

Troutman Pepper State Attorneys General Monitor – March 2021

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Troutman Pepper's State Attorneys General team combines legal acumen and government experience to develop comprehensive, thoughtful strategies for clients. Our lawyers handle individual and multistate AG investigations, proactive counseling and litigation, and manage ancillary regulatory issues. Our successful approach has been recognized by *Chambers USA*, which ranked our practice as a leader in the industry.

FEDERAL ENVIRONMENTAL REGULATIONS

BUSINESSES GRAPPLING WITH FEDERAL REGULATION MAY LOOK TO STATES AS ALLIES

By David Ross, [Misha Tseytlin](#), and Houston Shaner

As the Biden administration settles in, the pendulum of federal power has begun to swing back toward greater regulation. In response, regulated entities are beginning to review their range of options to engage in, challenge, or prepare for the host of new regulatory and enforcement initiatives that will shape their business practices for the next several years. While ramping up advocacy efforts, strategic planning, and internal compliance procedures, members of the regulated community interested in challenging federal regulatory activity may have an important potential ally: state attorneys general (AGs). State AGs, along with state governors and legislatures, will play key roles in shaping how far and in what domains new regulations will reach. State AGs frequently lead the charge in challenging or defending federal action in court; they help guide regulatory implementation, and they can have significant influence over enforcement. The private sector is therefore not alone in bearing the risk of new federal initiatives, as states often stand to cede their traditional regulatory authority and control over their budgets.

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REPUBLICAN STATE ATTORNEYS GENERAL

STATE WATCHDOGS: AS BIDEN TAKES OFFICE, REPUBLICAN ATTORNEYS GENERAL LIKELY TO CHALLENGE ADMINISTRATION ON MANY FRONTS

By [Stephen Piepgrass](#), [Chris Carlson](#), and Rachel Miklaszewski

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During the past four years, Democratic state attorneys general filed a record number of lawsuits against the Trump administration's executive orders. Now as the Biden administration takes office, and with the shoe on the other foot, a coalition of six Republican state attorneys general come committed to use "all available means to combat potential federal overreach." If the partisan divide remains in Congress, as foreshadowed by the current COVID-relief legislation, President Biden's supporters will urge him to follow the lead of Presidents Obama and Trump and pass landmark policies through executive orders and federal agency regulations. If President Biden takes this road more traveled, we expect even more of the 26 Republican attorneys general to coalesce and file actions to halt such policies.

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CFPB AND MULTISTATE AG ACTIONS

CFPB AND STATE ATTORNEYS GENERAL TARGET IMMIGRATION BOND COMPANY FOR ALLEGEDLY ABUSIVE ACTS AND PRACTICES

By [David Anthony](#), [Ashley Taylor](#), Alan Wingfield, and Dascher Pasco

On February 22, the Consumer Financial Protection Bureau (CFPB), joined by the attorneys general for Virginia, Massachusetts, and New York (States), [filed suit](#) against Libre by Nexus, Inc. (Libre). The suit alleges that Libre, an immigration bond services business, engaged in deceptive and abusive acts or practices in connection with its offer of credit to consumers for their immigration bonds. This suit, the first new public enforcement action of the Biden administration, highlights the theme of anti-discrimination, a stated priority of both the CFPB and Virginia Attorney General Mark Herring.

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NATIONAL ATTORNEY GENERAL NEWS

ON THE NATIONAL FRONT: THE WILKINSON MEMO AND EXPANDED PROSECUTORIAL DISCRETION

By Lauren Geiser

In addition to our coverage of the state attorneys general landscape, we also note any major developments from the national attorney general level that could affect behavior of state attorneys general.

On January 29, President Biden's Acting Attorney General Monty Wilkinson issued a [memorandum](#) to all federal prosecutors titled, "Interim Guidance on Prosecutorial Discretion, Charging, and Sentencing" (Wilkinson Memo).

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TRIBAL LAW

WASHINGTON SENATE BILL SIGNALS RENEWED COMMITMENT TO TRIBAL SOVEREIGNTY AND GOVERNMENT-TO-GOVERNMENT RELATIONSHIPS

By [David Anthony](#), [Tim Butler](#), [Ashley Taylor](#), [Chris Carlson](#), and [Jed Komisin](#)

Bob Ferguson, the attorney general of Washington, has released his 2021 legislative agenda. The requested legislation includes a [bill](#) that would self-impose notice requirements to Washington tribes before initiating a project or program that would implicate tribal rights. The legislation “requires that the Attorney General obtain free, prior, and informed consent before initiating programs or projects, under his or independent authority, that affect tribes, tribal rights, and tribal lands.”

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ATTORNEY GENERAL PROFILE – ALASKA

NEW AG ON THE BLOCK: ALASKA ATTORNEY GENERAL TREG TAYLOR

By [Chris Carlson](#) and [Bonnie Gill](#)

Former Deputy Attorney General Treg Taylor was named as Alaska's next attorney general on January 29. Taylor succeeded Clyde “Ed” Sniffen, who removed his name from consideration after being appointed to the position just two weeks prior.

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FEDERAL STUDENT LOAN DEBT

STATE AGS ENDORSE CALL FOR PRESIDENT BIDEN TO CANCEL \$50,000 IN FEDERAL STUDENT LOAN DEBT

By [Alan Wingfield](#) and [Mark Windham](#)

Last week, attorneys general from 17 states wrote a [letter](#) to Democrat and Republican leaders in both houses of Congress, expressing support for Senate Resolution 46 and House Resolution 100, which call upon President Biden to use executive authority under the Higher Education Act to cancel up to \$50,000 in federal student loan debt for all student loan borrowers.

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