. As we reduce the flow of big money, we want to encourage volunteer involvement in elections.

All corporate contributions, and contributions from a person or entity doing business with the state would be prohibited.

Additional Requirements for Candidates

In addition to the requirements outlined above, all candidates participating in the small-donor matching system must...

- Repay any unspent public funds within 30 days after all liabilities from the election have been paid. This includes those liabilities that will be determined after the board issues its final audit report, which campaigns will have to respond to within one month of issuance.
- Take part in one debate before each election.
- Opt into the system no later than seven days after the last day to file designating petitions for the office sought, about two months before the primary. For special elections, no later than the last day to file nominating certificates.

Administration and Candidate Services Unit

To manage this new public financing system, a new administrative agency would be created called the Fair Elections Board in order to have fair and independent enforcement, as well as strong technical support for filers. An effective and impartial administrative agency is crucial to a public funding system. The program would be governed by a seven member board. One member would be appointed by the governor, one by comptroller, one by Attorney General, and one by each of the 4 legislative leaders.

A fully staffed, Candidate Services Unit would be created to offer one-on-one support and training for candidates and treasurers to successfully use the system. The culture of the board and Candidate Serves Unit should be one where their goal is to have

candidates and candidate staff succeed and have a positive experience using the system and following the rules.

The board would also appoint an enforcement counsel and deputy enforcement counsel who would have four year terms and could only be removed for cause.

The board would promulgate rules and issue advisory opinions. Enforcement counsel would enforce all of Article 14 campaign finance law, and have sole authority to investigate complaints on his/her own initiative. The board would have the power to end investigations. Enforcement counsel could request additional powers, including subpoena power, subject to approval by the Fair Elections Board. Enforcement counsel could recommend certain actions, and the board would decide whether to institute a court proceeding or refer a case to a District Attorney or the Attorney General. After each election, the Fair Elections Board, similar to the Citizens Elections Program in Connecticut's statewide program, would perform random audits or audits based on just cause.

The public financing program would be phased in, starting with the Assembly and State Senate races in 2020, and all statewide offices added in 2022.

New York State Fair Elections Fund

The state would establish a "New York State Fair Elections Fund" with several funding streams in order to pay for public financing. We expect the total cost of the program would be \$100-160 million for a 4 year cycle, or \$40 million on average annually.⁴

The cost of Fair Elections is small. Even if the system costs \$40 million a year, it would amount to far less than one tenth of one percent of the entire \$168 billion state budget. (Compare that to the \$4 billion or more that the state spends annually on development subsidies and tax breaks—many of which don't benefit the public.)

Any electoral system— buying and fixing voting machines, paying election inspectors and printing ballots—costs money. Public funding of campaigns would be another critical investment to make elections fairer and more democratic, to elevate the voices

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http://www.cfinst.org/Press/PReleases/12-12-03/CFI_Study_on_Public_Financing_in_New_York_State.aspx

of ordinary New Yorkers, and to make it easier for candidates without personal wealth to run, especially women and people of color.

We agree with past proposals in New York from the Assembly ((A.4980, 2014), Senate ((S.4897, 2014) and Governor (2014 Executive Budget), that suggest a number of funding sources for Fair Elections, including a tax check off, using funds from the unclaimed properties fund, and covering the remainder with general funds.

\$5 tax check off

About 15 states use check-offs to help fund their campaign finance programs. Arizona, for one, recently generated \$6.2 million from a \$5 check-off. If taxpayer participation in a New York check-off were to mirror the national average of 7.7 percent, with 9,524,756 taxpayers, New York could expect to generate about \$3.7 million from a \$5 tax check-off. If New Yorkers are as motivated as taxpayers in Arizona, the check off could raise far more.⁵

Comptroller's abandoned property fund

As of June 2018, New York State had \$15 billion of unclaimed funds⁶. Every year, a portion of these abandoned funds is swept into the state's general fund. We propose to use \$12 to \$15 million out of the hundreds of millions that are shifted each year. Connecticut uses a similar revenue stream for its public election funding system.

Savings from Reduced Corruption

A Fair Elections system would reduce (and hopefully eliminate) wasteful pay-to-play spending over the long term, saving taxpayers money. The decreased reliance of candidates on large donations will decrease the subsequent pressure to give donors their 'payback,' curtailing the ability of deep-pocketed donors to win special treatment in the form of enormous tax breaks, subsidies, and grants. These savings will enable us to repurpose funds to the Fair Elections Fund. The grants provided to Crystal Run cost taxpayers \$25 million. The failed film hub cost \$15 million. Eliminating just those two alone could have provided \$40 million to fund Fair Elections. There will also be direct pocketbook savings for New Yorkers in more affordable housing, fairer taxes, better

⁵ Annual Report of the Citizens Clean Election Commission (2011). Retrieved on March 7, 2013: http://www.azcleelections.gov/2011-2012_docs/2011AnnualReport4Web.sflb.ashx
Federation of Tax Administrators. (2003) Survey of State Income Tax Checkoff Programs [Fact sheet]. Retrieved on March 7, 2013: <http://www.taxadmin.org/Fta/rate/Checkoff03.html>
New York State Department of Taxation and Finance (June 2012). New York Adjusted Gross Income and Tax Liability. Retrieved on March 7, 2013: http://www.tax.ny.gov/pdf/stats/stat_pit/cor/analysis_of_2009_ny_state_personal_income_tax_returns_by_place_of_residence.pdf (see page 6)

⁶ <http://www.osc.state.ny.us/ouf/>

consumer protections, and a host of other changes in state policy that will be more likely once our elections are more accountable to voters than wealthy CEOs.

