



As one of the Nation’s most abundant and in-demand energy sources<sup>1</sup>, natural gas has also been one of the most debated fuel sources in state legislatures this session. Driven by enhanced recovery techniques that increase the cost effectiveness of developing stranded and unconventional reserves, gross domestic withdrawals and production hit record levels in 2012.<sup>2</sup> Correspondingly, prices have fallen from a high of over \$14 in 2008 to \$4 per MMBtu today. Moreover, the replacement of utility coal-fired generation with natural gas in recent years is a transition driven by cost competitiveness and heightened concerns over current and future emissions standards.<sup>3</sup>

While the majority of natural gas regulation occurs at the state level with existing agency rulemaking authority, state legislatures were also active in the 2013 session in addressing a variety of issue areas related to the development of natural gas. Made possible by the Advanced Energy Legislation Tracker ([AEL Tracker](#)), the Center for the New Energy Economy has categorized natural gas development bills, introduced in the 2013 session, as shown in Figure 1, below.

**2013 State Natural Gas Development Legislation**

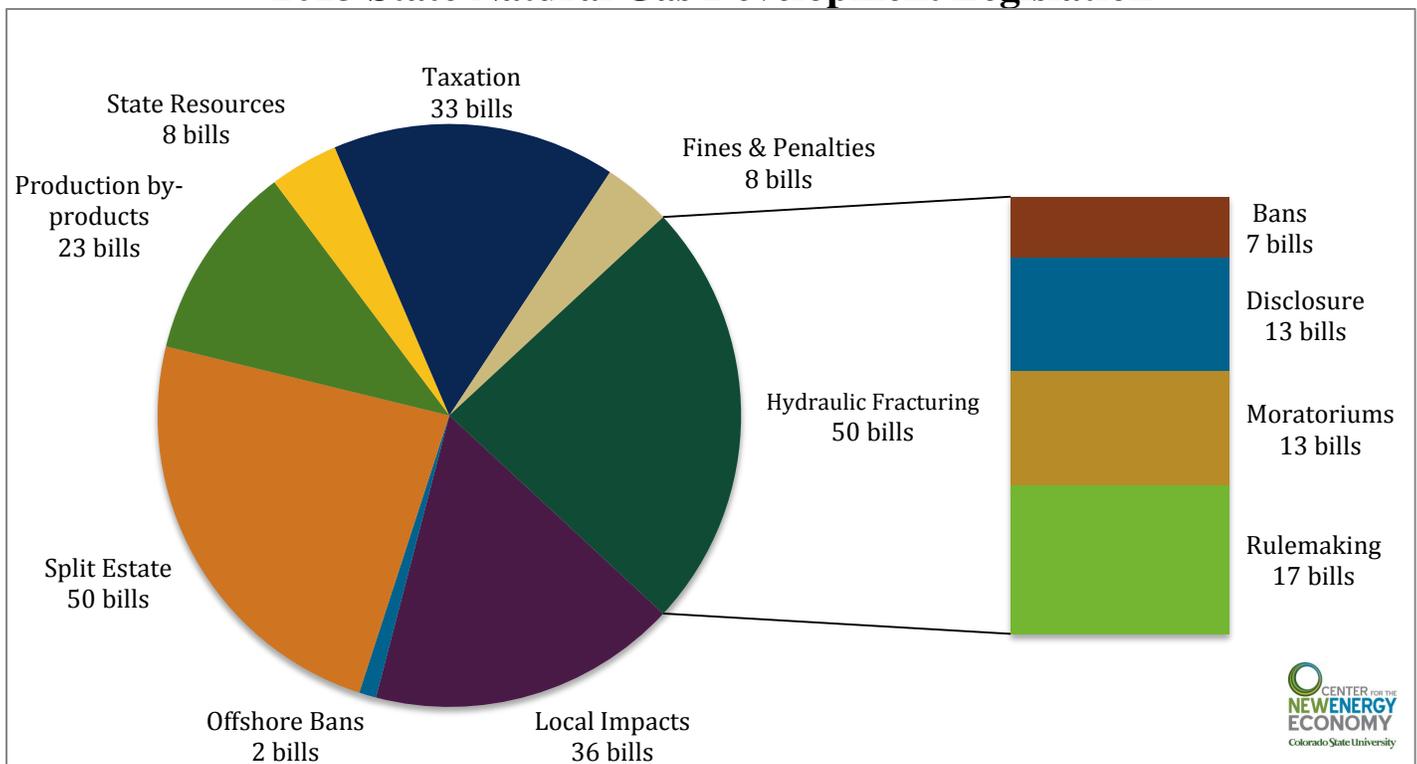


Figure 1. Natural gas development and extraction-related legislation accounts for 210 of more than 2,300 bills archived in the AEL Tracker as of May 31<sup>st</sup>, 2013.

