Top Stories

1/25/19 – Congress and the president reached an agreement to enact a three-week continuing resolution through Feb. 15, funding the nine federal agencies (departments of Transportation, Agriculture, Homeland Security, Treasury, Commerce, Housing and Urban Development, Justice, State and Interior, as well as the IRS, National Science Foundation, FDA and EPA) that had been closed for 36 days as part of the partial federal government shutdown. It remains unclear if Congress and the president will reach a formal agreement concerning federal funds for a barrier on the southern border. Stay tuned to NCSL for further details on fiscal year 2019 appropriations.

1/18/19 – The U.S. District Court for the District of South Carolina ordered the Department of Interior (DOI) to freeze all permit work on seismic surveys of offshore oil and gas deposits off the Atlantic coast due to the lack of current appropriations for the agency.

1/16/19 – Chairman Raúl Grijalva (D-Ariz.) of the House Natural Resources Committee and Chairwoman Betty McCollum (D-Minn.) of the House Environment and Interior Appropriations Subcommittee wrote a letter to DOI acting Secretary David Bernhardt demanding that he provide legal justification for his agency’s decision to require furloughed employees to return to work to continue work on the agency’s offshore oil and gas leasing operations. The letter states that such an action is a violation of the Anti-Deficiency Act, which prevents the executive branch from engaging in activities without an appropriation from Congress.

1/8/19 – The U.S. Department of Agriculture (USDA) announced that it will extend the deadline for producers impacted by retaliatory tariffs to apply for trade-relief payments. USDA Secretary Sonny Perdue stated that "using existing funds, [the agency was] able to keep [Farm Service Agency (FSA)] offices open as long as possible, but unfortunately had to close them when funding ran out," and that "[the agency] will therefore extend the application deadline for a period of time equal to the number of business days FSA offices were closed, once the government shutdown ends." Producers eligible for trade-relief money previously had until Jan. 15 to apply for direct aid payments, but the government shutdown closed local FSA offices on Dec. 28 preventing new signups.

1/6/19 – The Supreme Court of the United States (SCOTUS) declined to take up two challenges to controversial California laws—bans on foie gras and the prohibition of the sale of eggs from caged hens, in addition to a similar caged-hen law in Massachusetts. Late last year, the Department of Justice (DOJ) advised SCOTUS against hearing the case, filed by 12 major egg-producing states over California’s law banning the sale of any and all eggs laid in confinement—including eggs produced in other states and sold in California. The DOJ stated that the laws were not pre-empted by the federal law overseeing egg production, and that the economic harm argument against California’s law is “insufficient because they do not persuasively show price increases outside California that are directly attributable to California’s Egg Laws.” The laws are likely to see continued legal challenges, and it is anticipated that federal legislation to pre-empt such laws, such as the Protect Interstate Commerce Act (115), will be reintroduced in the 116th Congress.

1/3/19 – Federal Energy Regulatory Commissioner Kevin McIntryre passed away. He served as chair of the commission
when he first joined in August 2017, but voluntarily stepped down from that role due to health issues in 2018.

1/3/19 – DOI Secretary Ryan Zinke stepped down following a December 2018 announcement that he would leave the administration in 2019.

1/3/19 – The House passed a new rules package, 234-197, for the 116th Congress which includes major changes to past rules. No longer will a committee and subcommittee chairperson be limited to six-year terms, while the requirement for legislation to be made public for “three-days” before it is voted on was changed to “72 hours,” which would prevent legislation from being released on Friday night and voted on Monday morning. Additionally, the rules package reinstates pay-as-you-go (PAYGO) rules, replacing “cut-as-you-go” (CUTGO). PAYGO requires that new mandatory spending or tax cuts be fully offset with tax increases or mandatory spending cuts whereas CUTGO allowed only spending cuts. As for tax increases, the rules package also repeals a rule that no legislation containing an increase in federal income tax rates can pass the House without a three-fifths vote on a roll call. Dynamic scoring requirements on the Congressional Budget Office (CBO) are also rescinded although a provision would now require CBO to determine the budgetary impact of federal land transfers to state, local or tribal governments. Another major budgetary change is the undoing of a requirement that transfers from the general fund to the Highway Trust Fund “shall be counted as new budget authority and outlays equal to the amount of the transfer in the fiscal year the transfer occurs.” This rule, which had been in place since 2011, meant that such transfers needed to be offset by spending cuts or revenue increases elsewhere in the budget.

