NEW YORK STATE SENATOR

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CLOSING THE CARRIED INTEREST LOOPHOLE

JEFFREY D. KLEIN February 14, 2017

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Independent Democratic Conference, labor unions, activists unveil legislative report detailing the economic impact of the carried interest loophole and legislative solution

New York — Senator Jeff Klein (D-Bronx/Westchester), **Senator David Carlucci (D-Rockland/Westchester), Senator Diane Savino (D-Staten Island/Brooklyn), Senator Jose Peralta (D-Queens)** and **Marisol Alcantara (D-Manhattan),** joined by labor unions and activists announced a new report that examined the economic impact of the carried interest loophole in New York State.

Legislation introduced last year and reintroduced this year would impose an additional 19.6% fee on income categorized a carried interest. The Independent Democratic Conference report found that New York stands to gain $3.5 billion in new revenues if the proposed legislation were enacted.

“It is clear from this report wealthy private equity and hedge fund managers are taking advantage of the system and pocketing money that should be owed to the state. The legislation we have proposed will impose additional fees to income categorized as carried interest. This much needed additional tax revenue would help the state eliminate the current $3.5 billion budget deficit that exists,” **said Senator Klein.**

“As hedge fund and private equity managers take advantage of loopholes in our tax systems it is the residents of New York who suffer the most. Today’s report shows the vast impact that the carried interest loophole has on our state’s tax revenue, depriving the state of funds that can be used for schools, infrastructure and other budgetary needs. By enacting this legislation we will put a stop to those who take advantage of the current law for their own benefit alone,” **said Senator Savino.**

"We need to treat carried interest as the income that it truly is, and put an end to another version of the rich getting richer, while the poor get poorer. Our proposal, our solution, is just and fair. By closing this loophole New York State will get much-needed money it can use for so many things, such as upgrading infrastructure, building schools, and protecting all New Yorkers in these uncertain times, including immigrants,” **said Senator Peralta.**

"The carried interest loophole benefits a tiny group of equity fund managers who are sometimes able to pay a lower effective tax rate than their secretaries. The costs of this loophole are borne by ordinary taxpayers. This is injustice baked into the tax code, and it's past time that New York State took decisive action on this issue. I applaud Jeff Klein and the IDC for taking a stand against regressive tax policy and for basic economic fairness,” **said Senator Alcantara.**

“Making the tax code more fair will help generate valuable resources for health care, education and infrastructure improvements. Closing the carried interest loophole will prevent already powerful interests from continuing to benefit from an unfair double standard while also investing in our community. This is common sense legislation that must be passed,” **said Senator Carlucci.**

The report, completed by the Independent Democratic Conference and the Strong Economy for All Coalition, found through a FOIL request that hedge funds in New York reported gross assets under management of $3.08 trillion while private equity funds had $1.15 trillion. Analysts then used a conservative estimate 15% of the total expected aggregate fund manager annual earnings. They found that the state misses out on $3.5 billion in revenue through the use of the carried interest loophole by these funds.

The carried interest loophole is the result of the structure that private equity and hedge funds use for profits, often referred to as the “2 and 20” pay formula. General partners of these fund, those who run the day to day operations, receive 20% of the profit after surpassing the benchmark set for the fund as well as an average of 2% of the total assets under management as a fee to cover the expenses of the fund. While the 2% management fee is classified as regular labor income and is taxed at the 39.6% rate the 20% profit beyond the promised benchmark is the carried interest and is classified as capital gains, at a rate of 20%.

The legislation proposed by Senator Klein (S1991) would make up the 19.6% that is lost to those taking advantage of the loophole. To prevent those taking advantage of the loophole from moving to another state in the region,the proposed legislation would only take effect once the same fee is instituted by lawmakers in New Jersey, Massachusetts and Connecticut.

“Working people in New York already pay their fair share in taxes -- it's time for hedge fund and private equity managers to pay their fair share, too. This legislation closes an unfair tax loophole that only benefits billionaires, while ensuring essential funding for public schools, health care and state services. New York can reduce inequality and build economic fairness by closing the carried interest loophole as part of this year's state budget,” **said Michael Kink, Executive Director of Strong Economies for All.**

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“The carried interest tax loophole is indefensible - there is no reason why a private equity manager who directs other people to invest money should get a tax rate that is lower than all of the other Americans who work for a living by using a preferential rate meant for actual investors. This loophole has continued far too long, allowing the wealthy to put more money into their own pockets while regular Americans pay the price. This is simply not fair. New York has a chance to lead on legislation that could return billions of dollars to the state and show that the government is controlled by the people, not Wall Street," **said Patriotic Millionaires Chair Morris Pearl.**

"We're happy to stand strong across state lines to make sure hedge fund managers pay their fair share of taxes, just like working people do. Closing the carried interest loophole at the state level would bring a measure of fairness to state tax policy in Connecticut and in New York -- it's time to level the playing field and stop the special loopholes that only benefit billionaires," **said Representatives Robyn Porter and James Albis of the Connecticut House of Representatives, who sponsor carried interest legislation.**