

SENATE BILL NO. 104

INTRODUCED BY GAGE

IN THE SENATE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
JANUARY 28, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
JANUARY 29, 1993	SECOND READING, DO PASS.
JANUARY 30, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 42; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 15, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1993	SECOND READING, CONCURRED IN.
MARCH 30, 1993	THIRD READING, CONCURRED IN. AYES, 87; NOES, 13.
MARCH 31, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 31, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 104

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW GOVERNING THE POOLING AND SPACING OF OIL AND GAS WELLS; PROVIDING FOR TEMPORARY AND PERMANENT SPACING OR POOLING; PROVIDING FOR RECOVERY OF COSTS; AND AMENDING SECTIONS 82-11-201 AND 82-11-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-201, MCA, is amended to read:

"82-11-201. Establishment of well spacing units. (1) To prevent or to assist in preventing waste of oil or gas prohibited by this chapter, to avoid the drilling of unnecessary wells, or to protect correlative rights, the board, upon its own motion or upon application of an interested person, after hearing, may by order establish:

(a) temporary spacing units on a statewide basis or for defined areas within the state for oil, gas, or oil and gas wells drilled to varying depths; and

(b) permanent well spacing units for a discovered pool as-to-oil-wells-or-as-to-gas-wells-or-both, except in those pools which that, prior to April 1, 1953, have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing

~~stage of development. Spacing-units-when--established--shall insofar--as--possible--be--of-uniform-size-and-shape-for-the entire-pool--~~

(2) The size and the shape of temporary spacing units ~~shall~~ must be ~~such--as--will--result-in-the-efficient-and economic established to promote the orderly development of the--pool--as-a-whole--and-the-size-shall unproven areas and must be uniform throughout the surface area that--can--be efficiently--drained--by--one-well and depths covered by the unit. A temporary spacing unit must remain in effect until superseded by an order issued by the board or until a permanent spacing unit is established.~~

(3) Permanent spacing units do not need to be uniform in size or shape but must result in the efficient and economic development of the pool as a whole. In establishing permanent spacing units, the acreage to be embraced within a unit and the shape of the unit must be determined by the board based upon evidence introduced at the hearing. The board may divide a pool into zones and establish spacing units for each zone if necessary for a purpose mentioned in subsection (1) or to facilitate production through the use of innovative drilling and completion methods. The spacing units within the zone may differ in size and shape from spacing units in any other zone but may not be smaller than the maximum area that can be efficiently and economically

1 drained by one well.

2 ~~(3)~~(4) Subject---to---this---chapter,---the An order
3 establishing temporary or permanent spacing units ~~shall~~
4 ~~direct--that-no-more-than~~ may permit only one well may to be
5 drilled and produced from the common source of supply on any
6 spacing unit, and ~~that the well shall must~~ be drilled at a
7 location authorized by the order, with such an exception as
8 may be reasonably necessary. ~~where--it--is--shown, The~~
9 exception may be included if, upon application, notice, and
10 hearing, and the board finds that the spacing unit is
11 located on the edge of a pool or field and adjacent to a
12 producing unit or, for some other reason, that the
13 requirement to drill the well at the authorized location on
14 the spacing unit would be inequitable or unreasonable. The
15 board shall take action to offset any advantage that the
16 person securing the exception may have over other producers
17 by reason of drilling the well as an exception. The order
18 must include provisions to prevent production from the
19 spacing unit from being more than its just and equitable
20 share of the producible oil and gas in the pool.

21 ~~(4)~~(5) An order establishing temporary or permanent
22 spacing units for a pool ~~shall must~~ cover all lands then
23 determined or then believed to be underlaid by the pool and
24 may be modified after notice and hearing by the board from
25 ~~time--to--time~~ to include additional areas subsequently

1 determined to be underlaid by the pool.

2 ~~(6) When-found-necessary-for-the-prevention--of--waste,~~
3 ~~an--order--establishing--spacing--units--in--a--pool--may-be~~
4 ~~modified-after~~ The board, upon application, notice, and
5 hearing, ~~by--the-board-to~~ may increase or decrease the size
6 of a temporary or permanent spacing units-in-the--pool unit
7 or to permit the drilling of additional wells in the-pool-on
8 a--reasonably--uniform--plan a spacing unit for a purpose
9 mentioned in subsection (1)."

10 **Section 2.** Section 82-11-202, MCA, is amended to read:

11 "82-11-202. Pooling of interest within spacing unit.

12 (1) (a) When two or more separately owned tracts are
13 embraced within a temporary or permanent spacing unit or
14 when there are separately owned interests in all or a part
15 of the spacing unit, then the persons owning those interests
16 may pool their interests for the development and operation
17 of the spacing unit.

