



WYOMING LEGISLATIVE SERVICE OFFICE

Homeland Security Budget

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Author: Don Richards, Budget/Fiscal Administrator

Re: Office of Homeland Security Budget

PURPOSE

An effort to better understand the budget of the Office of Homeland Security (Office) is among the approved interim topics for the Joint Appropriations Committee (JAC). Specifically, the topic provides for receipt of reports from the Office of Homeland Security in the Governor's Office to further understand the funding, available resources and purview of the Office and its budget. This topic is primarily educational, though it may result in appropriation adjustments or proposed legislation. This introduction paper provides a synopsis from the Legislative Service Office (LSO) regarding the Office.

HISTORY

In 2003, the Legislature transferred responsibility for the Wyoming Emergency Management Agency from the Military Department to the Governor's Office and renamed the agency the Office of Homeland Security. (2003 Laws, Chapter 88) This 2003 legislation was sponsored by the Joint Interim Committee on Transportation and Military Affairs and was explicitly intended as simply a transfer of oversight from the Military Department to the Governor's Office shortly after the creation of the federal Department of Homeland Security by Congress in 2002. According to a 2015 report by the National Governor's Association Center for Best Practices (NGA), states have established state homeland security

organizations in a variety of ways and "no one structure has been identified as a model or best practice, nor are there federal requirements dictating a particular structure." According to the NGA review, 33 states, including the six states neighboring Wyoming, house the function as a subdivision within a larger agency. Six states, including Wyoming, house the function within the Governor's Office. Finally, 11 states have established a separate, standalone agency for homeland security functions. Other than the structure and placement of the Office of Homeland Security, the primary responsibilities and functions did not change in 2003. Attachment A provides the primary statutory framework for Office of Homeland Security, W.S. 19-13-101 through 117.

BUDGET, SOURCE OF FUNDS, AND AUTHORIZED EMPLOYEES

For the 2019-2020 biennium, the Office of Homeland Security received appropriations totaling \$24.2 million. This appropriation is comprised of \$2.8 million (11.5%) from the General Fund (GF), \$861k (3.6%) from special revenue (SR) and \$20.5 million (84.9%) from federal grants (FF). The SR is derived from donations received by the Game and Fish Department and Department of State Parks and Cultural Resources for search and rescue operations (\$619k), as well as highway funding for the radiological services program (\$242k).

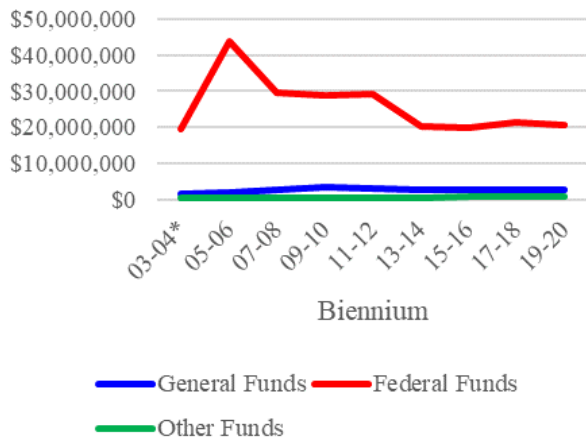
There are 20 full-time employees and one part-time employee authorized across 12 units within the Office. Table 1 summarizes the 2019-2020 biennial appropriations, by unit.

Table 1. 2019-2020 Appropriations, by Fund, and Personnel Authorizations.

