

SENATE FILE NO. SF0140

Emergency response commission.

Sponsored by: Senate Transportation and Highways Committee

A BILL

for

1 AN ACT relating to the administration of government;  
2 creating a homeland security commission; providing for a  
3 homeland security officer; providing for public safety  
4 communications systems; transferring oversight and control  
5 of the emergency management agency; creating a hazardous  
6 materials emergency response program; providing procedures  
7 for response to the release of hazardous materials as  
8 specified; establishing the hazardous material emergency  
9 response account; providing for liability; providing for  
10 mediation; providing definitions; conforming provisions;  
11 repealing conflicting provisions; providing an  
12 appropriation; and providing for an effective date.

13

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

15

1           **Section 1.** W.S. 35-28-101 through 35-28-105,  
2 35-28-301 and 35-28-302 and 35-28-401 through 35-28-409 are  
3 created to read:

4

5

ARTICLE 1

6

HOMELAND SECURITY COMMISSION

7

8

**35-28-101. Definitions.**

9

10           (a) As used in this article:

11

12                   (i) "Commission" means the homeland security  
13 commission created by W.S. 35-28-102;

14

15                   (ii) "Officer" means the homeland security  
16 officer appointed pursuant to W.S. 35-28-104.

17

18           **35-28-102. Commission; composition; appointment of**  
19 **members; removal; terms; officers; vacancies; meetings.**

20

21           (a) There is created the homeland security commission  
22 within the governor's office. The commission shall consist  
23 of seven (7) members to be appointed by the governor and  
24 who may be removed by the governor as provided in W.S.

1 9-1-202. The governor may serve as chairman or appoint  
2 another member to be the chairman. Members appointed by  
3 the governor shall include:

4

5 (i) One (1) member appointed from a list of  
6 nominees provided by the Wyoming emergency management  
7 agency;

8

9 (ii) One (1) member appointed from a list of  
10 nominees provided by the hazardous materials responder  
11 team;

12

13 (iii) One (1) member appointed from a list of  
14 nominees provided by the Wyoming fire marshal;

15

16 (iv) Four (4) at large members.

17

18 (b) The commission shall elect from its members a  
19 vice-chairman and a secretary. Vacancies in these offices  
20 shall be filled by the commission from its membership. The  
21 commission shall meet at least once every three (3) months.  
22 Appointments by the governor shall be made within thirty  
23 (30) days of expiration of membership terms. Nominee lists  
24 from the appropriate organization shall be furnished within

1 ten (10) days upon expiration of any membership term. Each  
2 member shall serve a three (3) year term. A vacancy on the  
3 commission shall be filled for the unexpired term by the  
4 governor.

5

6 **35-28-103. Duties of the commission.**

7

8 (a) The commission shall:

9

10 (i) Work with the officer, the administrator of  
11 the information technology division of the department of  
12 administration and information and the department of  
13 transportation to promote the development, improvement and  
14 efficiency of public safety communications systems in the  
15 state;

16

17 (ii) Supervise the public safety communications  
18 officer;

19

20 (iii) Supervise the Wyoming emergency management  
21 agency.

22

23 **35-28-104. Homeland security officer.**

24

1 The position of the state homeland security officer is  
2 created in the governor's office and shall be appointed by  
3 the governor. He is responsible to the governor and can be  
4 removed by the governor as provided in W.S. 9-1-202.

5

6 **35-28-105. Homeland security officer; powers and**  
7 **duties.**

8

9 (a) The officer may:

10

11 (i) Provide technical assistance to public  
12 safety agencies in the area of radio communications;

13

14 (ii) Advise the public safety communications  
15 commission on technical matters;

16

17 (iii) Coordinate with the homeland security  
18 commission.