18 (b) ~~in-the-absence--of--voluntary--pooling--within--the~~
19 ~~spacing--unit--the~~ The board, upon the application of an
20 interested person, may enter an order pooling all interests
21 in the permanent spacing unit for the development and
22 operation thereof of the permanent spacing unit and the
23 allocation of production if the applicant has made an
24 unsuccessful, good faith attempt to voluntarily pool the
25 interests within the permanent spacing unit. The applicant

1 must be a person who owns an interest in the oil or gas
 2 underlying the permanent spacing unit or who has drilled a
 3 well, proposes to drill a well, or proposes to conduct other
 4 operations on a well, including recompleting, deepening, or
 5 stimulation. The pooling order ~~shall~~ must be made after a
 6 hearing and ~~shall~~ must be upon terms and conditions that are
 7 just and reasonable and that afford to the owner of each
 8 tract or interest in the permanent spacing unit the
 9 opportunity to recover or receive without unnecessary
 10 expense ~~his~~ a just and equitable share of the oil or gas
 11 produced and saved from the spacing unit. Operations
 12 incident to the drilling of a well upon any portion of a
 13 permanent spacing unit covered by a pooling order ~~shall--be~~
 14 are considered, for all purposes, the conduct of the
 15 operations upon each separately owned tract in the spacing
 16 unit by the several owners thereof of the tracts. That
 17 portion of the production allocated to each tract included
 18 in a permanent spacing unit covered by a pooling order ~~shall~~
 19 must when produced be considered for all purposes to have
 20 been produced from the tract by a well drilled thereon on
 21 the tract.

22 (2) (a) ~~The--pooling--order--shall--provide---for---the~~
 23 ~~drilling-and-operating-of-a-well-on-the-spacing-unit-and-for~~
 24 ~~the--payment--of--the-cost-thereof, which cost may include a~~
 25 ~~reasonable charge for supervision, handling, and storage. As~~

1 to each owner who refuses to pay his the owner's share of
 2 the costs of ~~drilling-and-operating-the-well~~ development or
 3 other operations referred to in subsection (1), the order
 4 ~~shall~~ must provide for payment of his the owner's share of
 5 the cost out of and only out of production from the well
 6 allocable to his the owner's interest in the permanent
 7 spacing unit, excluding royalty or other interest not
 8 obligated to pay any part of the cost ~~thereof~~, and excluding
 9 the royalty provided for in subsection (2)(c) ~~of--this~~
 10 section. If a well has not been drilled prior to the hearing
 11 on the application, the pooling order must provide for the
 12 drilling and operating of a well on the permanent spacing
 13 unit and for the payment of the cost of the well, which may
 14 include a reasonable charge for supervision, handling, and
 15 storage. If a dispute arises as to the cost, the board by
 16 subsequent order, after notice and hearing, shall determine
 17 the proper cost. The order may provide in substance that the
 18 owners who agree to share in the cost of drilling and
 19 operating the well are, unless they agree otherwise,
 20 entitled to receive, subject to royalty or similar
 21 obligations, all of the production of the well until they
 22 have recovered all of the costs out of the production, ~~and~~
 23 thereafter After all costs of drilling and operation are
 24 recovered, all of the owners in the permanent spacing unit
 25 are entitled to receive their respective shares of the

1 production of the well as their interest may appear after
2 deducting their respective shares of current operating
3 costs.

4 (b) If a well has been drilled prior to the hearing on
5 the application and an owner refuses, after written demand,
6 has failed or refused to pay his the owner's share of the
7 costs of drilling-and--operating--the--well development or
8 other operations referred to in subsection (1), or if a well
9 has not been drilled prior to the hearing on the application
10 and an owner refuses to agree to pay the owner's share of
11 drilling and completion costs, in addition to the costs
12 under subsection (2)(a), the order must include as cost
13 costs:

14 (i) 100% of the refusing owner's share of the cost of
15 newly acquired surface equipment beyond the wellhead
16 connections, including but not limited to stock tanks,
17 separators, treaters, pumping equipment, and piping, plus
18 100% of the refusing owner's share of the cost of operation
19 of the well commencing with first production and continuing
20 until the agreeing owners have recovered such the costs; and

21 (ii) 200% of the refusing owner's share of the costs and
22 expenses of staking, well site preparation, obtaining
23 rights-of-way, rigging up, drilling, reworking, deepening or
24 plugging back, testing, and completing the well, after
25 deducting any cash contributions received from the refusing

1 owners by the agreeing owners, and 200% of that portion of
2 the cost of equipment in the well, including the wellhead
3 connections.

4 (c) A refusing owner of an oil and gas interest in a
5 spacing unit which that is not subject to any lease or other
6 contract for development of oil and gas is considered to own
7 a landowner royalty equal to one-eighth of his the owner's
8 proportionate share of production from the well until such
9 time as the consenting owners recover the costs specified in
10 subsection (2)(b). Any interest in production from the
11 spacing unit to which the interest of the refusing owner may
12 be subject must be deducted from the royalty considered to
13 be owned by the refusing owner. After costs have been
14 recovered by the agreeing owners, the refusing owner owns
15 his the refusing owner's proportionate share of the well,
16 surface facilities, and production and is liable for further
17 costs as if he the refusing owner had originally agreed to
18 drilling of the well.

19 (d) The operator of a well under a pooling order in
20 which there is a refusing owner shall upon demand furnish
21 such the refusing owner with a monthly statement of all
22 costs incurred, together with the quantity of oil or gas
23 produced and the amount of proceeds realized from the sale
24 of production during the preceding month.

25 (e) If an owner of an oil and gas interest in a

1 temporary spacing unit refuses to agree to pay the owner's
2 share of the costs of drilling and operating a well drilled
3 within the unit and an application is filed for pooling of
4 the interests in the well in a permanent spacing unit, the
5 board shall, upon hearing the application for pooling of the
6 interests for the well, order that the parties who agreed to
7 share in the cost of drilling and operating the well prior
8 to commencement of the drilling operation recover out of the
9 refusing owner's share of the costs as provided in
10 subsections (2)(a) and (2)(b).

