

Trends in State Natural Gas Supply Chain Legislation (2013 - 2014) September 2014

State governments in the U.S. bear much of the responsibility for regulating natural gas production, transportation, storage, and end use. While most regulation of the industry occurs through existing agency authority, state legislatures play an important role by overseeing the activities of and delegating authority to these organizations. CNEE analyzed 2013¹ and 2014 natural gas legislation archived in our Advanced Energy Legislation Tracker ([AEL Tracker](#)) database. For this analysis, we categorized bills into three primary categories: upstream, midstream, and downstream. We consider upstream policy to cover exploration and production; midstream policies relate to pipelines and storage; and bills categorized as downstream address end uses such as space heating, transportation, electric generation, and industrial applications. Within each stream, we further classify these bills by policy area.

Highlights:

1. The total volume of enacted natural gas legislation was greater in 2013 than in 2014 (99 bills and 58 bills, respectively).
2. Legislative changes related to upstream policies – exploration and production – have been the most frequently enacted to date, with a total of 92 bills becoming law over the course of two years. This legislation has tended to be concentrated in states that overlie natural gas resources.
3. Upstream - In the upstream category, split estate legislation (23 bills) and changes related to severance and property taxes (22 bills) have been the most frequently enacted.
4. Midstream - Most of the changes to midstream-related policies treat some aspect of pipeline safety including leaks and leak reporting, inspections and penalties, licensing conditions for pipeline technicians, and excavation notification requirements (14 bills).
5. Downstream - Bills related to the use of natural gas in the transportation sector have been the most frequently enacted changes to downstream policies (12 bills).

¹ Data for 2013 activity is pulled from last year's [Year in Review analysis](#).

Natural Gas Legislation: Frequency across the Supply Chain

In 2013, state lawmakers enacted 99 unique² bills related to natural gas production, distribution, and consumption. In 2014, 58 were enacted. Figure 1, below, shows the breakdown by year of enacted legislation. The fact that 2013 was a more active year was probably driven by a number of factors: in even years, many states hold shorter sessions, four states do not hold sessions at all, and another four hold budget or fiscal sessions. The pending midterm elections may also play a role. As we look across the supply chain, the frequency of enacted legislation decreases.

