

# Governance Concerns and Government Capacity: The Case of Shale Gas

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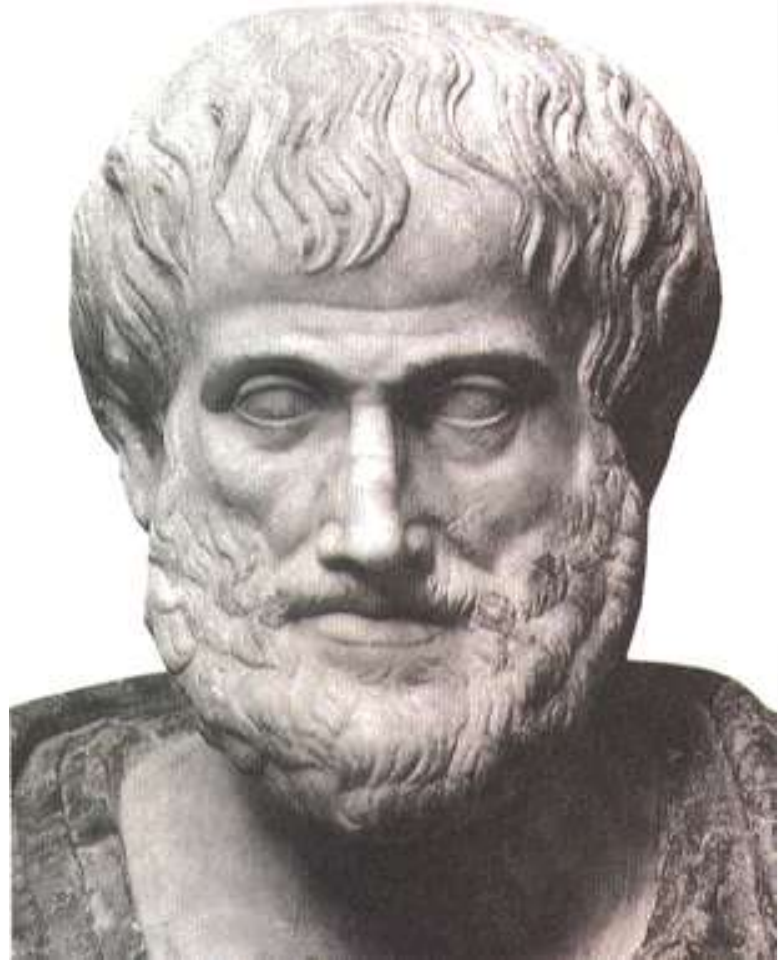
# A Charge from Aristotle on Governance

- Three seemingly simple questions:

1) Who governs?

2) How do they govern?

3) What are the results of their governance?



# Governance Options in a Federal System

**Federal**

High

Low

High

Contested Federalism

State Domination

**State**

Low

Federal Domination

Symbolic


# Federal and State Shale Gas Policy Engagement

		<b>Federal</b>	
		<u>High</u>	<u>Low</u>
<b>State</b>	<u>High</u>	<p><u>Contested Federalism</u></p> <p>What is federal role?</p> <ul style="list-style-type: none"> <li>• Statutory exemptions</li> <li>• New statute? (BREATHE, FRESH...)</li> <li>• Revisit existing law?</li> </ul>	<p><u>State Domination</u></p> <p>28-36 States largely on their own</p> <ul style="list-style-type: none"> <li>• Legacy policies</li> <li>• Proliferation of new statutes?</li> </ul>
	<u>Low</u>	<u>Federal Domination</u>	<u>Symbolic</u>

# Consequences of Decentralized Governance

- What are the results if governance remains largely devolved to individual states and localities—as opposed to a federal set of rules and regulations?
- One View: Would states race to the bottom?
  - Resource extraction trumps environmental protection: export problems, out-bid neighbors, create as cozy a governance setting as possible
  - Captured institutions/processes

# Another view: Would States Race to the Top?

- The “Next Generation,” the “3<sup>rd</sup> Epoch,” the “Resurgence of the States” . . . .
- States on the frontier of innovative governance:
  - Cross-media integration
  - Transparency and public engagement
  - Performance metrics
  - Policy tool innovations: Markets, voluntarism
  - Cross-state collaboration (regionalism)
  - Cross-agency collaboration
  - Local government engagement/collaboration

# So which view prevails for shale?

- 1) Current Context: Capacity of State and Local Governments in the 2010s
- 2) Shifting Trends in Partisan Control of State Governments
- 3) Expanding Role of State Legislatures in Fashioning New Shale-Focused Statutes
- 4) Diffusion vs. Heterogeneity in Policy Development for Shale Gas