11 (3) (a) An owner is presumed to have refused to pay the
12 owner's share of costs if prior to the spud date of the
13 well, the owner fails to pay or agree in writing to promptly
14 pay the share of the costs after notice by the well operator
15 either:

16 (i) acknowledged in writing by the owner as received;
17 or

18 (ii) sent at least 30 days prior to the spud date of the
19 well to the owner by certified mail, addressed to the
20 owner's address of record in the office of the clerk and
21 recorder of the county where the well is to be drilled or to
22 the owner's address on file with the board.

23 (b) The notice must set forth the location of the well,
24 the projected depth and target formations, the anticipated
25 costs of drilling and completing the well, and the

1 anticipated spud date of the well."

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

INTRODUCED BY Senate BILL NO. 104
104

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW GOVERNING THE POOLING AND SPACING OF OIL AND GAS WELLS; PROVIDING FOR TEMPORARY AND PERMANENT SPACING OR POOLING; PROVIDING FOR RECOVERY OF COSTS; AND AMENDING SECTIONS 82-11-201 AND 82-11-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-201, MCA, is amended to read:

"82-11-201. Establishment of well spacing units. (1) To prevent or to assist in preventing waste of oil or gas prohibited by this chapter, to avoid the drilling of unnecessary wells, or to protect correlative rights, the board, upon its own motion or upon application of an interested person, after hearing, may by order establish:

(a) temporary spacing units on a statewide basis or for defined areas within the state for oil, gas, or oil and gas wells drilled to varying depths; and

(b) permanent well spacing units for a discovered pool as-to-oil-wells-or-as-to-gas-wells-or-both, except in those pools which that, prior to April 1, 1953, have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing

stage of development. Spacing-units-when--established--shall insofar--as--possible--be--of-uniform-size-and-shape-for-the entire-pool-

(2) The size and the shape of temporary spacing units shall must be such--as--will--result-in-the-efficient-and economic established to promote the orderly development of the--pool--as-a-whole, and the size shall unproven areas and must be uniform throughout the surface area that--can--be efficiently--drained--by--one-well and depths covered by the unit. A temporary spacing unit must remain in effect until superseded by an order issued by the board or until a permanent spacing unit is established.

(3) Permanent spacing units do not need to be uniform in size or shape but must result in the efficient and economic development of the pool as a whole. In establishing permanent spacing units, the acreage to be embraced within a unit and the shape of the unit must be determined by the board based upon evidence introduced at the hearing. The board may divide a pool into zones and establish spacing units for each zone if necessary for a purpose mentioned in subsection (1) or to facilitate production through the use of innovative drilling and completion methods. The spacing units within the zone may differ in size and shape from spacing units in any other zone but may not be smaller than the maximum area that can be efficiently and economically

1 drained by one well.

2 ~~{3}~~(4) Subject---to---this---chapter,---the An order
3 establishing temporary or permanent spacing units shall
4 direct--that-no-more-than may permit only one well may to be
5 drilled and produced from the common source of supply on any
6 spacing unit, and that the well shall must be drilled at a
7 location authorized by the order, with such an exception as
8 may be reasonably necessary, where--it--is--shown, The
9 exception may be included if, upon application, notice, and
10 hearing, and the board finds that the spacing unit is
11 located on the edge of a pool or field and adjacent to a
12 producing unit or, for some other reason, that the
13 requirement to drill the well at the authorized location on
14 the spacing unit would be inequitable or unreasonable. The
15 board shall take action to offset any advantage that the
16 person securing the exception may have over other producers
17 by reason of drilling the well as an exception. The order
18 must include provisions to prevent production from the
19 spacing unit from being more than its just and equitable
20 share of the producible oil and gas in the pool.

21 ~~{4}~~(5) An order establishing temporary or permanent
22 spacing units for a pool shall must cover all lands then
23 determined or then believed to be underlaid by the pool and
24 may be modified after notice and hearing by the board from
25 time--to--time to include additional areas subsequently

1 determined to be underlaid by the pool.

2 ~~(6)~~ When-found-necessary-for-the-prevention--of--waster
3 an--order--establishing--spacing--units--in--a--pool--may-be
4 modified-after The board, upon application, notice, and
5 hearing, by--the-board-to may increase or decrease the size
6 of a temporary or permanent spacing units--in-the--pool unit
7 or to permit the drilling of additional wells in the-pool-on
8 a--reasonably--uniform--plan a spacing unit for a purpose
9 mentioned in subsection (1)."

10 **Section 2.** Section 82-11-202, MCA, is amended to read:

11 "82-11-202. Pooling of interest within spacing unit.

12 (1) (a) When two or more separately owned tracts are
13 embraced within a temporary or permanent spacing unit or
14 when there are separately owned interests in all or a part
15 of the spacing unit, then the persons owning those interests
16 may pool their interests for the development and operation
17 of the spacing unit.