19

20 [ARTICLE 2]

21 [WYOMING EMERGENCY MANAGEMENT AGENCY]

22 [REFERENCE SECTION 3 OF THIS BILL]

23

24 ARTICLE 3

## 1 PUBLIC SAFETY COMMUNICATIONS

2

3 **35-28-301. Definitions.**

4

5 (a) As used in this article:

6

7 (i) "Commission" means the homeland security  
8 commission created by W.S. 35-28-102;

9

10 (ii) "Public safety agency" means any federal,  
11 state or political subdivision entity that provides  
12 emergency and public safety services, including state  
13 agencies employing peace officers enumerated in W.S.  
14 6-1-104(a)(vi)(C) through (F) and approved for  
15 participation by the commission, fire management services,  
16 correctional services, emergency management, emergency and  
17 disaster relief services and if desired by county,  
18 municipal and federal law enforcement agencies;

19

20 (iii) "Officer" means the homeland security  
21 officer appointed pursuant to W.S. 35-28-104;

22

1           (iv) "System" means the wireless communications  
2 network providing regional and statewide radio  
3 communications capabilities to public safety agencies.

4

5           **35-28-302. Duties of the commission.**

6

7           (a) The commission shall:

8

9           (i) Work with the officer, the administrator of  
10 the information technology division of the department of  
11 administration and information and the department of  
12 transportation in an advisory capacity to promote the  
13 development, improvement and efficiency of public safety  
14 communications systems in the state;

15

16           (ii) Determine the participation of public  
17 safety agencies and private entities in the wireless  
18 communications network;

19

20           (iii) Promulgate necessary rules and regulations  
21 governing system operation and participation and upon  
22 failure to comply with adopted rules and regulations, may  
23 suspend system use and participation by any participating  
24 and noncomplying public safety agency or private entity;

1

2 (vi) Determine the participation of public  
3 safety agencies and private entities in the wireless  
4 communications network.

5

6

## ARTICLE 4

7

## WYOMING HAZARDOUS MATERIALS EMERGENCY RESPONSE ACT

8

9

**35-28-401. Citation.**

10

11 This article may be cited as the "Wyoming Hazardous  
12 Materials Emergency Response Act."

13

14

**35-28-402. Definitions.**

15

16 (a) As used in this article:

17

18 (i) "Commission" means as defined by W.S.  
19 35-28-102;

20

21 (ii) "Emergency responders" means public, state  
22 or federal fire services, law enforcement, emergency  
23 medical services, public health, public works, emergency  
24 management and other public response services or agencies



1 that would be involved in direct actions to contain or  
2 control a hazardous material release. The term "emergency  
3 responders" does not include private on-site facilities  
4 with immediate emergency response capabilities unless  
5 formally requested to assist off of the private facility  
6 site by the state or a political subdivision of the state;

7

8 (iii) "Emergency response" means a response to  
9 any occurrence, which has or may result in a release of a  
10 hazardous material;

11

12 (iv) "Hazardous material" means any substance,  
13 material, waste or mixture designated as hazardous  
14 material, waste or substance according to 49 C.F.R. part  
15 171.8, as amended;

16

17 (v) "Incident" means the release, or imminent  
18 threat of release, of hazardous material that requires the  
19 emergency action of responders to limit or prevent damage  
20 to life or property;

21

22 (vi) "Incident commander" means the person in  
23 charge of all responders at the site of an emergency  
24 response;

1

2 (vii) "Local response authority" means the  
3 single point of contact designated for a political  
4 subdivision for coordinating responses to incidents;

5

6 (viii) "Political subdivision" means any county,  
7 city, town or fire protection district of the state;

8

9 (ix) "Regional hazardous material response team"  
10 means any group of local government emergency responders  
11 brought together to assist an affected jurisdiction within  
12 the different regions of the state with the intent to  
13 protect life and property against the dangers of incidents  
14 and emergencies involving hazardous materials, in  
15 coordination with the commission's regional response.

16

17 **35-28-403. Emergency response training, planning and**  
18 **reporting.**

19

20 (a) The commission shall:

21

22 (i) Coordinate, develop, implement and make  
23 available a comprehensive voluntary training program

1 designed to assist emergency responders in hazardous  
2 material incidents;

3

4 (ii) Authorize ongoing training programs for  
5 political subdivisions, state agency employees and private  
6 industry employees involved in responding to spills or  
7 releases of hazardous materials;

8

9 (iii) Promulgate rules and regulations for:

10

11 (A) Hazardous material emergency response  
12 training confirmation;

13

14 (B) Hazardous material emergency regional  
15 response teams and criteria for providing aid to those  
16 teams;

17

18 (C) Establishing standards for hazardous  
19 material emergency response teams;

20

21 (D) Local and regional hazardous materials  
22 incident response reporting;

23

1                   (E) Depositing funds to, and disbursing  
2 funds from, the account to be used to update equipment and  
3 provide training for the regional and local hazardous  
4 materials emergency response teams; and

5

6                   (F) The reimbursement of political  
7 subdivisions for participation in operations authorized by  
8 this article.