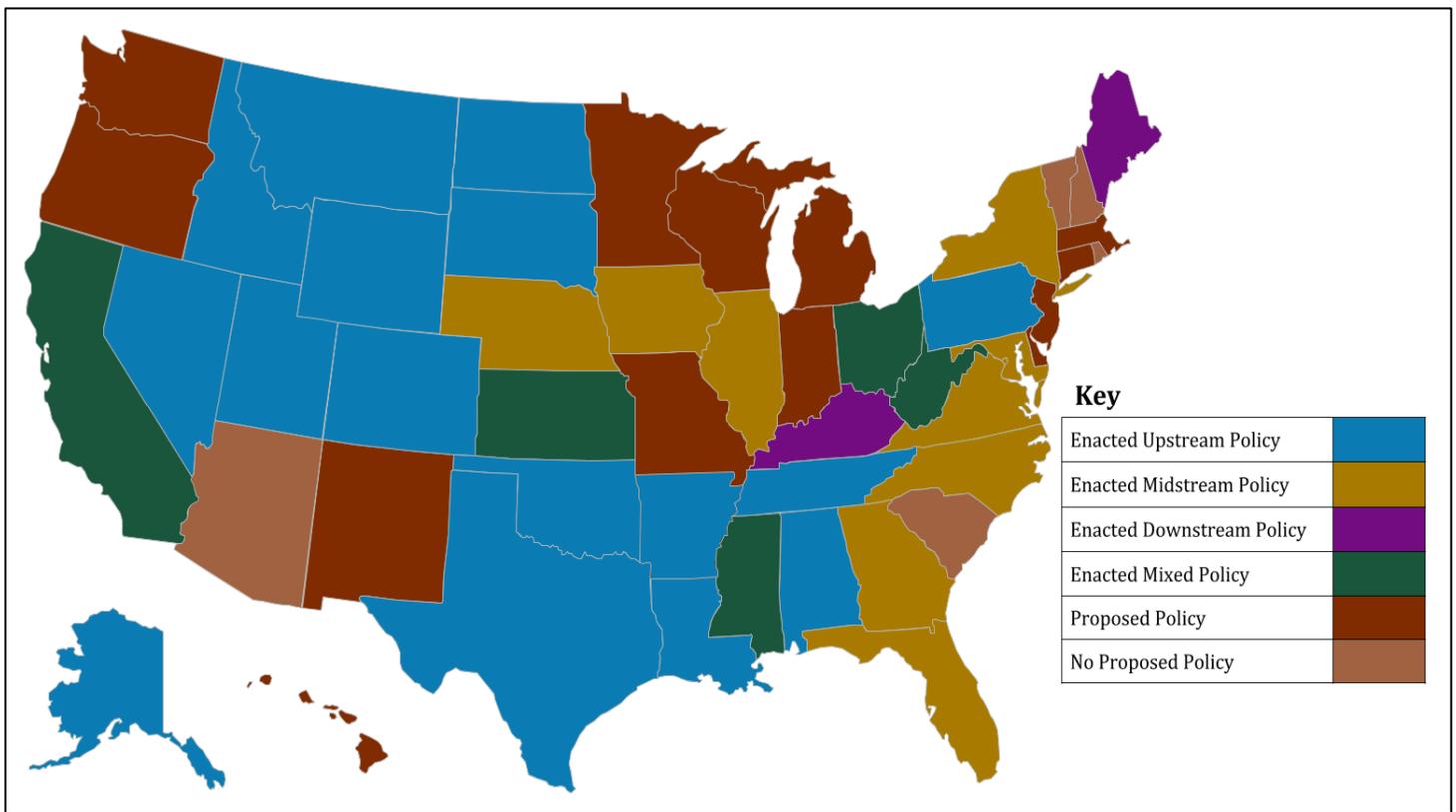
Figure 1. Enacted Legislation 2013 - 2014



State Activity

In Maps 1 and 2, below, we take a look at the categories of legislation enacted by each state.³

Map 1: Proposed and Enacted Natural Gas Legislation, 2013.



² Companion bills are counted as a single bill in all analyses by CNEE. We track the version that made it the furthest in the legislative process.

³ All data used in this paper reflect bills contained in the AEL tracker as of July 31st, 2014. States are coded to reflect the dominant policy category (>50%) enacted. States coded 'Mixed Policy' enacted an equal number of bills in two or more categories.

In the last two years, every state except Rhode Island and South Carolina considered at least one bill related to the natural gas supply chain. In 2013, 31 states passed new laws. In 2014, 26 states did so. Over the course of this period, 38 individual states have enacted at least one bill. Upstream policy changes, with a few exceptions, dominated enacted legislation in the states that overlie [natural gas resources](#).

Map 2: Proposed and Enacted Natural Gas Legislation, 2014.