18 (b) In-the-absence--of--voluntary--pooling--within--the
19 spacing--unit,--the The board, upon the application of an
20 interested person, may enter an order pooling all interests
21 in the permanent spacing unit for the development and
22 operation thereof of the permanent spacing unit and the
23 allocation of production if the applicant has made an
24 unsuccessful, good faith attempt to voluntarily pool the
25 interests within the permanent spacing unit. The applicant

1 must be a person who owns an interest in the oil or gas
 2 underlying the permanent spacing unit or who has drilled a
 3 well, proposes to drill a well, or proposes to conduct other
 4 operations on a well, including recompleting, deepening, or
 5 stimulation. The pooling order shall must be made after a
 6 hearing and shall must be upon terms and conditions that are
 7 just and reasonable and that afford to the owner of each
 8 tract or interest in the permanent spacing unit the
 9 opportunity to recover or receive without unnecessary
 10 expense his a just and equitable share of the oil or gas
 11 produced and saved from the spacing unit. Operations
 12 incident to the drilling of a well upon any portion of a
 13 permanent spacing unit covered by a pooling order shall--be
 14 are considered, for all purposes, the conduct of the
 15 operations upon each separately owned tract in the spacing
 16 unit by the several owners thereof of the tracts. That
 17 portion of the production allocated to each tract included
 18 in a permanent spacing unit covered by a pooling order shall
 19 must when produced be considered for all purposes to have
 20 been produced from the tract by a well drilled thereon on
 21 the tract.

22 (2) (a) ~~The--pooling--order--shall--provide---for---the~~
 23 ~~drilling-and-operating-of-a-well-on-the-spacing-unit-and-for~~
 24 ~~the--payment--of--the-cost-thereof, which cost may include a~~
 25 ~~reasonable charge for supervision, handling, and storage. As~~

1 to each owner who refuses to pay his the owner's share of
 2 the costs of drilling-and-operating-the-well development or
 3 other operations referred to in subsection (1), the order
 4 shall must provide for payment of his the owner's share of
 5 the cost out of and only out of production from the well
 6 allocable to his the owner's interest in the permanent
 7 spacing unit, excluding royalty or other interest not
 8 obligated to pay any part of the cost thereof, and excluding
 9 the royalty provided for in subsection (2)(c) of--this
 10 section. If a well has not been drilled prior to the hearing
 11 on the application, the pooling order must provide for the
 12 drilling and operating of a well on the permanent spacing
 13 unit and for the payment of the cost of the well, which may
 14 include a reasonable charge for supervision, handling, and
 15 storage. If a dispute arises as to the cost, the board by
 16 subsequent order, after notice and hearing, shall determine
 17 the proper cost. The order may provide in substance that the
 18 owners who agree to share in the cost of drilling and
 19 operating the well are, unless they agree otherwise,
 20 entitled to receive, subject to royalty or similar
 21 obligations, all of the production of the well until they
 22 have recovered all of the costs out of the production, ~~and~~
 23 thereafter After all costs of drilling and operation are
 24 recovered, all of the owners in the permanent spacing unit
 25 are entitled to receive their respective shares of the

production of the well as their interest may appear after deducting their respective shares of current operating costs.

(b) If a well has been drilled prior to the hearing on the application and an owner refuses, after written demand, has failed or refused to pay his the owner's share of the costs of drilling-and--operating--the--well development or other operations referred to in subsection (1), or if a well has not been drilled prior to the hearing on the application and an owner refuses to agree to pay the owner's share of drilling and completion costs, in addition to the costs under subsection (2)(a), the order must include as cost costs:

(i) 100% of the refusing owner's share of the cost of newly acquired surface equipment beyond the wellhead connections, including but not limited to stock tanks, separators, treaters, pumping equipment, and piping, plus 100% of the refusing owner's share of the cost of operation of the well commencing with first production and continuing until the agreeing owners have recovered such the costs; and

(ii) 200% of the refusing owner's share of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received from the refusing

owners by the agreeing owners, and 200% of that portion of the cost of equipment in the well, including the wellhead connections.

(c) A refusing owner of an oil and gas interest in a spacing unit which that is not subject to any lease or other contract for development of oil and gas is considered to own a landowner royalty equal to one-eighth of his the owner's proportionate share of production from the well until such time as the consenting owners recover the costs specified in subsection (2)(b). Any interest in production from the spacing unit to which the interest of the refusing owner may be subject must be deducted from the royalty considered to be owned by the refusing owner. After costs have been recovered by the agreeing owners, the refusing owner owns his the refusing owner's proportionate share of the well, surface facilities, and production and is liable for further costs as if he the refusing owner had originally agreed to drilling of the well.

(d) The operator of a well under a pooling order in which there is a refusing owner shall upon demand furnish such the refusing owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced and the amount of proceeds realized from the sale of production during the preceding month.

(e) If an owner of an oil and gas interest in a

1 temporary spacing unit refuses to agree to pay the owner's
 2 share of the costs of drilling and operating a well drilled
 3 within the unit and an application is filed for pooling of
 4 the interests in the well in a permanent spacing unit, the
 5 board shall, upon hearing the application for pooling of the
 6 interests for the well, order that the parties who agreed to
 7 share in the cost of drilling and operating the well prior
 8 to commencement of the drilling operation recover out of the
 9 refusing owner's share of the costs as provided in
 10 subsections (2)(a) and (2)(b).

11 (3) (a) An owner is presumed to have refused to pay the
 12 owner's share of costs if prior to the spud date of the
 13 well, the owner fails to pay or agree in writing to promptly
 14 pay the share of the costs after notice by the well operator
 15 either:

16 (i) acknowledged in writing by the owner as received;
 17 or

18 (ii) sent at least 30 days prior to the spud date of the
 19 well to the owner by certified mail, addressed to the
 20 owner's address of record in the office of the clerk and
 21 recorder of the county where the well is to be drilled or to
 22 the owner's address on file with the board.

