

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Drilling units-risk penalties and mandatory royalties.

Sponsored by: Joint Minerals, Business & Economic  
Development Interim Committee

A BILL

for

1 AN ACT relating to oil and gas; amending the calculation of  
2 owners' shares for drilling units as specified; providing a  
3 royalty during payment of risk penalty; making conforming  
4 amendments; and providing for an effective date.

5

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

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8 **Section 1.** W.S. 30-5-109(g)(ii) and by creating a new  
9 subsection (h) is amended to read:

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11 **30-5-109. Rules and regulations governing drilling**  
12 **units.**

1  
2       (g) Each pooling order shall provide for the drilling  
3 and operation of a well on the drilling unit, and for the  
4 payment of the cost thereof, as provided in this  
5 subsection. The commission is specifically authorized to  
6 provide that the owner or owners drilling or paying for the  
7 drilling or for the operation of a well for the benefit of  
8 all owners shall be entitled to all production from the  
9 well which would be received by the owner or owners, for  
10 whose benefit the well was drilled or operated, after  
11 payment of royalty as provided in the lease, if any,  
12 applicable to each tract or interest or after payment of  
13 the royalty if required under subsection (h) of this  
14 section, and obligations payable out of production, until  
15 the owner or owners drilling or operating the well or both  
16 have been paid the amount due under the terms of the  
17 pooling order or order settling the dispute. In the event  
18 of any disputed cost, the commission shall determine the  
19 proper cost. The order shall determine the interest of each  
20 owner in the unit, and may provide that each owner who  
21 agrees with the person or persons drilling and operating  
22 the well for the payment by the owner of his share of the  
23 costs, unless he has agreed otherwise, shall be entitled to

1 receive, subject to royalty or similar obligations, the  
2 share of the production of the well applicable to the tract  
3 of the nonconsenting owner. Each owner who does not agree,  
4 shall be entitled to receive from the person or persons  
5 drilling and operating the well on the unit his share of  
6 the production applicable to his interest after the person  
7 or persons drilling and operating the well have recovered  
8 the following, subject to the provisions of subsection (h)  
9 of this section:

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11 (ii) Up to:

12  
13 (A) Three hundred percent (300%) of that  
14 portion of the costs and expenses of drilling, reworking,  
15 deepening or plugging back, testing and completing, after  
16 deducting any cash contributions received and up to two  
17 hundred percent (200%) of that portion of the cost of newly  
18 acquired equipment in the well, to and including the  
19 wellhead connections, which would have been chargeable to  
20 the nonconsenting owner if he had participated therein, if  
21 the nonconsenting owner's tract or interest is subject to a  
22 lease or other contract for oil and gas development; or

1                   (B) One hundred fifty percent (150%) of that  
2 portion of the costs and expenses of drilling, reworking,  
3 deepening or plugging back, testing and completing, after  
4 deducting any cash contributions received and up to one  
5 hundred twenty-five percent (125%) of that portion of the  
6 cost of newly acquired equipment in the well, to and  
7 including the wellhead connections, which would have been  
8 chargeable to the nonconsenting owner if he had  
9 participated therein, if the nonconsenting owner's tract or  
10 interest is not subject to a lease or other contract for  
11 oil and gas development.

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13           (h) During the time the person or persons drilling and  
14 operating a well are recovering costs from a nonconsenting  
15 owner as authorized in a pooling order issued pursuant to  
16 subsection (g) of this section, a nonconsenting owner of a  
17 tract or interest in a drilling unit that is not subject to  
18 a lease or other contract for oil and gas development shall  
19 be entitled to a cost-free royalty interest equal to the  
20 greater of:

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22                   (i) Sixteen percent (16%); or

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(ii) The acreage weighted average royalty interest of the leased tracts within the drilling unit.

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STAFF COMMENT

Based on its discussion at the August meeting, the Committee may wish to consider:

- Whether to include the "greater of" language for the royalty interest available. For example, North Dakota allows the oil-and-gas operator to elect the 16% royalty.
- Whether the royalty during payment of the risk penalty should be limited to unleased mineral owners (the bill draft currently reflects this).
- Whether language needs to be added to specify applicability—for example, North Dakota's risk-penalty statute provides a royalty for pooling orders entered after the effective date of an amended version of the statute. See N.D. Cent. Code § 38-08-08(1), listed below:

N.D. Cent. Code 38-08-08. Integration of fractional tracts.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission upon the application of any interested person shall enter an order pooling all interests in the spacing unit for the development and operations thereof. Each such pooling order must be made after notice and hearing, and must be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, that owner's just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order must be deemed, for all purposes, the conduct of such operations

1 upon each separately owned tract in the drilling unit by  
2 the several owners thereof. That portion of the production  
3 allocated to each tract included in a spacing unit covered  
4 by a pooling order must, when produced, be deemed for all  
5 purposes to have been produced from such tract by a well  
6 drilled thereon. For the purposes of this section  
7 and section 38-08-10, any unleased mineral interest pooled  
8 by virtue of this section before August 1, 2009, is  
9 entitled to a cost-free royalty interest equal to the  
10 acreage weighted average royalty interest of the leased  
11 tracts within the spacing unit, but in no event may the  
12 royalty interest of an unleased tract be less than a one-  
13 eighth interest. An unleased mineral interest pooled after  
14 July 31, 2009, is entitled to a cost-free royalty interest  
15 equal to the acreage weighted average royalty interest of  
16 the leased tracts within the spacing unit or, at the  
17 operator's election, a cost-free royalty interest of  
18 sixteen percent. The remainder of the unleased interest  
19 must be treated as a lessee or cost-bearing interest.

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21 \*\*\*\*\*  
22 \*\*\*\*\*  
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24 **Section 2.** This act is effective July 1, 2020.

25  
26 (END)