12/20/18 – The U.S. Forest Service (USFS) may sell 165 wild horses currently being held at its Modoc National Forest corral without limitations on the future use of the animals, which could result in the animals being sold cross-border for slaughter. Although the DOI is limited in its ability to sell animals without limitations, the USFS is under the jurisdiction of the USDA and therefore not subject to those controls.

From Congress

1/15/19 – Both Oregon Senators, Ron Wyden (D) and Jeff Merkley (D), sent a letter to Food and Drug Administration Commissioner Scott Gottlieb requesting he revise regulations on hemp production making it easier for farmers to grow and distribute the crop. The 2018 Farm Bill legalized the production and sale of industrial hemp products, but the letter states that “outdated regulations limit producers from taking full advantage” of the market.

1/3/19 – Prior to the 115th Congress adjourning, the Senate confirmed several Environmental Protection Agency (EPA), Department of Energy (DOE) and other executive branch officials. This included Alexandra Dapolito Dunn as EPA assistant administrator for the Office of Chemical Safety and Pollution Prevention, William McIntosh to serve as the EPA’s assistant administrator of international and tribal affairs, Mary Neumayer for chairwoman of the White House Council on Environmental Quality, Kelvin Droegemeier as director of the White House Office of Science and Technology Policy, Teri L. Donaldson as DOE inspector general and Daniel Simmons as DOE assistant secretary for energy efficiency and renewable energy.

12/31/18 – Rep. Kathy Castor (D-Fla.) will chair the new Select Committee on the Climate Change Crisis, House Speaker Nancy Pelosi said in a statement. The House adopted new rules earlier this month that created the committee, whose membership would include nine Democrats and six Republicans. The committee will not have subpoena power but would be required to issue policy recommendations by March 31, 2020.

From the Administration

1/23/19 – The U.S. Energy Information Administration (EIA) noted as part of its 2019 Short Term Energy Outlook that it forecasts of non-hydroelectric renewable energy resources, such as solar and wind, will be the fastest growing source of U.S. electricity generation for at least the next two years. Overall, the EIA projects that the share of total U.S. electricity
generation produced by all renewables other than hydropower will increase by 3 percentage points during the next two years, from 10 percent of total generation in 2018 to 13 percent in 2020.

1/16/19 – President Donald Trump resubmitted a number of nominations to the Senate that were not confirmed before the second session of the 115th Congress ended. This included Rita Baranwal for assistant Energy secretary for nuclear energy, Christopher Fall to lead the DOE’s Office of Science, William Cooper for DOE general counsel and Mindy Brashears for undersecretary of Agriculture for food safety.

1/9/19 – A report from the National Academies of Sciences, Engineering and Medicine indicates that U.S. forests are among the most vulnerable in the world to predators and disease—with roughly 7 percent of U.S. forests losing at least 25 percent of their trees by 2027. It suggests that the USDA and EPA consider using biotechnology to promote healthy forests, including the introduction of genetically engineered trees to prevent the loss of forested lands from pests.

12/27/18 – China will allow imports of brown rice, polished rice and crushed rice from the United States, as long as cargoes meet China’s inspection standards and are registered with the USDA. On Dec. 11, the USDA forecasted U.S. rice production at 6.93 million tons while Chinese rice imports were estimated at 5 million tons. Rice makes up only a small portion of U.S. agricultural exports, which are dominated by shipments of soybeans, grain, tree nuts and meat.

Courts

1/16/19 – SCOTUS declined to take up the appeal in Osage Wind v. Osage Minerals Council in which the 10th Circuit Court of Appeals ruled that wind turbine construction is a form of mining on Indian lands and that Osage Wind should have obtained a mineral lease. The administration urged SCOTUS against hearing the appeal. The court also declined to hear Exxon Mobil’s appeal request in its case with Massachusetts Attorney General Maura Healey concerning climate change. The petition to the court was an appeal of a decision from the Massachusetts Supreme Judicial Court, which rejected Exxon’s argument that the attorneys general’s office has no jurisdiction over the company. Additionally, SCOTUS will not review a decision from a three-judge panel of the U.S. Court of Appeals for the Federal Circuit that found the federal government was not liable for flood damage in Louisiana that stemmed from Hurricane Katrina.