Unit	Name	GF	FF	SR	FT	PT
1101	Homeland Security	\$1,873,772	\$5,377,454		16	
1102	Community Assistance Program	\$55,518	\$173,913		1	
1103	Flood Mitigation		\$250,000			
1104	Hazardous Materials	\$6,665	\$190,873			
1105	Waste Isolation Plant		\$249,929		1	
1106	Disaster Contingency (effective immed)	\$500,000				
1107	Search and Rescue			\$619,310		
1110	State Support Fund	\$358,731				
1112	Radiological Services			\$242,344	1	
1113	Pre-Disaster Mitigation		\$200,000			
1114	Office for Domestic Preparedness		\$14,097,128		1	1
NA	Reductions for retiree health care	(\$6,151)	(\$9,009)	(\$661)		
TOTAL		\$2,788,535	\$20,530,288	\$860,993	20	1

Figure 1 provides a historic illustration of the changes to legislative appropriations for the Office.

Figure 1. Appropriations, by Fund, the Office of Homeland Security.



*Note: The appropriations for the 2003-2004 biennium reflect those made to the Emergency Management Division of the Military Department, a precursor of the Office of Homeland Security.

For purposes of history, federal funding supporting the office of domestic preparedness, currently a unit within the

Office of Homeland Security, was created with a \$389,000 B-11 in fiscal year (FY) 1999. By FY 2003, after the attacks of September 11, 2001, federal funding increased to \$17,611,000 per year. By the 2005-2006 biennium, federal grants were budgeted at \$40 million, with \$32 million anticipated for grants to local governments.

POTENTIAL AREAS OF COMMITTEE REVIEW

- Is the State maximizing its leverage of available federal funds directed to the Office of Homeland Security?
- The Office of Homeland Security has reported irregularly to the Joint Committee on Transportation and Military Affairs since its move in 2003. The Office also presents its budget request at least biennially to the JAC. Is this level of legislative oversight sufficient?
- What is the outlook for federal funds and requests for state funds for the Office of Homeland Security?

ATTACHMENT 1

ARTICLE 1 - IN GENERAL

19-13-101. Citation.

This act may be cited as the "Wyoming Homeland Security Act".

19-13-102. Definitions.

(a) As used in this act:

(i) "County or county-city program" means a program created in accordance with the provisions of this act by the state or a political subdivision to perform local homeland security functions;

(ii) "Homeland security" means the preparation for and the carrying out of all emergency functions essential to the recovery and restoration of the economy by supply and resupply of resources to meet urgent survival and military needs, other than functions for which military forces are primarily responsible, necessary to deal with disasters caused by enemy attack, sabotage, terrorism, civil disorder or other hostile action, or by fire, flood, earthquake, other natural causes and other technological, industrial, civil and political events. These functions include without limitation the coordination of fire-fighting services, police services, medical and health services, rescue, engineering, attack warning services, communications, radiological events, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, mitigation activities in areas threatened by natural or technological hazards, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for any carrying out of the foregoing functions;

(iii) "Emergency support task force" means a homeland security organization created in accordance with the provisions of this act by the state or a political subdivision to supplement homeland security programs in a stricken area;

(iv) "Political subdivision" means an incorporated community or a county in Wyoming;

(v) "Director" means the director, office of homeland security appointed pursuant to W.S. 19-13-104;

(vi) "Public safety agencies" means any federal, state or political subdivision entity that provides emergency

and public safety services, including state agencies employing peace officers enumerated in W.S. 6-1-104(a)(vi)(C) through (F) and approved for participation by the commission, fire management services, correctional services, homeland security, emergency and disaster relief services and if desired by county, municipal and federal law enforcement agencies;

(vii) "Ammunition" means a cartridge, shell or other device containing explosive or incendiary material designed and intended for use in a firearm;

(viii) "Firearm" means any weapon which will or is designed to expel any projectile by the action of an explosive.

19-13-103. Legislative determination; coordination with federal government and other states.

(a) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage, terrorism, civil disorder or other hostile action, or from fire, flood, earthquake, other natural causes and other technological disasters, and to insure that preparations of Wyoming will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of Wyoming, it is hereby found and declared to be necessary:

(i) To create a Wyoming office of homeland security within the governor's office, and to authorize the creation of local homeland security programs in the political subdivisions of the state;

(ii) To confer upon the governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided herein, and to provide for state assistance in the organization and maintenance of the homeland security programs of such political subdivisions;

(iii) To provide for the assignment of specific responsibilities to all state agencies to be performed during a disaster or national emergency and for the coordination and direction of the emergency actions of such agencies; and

(iv) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states with respect to the carrying out of homeland security functions.