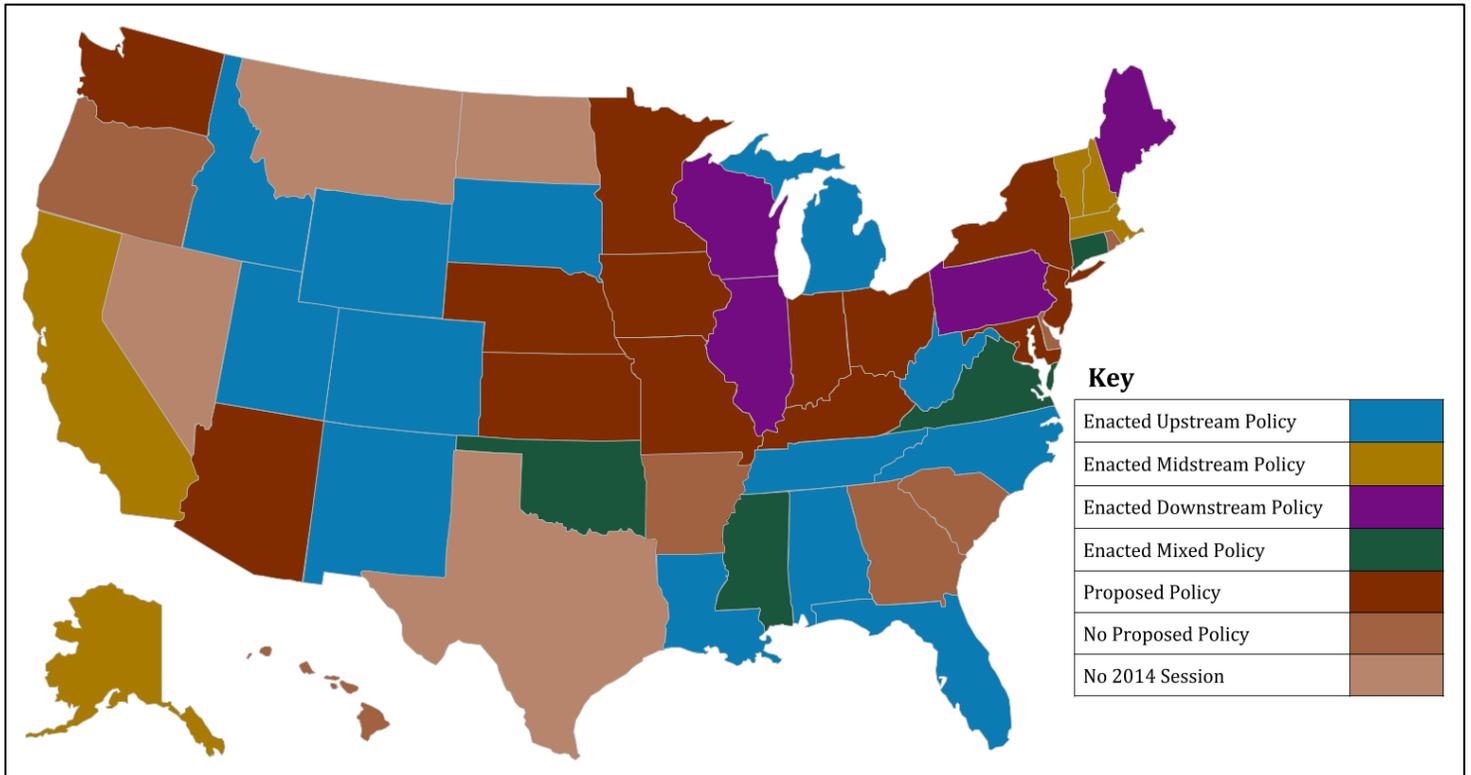
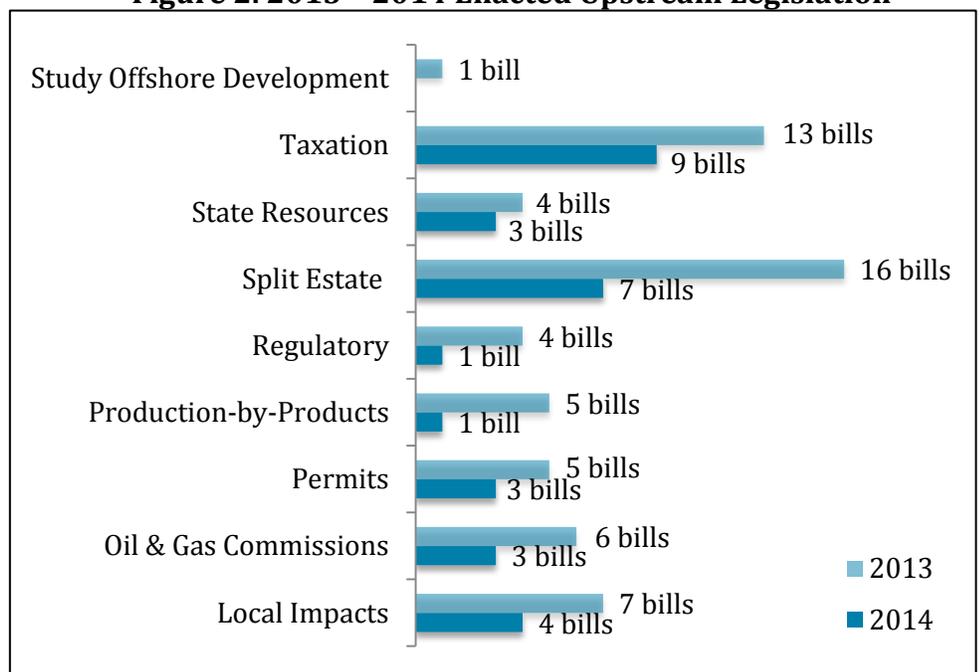


