

HOUSE BILL NO. HB0020

Private equity investments.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to public funds; creating the private
2 equity investment account as specified; providing for the
3 administration and use of the account; requiring a report;
4 providing for rules and regulations; providing definitions;
5 providing an appropriation; and providing for an effective
6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 9-4-714 is created to read:

11

12 **9-4-714. Private equity investment account.**

13

14 (a) There is created within the permanent Wyoming
15 mineral trust fund the private equity investment account.
16 The state treasurer may commit a maximum amount of fifty
17 million dollars (\$50,000,000.00) from the account to invest

1 as a limited partner investor in a fund as defined by W.S.
2 9-4-711(d). Monies in the account shall not be invested
3 in the fund until the state treasurer receives confirmation
4 from the general partner of the fund that commitments have
5 been obtained from other limited partner investors of not
6 less than twenty million dollars (\$20,000,000.00). The
7 amount of the fund shall not exceed one hundred seventy-
8 five million dollars (\$175,000,000.00), and no limited
9 partner shall invest more in the fund at any one (1) time
10 than the amount invested by the state.

11

12 (b) The fund shall be used to invest primarily in the
13 buy-out of existing profitable private companies or
14 companies that are reasonably expected to become profitable
15 in the judgment of the general partner of the fund. The
16 state treasurer shall negotiate the terms of the
17 investment partnership agreement with the general partner
18 of the fund including management fees, preferred returns
19 and division of profits with the general partner and other
20 partners. The agreement may provide incentives for the
21 general partner to consider investments which enhance the
22 economic development of this state, provided such
23 investments offer a rate of return and safety comparable to
24 other similar investments available to the fund. The state

1 treasurer shall select a general partner with substantial
2 experience in private equity buy-out investing. The state
3 treasurer shall only consider individuals who have
4 sufficient, relevant and successful investment experience.
5 The state treasurer shall only consider candidates for
6 general partner who have not less than five (5) years of
7 experience as a lead investor of direct investing into
8 portfolio companies as a full-time professional investor.
9 The state treasurer may retain an experienced private
10 equity consultant or management firm to advise and assist
11 the treasurer in negotiating the investment partnership
12 agreement. The agreement shall require the general partner
13 to reside and maintain an office in this state. The
14 agreement shall be subject to final approval by the state
15 loan and investment board.

16

17 (c) The fund shall be managed by a general partner
18 appointed by the state treasurer as provided by subsection
19 (b) of this section who shall direct the fund and its
20 investments. The fund:

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22 (i) Shall not be subject to the state investment
23 policy as provided by W.S. 9-4-709, and shall not be
24 included in the calculation of the state spending policy

1 under W.S. 9-4-713;

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3 (ii) Shall be limited to the legislatively
4 designated investment amounts as provided by W.S. 9-4-712;

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6 (iii) Shall be limited to an investment period
7 of not to exceed seven (7) years with liquidation to occur
8 not more than thirteen (13) years from the date of the
9 creation of the fund, at which time the fund shall be
10 terminated and the monies in the fund shall revert to the
11 account created by subsection (a) of this section, and
12 subsequently deposited into the general fund;

13

14 (iv) Shall not be invested in more than two
15 percent (2%) of the total committed capital in start-up or
16 early stage companies as defined by the investment
17 partnership agreement as provided by subsection (b) of this
18 section, and shall not be invested in more than twenty-five
19 percent (25%) of committed capital in any one (1)
20 investment without the consent of a majority of the limited
21 partners;

22

23 (v) May be invested as the sole investor or in
24 conjunction with and in cooperative investment agreements

1 with parties that have demonstrated abilities and
2 relationships in making investments similar to those the
3 fund is authorized to make.

4

5 (d) Any realized income from the fund shall be
6 credited to the account created by subsection (a) of this
7 section. The account proceeds shall be annually deposited
8 into the general fund as provided by W.S. 9-4-204(u)(iii).

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10 (e) The general partner shall report quarterly to the
11 state treasurer and annually, on or before December 1, to
12 the state loan and investment board, the joint revenue
13 interim committee and the select committee on financing and
14 capital investments. The report shall include all
15 pertinent information on the activity of the fund including
16 all authorized investments and their performance.

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18 (f) The state treasurer may promulgate reasonable
19 rules and regulations for the implementation and
20 administration of the provisions of this section.

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22 (g) As used in this section:

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24 (i) "Account" means the private equity

1 investment account created by subsection (a) of this
2 section;

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4 (ii) "Fund" means a fund as defined by W.S.
5 9-4-711(d).

6

7 **Section 2.** There is appropriated to the permanent
8 Wyoming mineral trust fund for deposit into the private
9 equity investment account created by W.S. 9-4-714 thirty
10 million dollars (\$30,000,000.00) from the general fund.

11

12 **Section 3.** This act is effective July 1, 2006.

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(END)