(b) It is further declared to be the purpose of this act

and the policy of Wyoming that all homeland security functions of this state be coordinated to the maximum extent with the comparable functions of its political subdivisions, of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the manpower, resources and facilities for dealing with any disaster that may occur.

19-13-104. Powers of governor generally; director, office of homeland security.

(a) The governor has general direction and control of the office of homeland security, and is responsible for the carrying out of the provisions of this act, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the homeland security functions within Wyoming. The governor may delegate such powers to the director established under subsection (d) of this section, or through the director to the deputy director to carry out this act.

(b) In performing his duties under this act, the governor may cooperate with the federal government, with other states and with private agencies in all matters pertaining to the disaster relief and homeland security of this state and of the nation.

(c) In performing his duties under this act, the governor may:

(i) Make, amend and rescind the necessary orders, rules and regulations to carry out this act within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government. The governor may assign to a state agency any activity concerned with the mitigation of the effects of a disaster or national emergency of a nature related to the existing powers and duties of the agency, including interstate activities, and the agency shall undertake and carry out the activity on behalf of the state;

(ii) Prepare a comprehensive homeland security plan and program for this state to be integrated into and coordinated with the homeland security plans of the federal government and of other states to the fullest possible extent, and coordinate the preparation of plans and programs for homeland security by the political subdivisions of this state to be integrated into and coordinated with the homeland security plan and program of this state to the fullest possible extent;

(iii) In accordance with the homeland security plan and program for this state, procure supplies and equipment,

institute training programs and public information programs and take all other preparatory steps including the partial or full mobilization of homeland security organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of homeland security personnel in time of need;

(iv) Make such studies and surveys of the industries, resources and facilities in this state as necessary to ascertain the capabilities of the state and its political subdivisions for meeting homeland security requirements, and to plan for the most efficient emergency use therefor;

(v) On behalf of this state, enter into interstate mutual aid and international compacts with other states and foreign countries or subdivisions thereof and coordinate mutual-aid plans between political subdivisions of this state;

(vi) Delegate any administrative authority vested in him under this act, provide for the subdelegation of any such authority and appoint, in cooperation with local authorities, political subdivision coordinators.

(d) The position of the director, office of homeland security is created in the governor's office and shall be appointed by the governor. He shall be responsible to the governor and may be removed by the governor as provided in W.S. 9-1-202. The director shall:

(i) Supervise the Wyoming office of homeland security;

(ii) Provide technical assistance to public safety agencies in the area of homeland security;

(iii) Coordinate with the federal department of homeland security;

(iv) Perform other duties assigned by the governor for homeland security;

(v) Repealed by Laws 2017, ch. 17, § 2.

(e) Nothing in this chapter shall be construed to confer upon the governor, the director, the executive heads or governing bodies of the political subdivisions of the state, sheriffs, chiefs of police or any employee or agent of the state or any governmental unit within the state the power to:

(i) Confiscate a firearm from a person, unless:

(A) The person is in unlawful possession of the firearm as provided in title 6 of the Wyoming statutes;

(B) The person is unlawfully carrying the firearm as provided in title 6 of the Wyoming statutes; or

(C) The firearm is confiscated by a peace officer who is acting in the lawful discharge of his duties and under the reasonable belief that the confiscation is necessary for the protection of the peace officer, the person carrying the firearm or a third party. The peace officer shall return the firearm to the person before discharging the person unless the officer arrests that person for engaging in criminal activity or seizes the firearm as evidence pursuant to an investigation for the commission of a crime.