Figure 2. 2013 - 2014 Enacted Upstream Legislation

Upstream Legislation

Figure 2, right, provides a sketch of legislative activity on upstream policy to date. Split estate bills – those dealing with mineral rights, surface rights, and the interactions between the two – have been the most frequently enacted (23 bills). Legislation related to severance and property taxes also comprised a large portion of enacted legislation (22 bills). The following are other notable developments. ⁴



⁴ For additional information on the changes related to exploration and production last year, please see our brief on [Natural Gas Development](#) as well as our [Year in Review analysis](#).

Split Estate - Colorado ([SB 14-009](#)) and Florida ([HB 489](#)) enacted bills related to the disclosure in real estate transactions of the potential separate ownership of a mineral estate. Also in Colorado, Governor Hickenlooper announced a [19-member task force](#) charged with developing recommendations aimed at minimizing land use and other conflicts related to split estate issues, thereby avoiding a ballot measure. The task force’s findings may be used to inform future legislation.

Taxation - A [ballot measure](#)⁵ to repeal Alaska’s 2013 revisions to the oil and gas industry’s tax rate structure ([SB 21](#)) was narrowly defeated during the primary elections held in August. In Michigan, [HB 4885](#) creates tax incentives for producers using CO₂ for enhanced oil or gas recovery.

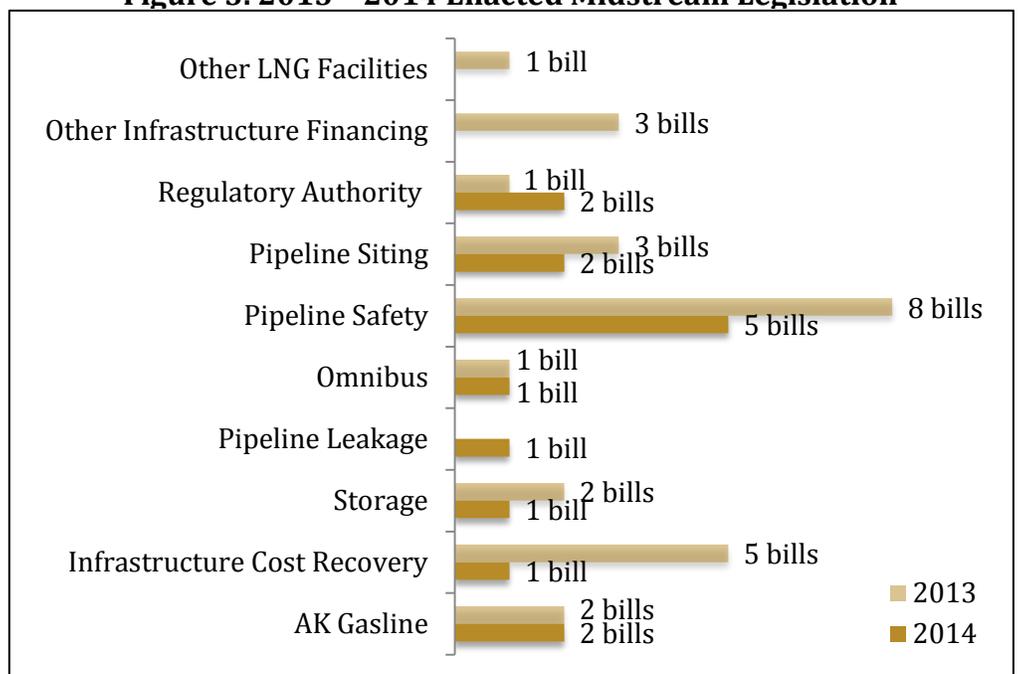
Production Byproducts - Lawmakers in Connecticut passed a moratorium ([SB 237](#)), subject to rulemaking, by the state’s Department of Energy and Environmental Protection, on the collection, storage, treatment, disposal, and transportation of wastes associated with hydraulic fracturing.