9

10                   (iv) Assist with emergency response planning by  
11 appropriate agencies of government at the local, state and  
12 national levels.

13

14                   (b) In carrying out this article, the commission  
15 shall contract only with emergency response teams that have  
16 obtained confirmation of successful completion of requisite  
17 national fire protection association criteria for the level  
18 at which the team will operate as emergency responders. The  
19 commission shall confirm the training of, and issue  
20 documentation of completion to, public emergency response  
21 agency personnel who successfully complete hazardous  
22 material training.

23

1           **35-28-404. Regional hazardous material emergency**  
2 **response teams.**

3

4           (a) The commission may contract and coordinate to  
5 make available for use in any county, city or fire  
6 protection district, any part of a regional hazardous  
7 material emergency response team and specialized equipment  
8 necessary to respond to the incident or emergency.

9

10           (b) Members of the regional hazardous material  
11 emergency response teams shall be indemnified and defended  
12 from liability by the state self-insurance program:

13

14           (i) While engaged in responding to incidents  
15 outside their normal jurisdiction and pursuant to an  
16 appropriate request for assistance; or

17

18           (ii) While traveling to or from an operation  
19 authorized by this article.

20

21           (c) The commission may authorize the lending of  
22 equipment and personnel and make grants from available  
23 state or federal funds for the purchase of equipment to any

1 local government participating in the regional hazardous  
2 material response program.

3

4 (d) The commission may contract with persons and  
5 local emergency response teams that have appropriately  
6 trained personnel and necessary equipment to respond to  
7 hazardous material incidents within Wyoming.

8

9 (e) The commission may enter into a written agreement  
10 with each entity or person providing equipment or services  
11 to a designated local emergency response team.

12

13 **35-28-405. Hazardous material emergency response**  
14 **account.**

15

16 (a) The hazardous material emergency response account  
17 is established within the earmarked revenue fund. The  
18 following shall apply to the account:

19

20 (i) If the account becomes exhausted, the  
21 commission shall request additional appropriations to  
22 maintain the account;

23

1           (ii) All reimbursements to the state collected  
2 under provisions of this article shall be deposited in the  
3 account.

4

5           **35-28-406. Local response authority.**

6

7           (a) Every political subdivision of the state shall  
8 designate a local response authority for responding to and  
9 reporting of hazardous material incidents that occur within  
10 its jurisdiction. The commission shall provide appropriate  
11 training to emergency responders to respond, upon request,  
12 to hazardous materials emergencies that occur on private  
13 on-site industrial facilities. This training may include  
14 occupational safety and health administration, mine safety  
15 and health administration and other site specific hazard  
16 training required by the facility. Designation shall be in  
17 accordance with the following:

18

19           (i) The governing body of every incorporated  
20 municipality shall designate a local response authority to  
21 respond to and report incidents occurring within its  
22 jurisdiction;

23

1           (ii) The board of county commissioners of every  
2 county shall designate a local response authority to  
3 respond to and report incidents within the unincorporated  
4 area of the county or areas within the county in which no  
5 municipal response authority has been designated. In those  
6 areas of a county where a fire protection district has been  
7 established, the board of directors of the fire protection  
8 district shall designate a local response authority to  
9 respond to and report incidents within the fire protection  
10 district;

11

12           (iii) If a fire protection district is  
13 designated as the local response authority by a governing  
14 body of an incorporated municipality or board of county  
15 commissioners, the agreement to assume those  
16 responsibilities shall be documented in writing;

17

18           (iv) Any governing body of an incorporated  
19 municipality or board of county commissioners designating a  
20 local response authority to act outside the authority's  
21 jurisdiction shall enter into an appropriate binding  
22 agreement with the local response authority;

23



1           (v) The designation of a local response  
2 authority and copies of any accompanying agreements and  
3 other pertinent documentation created pursuant to this  
4 section shall be filed with the commission within seven (7)  
5 days of the agreement being reduced to writing and signed  
6 by all appropriate persons.