Any shortfall in the fund would be covered by the general fund, as is the case in past proposals by the Governor, Assembly, and Senate.⁷

⁷ A.4980 (2013), S.07593 (2018) Executive budget proposal of 2018,
http://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A04980&term=2013&Summary=Y&Text=Y
http://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S07593&term=2017&Summary=Y&Text=Y
<https://www.budget.ny.gov/pubs/archive/fy19/exec/fy19artVII/GGERArticleVII.pdf>

Stopping the Sale of New York to the Highest Bidder

In addition to amplifying the voices of everyday people and small dollar donors in our electoral system, we must limit the influence of the wealthy and special corporate interests. By taking action on the following, New York's elected officials are far more likely to be focused on the interests of the many, not the wealthy few.

Ban “pay-to-play” donations from companies doing business with the state or seeking state contracts

Alain Kaloyeros is now on trial for rigging bids to ensure that major Cuomo campaign contributors won lucrative state contracts, and Crystal Run Healthcare is currently under investigation by the FBI for state grants it received after large donations to the Governor. The pay-to-play corruption scandals of the last seven years have made it clearer than ever that we need to ban contributions from companies and the executives of those companies who are seeking state contracts or doing business with the state.

Lower contribution limits for all state-level races

Right now, a candidate for Governor can take more than \$60,000 from just one contributor. It's time to rein in big money with strict contribution limits to match the limits imposed at the federal level - \$2,700 per election (\$5,400 total for primary and general election). These contribution limits would apply regardless of whether a candidate chooses to participate in the small donor public financing system.

Close the LLC loophole

Under our current campaign finance law, LLCs can donate the individual maximum contribution, rather than the corporate maximum.⁸ Corporations are limited to giving \$5,000 total, across all candidates, per year, while LLCs can give over \$60,000 to a gubernatorial candidate, and up to the individual limit for as many candidates as they wish over a cycle. And, since there is no limit on the number of LLCs that an individual or a corporation can construct, this loophole allows individuals or corporations to effectively make unlimited contributions to a candidate. No one has used and abused this loophole more than Andrew Cuomo, who has taken in more than \$16 million from LLCs since 2011.⁹ With so many LLCs being tied to real estate developers, this loophole has led to a flood of real estate money and influence into campaigns. It's no accident we have unaffordable rents and a housing crisis in New York State.

⁸ <https://www.elections.ny.gov/CFContributionLimits.html#Limits>

⁹ <https://www.politico.com/states/new-york/albany/story/2018/05/06/though-he-backs-reform-cuomo-has-raised-more-from-llcs-than-every-legislator-combined-388190>

Ban donations from political appointees

Cuomo has received \$2.2 million in donations either directly or indirectly from his own political appointees since 2011. Those same people had also donated another \$2.2 million before being appointed. This practice should have been illegal under his own executive order.¹⁰ Cynthia supports the bill recently passed by the State Senate to officially outlaw this clear conflict of interest, and urges Governor Cuomo to break his silence and join her in endorsing the legislation.

Dissolve the Joint Commission on Public Ethics (JCOPE) & Reinststate the Moreland Commission

A committee that is run by the Governor's former aides and whose members are all appointed by partisan elected officials has no business representing itself as an independent check on Albany.¹¹ It's clear than only an independent body, free from political interference, can investigate and clean up the rampant corruption in Albany. That's why, on her first day in office, Cynthia will dissolve JCOPE and convene a new, independent Moreland Commission on public corruption to finish the work Cuomo started but abandoned. Andrew Cuomo originally convened the Moreland Commission in 2013, but abruptly shut it down after it started to investigate corruption in his own office.¹²

Give the next Attorney General a “standing referral” to investigate public corruption

Incredibly, the Attorney General of New York lacks the authority to investigate public corruption without a referral from the Governor. As Governor, Cynthia will give the Attorney General the authority to investigate public corruption on an ongoing basis -- a power that Cuomo demanded when he served as AG, but never granted to his successor when he became governor.

