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NCSL's Top Issues of 2013

RESCHEDULED: March 6, 2013

Energy Development and
Transportation Priorities



Dial 888-437-3195 for the webinar audio

2013



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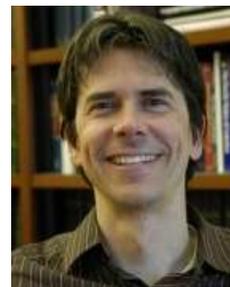
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Energy Trends

- Natural Gas Development
- Energy Reliability
- Renewable Energy
- Efficiency



Natural Gas Development

- **Technological advances** in hydraulic fracturing and horizontal drilling allow us to now access resources that were uneconomical or inaccessible just a decade ago
- This offers tremendous **economic benefits** to state and local economies—job creation, capital expenditures, GDP and tax revenues, and lower natural gas prices.
- **Energy security** benefits from developing a relatively cheap, clean-burning domestic fuel
- Dramatic growth and rapid expansion into sometimes densely-populated regions has led to increased **environmental** and **public health** concerns

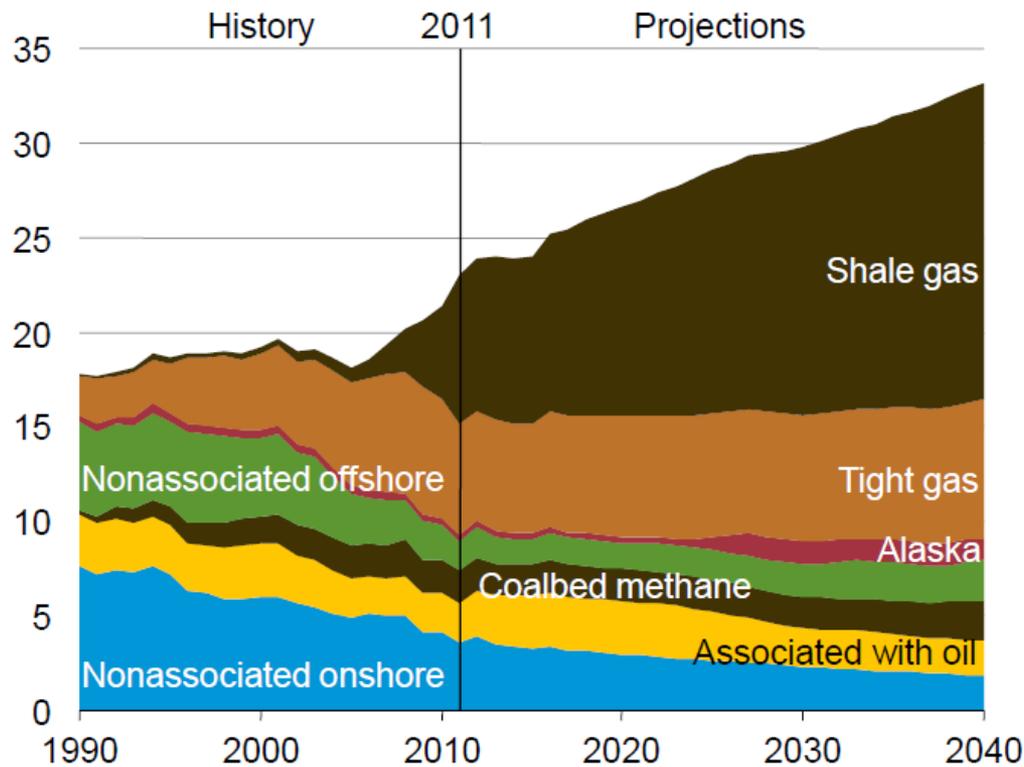


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U.S. NATURAL GAS PRODUCTION, 1990-2040 (TRILLION CUBIC FEET)



Shale gas in particular is playing an increasingly important role in the nation's energy portfolio

Source: U.S. Energy Information Administration, Annual Energy Outlook 2013 Early Release Overview