7

8           (b) Each local response authority shall coordinate  
9 the response to an incident occurring within its  
10 jurisdiction in a fashion consistent with standard  
11 hazardous materials incident command protocols. The local  
12 response authority shall also coordinate the response to an  
13 incident which initially occurs within its jurisdiction but  
14 which spreads to another jurisdiction. If an incident  
15 occurs on a boundary between two (2) jurisdictions or in an  
16 area not readily ascertainable, the first local response  
17 authority arriving at the scene shall coordinate the  
18 initial emergency response.

19

20           (c) The incident commander shall declare an incident  
21 ended when he has determined the threat to public health  
22 and safety has ended.

23

1           **35-28-407. Liability for release of a hazardous**  
2 **material; right to claim reimbursement.**

3

4           (a) Any person with hazardous materials in his care,  
5 custody or control which is involved in a hazardous  
6 material incident and requires an emergency response by a  
7 local response authority shall be liable for the reasonable  
8 and necessary costs incurred as a result of their response  
9 to a hazardous material incident.

10

11           (b) Notwithstanding subsection (a) of this section,  
12 no person shall be liable under this act for incident  
13 resulting from:

14

15                   (i) An act of God; or

16

17                   (ii) An act or omission of a person not defined  
18 as a person under 49 C.F.R. part 171.8, provided that:

19

20                           (A) The potentially liable person exercised  
21 reasonable care with respect to the hazardous material  
22 involved, taking into consideration the characteristics of  
23 the hazardous material in light of all relevant facts and  
24 circumstances; and

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(B) The potentially liable person took reasonable precautions against foreseeable acts or omissions of any third person and the consequences that could foreseeably result from such acts or omissions.

(c) The commission, regional hazardous material emergency response teams and local response authorities shall be entitled to recover their reasonable and necessary costs incurred as a result of their response to a hazardous material incident. Costs subject to recovery under this article include the following:

(i) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response;

(ii) Remuneration of employees for the time and efforts devoted specifically to responding to a hazardous materials incident outside the responders' normal jurisdiction;

(iii) A reasonable fee, as established through rules and regulations of the commission, for the use of

1 equipment, including rolling stock, in responding to a  
2 hazardous materials incident outside the responders' normal  
3 jurisdiction;

4

5 (iv) Rental or leasing of equipment used  
6 specifically for the response;

7

8 (v) At value replacement costs for equipment  
9 owned by the person claiming reimbursement that is  
10 contaminated beyond reuse or repair, if the loss occurred  
11 as a result of the response;

12

13 (vi) Decontamination of equipment contaminated  
14 during the response;

15

16 (vii) Special technical services specifically  
17 requested and required for the response;

18

19 (viii) Medical monitoring or treatment of  
20 response personnel; and

21

22 (ix) Laboratory expenses for analyzing samples  
23 taken during the response.

24

1           **35-28-408. Expense recovery and civil remedies.**

2

3           (a) The decision to commence a civil action to  
4 recover expenses shall be made by the commission, fire  
5 protection district or the governing body of the municipal  
6 or county government in consultation with the attorney  
7 general, county or municipal attorney as appropriate.

8

9           (b) Prior to commencing a civil action for recovery  
10 of expenses pursuant to this article, the governmental  
11 entity shall afford the person alleged to owe those  
12 expenses a reasonable opportunity to engage in nonbinding  
13 mediation. Each party to a mediation shall bear his own  
14 costs and expenses, including a proportionate share of the  
15 fees of the mediator.

16

17           (c) In the event that the attorney general, county or  
18 municipal attorney prevails in a civil action for  
19 reimbursement under this article, the court shall award  
20 costs of collection including reasonable attorney's fees,  
21 investigation expenses and litigation expenses.

22

23           (d) Any person who receives remuneration for the  
24 emergency response expenses pursuant to any other federal

1 or state law shall be precluded from recovering  
2 reimbursement for such expenses pursuant to this article.  
3 Nothing in this article shall otherwise affect or modify in  
4 any way the obligations or liability of any person under  
5 any other provision of state or federal law, including  
6 common law, for damages, injury or loss resulting from the  
7 release of any hazardous material or for remedial action or  
8 the expenses of remedial action for such release.

9

10 (e) Any recovery on behalf of the state under this  
11 section shall be deposited in the hazardous material  
12 emergency response account established under W.S.  
13 35-28-405.