Restore oversight of state contracts

As Governor, Cynthia will restore oversight of economic development by enacting the Comptroller's Procurement Bill. The bill would standardize procurement rules, and restore the State Comptroller's independent oversight of SUNY, CUNY, and OGS contracts, which was removed by Governor Cuomo. The bill would also authorize the

¹⁰ <https://www.nytimes.com/2018/05/09/nyregion/cuomo-appointee-donations-campaign-finance.html>

¹¹ <https://www.timesunion.com/news/article/New-hire-for-ethics-board-attacked-6404717.php>

¹²<https://www.nytimes.com/2014/07/23/nyregion/governor-andrew-cuomo-and-the-short-life-of-the-moreland-commission.html>

Comptroller to approve contracts in excess of one million dollars awarded by the SUNY Research Foundation.

Create a statewide Database of Deals

The state spends \$4 billion annually on business subsidies through so-called “economic development” programs.¹³ Taxpayers have a right to know whether these businesses are creating the jobs that were promised, and whether the corrupting influence of political donations is swaying this process. The Database of Deals legislation, already passed by the State Senate, would create a single public database listing all state projects awarded to companies and track our return on economic development investment.

¹³<http://fiscalpolicy.org/watchdog-groups-call-for-the-governor-and-legislature-to-pass-in-the-budget-a-database-of-deals-making-business-subsidies-transparent>,
<http://fiscalpolicy.org/wp-content/uploads/2017/03/Economic-Development-Brief.pdf>

Summary: Cuomo's Corruption Scandals

What Cuomo got	What the donor got in return	What New Yorkers got
Competitive Power Ventures donated at least \$80,000. ¹⁴	Competitive Power Ventures received "beneficial" state approvals on a lucrative proposed power plant. ¹⁵	Scandal. Joseph Percoco, Cuomo's campaign manager and very close aide, was prosecuted for his dealings with CPV. He was ultimately found guilty of accepting \$300,000 in bribes.
COR development donated \$300,000 to Governor Cuomo's campaign. ¹⁶	COR received contracts for nano tech development projects in Syracuse, as well as a \$15 million film hub, and a \$90 million manufacturing facility. ¹⁷	Nothing. The film hub was sold back to the County last month, after it created ZERO permanent jobs. Former SUNY Polytechnic CEO Alain Kaloyeros, an associate of the Governor, is now being prosecuted for rigging the bidding process for COR's benefit. COR's president was already convicted of conspiracy to commit fraud in March in connection with Percoco's trial. ¹⁸
Louis P. Ciminelli and his associates gave nearly \$150,000. ¹⁹	LP Ciminelli received \$750 million commitment from the state to develop Solar City, a solar panel factory on the Buffalo River - part of the Governor's Buffalo Billion project.	More scandal. Kaloyeros is also being prosecuted for rigging the bidding process to Ciminelli's benefit.

¹⁴<https://www.politico.com/states/new-york/albany/story/2016/05/power-company-at-center-of-probe-back-ed-cuomo-sought-contract-101248>

¹⁵<https://www.politico.com/states/new-york/albany/story/2016/05/power-company-at-center-of-probe-back-ed-cuomo-sought-contract-101248>

¹⁶https://www.newyorkupstate.com/news/2016/09/cuomos_campaign_mum_on_what_to_do_with_cor_money.html

¹⁷https://www.syracuse.com/news/index.ssf/2016/09/two_cor_executives_charged_in_federal_probe_of_cuomo_development_projects.html

¹⁸<https://www.justice.gov/usao-sdny/pr/joseph-percoco-former-executive-aide-and-campaign-manager-ny-governor-convicted>

¹⁹<https://www.nytimes.com/2016/05/25/nyregion/a-tangle-of-interests-behind-cuomos-1-billion-boon-for-buffalo.html>

What Cuomo got	What the donor got in return	What New Yorkers got
<p>Orange County-based Crystal Run Healthcare, its executives, their spouses or company doctors gave over \$400,000 in political contributions to Andrew Cuomo. “Seven of those executives had not made a contribution in a New York election for at least a decade before giving the large and identical sums to Cuomo, according to state Board of Elections records.”²⁰</p>	<p>In exchange for these contributions, Crystal Run Healthcare was awarded \$25.4 million in state grants.</p>	<p>Nothing. The two grants went towards facilities Crystal Run had already broke ground on six months before they were give the grants.</p>
<p>Cuomo has received \$2.2 million in donations either directly or indirectly from his appointees since 2011. Those same people had also donated another \$2.2 million before being appointed²¹</p>	<p>Cushy appointments in the Cuomo administration.</p>	<p>Nothing.</p>
<p>Extell Development Co. and its top executive donated \$200,000.²²</p>	<p>Extell Development Co. received a tax break for a luxury apartment tower.</p>	<p>The tax break will cost taxpayers \$35 million over 10 years.</p>

²⁰ <http://www.recordonline.com/news/20180514/probe-into-crystal-run-donations-to-cuomo>

²¹ <https://www.nytimes.com/2018/02/24/nyregion/cuomo-fund-raising-ethics-appointees.html>

²² <http://www.nydailynews.com/new-york/cuomo-100k-developer-signing-tax-break-law-article-1.1422003>