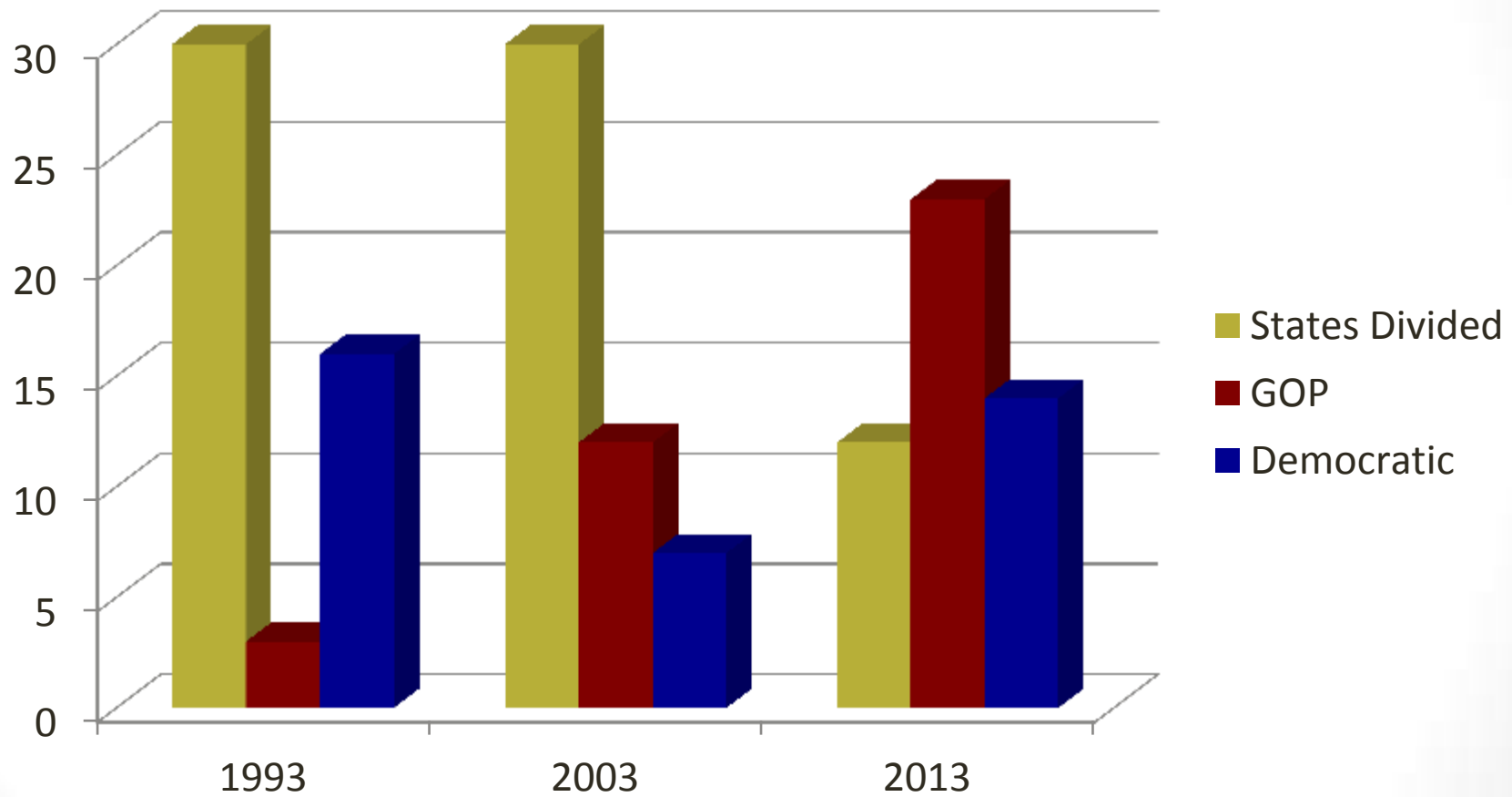
# State/Local Capacity

- “Steepest drop in the last 50 years”: Rockefeller

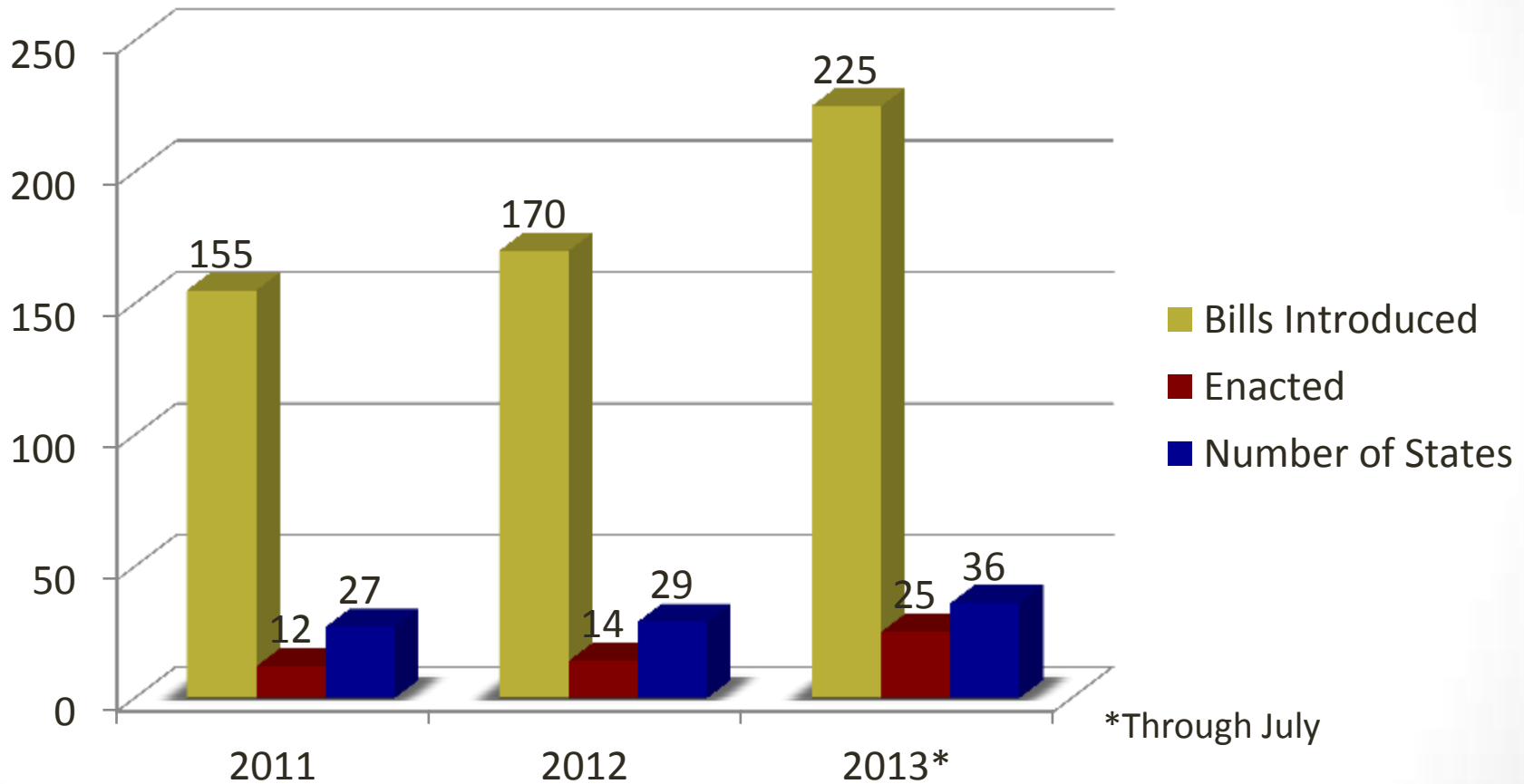




# Decline in Shared Partisan Control of States



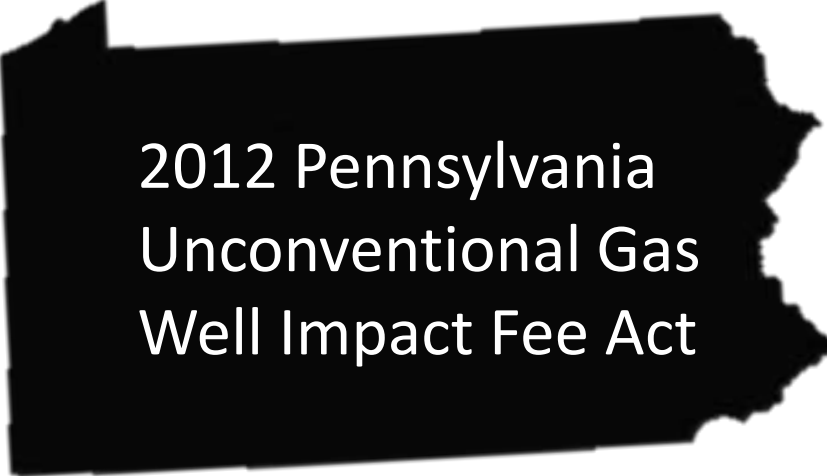
# Enter the Legislatures



Source: National Conference of State Legislatures

# Diffusion vs. Heterogeneity

Tale of Two States and Mega-Legislation



2012 Pennsylvania  
Unconventional Gas  
Well Impact Fee Act



2013  
Illinois  
Hydraulic  
Fracturing  
Regulatory  
Act

# Looking Ahead

- Does this diversity reflect geological tailoring—or other factors?
- How do we define governance “best practice”?
- Are all states “world-class” or, at least, “above average” (with apologies to Garrison Keillor)?
- How do we address cross-border issues?
- Borrowing from Aristotle. . .What will be the results of this emerging approach to shale gas governance?