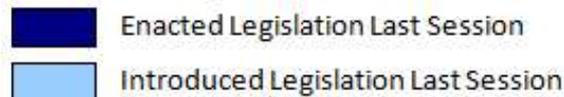
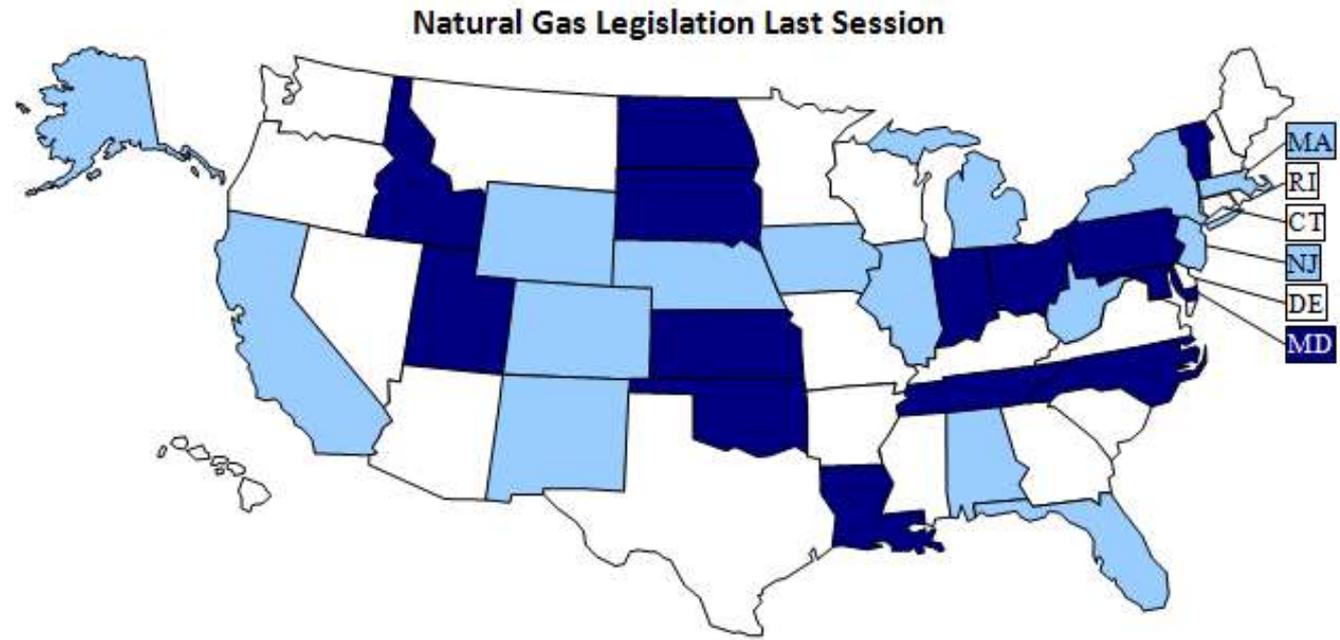


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170+ bills across **29 states** were introduced in the last legislative session



NCSL research as of January 2013

2013

14 states
enacted
legislation



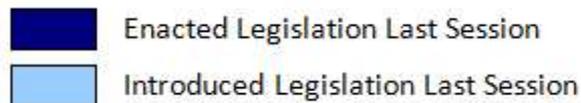
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12 states introduced legislation addressing severance taxes

- Rates and structure (imposing new taxes or amending existing)
- Revenue allocation
- Credits and exemptions



NCSL research as of January 2013

2013



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14 states introduced legislation
addressing hydraulic fracturing fluid disclosure requirements

Hydraulic Fracturing Fluid Disclosure



- Increasing transparency and fluid monitoring
- Trade secret protections
- Stringency varies widely