(ii) Impose additional restrictions as to the lawful possession, transfer, sale, carrying, storage, display or use of:

(A) Firearms;

(B) Ammunition; or

(C) Components of firearms or ammunition.

19-13-105. Homeland security program.

(a) The office of homeland security within the governor's office is created. The governor shall appoint a deputy director of the office of homeland security. The director may appoint such assistants as may be necessary. The director and his assistants shall be compensated in an amount to be determined and fixed by the Wyoming human resources division. The deputy director shall serve at the pleasure of the governor and may be removed as provided in W.S. 9-1-202.

(b) The director may employ technical, clerical, stenographic and other personnel and make such expenditures within the appropriations or from other funds made available to him for purposes of homeland security as necessary to carry out this act. He shall be provided with necessary and appropriate office space, furniture, equipment, stationery and printing in the same manner as for personnel of other state agencies.

(c) The director is the administrative head of the Wyoming office of homeland security. In addition to the duties described in W.S. 19-13-104(d) the director:

(i) Shall be responsible to the governor for the implementation of the state program for homeland security for Wyoming;

(ii) Shall assist the local authorities and organizations in the planning and development of local homeland security plans and programs;

(iii) Shall coordinate the activities of all organizations for homeland security within the state, including all state departments;

(iv) Shall maintain liaison with and cooperate with homeland security agencies and programs of other states and of the federal government;

(v) Shall have additional authority, duties and responsibilities authorized by this act as may be prescribed by the governor or the director; and

(vi) May prescribe reasonable qualifications for officers and employees of local programs and reasonable regulations for the administration of local programs.

(d) The deputy director shall perform duties as assigned by the director and in the absence of the director he is the administrative head of the Wyoming office of homeland security.

19-13-106. Repealed By Laws 2005, ch. 169, § 2.

19-13-107. Emergency support task forces.

(a) The governor or his duly authorized representative and the governing bodies of political subdivisions may create and establish such number of emergency support task forces as necessary to reinforce homeland security programs in stricken areas with due consideration of the plans of the federal government and of other states. The governor or governing body of the political subdivision shall appoint for each unit a coordinator who has primary responsibility for the organization, administration and operation of the unit. Emergency support task forces shall be activated upon orders of the governor or governing body of the political subdivisions and shall perform their functions in any part of the state, or upon conditions specified in this section, in other states. The governor may remove any emergency support task force member he appoints as provided in W.S. 9-1-202.

(b) Personnel of emergency support task forces while on duty, whether within or without the state, under orders of the

governor shall be paid as follows:

(i) If they are employees of the state or a political subdivision of the state, they shall continue to be paid by their employers and receive the same pay and have the same powers, duties, rights, privileges and immunities, including their rights under the Wyoming Worker's Compensation Act incident to employment;

(ii) Personnel of emergency support task forces who are not employees of the state or a political subdivision thereof, while on duty, whether within or without the state, shall be paid the current rate established by the United States department of labor in its area wage determination scale for skilled, semiskilled and unskilled workers. The wage determination shall be based upon that normally established and obtained through the office of the district engineer, corps of engineers, Omaha, Nebraska, as determined in the particular area of the state wherein the work is being or to be performed. Acceptance by the proper hiring authority of any volunteer and his services will constitute qualification of his skill and craft as set out in the wage determination scale, and the volunteer is entitled to the same rights and immunities as are provided by law for the employees of the state. In the event of injury, disability or death, such personnel shall be entitled to compensation at the same rates as provided by the Wyoming Worker's Compensation Act for like injuries, disabilities or death.

19-13-108. Local programs; authorized; local homeland security plan; coordinators; appointment and removal.