23 (b) The notice must set forth the location of the well,
 24 the projected depth and target formations, the anticipated
 25 costs of drilling and completing the well, and the

1 anticipated spud date of the well."

-End-

1 Senate BILL NO. 104
 2 INTRODUCED BY [Signature]
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
 5 GOVERNING THE POOLING AND SPACING OF OIL AND GAS WELLS;
 6 PROVIDING FOR TEMPORARY AND PERMANENT SPACING OR POOLING;
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 82-11-201, MCA, is amended to read:

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 17 interested person, after hearing, may by order establish:

18 (a) temporary spacing units on a statewide basis or for
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 20 wells drilled to varying depths; and

21 (b) permanent well spacing units for a discovered pool
 22 as-to-oil-wells-or-as-to-gas-wells-or-both, except in those
 23 pools which that, prior to April 1, 1953, have been
 24 developed to such an extent that it would be impracticable
 25 or unreasonable to establish spacing units at the existing

1 stage of development. ~~Spacing units when established shall~~
 2 ~~insofar as possible be of uniform size and shape for the~~
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4 (2) The size and the shape of temporary spacing units
 5 shall must be such ~~as will result in the efficient and~~
 6 economic established to promote the orderly development of
 7 the pool as a whole, and the size shall unproven areas and
 8 must be uniform throughout the surface area that can be
 9 efficiently drained by one well and depths covered by the
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 11 superseded by an order issued by the board or until a
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13 (3) Permanent spacing units do not need to be uniform
 14 in size or shape but must result in the efficient and
 15 economic development of the pool as a whole. In establishing
 16 permanent spacing units, the acreage to be embraced within a
 17 unit and the shape of the unit must be determined by the
 18 board based upon evidence introduced at the hearing. The
 19 board may divide a pool into zones and establish spacing
 20 units for each zone if necessary for a purpose mentioned in
 21 subsection (1) or to facilitate production through the use
 22 of innovative drilling and completion methods. The spacing
 23 units within the zone may differ in size and shape from
 24 spacing units in any other zone but may not be smaller than
 25 the maximum area that can be efficiently and economically

drained by one well.

{3}(4) Subject---to---this---chapter,---the An order establishing temporary or permanent spacing units shall direct--that-no-more-than may permit only one well may to be drilled and produced from the common source of supply on any spacing unit, and that the well shall must be drilled at a location authorized by the order, with such an exception as may be reasonably necessary. where--it--is--shown, The exception may be included if, upon application, notice, and hearing, and the board finds that the spacing unit is located on the edge of a pool or field and adjacent to a producing unit or, for some other reason, that the requirement to drill the well at the authorized location on the spacing unit would be inequitable or unreasonable. The board shall take action to offset any advantage that the person securing the exception may have over other producers by reason of drilling the well as an exception. The order must include provisions to prevent production from the spacing unit from being more than its just and equitable share of the producible oil and gas in the pool.

{4}(5) An order establishing temporary or permanent spacing units for a pool shall must cover all lands then determined or then believed to be underlaid by the pool and may be modified after notice and hearing by the board from time--to--time to include additional areas subsequently

determined to be underlaid by the pool.

(6) When-found-necessary-for-the-prevention--of--waste, an--order--establishing--spacing--units--in--a--pool--may-be modified-after The board, upon application, notice, and hearing, by--the-board-to may increase or decrease the size of a temporary or permanent spacing units-in-the--pool unit or to permit the drilling of additional wells in the-pool-on a--reasonably--uniform--plan a spacing unit for a purpose mentioned in subsection (1)."

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(1) (a) When two or more separately owned tracts are embraced within a temporary or permanent spacing unit or when there are separately owned interests in all or a part of the spacing unit, then the persons owning those interests may pool their interests for the development and operation of the spacing unit.

(b) in-the-absence-of--voluntary--pooling--within--the spacing--unit,--the The board, upon the application of an interested person, may enter an order pooling all interests in the permanent spacing unit for the development and operation thereof of the permanent spacing unit and the allocation of production if the applicant has made an unsuccessful, good faith attempt to voluntarily pool the interests within the permanent spacing unit. The applicant

1 must be a person who owns an interest in the oil or gas
 2 underlying the permanent spacing unit or who has drilled a
 3 well, proposes to drill a well, or proposes to conduct other
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 7 just and reasonable and that afford to the owner of each
 8 tract or interest in the permanent spacing unit the
 9 opportunity to recover or receive without unnecessary
 10 expense his a just and equitable share of the oil or gas
 11 produced and saved from the spacing unit. Operations
 12 incident to the drilling of a well upon any portion of a
 13 permanent spacing unit covered by a pooling order shall--be
 14 are considered, for all purposes, the conduct of the
 15 operations upon each separately owned tract in the spacing
 16 unit by the several owners thereof of the tracts. That
 17 portion of the production allocated to each tract included
 18 in a permanent spacing unit covered by a pooling order shall
 19 must when produced be considered for all purposes to have
 20 been produced from the tract by a well drilled thereon on
 21 the tract.