■ Enacted Legislation Last Session
■ Introduced Legislation Last Session

2013



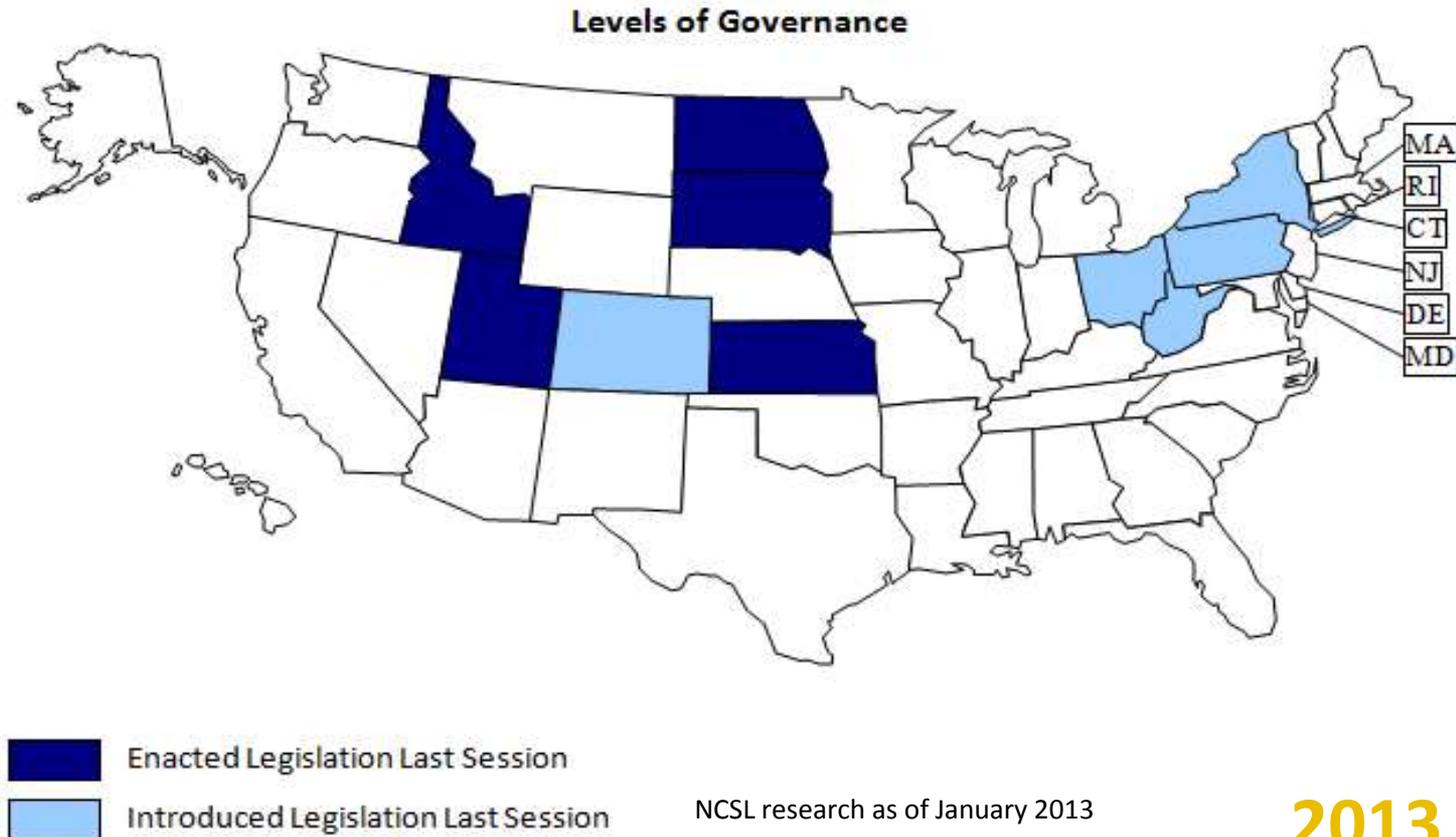
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10 states introduced legislation addressing levels of governance

5 states—Idaho, Kansas, North Dakota, South Dakota and Utah—passed bills or resolutions **delegating responsibility to regulate hydraulic fracturing to the states.**





Enacted Legislation (14 states)

- **5 states** passed legislation or resolutions supporting **state-level regulation**
 - **North Dakota, South Dakota** and **Utah** urged Congress to clearly delegate responsibility to the states
 - **Kansas** gave the Kansas Corporation Commission explicit authority to regulate
 - **Idaho** (H.B. 464) imposed local restrictions noting that it was the intent of the legislature to regulate oil and gas production
- **2 states** passed bills related to **severance taxes**
 - **Idaho's** H.B. 379 imposed a tax on oil and gas production
 - **Oklahoma's** S.B. 885 related to taxes on certain types of wells
- **3 states** enacted bills related to **fluid additive disclosure**
 - **Indiana's** H.B. 1107 required adoption of reporting and disclosure rules, including volumes of additives to be disclosed as a maximum percentage of the total fluid volume
 - **Louisiana's** H.B. 957 provided for the disclosure of fluid **composition** within 20 days following a hydraulic fracturing process.
 - **Pennsylvania's** H.B. 1950 amended existing disclosure requirements



Enacted Legislation (14 states)

(cont.)

- **Other enacted legislation**

- **Maryland**—H.B. 1123 established a presumptive impact area around gas wells and required certain water supplies to be replaced
- **New Jersey**—A.R. 112 and S.R. 98 urged Congress to enact the FRAC Act
- **North Carolina**—S.B. 820 authorized hydraulic fracturing and required the Mining and Energy Commission and other agencies to develop a regulatory program
- **Ohio**—S.B. 315 included provisions related to horizontal well production training and employment
- **Pennsylvania**—H.B. 1950 addressed well permits, well location restrictions, water supplies, reporting, bonding, local ordinances, impact fees, and more.
- **Tennessee**—H.R. 98 encouraged a meeting to collaborate and propose regulations
- **Vermont**—H.B. 464 prohibited hydraulic fracturing in the state



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Natural Gas Pipelines

- U.S. natural gas pipeline network is expansive
- Safest and least costly method of transporting oil and gas
- Ensuring pipeline reliability and safety is critical to households, businesses and industries across the nation as more natural gas is transported to meet energy demands
- Importance of pipeline infrastructure is likely to grow due to the tremendous increase in domestic supplies
- More than 50 bills across more than 20 states were introduced last session addressing natural gas pipelines