Each political subdivision of this state shall establish a local homeland security program in accordance with the state homeland security plan and program. Each political subdivision through the homeland security program will cause to be prepared a local homeland security plan which will include actions essential to the recovery and restoration of the economy by supply and resupply of resources to meet urgent survival and military needs and to provide for the ongoing management of resources available to meet continuing survival and recovery needs. Each local homeland security program shall have a coordinator appointed by the governor upon the recommendation of the local jurisdiction. The coordinator has direct responsibility for the organization, administration and operation of the local homeland security program subject to the direction and control of the local jurisdiction under the general direction of the governor. The governor may remove any coordinator as provided in W.S. 9-1-202.

19-13-109. Local programs; reciprocal and mutual aid.

(a) The local coordinators in collaboration with other public and private agencies within this state will develop or cause to be developed mutual aid arrangements for reciprocal homeland security aid and assistance in case of disaster of extreme nature which affects two (2) or more political subdivisions or is too great to be dealt with unassisted. The arrangements shall be consistent with the state homeland security plan and program, and in time of emergency each local homeland security program shall render assistance in accordance with the provisions of the mutual aid arrangements.

(b) The coordinator of each local homeland security program with the approval of the governor, may enter into mutual aid arrangements with homeland security agencies or organizations in other states for reciprocal emergency aid and assistance in case of disaster too great to be dealt with unassisted.

19-13-110. Funds, supplies and equipment; generally.

(a) Each political subdivision may make appropriations for the payment of expenses of its local homeland security programs.

(b) Whenever the federal government or any agency or officer thereof or any person, firm or corporation shall offer to the state or to any political subdivision thereof services, equipment, supplies, materials or funds by way of gift, grant or loan for purposes of disaster relief or homeland security, the state acting through the governor, or the political subdivision acting with the consent of the governor and through its executive officer or governing body, may accept the offer. Upon acceptance the governor of the state or executive officer or governing body of the political subdivision may authorize any officer of the state or of the political subdivision to receive the services, equipment, supplies, materials or funds on behalf of the state or the political subdivisions. This authority will include participation in the federal surplus property program. All funds received from the federal government or any agency thereof shall be deposited in an appropriate separate account together with funds appropriated by a political subdivision, and expenditures from the account shall be made only upon authority of the local governing body and only for the purposes specified in this act.

(c) The board of county commissioners in any county may levy a tax for the support and maintenance of county, city, town, county-city or county-town homeland security programs.

19-13-111. Funds, supplies and equipment; authority to

make use of existing facilities.

In carrying out the provisions of this act, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all departments, offices and agencies are directed to cooperate with and extend such services and facilities to the governor, the director and the homeland security programs throughout the state upon request.

19-13-112. Programs barred from political activity.

No homeland security program established under the authority of this act shall participate in any form of political activity or be employed directly or indirectly for political purposes.

19-13-113. State and political subdivisions exempt from liability; exceptions; license to practice not required; homeland security worker defined; recognized educational programs; real estate owners exempt from liability; criminal history record information.

(a) All activities relating to homeland security are governmental functions. The state, any political subdivision, state agencies, and, except in cases of willful misconduct, gross negligence or bad faith, any homeland security worker complying with or reasonably attempting to comply with W.S. 19-13-101 through 19-13-116, any order, rule or regulation promulgated thereunder, or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, or in training for such activity, is not liable for the death of or injury to persons or for damage to property as a result of the activity or training. This section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under W.S. 19-13-101 through 19-13-116, under the Wyoming Worker's Compensation Act, or under any pension law, nor affect the right of any person to receive benefits or compensation under any act of congress.

(b) Any requirement for a license to practice any professional, mechanical or other skill does not apply to any authorized homeland security worker who, in the course of performing homeland security duties, practices a professional, teaching, training, mechanical or other skill during a homeland security emergency, in training for an emergency or during

homeland security exercises.

(c) As used in this section "homeland security worker" includes any full or part-time paid, volunteer or auxiliary employee of any state, territories or possessions of the United States, the District of Columbia, any neighboring country, any political subdivision thereof, or any agency or program performing homeland security services at any place in this state subject to the order or control of or pursuant to a request of the state government or any political subdivision thereof and includes instructors and students in recognized educational programs where homeland security services are taught. A recognized educational program includes programs in educational institutions duly existing under the laws of this state and such other educational programs as are established by the office of homeland security or otherwise under this act.