14

15 **35-28-409. Exceptions to reimbursements; exception to**  
16 **article.**

17

18 (a) This article shall not apply to releases of  
19 hazardous materials where there is an immediate on-site  
20 private industry response capability to the emergency. The  
21 exemption under this subsection shall apply only if the  
22 private industry files evidence satisfactory to the local  
23 response authority of its immediate response capability to  
24 respond to emergency releases of hazardous materials that

1 may be present at the site of the private industry. The  
 2 exemption shall not apply if emergency responders responded  
 3 to a release of hazardous materials at the request of the  
 4 on-site private industry where the emergency occurred.

5

6 (b) No political subdivision shall be entitled to  
 7 reimbursement under this article from any person for an  
 8 incident involving less than the following quantities of  
 9 hazardous materials:

10

11 Hazard type	Quantity
12 Class A or B explosive	Any quantity
13 Class C explosive	50 pounds
14 Etiological agent	Any quantity
15 Water reactive flammable solid	5 pounds
16 Pyrophoric material	5 pounds
17 Organic/inorganic peroxide	50 pounds
18 Poison A or poison B	100 pounds or 15 gallons
19 Flammable liquid other than 20 a pyrophoric liquid	700 pounds or 120 gallons
21 Compressed flammable gas other than 22 liquefied petroleum gases	3,000 cubic feet or more at one (1) atmosphere at 23 seventy degrees (70°) Fahrenheit
24 Liquefied petroleum gases	Any installation exceeding 25 18,000 gallon water capacity

1	Oxidizer	200 pounds or 120 gallons
2	Combustible liquid	
3	Class I	120 gallons
4	Class II	240 gallons
5	Class III	500 gallons
6	Corrosive material	200 pounds or 120 gallons
7		(unless a lesser amount is
8		specified in 40 C.F.R., part 172.101, 2002)
9	Irritating material	200 pounds or 120 gallons

10

11           **Section 2.** W.S. 1-41-102(a)(v)(A) and 19-7-101(a)(iv)  
 12 are amended to read:

13

14           **1-41-102. Definitions.**

15

16           (a) As used in this act:

17

18                   (v) "Public employee" means any officer,  
 19 employee or servant of the state, provided the term:

20

21                           (A) Includes elected or appointed  
 22 officials, peace officers, members of hazardous material  
 23 response teams as provided in W.S. 35-28-403 and persons  
 24 acting on behalf or in service of the state in any official  
 25 capacity, whether with or without compensation, including



1 volunteer physicians providing medical services under W.S.  
2 9-2-103(a)(iii);

3

4 **19-7-101. Definitions.**

5

6 (a) As used in this act:

7

8 (iv) "Military department" means the adjutant  
9 general, the divisions of the army national guard, the air  
10 national guard, and state military affairs; ~~and emergency~~  
11 ~~management agency;~~

12

13 **Section 3.** W.S. 19-13-102 as 35-28-201, 19-13-103 as  
14 35-28-202, 19-13-104 as 35-28-203, 19-13-105 as 35-28-204,  
15 19-13-111 as 35-28-209, 19-13-113 as 35-28-211 and  
16 19-13-116 as 35-28-214 are amended and renumbered to read:

17

18 ARTICLE 2

19 WYOMING EMERGENCY MANAGEMENT AGENCY

20

21 ~~19-13-102~~ 35-28-201. **Definitions.**

22

23 (a) As used in this ~~act~~ article:

24

1           (i) "County or county-city program" means a  
2 program created in accordance with the provisions of this  
3 ~~act~~article by the state or a political subdivision to  
4 perform local emergency management functions;

5  
6           (ii) "Emergency management" means the  
7 preparation for and the carrying out of all emergency  
8 functions essential to the recovery and restoration of the  
9 economy by supply and resupply of resources to meet urgent  
10 survival and military needs, other than functions for which  
11 military forces are primarily responsible, necessary to  
12 deal with disasters caused by enemy attack, sabotage,  
13 terrorism, civil disorder or other hostile action, or by  
14 fire, flood, earthquake, other natural causes and other  
15 technological, industrial, civil and political events.  
16 These functions include without limitation the coordination  
17 of fire-fighting services, police services, medical and  
18 health services, rescue, engineering, attack warning  
19 services, communications, radiological events, evacuation  
20 of persons from stricken areas, emergency welfare services  
21 (civilian war aid), emergency transportation, existing or  
22 properly assigned functions of plant protection, temporary  
23 restoration of public utility services, mitigation  
24 activities in areas threatened by natural or technological