Federal Action

- U.S. EPA ongoing hydraulic fracturing study
 - Addresses impacts on drinking water
 - Draft results expected in 2014
- DOI proposed rule (hydraulic fracturing on federal land)
 - Chemical disclosure
 - Environmental issues related to water and flowback
 - Expected to be finalized in July
- EIA early release of the AEO2013
 - Natural gas use expected to increase
 - U.S. expected to be a natural gas exporter by 2020



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Energy Reliability

- Electricity is critical for fresh water, emergency response, telecommunications, food supply and many other essential services.
- State policies play a critical role by ensuring adequate responses to shortages, disruptions and emergencies
- Better response and more resilient infrastructure protects consumers and reduces economic losses
- Economic costs of outages can be tremendous
 - Northeast Blackout of 2003, 50 million customers lost power.
 - \$4 to \$10 billion in economic losses. (Insurance Information Network)





Energy Reliability

- Hurricane Sandy
 - More than 8 million customers lost power
 - Highlighted Critical Infrastructure Problems
 - Heat, water pumps, charging of cell phones, elevator service, police operations, fuel pumping, food availability
 - Not all utilities are in the same state of readiness -- some manage logistics and communicate with customers and local officials better than others.



Energy Reliability

New Jersey has introduced more than 16 bills since late 2012

- SB 26, Reliability, Preparedness, and Storm Response Act
 - Requires development and enforcement of performance benchmarks for service reliability, service disruption preparedness, service restoration, and communications for electric public utilities in the state
- Other NJ bills Require
 - Utility infrastructure map availability for emergency planners and responders (NJ S 2411)
 - Backup power generator requirements (NJ S 2420) for first aid, ambulance, rescue squads, pharmacies, firehouses, boarding houses, newly constructed grocery stores, and gas stations. Provides tax deductions



Energy Reliability

- At least 8 other states have introduced bills requiring backup generators for gas stations, medical facilities and other buildings
 - CT HB 5375 (2013) Requires backup generators for public water supply systems including public community well water systems private homeowners association systems.
 - Florida and Louisiana already require service stations to have access to backup power. NY and NJ have pending legislation.
- Federal: \$20 Million to strengthen Cybersecurity, efforts on critical infrastructure.



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Renewable Energy

- Increasingly large part of many state energy portfolios -- 29 states with renewable electricity mandates working towards their goals
 - 5 states get more than 10 percent of their electricity from wind
 - Texas is at 10 percent wind (peaked at 26 Percent on November 30 of last year)
 - Iowa, at 20 percent, is surpassed by South Dakota, at 22 percent
- While providing new jobs and economic growth for rural areas, some states are discussing siting and costs





Renewable Energy

Popular issues for 2013: tax incentives, siting, financing, renewable portfolio standards and net-metering

- Siting Renewable Energy
 - MN, IL and MA have introduced bills that address county and municipal authority to create statewide siting rules or prohibit installations in some cases
 - IL and MA are considering minimum setbacks for turbines
- Community Net Metering (pending in 8 states)
 - CT, HI, NE, NH, NJ, NY OH, OR
 - NY SB 3217, "Virtual Net-metering" - Provides for the ownership and operation of energy generating equipment by municipalities, groups of farmers and businesses. Allows net energy metering of the electricity used by members.



Renewable Energy

- Efforts to Repeal, freeze, reduce renewable standards
 - Repeal: Ohio (2013) and Michigan (2012). Maryland just introduced bill to repeal solar set-aside. Virginia may introduce a repeal bill soon.
 - Freeze: 2 states are considering: Delaware, Kansas. North Carolina may also soon introduce a bill.
 - Delay: West Virginia recently introduced HB 2564 to delay their RPS
 - Expand to include Hydropower: Montana ,Missouri, Oregon (2013), Minnesota in 2012 (failed).
 - Include some natural gas power from converted coal: Maryland
 - Allow nuclear energy from one power plant: Wisconsin



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Energy Efficiency

- More than 200 bills introduced this year
- Building codes, energy performance requirements for buildings and financing are top issues.





Energy Efficiency

- Combined Heat and Power (Cogeneration)
 - Natural gas or Biomass powered
 - Generates electricity and heat for high efficiency
 - Aids in energy security and energy assurance
- 23 states encourage cogeneration technology development: rebates, grants and loan programs
- Other incentives include net-metering and inclusion in renewable electricity standards
- Georgia's SB 51 provides for the financing of distributed generation through leases, power purchase agreements, and other financing mechanisms.
- Oregon's HB 2300 provides tax credits for efficient heat and power facilities.