Nearly a quarter of natural gas legislation addresses the practice of hydraulic fracturing, with New York leading by volume (10 bills). Proposals for moratoriums, pending further study or rulemaking, and bans are clustered on

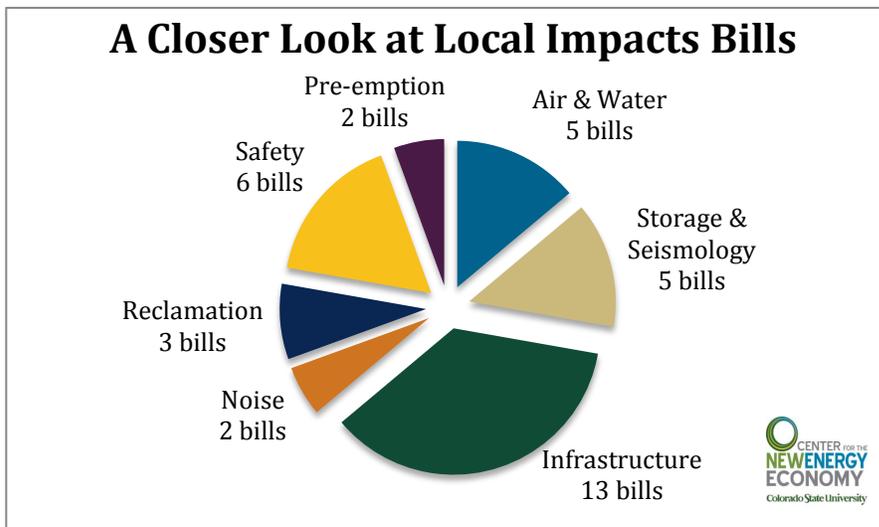
<sup>1</sup> In 2012, approximately 25% of U.S. energy use was fueled by natural gas (EIA, 2013).

<sup>2</sup> Production last year was nearly 30 trillion cubic feet. (U.S. Energy Information Administration. 2013. *Natural Gas Data*. [http://www.eia.gov/dnav/ng/ng\\_prod\\_sum\\_dc\\_u\\_nus\\_a.htm](http://www.eia.gov/dnav/ng/ng_prod_sum_dc_u_nus_a.htm).)

<sup>3</sup> See: U.S. Energy Information Administration. May 2013. *Monthly Energy Review*. <http://www.eia.gov/totalenergy/data/monthly/pdf/mer.pdf>.

the northeastern seaboard. Legislation that would amend or revise existing disclosure requirements was introduced in six states, and new requirements were proposed in four states.<sup>4</sup> While legislation providing regulatory direction and rulemaking authority is characterized by a high degree of variety, a common thread is an effort to address multiple issues such as water use, air and water quality monitoring, fracturing fluid disclosure, and setback requirements in a single piece of legislation. One example of this is [NY SB 24](#).

Most of the bills addressing surface and mineral rights, or ‘split estate’ legislation, focus on landowners. These include proposals requiring notification prior to surface entry, surface remediation and collection of damages, provisions for landowner input into setbacks, and the establishment of landowner liability in certain cases (for example: [NY A 846](#)). An interesting group of proposals details the conditions under which a mineral estate can be purchased, considered abandoned, and in some cases, transferred to a surface owner (ex: [MS HB 169](#)). Bills governing leasing and pooled or jointly-owned resources address a variety of issues and were also grouped in this category.



Most of the legislation relating to the local impacts of extraction provide for revenue or other funding to address local infrastructure and social program needs during and following development. Other legislation details state pre-emption of local authority for permitting and zoning ordinances, requirements for the installation of certain safety or environmental monitoring devices, regulatory direction regarding underground storage and provisions governing when certain large machinery may be operated.

With respect to developer taxation and revenue generation for states, 33 proposals address severance or production taxes. Examining these bills, we found that 12 would amend or create tax credits or exemptions, while ten proposals, split evenly, would either increase or introduce a severance tax, or repeal or reduce the tax, with Alaska’s recently enacted [SB 21](#) perhaps the most publicized of the group. Bills in Colorado ([HB 1322](#)) and North Dakota ([HB 1134](#)) would provide incentives for capturing gas that would otherwise be flared or vented.

State legislatures are also actively engaged in regulating the storage, transport, disposal, and treatment of production by-products, which includes produced waters and drill castings. While eight of these bills are specific to fracturing fluids (ex: [MD SB 513](#)), the majority of legislation is aimed at regulating waste streams and disposal facilities generally. Quickly summarizing the remaining categories, eight bills relate to exploration and leasing activities on state lands, eight others amend penalties for violations of a state’s Oil and Gas Conservation laws, and two proposals in [New Jersey](#) would implement bans on offshore development of oil and natural gas altogether.

<sup>4</sup> These four are: California, Florida, Massachusetts, and South Dakota. (As determined through a comparison with 2013 legislation and McFeeley, Matthew. July 2012. “State Hydraulic Fracturing Disclosure Rules and Enforcement: A Comparison.” *Natural Resources Defense Council Issue Brief*. <http://www.nrdc.org/energy/files/Fracking-Disclosure-IB.pdf>.)

In summary, the Center has identified three major takeaways from natural gas development legislation this session:

1. State legislatures have moved to regulate hydraulic fracturing through bans, moratoriums, disclosure requirements, the provision of rulemaking authority, and controls on the storage, transport, treatment, and disposal of the fluids used in the process.
2. Legislation pertaining to local impacts is prevalent. These bills address tools and funding for prevention or remediation of surface, infrastructure, and other impacts. The prevalence of local impact legislation becomes an even clearer trend when also considering the 25 of 50 split estate bills that focus specifically on landowner rights.
3. As has historically been true, severance tax rates and exemptions continue to be important considerations as states seek to strike a balance between attracting development and maintaining funding for a variety of programs.