1 hazards, and other functions related to civilian  
2 protection, together with all other activities necessary or  
3 incidental to the preparation for any carrying out of the  
4 foregoing functions;

5

6 (iii) "Emergency support task force" means an  
7 emergency management organization created in accordance  
8 with the provisions of this ~~act~~article by the state or a  
9 political subdivision to supplement emergency management  
10 programs in a stricken area;

11

12 (iv) "Political subdivision" means an  
13 incorporated community or a county in Wyoming;~~i-~~

14

15 (v) "Commission" means the homeland security  
16 commission created by W.S. 35-28-102;

17

18 (vi) "Officer" means the homeland security  
19 officer appointed pursuant to W.S. 35-28-104.

20

21 ~~19-13-103~~ 35-28-202. Legislative determination;  
22 coordination with federal government and other states.

23

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

12

13           (i) To create a Wyoming emergency management  
14 agency within the ~~adjutant general's office~~ homeland  
15 security commission created by W.S. 35-28-102, and to  
16 authorize the creation of local emergency management  
17 programs in the political subdivisions of the state;

18

19           (ii) To confer upon the governor and upon the  
20 executive heads or governing bodies of the political  
21 subdivisions of the state and the commission the emergency  
22 powers provided herein, and to provide for state assistance  
23 in the organization and maintenance of the emergency  
24 management programs of such political subdivisions;

1

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

7

8 (iv) To provide for the rendering of mutual aid  
9 among the political subdivisions of the state and with  
10 other states with respect to the carrying out of emergency  
11 management functions.

12

13 (b) It is further declared to be the purpose of this  
14 ~~act~~article and the policy of Wyoming that all emergency  
15 management functions of this state be coordinated to the  
16 maximum extent with the comparable functions of its  
17 political subdivisions, of the federal government including  
18 its various departments and agencies, of other states and  
19 localities, and of private agencies of every type, to the  
20 end that the most effective preparation and use may be made  
21 of the manpower, resources and facilities for dealing with  
22 any disaster that may occur.

23

24 ~~19-13-104~~ 35-28-203. **Powers of governor generally.**

1

2 (a) The governor has general direction and control of  
3 the emergency management agency, and is responsible for the  
4 carrying out of the provisions of this ~~act~~ article, and in  
5 the event of disaster beyond local control, may assume  
6 direct operational control over all or any part of the  
7 emergency management functions within Wyoming. The governor  
8 may delegate such powers to the ~~adjutant general~~ officer  
9 directly, or through the ~~adjutant general~~ officer to the  
10 ~~coordinator of emergency management~~ the commission to carry  
11 out this ~~act~~ article.

12

13 (b) In performing his duties under this ~~act~~ article,  
14 the governor may cooperate with the federal government,  
15 with other states and with private agencies in all matters  
16 pertaining to the disaster relief and emergency management  
17 of this state and of the nation.

18

19 (c) In performing his duties under this ~~act~~ article,  
20 the governor or commission may:

21

22 (i) Make, amend and rescind the necessary  
23 orders, rules and regulations to carry out this ~~act~~ article  
24 within the limits of the authority conferred upon him

1 herein, with due consideration of the plans of the federal  
2 government. The governor may assign to a state agency any  
3 activity concerned with the mitigation of the effects of a  
4 disaster or national emergency of a nature related to the  
5 existing powers and duties of the agency, including  
6 interstate activities, and the agency shall undertake and  
7 carry out the activity on behalf of the state;

8

9 (ii) Prepare a comprehensive emergency  
10 management plan and program for this state to be integrated  
11 into and coordinated with the emergency management plans of  
12 the federal government and of other states to the fullest  
13 possible extent, and coordinate the preparation of plans  
14 and programs for emergency management by the political  
15 subdivisions of this state to be integrated into and  
16 coordinated with the emergency management plan and program  
17 of this state to the fullest possible extent;