(d) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part of the real estate or premises for the purposes of sheltering persons during an actual, impending, mock or practice exercise, together with his successors in interest, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises nor for loss of or damage to the property of any person.

(e) The director may, as a condition for a position as a homeland security worker, require prospective homeland security workers to submit to fingerprinting in order to obtain state and national criminal history record information.

19-13-114. Persons advocating change by force or violence in form of government prohibited from employment or association; oath.

(a) No person shall be employed or associated in any capacity in any homeland security program established under this act:

(i) Who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or of this state, or the overthrow of any government in the United States by force or violence; or

(ii) Who has been convicted of or is under indictment or information charging any subversive act against the United States.

(b) Each person appointed to serve in a homeland security

program, before entering upon his duties, shall take an oath in writing before a person authorized to administer oaths in this state, substantially as follows:

"I do solemnly swear (or affirm) that I will support and defend the constitution of the United States and the constitution of the state of Wyoming against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties on which I am about to enter."

"And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group or combination of persons that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of homeland security program) I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

19-13-115. Admission of professional personnel of other states in emergency.

In the event disaster conditions in Wyoming require visitation to this state by homeland security personnel from other states, including physicians, dentists, veterinarians, nurses or other professional personnel, reciprocity by way of allowing those professional persons to practice their professional talents without the normal admissions to practice in this state during the period of the emergency, is allowed.

19-13-116. Enforcement of orders, rules and regulations.

Every homeland security program established pursuant to this act and the officers thereof shall execute and enforce orders, rules and regulations made by the governor under authority of this act. Each organization shall have available for inspection at its office all orders, rules and regulations made by the governor or under his authority.

19-13-117. Lifesaver programs; process for grants; administration; account established; rules; grant criteria.

(a) The office of homeland security shall administer a lifesaver program to provide grants to counties for search and rescue designed to quickly find a person suffering from Down

syndrome, brain injuries, autism, Alzheimer's or other dementia related disorders who wanders and becomes lost and missing. The program shall operate on a county basis, under which participants wear transmitters to allow the county sheriff's departments to electronically locate participants if necessary.

(b) The office of homeland security shall establish by rule and regulation an application procedure and calendar for grants under this section and adopt other rules as necessary to implement this section.

(c) In administering this program, the office of homeland security and counties shall establish a policy of including private sector participants to the fullest extent possible unless a viable private sector solution does not exist.

(d) Grant applications shall include, but not be limited to:

(i) An estimate of the number of people who might qualify for assistance in the county;

(ii) An estimate of the startup cost;

(iii) A statement of the number of personnel available for tracking lost persons; and

(iv) A statement of the local resources available to support ongoing operation of a lifesaver program.

(e) The office of homeland security shall provide grants, subject to the following:

(i) Grants to any one (1) county shall not exceed twenty-five thousand dollars (\$25,000.00) of state funds in any calendar year;

(ii) The director of the office of homeland security shall prioritize the grant awards in accordance with the respective needs of each county for tracking services and the availability of local funding sources, as documented in the applications submitted.

(f) A grant recipient under this section shall use the grant monies only for startup costs associated with the contracting or purchasing of emergency response kits or services which shall include equipment and services necessary to track and triangulate searches, as well as transmitters or any other related equipment.

(g) The lifesaver program account is created. The account shall consist of those funds appropriated to the account by the legislature and all monies received from federal grants and other contributions, grants, gifts, transfers, bequests and donations to the account. The office of homeland security is specifically empowered to accept grants, gifts, transfers, bequests and donations to the account. Funds in the account shall only be expended by the office of homeland security for the purpose of providing grants under this section.