22 (2) (a) ~~The--pooling--order--shall--provide---for---the~~
 23 ~~drilling-and-operating-of-a-well-on-the-spacing-unit-and-for~~
 24 ~~the--payment--of--the-cost--thereof, which cost may include a~~
 25 ~~reasonable charge for supervision, handling, and storage. As~~

1 to each owner who refuses to pay his the owner's share of
 2 the costs of drilling-and-operating-the-well development or
 3 other operations referred to in subsection (1), the order
 4 shall must provide for payment of his the owner's share of
 5 the cost out of and only out of production from the well
 6 allocable to his the owner's interest in the permanent
 7 spacing unit, excluding royalty or other interest not
 8 obligated to pay any part of the cost thereof, and excluding
 9 the royalty provided for in subsection (2)(c) of--this
 10 section. If a well has not been drilled prior to the hearing
 11 on the application, the pooling order must provide for the
 12 drilling and operating of a well on the permanent spacing
 13 unit and for the payment of the cost of the well, which may
 14 include a reasonable charge for supervision, handling, and
 15 storage. If a dispute arises as to the cost, the board by
 16 subsequent order, after notice and hearing, shall determine
 17 the proper cost. The order may provide in substance that the
 18 owners who agree to share in the cost of drilling and
 19 operating the well are, unless they agree otherwise,
 20 entitled to receive, subject to royalty or similar
 21 obligations, all of the production of the well until they
 22 have recovered all of the costs out of the production, 7-and
 23 thereafter After all costs of drilling and operation are
 24 recovered, all of the owners in the permanent spacing unit
 25 are entitled to receive their respective shares of the

1 production of the well as their interest may appear after
2 deducting their respective shares of current operating
3 costs.

4 (b) If a well has been drilled prior to the hearing on
5 the application and an owner refuses, after written demand,
6 has failed or refused to pay his the owner's share of the
7 costs of drilling-and--operating--the--well development or
8 other operations referred to in subsection (1), or if a well
9 has not been drilled prior to the hearing on the application
10 and an owner refuses to agree to pay the owner's share of
11 drilling and completion costs, in addition to the costs
12 under subsection (2)(a), the order must include as cost
13 costs:

14 (i) 100% of the refusing owner's share of the cost of
15 newly acquired surface equipment beyond the wellhead
16 connections, including but not limited to stock tanks,
17 separators, treaters, pumping equipment, and piping, plus
18 100% of the refusing owner's share of the cost of operation
19 of the well commencing with first production and continuing
20 until the agreeing owners have recovered such the costs; and

21 (ii) 200% of the refusing owner's share of the costs and
22 expenses of staking, well site preparation, obtaining
23 rights-of-way, rigging up, drilling, reworking, deepening or
24 plugging back, testing, and completing the well, after
25 deducting any cash contributions received from the refusing

1 owners by the agreeing owners, and 200% of that portion of
2 the cost of equipment in the well, including the wellhead
3 connections.

4 (c) A refusing owner of an oil and gas interest in a
5 spacing unit which that is not subject to any lease or other
6 contract for development of oil and gas is considered to own
7 a landowner royalty equal to one-eighth of his the owner's
8 proportionate share of production from the well until such
9 time as the consenting owners recover the costs specified in
10 subsection (2)(b). Any interest in production from the
11 spacing unit to which the interest of the refusing owner may
12 be subject must be deducted from the royalty considered to
13 be owned by the refusing owner. After costs have been
14 recovered by the agreeing owners, the refusing owner owns
15 his the refusing owner's proportionate share of the well,
16 surface facilities, and production and is liable for further
17 costs as if he the refusing owner had originally agreed to
18 drilling of the well.

19 (d) The operator of a well under a pooling order in
20 which there is a refusing owner shall upon demand furnish
21 such the refusing owner with a monthly statement of all
22 costs incurred, together with the quantity of oil or gas
23 produced and the amount of proceeds realized from the sale
24 of production during the preceding month.

25 (e) If an owner of an oil and gas interest in a

1 temporary spacing unit refuses to agree to pay the owner's
2 share of the costs of drilling and operating a well drilled
3 within the unit and an application is filed for pooling of
4 the interests in the well in a permanent spacing unit, the
5 board shall, upon hearing the application for pooling of the
6 interests for the well, order that the parties who agreed to
7 share in the cost of drilling and operating the well prior
8 to commencement of the drilling operation recover out of the
9 refusing owner's share of the costs as provided in
10 subsections (2)(a) and (2)(b).

11 (3) (a) An owner is presumed to have refused to pay the
12 owner's share of costs if prior to the spud date of the
13 well, the owner fails to pay or agree in writing to promptly
14 pay the share of the costs after notice by the well operator
15 either:

16 (i) acknowledged in writing by the owner as received;

17 or

18 (ii) sent at least 30 days prior to the spud date of the
19 well to the owner by certified mail, addressed to the
20 owner's address of record in the office of the clerk and
21 recorder of the county where the well is to be drilled or to
22 the owner's address on file with the board.

23 (b) The notice must set forth the location of the well,
24 the projected depth and target formations, the anticipated
25 costs of drilling and completing the well, and the

1 anticipated spud date of the well."