18

19 (iii) In accordance with the emergency  
20 management plan and program for this state, procure  
21 supplies and equipment, institute training programs and  
22 public information programs and take all other preparatory  
23 steps including the partial or full mobilization of  
24 emergency management organizations in advance of actual

1 disaster, to insure the furnishing of adequately trained  
2 and equipped forces of emergency management personnel in  
3 time of need;

4

5 (iv) Make such studies and surveys of the  
6 industries, resources and facilities in this state as  
7 necessary to ascertain the capabilities of the state and  
8 its political subdivisions for meeting emergency management  
9 requirements, and to plan for the most efficient emergency  
10 use therefore;

11

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

17

18 (vi) Delegate any administrative authority  
19 vested in him under this ~~act~~article, provide for the  
20 subdelegation of any such authority and appoint, in  
21 cooperation with local authorities, political subdivision  
22 emergency management coordinators.

23

24 ~~19-13-105~~ 35-28-204. **Emergency management program.**



1

2 (a) The emergency management agency ~~within the~~  
3 ~~adjutant general's office~~ within the commission is created.  
4 The ~~adjutant general~~ commission shall employ a coordinator  
5 of emergency management who shall be a civilian and the  
6 administrator thereof, and such assistants as may be  
7 necessary. The coordinator and his assistants shall be  
8 compensated in an amount to be determined and fixed by the  
9 Wyoming human resources division.

10

11 (b) The coordinator, with the approval of the  
12 ~~adjutant general~~ commission, may employ technical,  
13 clerical, stenographic and other personnel and make such  
14 expenditures within the appropriations or from other funds  
15 made available to him for purposes of emergency management  
16 as necessary to carry out this ~~act~~ article. He shall be  
17 provided with necessary and appropriate office space,  
18 furniture, equipment, stationery and printing in the same  
19 manner as for personnel of other state agencies.

20

21 (c) The coordinator is the administrative head of the  
22 Wyoming emergency management agency and:

23

1           (i) Shall be responsible to the ~~adjutant-general~~  
2 commission for the implementation of the state program for  
3 emergency management for Wyoming;

4  
5           (ii) Shall assist the local authorities and  
6 organizations in the planning and development of local  
7 emergency management plans and programs;

8  
9           (iii) Shall coordinate the activities of all  
10 organizations for emergency management within the state,  
11 including all state departments;

12  
13           (iv) Shall maintain liaison with and cooperate  
14 with emergency management agencies and programs of other  
15 states and of the federal government;

16  
17           (v) Shall have additional authority, duties and  
18 responsibilities authorized by this ~~act~~-article as may be  
19 prescribed by the ~~adjutant-general~~-commission; and

20  
21           (vi) May prescribe reasonable qualifications for  
22 officers and employees of local programs and reasonable  
23 regulations for the administration of local programs.

24

1           [~~35-28-205~~ through ~~35-28-208~~. Reference Section 4 of  
2 this bill.]

3

4           ~~19-13-111~~ 35-28-209. Funds, supplies and equipment;  
5 authority to make use of existing facilities.

6

7 In carrying out the provisions of this ~~act~~ article the  
8 governor, the ~~adjutant general~~ commission and the executive  
9 officers or governing bodies of the political subdivisions  
10 of the state are directed to utilize the services,  
11 equipment, supplies and facilities of existing departments,  
12 offices and agencies of the state and of the political  
13 subdivisions thereof to the maximum extent practicable, and  
14 the officers and personnel of all departments, offices and  
15 agencies are directed to cooperate with and extend such  
16 services and facilities to the governor, to the coordinator  
17 and to the emergency management programs throughout the  
18 state upon request.

19

20           [~~35-28-210~~. Reference Section 4 of this bill.]