Regulatory - North Carolina enacted [SB 786](#) to revise several sections of the state’s oil and gas statutes including new requirements for rulemaking related to permitting processes, waste handling, and water use. The bill also lifts the state’s moratorium on hydraulic fracturing, creates a tax on oil and gas extraction, and imposes a variety of penalties and fees, including penalties for the unauthorized disclosure of trade secrets related to the composition of hydraulic fracturing fluids.

Midstream Legislation

As shown in Figure 3, the majority of midstream bills enacted in the past two years treat some aspect of pipeline safety including leaks and leak reporting, inspections and penalties; licensing conditions for pipeline technicians; and excavation notification requirements. Other newly enacted bills in this group include clarifications to regulatory authority for pipelines located in a state, provisions for cost recovery or bonding for certain pipelines, easements and testing requirements related

Figure 3. 2013 – 2014 Enacted Midstream Legislation



to siting, and clarifications to provisions treating the permitting of underground storage facilities. Notable developments include:

Pipeline Safety – States reacted to [new pipeline safety rules](#) released by the Pipeline and Hazardous Materials Safety Administration (PHMSA). In addition to Massachusetts, discussed above, new provisions in New Hampshire ([HB 1224](#)) treat inspections and conform state penalties to those set by the PHMSA rule. Vermont ([H 612](#)) also raised penalties to match the increase at the federal level. Last year, Arkansas,

⁵ This ballot measure is not counted in our numbers.

Iowa, Kansas, Maryland, North Dakota, and West Virginia also enacted changes related to pipeline inspections and/or penalty amounts.

Pipeline Leakage and Omnibus Bills - Connecticut’s [HB 5410](#) authorizes the Public Utilities Regulatory Authority to investigate both lost and unaccounted for gas and the creation of financial incentives to reduce such losses. An omnibus bill in Massachusetts, [H 4164](#) makes several changes, which include provisions to conform state pipeline safety violation penalties with federal penalties, to require the reporting and assessment of leaks, and to support infrastructure replacement and expansion programs.

AK Gasline - Alaska took significant steps toward developing a large-diameter pipeline project and Liquefied Natural Gas (LNG) facility. Perhaps most noteworthy of the four total bills enacted on the project, [SB 138](#), among several other provisions, provides for state ownership interests, expands the mission and responsibilities of the Alaska Gasline Development Corporation (AGDC), and provides for other infrastructure funding. AGDC recently filed applications for the LNG project with the [Federal Energy Regulatory Commission](#) and the [Department of Energy](#).