-End-

SENATE BILL NO. 104

INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW GOVERNING THE POOLING AND SPACING OF OIL AND GAS WELLS; PROVIDING FOR TEMPORARY AND PERMANENT SPACING OR POOLING; PROVIDING FOR RECOVERY OF COSTS; AND AMENDING SECTIONS 82-11-201 AND 82-11-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-201, MCA, is amended to read:

"82-11-201. Establishment of well spacing units. (1) To prevent or to assist in preventing waste of oil or gas prohibited by this chapter, to avoid the drilling of unnecessary wells, or to protect correlative rights, the board, upon its own motion or upon application of an interested person, after hearing, may by order establish:

(a) temporary spacing units on a statewide basis or for defined areas within the state for oil, gas, or oil and gas wells drilled to varying depths; and

(b) permanent well spacing units for a discovered pool as--to-oil-wells-or-as-to-gas-wells-or-both, except in those pools which that, prior to April 1, 1953, have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing

~~stage of development. Spacing-units-when--established--shall insofar--as--possible--be--of-uniform-size-and-shape-for-the entire-pool;~~

(2) The size and the shape of temporary spacing units shall must be ~~such--as--will--result-in-the-efficient-and economic~~ established to promote the orderly development of the--pool--as-a-whole, and the size shall unproven areas and must be uniform throughout the surface area that--can--be efficiently--drained--by--one-well and depths covered by the unit. A temporary spacing unit must remain in effect until superseded by an order issued by the board or until a permanent spacing unit is established.

(3) Permanent spacing units do not need to be uniform in size or shape but must result in the efficient and economic development of the pool as a whole. In establishing permanent spacing units, the acreage to be embraced within a unit and the shape of the unit must be determined by the board based upon evidence introduced at the hearing. The board may divide a pool into zones and establish spacing units for each zone if necessary for a purpose mentioned in subsection (1) or to facilitate production through the use of innovative drilling and completion methods. The spacing units within the zone may differ in size and shape from spacing units in any other zone but may not be smaller than the maximum area that can be efficiently and economically

1 drained by one well.

2 ~~(3)~~(4) Subject---to---this---chapter,---the An order
3 establishing temporary or permanent spacing units ~~shall~~
4 ~~direct--that--no--more--than~~ may permit only one well may to be
5 drilled and produced from the common source of supply on any
6 spacing unit, and that the well ~~shall~~ must be drilled at a
7 location authorized by the order, with such an exception as
8 may be reasonably necessary. ~~where--it--is--shown,~~ The
9 exception may be included if, upon application, notice, and
10 hearing, and the board finds that the spacing unit is
11 located on the edge of a pool or field and adjacent to a
12 producing unit or, for some other reason, that the
13 requirement to drill the well at the authorized location on
14 the spacing unit would be inequitable or unreasonable. The
15 board shall take action to offset any advantage that the
16 person securing the exception may have over other producers
17 by reason of drilling the well as an exception. The order
18 must include provisions to prevent production from the
19 spacing unit from being more than its just and equitable
20 share of the producible oil and gas in the pool.

21 ~~(4)~~(5) An order establishing temporary or permanent
22 spacing units for a pool ~~shall~~ must cover all lands then
23 determined or then believed to be underlaid by the pool and
24 may be modified after notice and hearing by the board from
25 time--to--time to include additional areas subsequently

1 determined to be underlaid by the pool.

2 ~~(6)~~ When-found-necessary-for-the-prevention--of--waster
3 an--order--establishing--spacing--units--in--a--pool--may-be
4 modified-after The board, upon application, notice, and
5 hearing, ~~by--the-board-to~~ may increase or decrease the size
6 of a temporary or permanent spacing units-in-the--pool unit
7 or to permit the drilling of additional wells in the-pool-on
8 a--reasonably--uniform--plan a spacing unit for a purpose
9 mentioned in subsection (1)."

10 **Section 2.** Section 82-11-202, MCA, is amended to read:

11 **"82-11-202. Pooling of interest within spacing unit.**

12 (1) (a) When two or more separately owned tracts are
13 embraced within a temporary or permanent spacing unit or
14 when there are separately owned interests in all or a part
15 of the spacing unit, then the persons owning those interests
16 may pool their interests for the development and operation
17 of the spacing unit.

18 (b) ~~In-the-absence--of--voluntary--pooling--within--the~~
19 ~~spacing--unity--the~~ The board, upon the application of an
20 interested person, may enter an order pooling all interests
21 in the permanent spacing unit for the development and
22 operation thereof of the permanent spacing unit and the
23 allocation of production if the applicant has made an
24 unsuccessful, good faith attempt to voluntarily pool the
25 interests within the permanent spacing unit. The applicant

1 must be a person who owns an interest in the oil or gas
 2 underlying the permanent spacing unit or who has drilled a
 3 well, proposes to drill a well, or proposes to conduct other
 4 operations on a well, including recompleting, deepening, or
 5 stimulation. The pooling order ~~shall~~ must be made after a
 6 hearing and ~~shall~~ must be upon terms and conditions that are
 7 just and reasonable and that afford to the owner of each
 8 tract or interest in the permanent spacing unit the
 9 opportunity to recover or receive without unnecessary
 10 expense his a just and equitable share of the oil or gas
 11 produced and saved from the spacing unit. Operations
 12 incident to the drilling of a well upon any portion of a
 13 permanent spacing unit covered by a pooling order ~~shall--be~~
 14 are considered, for all purposes, the conduct of the
 15 operations upon each separately owned tract in the spacing
 16 unit by the several owners thereof of the tracts. That
 17 portion of the production allocated to each tract included
 18 in a permanent spacing unit covered by a pooling order ~~shall~~
 19 must when produced be considered for all purposes to have
 20 been produced from the tract by a well drilled thereon on
 21 the tract.

