To each and every one of you, we hope you are staying healthy and safe during this pandemic, which has affected every facet of our lives. We want you to know NCSL is here for you during this time and has put together many resources for states. The spread of the coronavirus (COVID-19) continues to be a top concern, and while the federal government leads the national response to the outbreak, state lawmakers like yourself are taking extra steps to respond to and anticipate impacts of the virus.

We are committed to providing our members with timely responses to state research requests and the essential knowledge needed to guide state action. The information on NCSL’s Coronavirus (COVID-19) Resources for States webpage are updated daily to reflect new information in policy areas ranging from education to health care costs and access. If you have any questions that aren’t answered there, please reach out to me, Ben Husch (ben.husch@ncsl.org), or my colleague, Kristen Hildreth (kristen.hildreth@ncsl.org) and we will point you in the right direction.

We’ve included some of the latest agriculture, energy, environment and transportation policy issues in Washington, D.C., below. If you have any questions about any of the stories, please do not hesitate to reach out to Kristen or me.

**Disruptions to Food Supply Lead to Invocation of DPA and Surplus Food Purchases**

President Donald Trump issued an executive order (EO) invoking the Defense Production Act (DPA) with specific respect to food supply chain resources, including meat and poultry, during the national emergency caused by the outbreak of COVID-19. The order delegated the authorities granted by the DPA to the secretary of the United States Department of Agriculture (USDA). The secretary will determine the proper nationwide priorities and allocation of all the materials, services and facilities necessary to ensure the continued supply of meat and poultry is consistent with the guidance for operating meat and poultry processing facilities. The guidance was jointly issued by the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration. Following the issuance of the order, Secretary Sonny Perdue issued a statement noting that USDA will work with meat processing plants to affirm they will operate in accordance with this guidance to help ensure employee safety at plants that are reopening or continuing to operate. Perdue also noted that the agency will work with state and local officials to ensure that these plants can operate safely.

USDA also announced it will spend $470 million to buy surplus food amid the widespread disruption in the food supply chain because of COVID-19. The funds will be split between a range of commodities, including surplus dairy ($120 million), potatoes and turkey products ($50 million each), and strawberries ($35 million). Chicken, catfish, Alaska pollock, asparagus, sweet potatoes and orange
Juice are also among the commodity purchases outlined by the department. The purchases are in addition to the purchases announced last month as part of the Coronavirus Food Assistance Program (CFAP). The CFAP included $300 million per month on produce, meat and dairy purchases that will be assembled into variety boxes and sent to food banks.

**PHMSA says Federal Hazardous Material Transportation Law Preempts State Requirements**

The Pipeline and Hazardous Materials Safety Administration (PHMSA) announced that the Federal Hazardous Material Transportation Law preempts the state of Washington's vapor pressure requirement for the transportation of crude oil by rail. The decision comes shortly after the release of a study conducted by Sandia National Laboratories, which concluded that imposing vapor pressure limits would not reduce the risks of transporting crude oil and other flammable liquids by rail.

**Motor Vehicle Fatalities Lowest Since 2014**

The National Highway and Traffic Safety Administration released preliminary figures for 2019 motor vehicle fatalities showing a decline to the lowest level since 2014. Overall, 36,120 were killed, a 1.2% reduction from 2020 with 1.10 deaths per 100 million vehicles mile travelled, a drop from 1.13 in 2018.

**SBA Reopens Disaster Loan Program to Farmers and Ranchers**

The Small Business Administration (SBA) reopened a disaster loan program specifically to farmers and ranchers who have been unable to obtain loans due to a backlog of small businesses seeking assistance from the federal government. “SBA will begin accepting new Economic Injury Disaster Loan (EIDL) and EIDL Advance applications on a limited basis only to provide relief to U.S. agricultural businesses,” the agency posted online. The EIDL provides loans and up to $10,000 in advance to businesses with fewer than 500 employees that are losing revenue amid the Coronavirus pandemic. In late April, Congress approved an extra $50 billion for the depleted program and included language ensuring that agricultural businesses qualified for loans. But because of the backlog of applicants left over from the first round, the SBA was not allowing any new applicants, meaning the newly eligible farm businesses were still locked out.