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Transportation Priorities

- Transportation Funding and Finance
- Traffic Safety in Rural Areas



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Finding Ways to Pay:

Transportation Funding and Finance in 2013





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Transportation Funding Crisis



- **Chronic funding gaps**
- **Years of underinvestment**
- **Aging infrastructure**
- **Growing transportation demand**
- **Declining gas tax revenues**
- **Political reluctance to raise gas tax**
- **National recession**
- **State budget shortfalls**
- **Uncertainty of federal program**

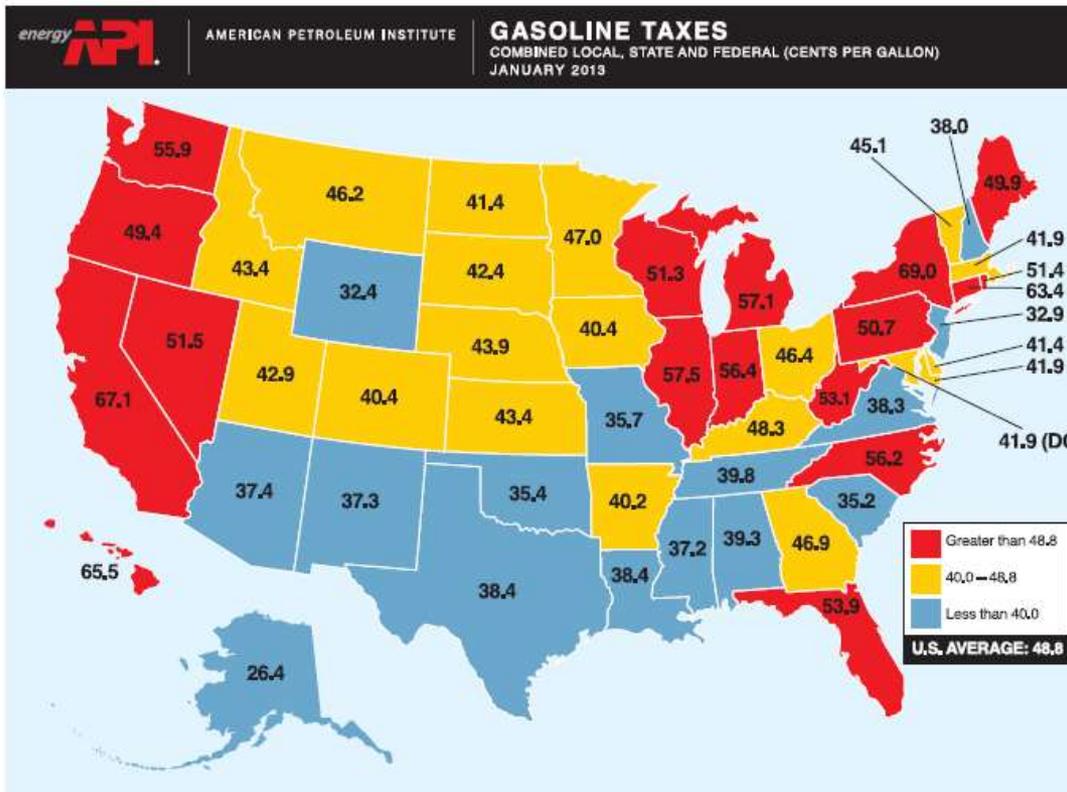


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Gasoline Tax Rates



As of Jan. 2013, state gas tax rates ranged from \$0.08 in Alaska to about \$0.51 in New York*

* Includes an excise tax plus a tax on petroleum businesses

Source: American Petroleum Institute, 2013.

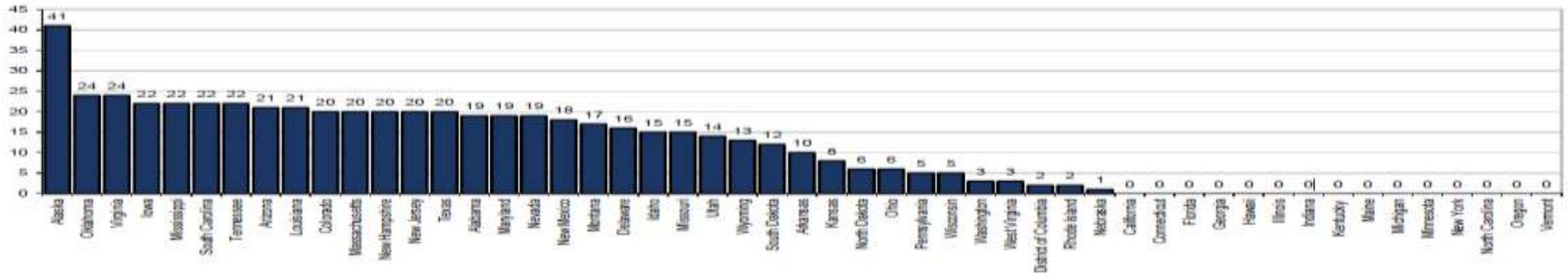


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The Value of State Gas Taxes Has Fallen