Downstream Legislation⁶

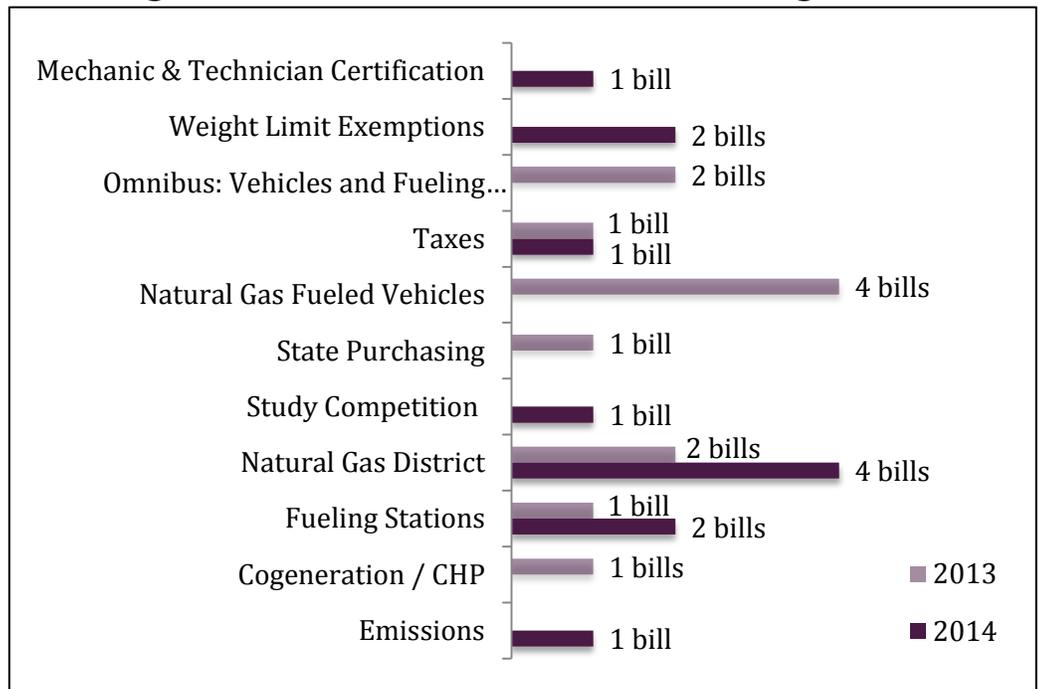
Downstream legislation, Figure 4, covered a range of uses from transportation, to electric generation, to taxes on natural gas marketers. Highlights include:

Natural Gas Fueled Vehicles and Fueling Stations

The most frequently enacted changes to downstream policies relate to the use of natural gas in the transportation sector (12 bills). This class of bills covers a variety of topics including provisions relating to the certification of auto-mechanics and fuel station technicians, exemptions to weight limits for certain natural gas-fueled vehicles, bills to encourage the uptake of NGVs through state lead-by-example programs and tax incentives for vehicle purchases or conversions.

Legislation enacted this year in Mississippi ([HB 1622](#)) and last year in Colorado ([HB 13-1110](#)) provides for the construction and expansion of compressed natural gas (CNG) fueling stations. In Oklahoma, newly enacted [HB 3297](#) treats regulatory authority over CNG fueling stations and technician certification. The Act also revises provisions related to tax incentives for vehicle conversion and CNG fueling facilities.

Figure 4. 2013 – 2014 Enacted Downstream Legislation



⁶ We do not include natural gas fuel taxes here. Recent developments in this area are outlined in this year’s policy brief on [State Motor Fuel Tax Legislation](#). Additional information on last year’s noteworthy downstream bills can also be found in our [Year in Review analysis](#).

Natural Gas Districts – This class of bills refers to access to, ownership of, and the operation of natural gas distribution systems and, in some cases, cogeneration facilities. The design of these districts appears to vary widely. For instance, in Maine [HP 1036](#) and [HP 1193](#) allow communities to form a quasi-municipal corporation in order to coordinate and both the aggregation of natural gas consumers and the provision of natural gas to those consumers by a third-party. Districts in Maine are also authorized to own one or more cogeneration facilities. In Mississippi, [SB 2981](#) authorizes the creation of the Kemper County Gas District and allows the district to own, manage, and acquire distribution systems. The county can also enter into contracts for the management of these facilities. This class also includes revisions to authorizing statutes. For instance, in Kentucky, [HB 338](#) allows municipalities owning and operating a natural gas system to expand service within city territory.

Cogeneration – California’s [AB 796](#), enacted last year, extends the sunset date on the tariff for access to natural gas supply.

Prepared By:

Katherine Heriot Hoffer, CNEE Lead Research Associate
Ben Brunmeier, CNEE Research Assistant
Bill Becker, CNEE Powering Forward Project Director
Jeff Lyng, CNEE Senior Policy Advisor
Jeff Cook, CNEE Research Associate