22 (2) (a) ~~The--pooling--order--shall--provide--for--the~~
 23 ~~drilling-and-operating-of-a-well-on-the-spacing-unit-and-for~~
 24 ~~the--payment--of--the-cost--thereof,--which--cost--may--include--a~~
 25 ~~reasonable-charge-for-supervision,--handling,--and-storage.~~ As

1 to each owner who refuses to pay his the owner's share of
 2 the costs of ~~drilling-and-operating-the-well~~ development or
 3 other operations referred to in subsection (1), the order
 4 ~~shall~~ must provide for payment of his the owner's share of
 5 the cost out of and only out of production from the well
 6 allocable to his the owner's interest in the permanent
 7 spacing unit, excluding royalty or other interest not
 8 obligated to pay any part of the cost thereof, and excluding
 9 the royalty provided for in subsection (2)(c) of--~~this~~
 10 section. If a well has not been drilled prior to the hearing
 11 on the application, the pooling order must provide for the
 12 drilling and operating of a well on the permanent spacing
 13 unit and for the payment of the cost of the well, which may
 14 include a reasonable charge for supervision, handling, and
 15 storage. If a dispute arises as to the cost, the board by
 16 subsequent order, after notice and hearing, shall determine
 17 the proper cost. The order may provide in substance that the
 18 owners who agree to share in the cost of drilling and
 19 operating the well are, unless they agree otherwise,
 20 entitled to receive, subject to royalty or similar
 21 obligations, all of the production of the well until they
 22 have recovered all of the costs out of the production. ~~7-and~~
 23 thereafter After all costs of drilling and operation are
 24 recovered, all of the owners in the permanent spacing unit
 25 are entitled to receive their respective shares of the

1 production of the well as their interest may appear after
2 deducting their respective shares of current operating
3 costs.

4 (b) If a well has been drilled prior to the hearing on
5 the application and an owner refuses, after written demand,
6 has failed or refused to pay his the owner's share of the
7 costs of drilling-and--operating--the--well development or
8 other operations referred to in subsection (1), or if a well
9 has not been drilled prior to the hearing on the application
10 and an owner refuses to agree to pay the owner's share of
11 drilling and completion costs, in addition to the costs
12 under subsection (2)(a), the order must include as cost
13 costs:

14 (i) 100% of the refusing owner's share of the cost of
15 newly acquired surface equipment beyond the wellhead
16 connections, including but not limited to stock tanks,
17 separators, treaters, pumping equipment, and piping, plus
18 100% of the refusing owner's share of the cost of operation
19 of the well commencing with first production and continuing
20 until the agreeing owners have recovered such the costs; and

21 (ii) 200% of the refusing owner's share of the costs and
22 expenses of staking, well site preparation, obtaining
23 rights-of-way, rigging up, drilling, reworking, deepening or
24 plugging back, testing, and completing the well, after
25 deducting any cash contributions received from the refusing

1 owners by the agreeing owners, and 200% of that portion of
2 the cost of equipment in the well, including the wellhead
3 connections.

4 (c) A refusing owner of an oil and gas interest in a
5 spacing unit which that is not subject to any lease or other
6 contract for development of oil and gas is considered to own
7 a landowner royalty equal to one-eighth of his the owner's
8 proportionate share of production from the well until such
9 time as the consenting owners recover the costs specified in
10 subsection (2)(b). Any interest in production from the
11 spacing unit to which the interest of the refusing owner may
12 be subject must be deducted from the royalty considered to
13 be owned by the refusing owner. After costs have been
14 recovered by the agreeing owners, the refusing owner owns
15 his the refusing owner's proportionate share of the well,
16 surface facilities, and production and is liable for further
17 costs as if he the refusing owner had originally agreed to
18 drilling of the well.

19 (d) The operator of a well under a pooling order in
20 which there is a refusing owner shall upon demand furnish
21 such the refusing owner with a monthly statement of all
22 costs incurred, together with the quantity of oil or gas
23 produced and the amount of proceeds realized from the sale
24 of production during the preceding month.

25 (e) If an owner of an oil and gas interest in a

1 temporary spacing unit refuses to agree to pay the owner's
 2 share of the costs of drilling and operating a well drilled
 3 within the unit and an application is filed for pooling of
 4 the interests in the well in a permanent spacing unit, the
 5 board shall, upon hearing the application for pooling of the
 6 interests for the well, order that the parties who agreed to
 7 share in the cost of drilling and operating the well prior
 8 to commencement of the drilling operation recover out of the
 9 refusing owner's share of the costs as provided in
 10 subsections (2)(a) and (2)(b).

11 (3) (a) An owner is presumed to have refused to pay the
 12 owner's share of costs if prior to the spud date of the
 13 well, the owner fails to pay or agree in writing to promptly
 14 pay the share of the costs after notice by the well operator
 15 either:

16 (i) acknowledged in writing by the owner as received;
 17 or

18 (ii) sent at least 30 days prior to the spud date of the
 19 well to the owner by certified mail, addressed to the
 20 owner's address of record in the office of the clerk and
 21 recorder of the county where the well is to be drilled or to
 22 the owner's address on file with the board.

23 (b) The notice must set forth the location of the well,
 24 the projected depth and target formations, the anticipated
 25 costs of drilling and completing the well, and the

1 anticipated spud date of the well."

-End-