- As of Jan. 2013, 17 states had not raised gas taxes in **more than 20 years**
- After accounting for rising construction costs, the average state's gas tax has fallen by **20 percent** since last increase
- State gas taxes have fallen by a combined **\$10 billion each year**
- Often small increases **lag behind funding needs**

Sources: CSG, 2011; Institute on Taxation and Economic Policy, 2011; NCSL, 2012.



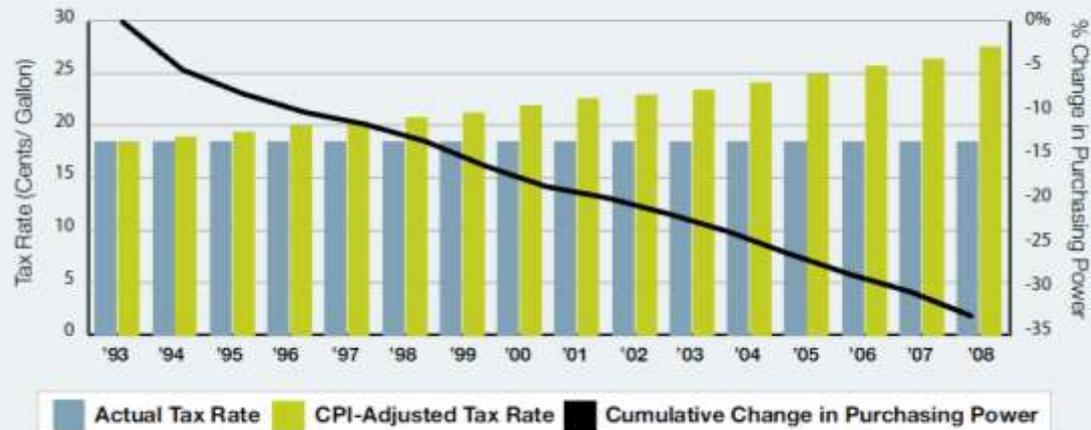
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The Federal Gas Tax is Also Falling (for the Same Reasons)

EXHIBIT 2-9: FEDERAL GASOLINE TAX RATE AND LOSS IN PURCHASING POWER



Source: FHWA 2006 Highway Statistics, Table FE-21B, indexed using CPI-U as reported by the Bureau of Labor Statistics.



Transportation Funding Crisis



- Chronic funding gaps
- Years of underinvestment
- Aging infrastructure
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- **National recession**
- **State budget shortfalls**
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Transportation Has Its Own Fiscal Cliff



Image from ridelust.com

- The new federal surface transportation law (MAP-21) lasts for **only 27 months**
- The federal Highway Trust Fund is predicted to reach **insolvency** sometime in 2015
- **Sequestration** is taking effect this month
- Legislators express **pessimism** about future help from the federal government



The Costs of Underinvestment

- According to the ASCE, in 2010, deteriorating surface transportation infrastructure cost U.S. households and businesses **nearly \$130 billion** in vehicle operating, safety and environmental costs and time delays
- If current trends continue, these **costs will grow exponentially and accumulate** in coming years

Aviation	D
Bridges	C
Dams	D
Drinking Water	D-
Energy	D+
Hazardous Waste	D
Inland Waterways	D-
Levees	D-
Public Parks and Recreation	C-
Rail	C-
Roads	D-
Schools	D
Solid Waste	C+
Transit	D
Wastewater	D-



Transportation Infrastructure is a Top State Issue for 2013

- Identified by state legislative fiscal officers one of the top fiscal issues for 2013
- Under discussion in at least 16 states
- Mentioned in at least 14 "State of the State" addresses
- The key question is: How can states fund and provide needed transportation infrastructure in a time of change and uncertainty ... and with or without long-term, sustainable federal programs?



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What Options are on the Table in 2013?

- Funding
- Financing
- Efficiency,
accountability and
revenue-protection



Utah State Legislature image from Zau.