21

22           ~~19-13-113~~ 35-28-211. State and political subdivisions  
23 exempt from liability; exceptions; license to practice not  
24 required; emergency management worker defined; recognized

1 **educational programs; real estate owners exempt from**  
2 **liability.**

3  
4 (a) All activities relating to emergency management  
5 are governmental functions. The state, any political  
6 subdivision, state agencies, and, except in cases of  
7 willful misconduct, gross negligence or bad faith, any  
8 emergency management worker complying with or reasonably  
9 attempting to comply with ~~W.S. 19-13-101 through 19-13-116~~  
10 this article, any order, rule or regulation promulgated  
11 thereunder, or pursuant to any ordinance relating to  
12 blackout or other precautionary measures enacted by any  
13 political subdivision of the state, or in training for such  
14 activity, is not liable for the death of or injury to  
15 persons or for damage to property as a result of the  
16 activity or training. This section shall not affect the  
17 right of any person to receive benefits to which he would  
18 otherwise be entitled under ~~W.S. 19-13-101 through~~  
19 ~~19-13-116~~ this article, under the Wyoming Worker's  
20 Compensation Act, or under any pension law, nor affect the  
21 right of any person to receive benefits or compensation  
22 under any act of congress.

23

1           (b) Any requirement for a license to practice any  
2 professional, mechanical or other skill does not apply to  
3 any authorized emergency management worker who, in the  
4 course of performing emergency management duties, practices  
5 a professional, teaching, training, mechanical or other  
6 skill during an emergency management emergency, in training  
7 for an emergency or during emergency management exercises.

8

9           (c) As used in this section "emergency management  
10 worker" includes any full or part-time paid, volunteer or  
11 auxiliary employee of any state, territories or possessions  
12 of the United States, the District of Columbia, any  
13 neighboring country, any political subdivision thereof, or  
14 any agency or program performing emergency management  
15 services at any place in this state subject to the order or  
16 control of or pursuant to a request of the state government  
17 or any political subdivision thereof and includes  
18 instructors and students in recognized educational programs  
19 where emergency management services are taught. A  
20 recognized educational program includes programs in  
21 educational institutions duly existing under the laws of  
22 this state and such other educational programs as are  
23 established by the emergency management agency or otherwise  
24 under this ~~act~~article.

1

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

12

13 [35-28-212 and 35-28-213. Reference Section 4 of this  
14 bill.]

15

16 ~~19-13-116~~ 35-28-214. **Enforcement of orders, rules and**  
17 **regulations.**

18

19 Every emergency management program established pursuant to  
20 this ~~act~~ article and the officers thereof shall execute and  
21 enforce orders, rules and regulations made by the governor  
22 or the commission under authority of this ~~act~~ article. Each  
23 organization shall have available for inspection at its

1 office all orders, rules and regulations made by the  
2 governor or under his authority.

3

4 **Section 4.** W.S. 19-13-107 through 19-13-110 are  
5 renumbered as 35-28-205 through 35-28-208, 19-13-112 is  
6 renumbered as 35-28-210, 19-13-114 is renumbered as  
7 35-28-212 and 19-13-115 is renumbered as 35-28-213.

8

9 **Section 5.** W.S. 9-2-1101 through 9-2-1106,  
10 19-7-102(a)(iv), 19-7-104(c), 19-7-105(a)(iv), 19-13-101  
11 and 19-13-106 are repealed.

12

13 **Section 6.** Except as otherwise specified, the  
14 legislature hereby transfers all functions, programs and  
15 authority of the Wyoming emergency management agency to the  
16 homeland security commission. All personnel of the Wyoming  
17 emergency management agency shall be transferred to the  
18 commission. The adjutant general's position shall not be  
19 affected by this section. Nothing in this act shall be  
20 deemed to affect the property interests of current  
21 permanent employees within the emergency management agency.

22

23 **Section 7.** This act is intended in regard to the  
24 Wyoming emergency management agency to transfer the control

1 of the Wyoming emergency management agency from the  
2 adjutant general to the homeland security commission. The  
3 Wyoming legislature intends to make no substantive change  
4 to prior law including, but not limited to revenue, either  
5 increases or decreases, powers, duties, authorities,  
6 obligations, definitions, administration, confidentiality,  
7 imposition, tax rates, exemptions, licenses, permits,  
8 compliance, collection procedures, enforcement, remedies,  
9 statutes of limitation or distribution of taxes. This act  
10 is not intended to affect the validity of any rule or  
11 regulation promulgated prior to the effective date of this  
12 act.

13

14       **Section 8.** There is appropriated three hundred  
15 eighty-five thousand five hundred dollars (\$385,500.00)  
16 from the general fund to the hazardous material emergency  
17 response account within the earmarked revenue fund to be  
18 used by the commission for purposes of this act.

19

20       **Section 9.** This act is effective July 1, 2003.

21

22

(END)