**Interim Waste Storage Wouldn't Affect Environment**

A draft environmental impact statement (EIS) from the Nuclear Regulatory Commission (NRC) says a proposed interim waste storage facility in West Texas operated by Interim Storage Partners (ISP) would largely have limited effects on the surrounding environment. "The NRC staff preliminarily recommend that, unless safety issues mandate otherwise, the proposed license be issued to ISP to construct and operate a [consolidated interim storage facility] at the proposed location" to store up to 5,000 metric tons of spent nuclear fuel for 40 years, the draft report said. This draft EIS is the second report from NRC staff this year about a proposed facility to temporarily store some of the nation's more than 80,000 metric tons of commercial nuclear waste. The first gave environmental backing for a facility owned by Holtec International in New Mexico to store more than 8,000 metric tons of waste.

**Judge Narrows Scope of Ruling Barring the Army Corps Nationwide CWA Permit**

Chief Judge Brian Morris of the U.S. District Court for the District of Montana narrowed the scope of his previous ruling that barred the Army Corps of Engineers (the Corps) from using its nationwide Clean Water Act (CWA) permit for new infrastructure projects. The updated ruling will continue to forbid the construction of new oil and gas pipelines but will allow the permit to be used for other construction projects such transmission lines, as well as routine maintenance of existing projects.
Previously, the court decision found the permit issued by the Corps for the Keystone XL pipeline violated federal law by not properly considering the impact on endangered species. Following the initial decision by Morris, the Corps announced it has suspended the nationwide permit program.

**Executive Order Issued for Electrical Grid Safety**
President Trump signed an executive order aimed at securing the United States electrical grid by prohibiting U.S. electric utilities from installing grid devices from foreign manufacturers that could threaten national security. The order requires the Department of Energy (DOE) to establish a “pre-qualified” vendor program that will allow utilities to identify friendly device makers from around the globe. The agency will also develop a program to identify any prohibited power devices already in use and work with utilities to “identify, isolate, monitor, and replace this equipment as appropriate.” The DOE will also create a task force to develop new infrastructure procurement policies for utilities that are “fully integrated” with federal cybersecurity policies.

**Senate EPW Committee Unanimously Advances 2020 WRDA Authorization**
On May 6, the Senate Committee on Environment and Public Works (EPW) unanimously approved the America’s Water Infrastructure Act of 2020 and the Drinking Water Infrastructure Act of 2020. The two bills make up the 2020 authorization of the Water Resources Development Act (WRDA). WRDA, generally, is authorized every two years, and plays a key role in protecting, maintaining and further developing the nation’s water infrastructure systems, including, ports, waterways, and clean and safe drinking water. It provides states with added stability and certainty to meet water infrastructure needs while also supporting the safety, environmental protection and economic development of communities across the nation. WRDA not only provides the Corps with its authorization to address and maintain America’s water infrastructure, including its ports, dam and flood resistance efforts, but it also provides funding and financing opportunities to states undertaking vital water infrastructure projects. The House has not produced draft text. NCSL has sent two letters to the House and Senate—the first with other state and local government stakeholders, and the second with NCSL-specific issues.

**Tax Credits by Clean Energy Industries Extended While Largest Solar Plant Approved**
The Treasury Department agreed to extend a deadline for production and investment tax credits used by the wind, solar and other clean energy industries. The move would extend a “safe harbor” provision that allows companies that began construction on a project in 2016 or 2017 to claim the tax credits. Toll credits accrued by states can only be used to cover their local costs for federally funded projects under existing law, leaving many states with extra credits. Along this vein, the Department of the Interior and the Bureau of Land Management recently approved, what would become, if completed, the largest solar plant in the United States. Set to be situated outside Las Vegas, Nev., it would produce just under 700 megawatts (MW) of electricity in addition to having battery storage of nearly 400 MW.

**Federal Regulation of Biotechnology Could Better Collaborate, GAO Says**
The Government Accountability Office (GAO) issued a new report on federal regulation of biotechnology, finding that the Food and Drug Administration and USDA could better collaborate when overseeing joint regulation of cell-cultured meat. Although no company is commercially producing cell-cultured meat, specific information about the technology being used, eventual commercial production methods, and composition of the final products highlight the importance of coordination across the federal government.
The Federal Motor Carrier Safety Administration proposed prohibiting state driver’s licensing agencies from renewing, upgrading or transferring a commercial driver's license (CDL), or commercial learner's permit (CLP) for certain individuals. They include those prohibited under current regulations from driving a commercial motor vehicle due to controlled substance and alcohol program violations. Comments on the proposed rule are due June 29.

Thanks for reading. We’ll be back later this month to fill you in on other federal happenings–stay healthy and stay safe.

Best,
Ben and Kristen