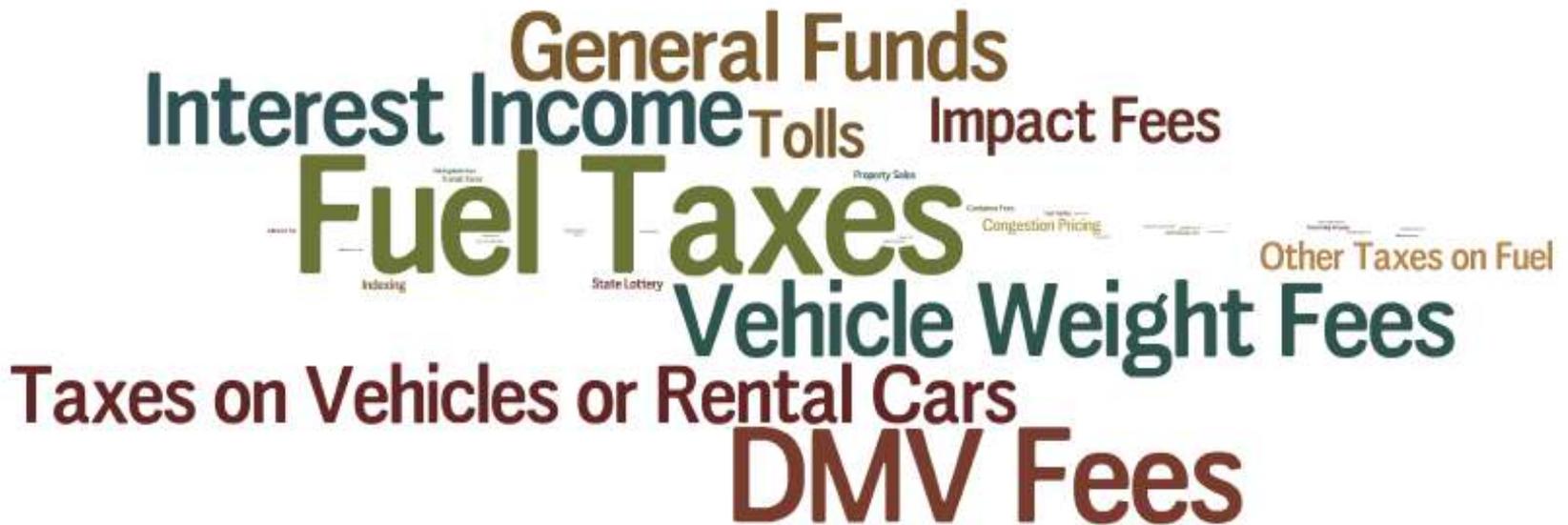


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How Do States Fund Transportation Now?



Note: States provide about half of all funding for roads, bridges, rail and transit—compared to the federal contribution of about 20 percent.



Alternatives to the Gas Tax

- **Vehicle Miles Traveled (VMT) fees**, also known as Mileage-Based User Fees (MBUFs); only pilot projects in the U.S.
- **Fees for alternative fuel or electric vehicles**
- **Taxes on alternative fuels**





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Which States are Discussing Transportation Funding in 2013?



And more every
day... Contact us
with updates about
state transportation
funding proposals!

2013



State Transportation Financing Options

- **General obligation or revenue bonds** (44 states + DC + PR)
- **Design-build** (authorized in 38 states + PR)
- **State infrastructure banks (SIBs)** (34 states + PR)
- **GARVEE bonds** (33 states + DC + PR)
- **Public-private partnerships (PPPs or P3s)** (authorized in 33 states + PR)
- **TIFIA federal credit assistance** (12 states + PR)
- **Private Activity Bonds (PABs)** (6 states)



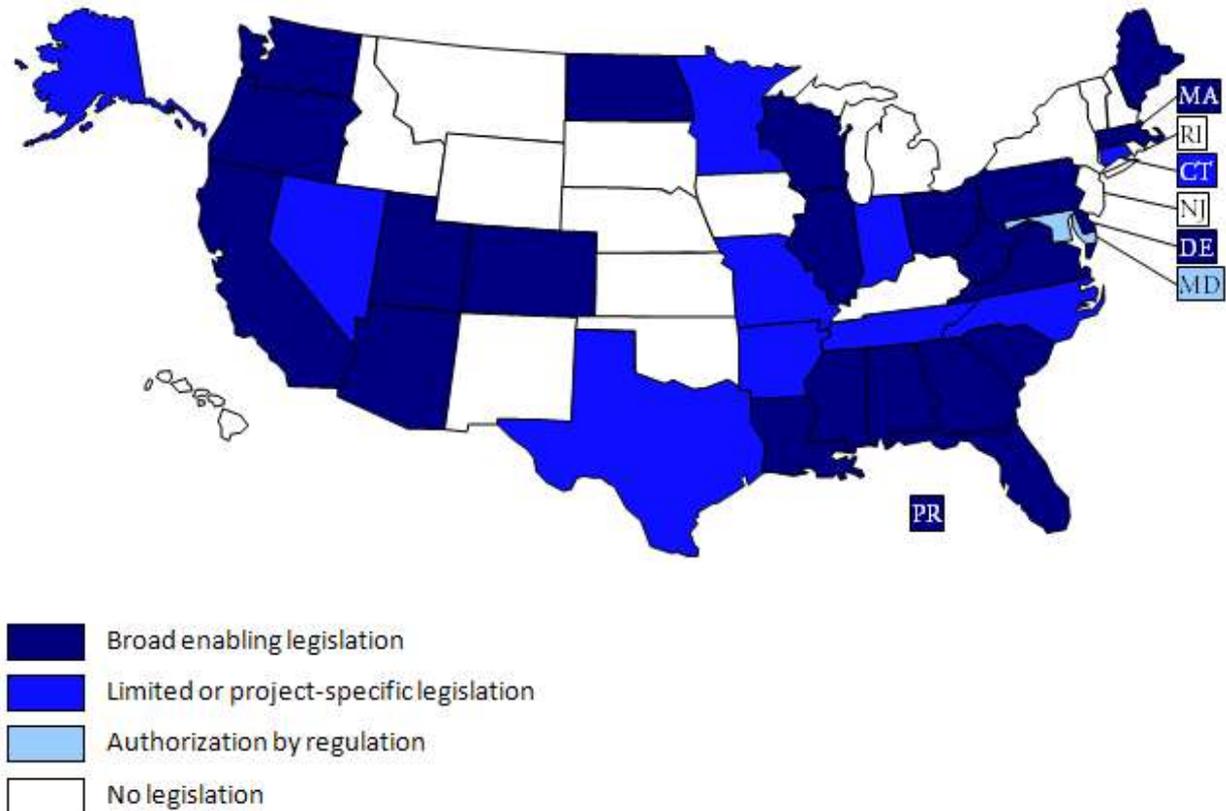
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Public-Private Partnerships (PPPs)

PPPs allow the private sector to take on traditionally public roles. If done well, they can have many benefits. **But they do not bring in new money for states.** The private sector still has to make a return on its investment, usually from taxes, tolls, fees or fares.





Other Legislative Options



Protections on Transportation Revenues

- E.g., constitutional protections on trust funds, bans on transfers or diversions of transportation revenues



Efficiency and Accountability

- E.g., streamlining, consolidation, devolution, reporting requirements, performance management



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Efficiency, Accountability and Revenue-Protection in 2013 Sessions

- **Georgia:** HB 202 would exempt certain projects from value engineering studies or geographical requirements
- **Kansas:** Governor proposing merging Kansas Turnpike Authority and state DOT
- **Maryland:** Bills introduced to put constitutional protections on the Transportation Trust Fund, or otherwise restrict diversions
- **South Carolina:** Governor proposes to stop gas tax revenues from being diverted away from bridges and highways
- **Washington:** HB 1957 seeks to optimize state DOT's efficiency, stewardship and expediency in project spending and delivery



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Traffic Safety In Rural Areas

- ❖ Many states have a majority of rural roads.
- ❖ In 2010
 - ❖ 19% of the U.S. population lived in rural areas
 - ❖ But rural fatalities accounted for 55% of all traffic fatalities.



Why?



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Realities of Rural Roads

- Limited or no public transportation
- Teens must drive
- Farm equipment
- Higher speeds, lack of seat belt use, alcohol.
- Narrow roads, lack shoulders and clear zones
- Run off the Road (ROR) Accidents
- Increased distance to emergency care





SAFETEA-LU and MAP21

- SAFETEA-LU established the Highway Safety Improvement Program (HSIP). A portion of the HSIP funds were allocated to the High-Risk Rural Roads (HRRR) Program.
- MAP-21 made a major change to rural transportation safety by removing the required set aside for HRRR programs.



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States Improving Safety

- **Minnesota:** Primary Seat belt law--68 fewer deaths, 320 fewer severe injury crashes, and 432 fewer moderate injury crashes.



- Graduated Driver's License Law. Went into effect in January 2010. Teen crashes dropped from 22% to 18.5%.



States Improving Safety



• **Mississippi:** Lane departure crashes

- Between 2005 and 2009, lane-departure crashes accounted for 60% of all fatal crashes in the state—more than 2,500.
- MDOT found one of the most effective tools to reduce run-off-the-road crashes are rumble stripes.
- Cable barriers have also been a success with an expected 92 percent reduction in rural head-on fatalities along the hundreds of miles of rural interstate where they are deployed.



Pending Measures in 2013

• Primary Seat Belt

- New Mexico
- West Virginia

- Montana
- North Dakota
- Nebraska

• Montana's STET Program

- Strategic Traffic Enforcement Team



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Questions?

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