



# The New State Attorneys General: Profiles and Priorities

Orrick, Herrington & Sutcliffe LLP

**Rob McKenna, Partner**

[rmckenna@orrick.com](mailto:rmckenna@orrick.com)

**Erica Sechrist, Senior Strategist**

[esechrist@orrick.com](mailto:esechrist@orrick.com)



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### Introduction: The People’s Lawyer

State attorneys general are more active and influential than ever.<sup>1</sup> While they continue to collaborate on multistate investigations of consumer protection and antitrust issues, they also view themselves as activists, operating along party lines as a bulwark against—or defenders of—incumbent administrations. During the Obama Administration and current Administration, state AGs have become increasingly active in mounting legal challenges to federal policies and legal positions, sometimes prompting AGs of the other party to weigh in on the opposite side. (See *Figure 2 - Partisan multistate lawsuits filed against the federal government, 1981-2018*)

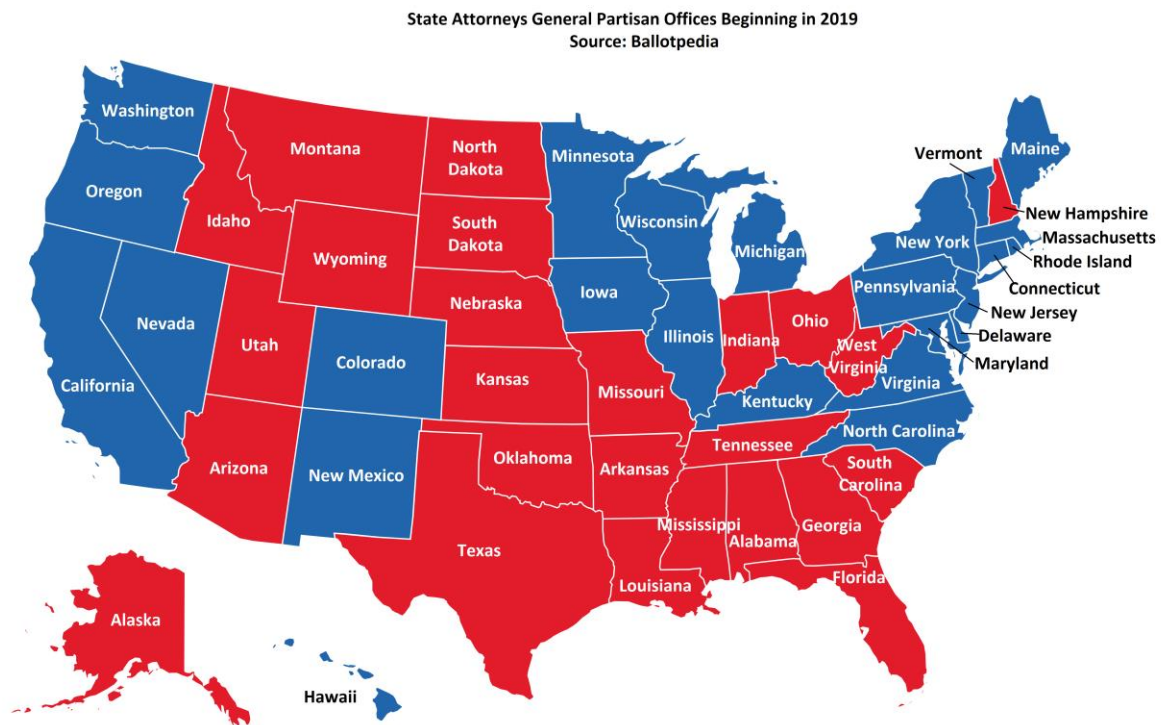
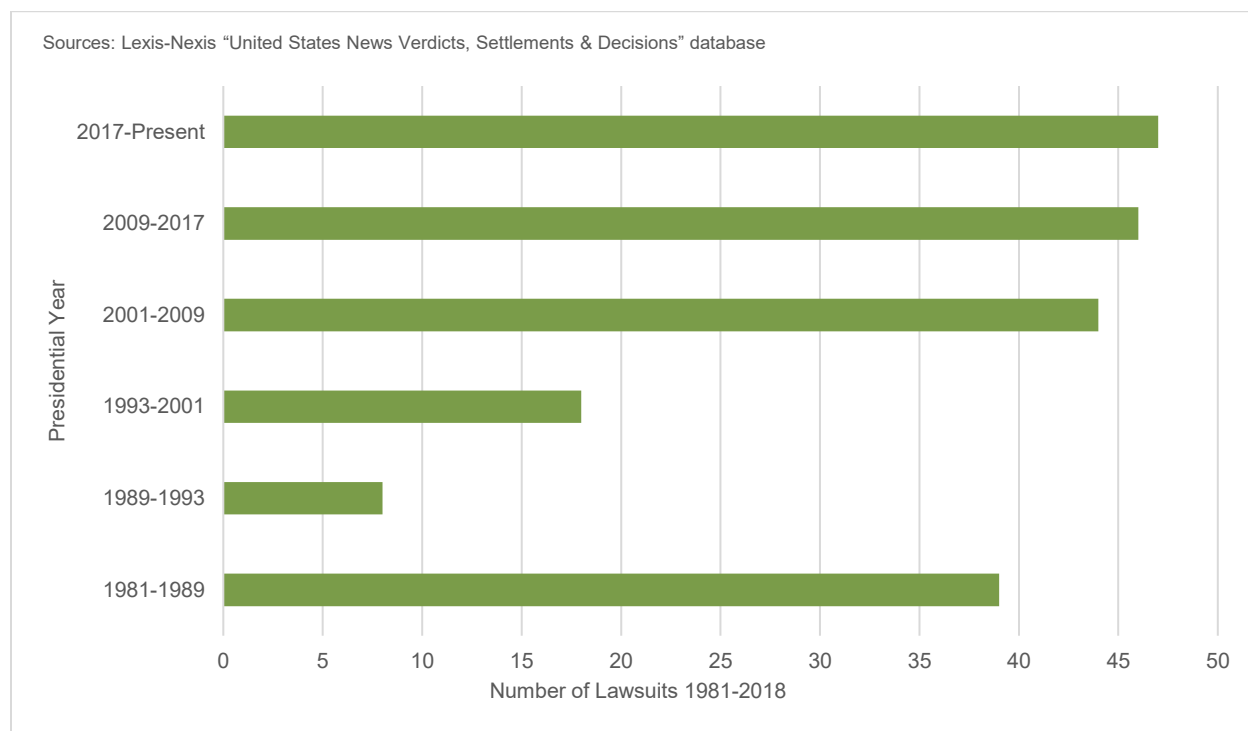


Figure 1 - 2018 AG Election Results

Figure 2 - Partisan multistate lawsuits filed against the federal government, 1981-2018



This past fall there were 30 contested state AG elections, and four offices previously held by Republicans will now be held by Democrats. (See *Table 1 – 2018 Attorney General Races*) Reflecting the rising importance of the office, a record amount of money was spent on AG contests; some estimates place the total at \$100 million, or roughly three times the highest previous total for a midterm election.<sup>2</sup> Democrats will occupy 27 of the 51 AG offices starting in 2019, up from 23. Regardless of party, those in office will affect businesses and consumers in crucial ways. This report provides an overview of America’s newly elected and appointed AGs, paying special attention to their histories as lawyers, legislators or otherwise policymakers, and to the pledges they made on the campaign trail.

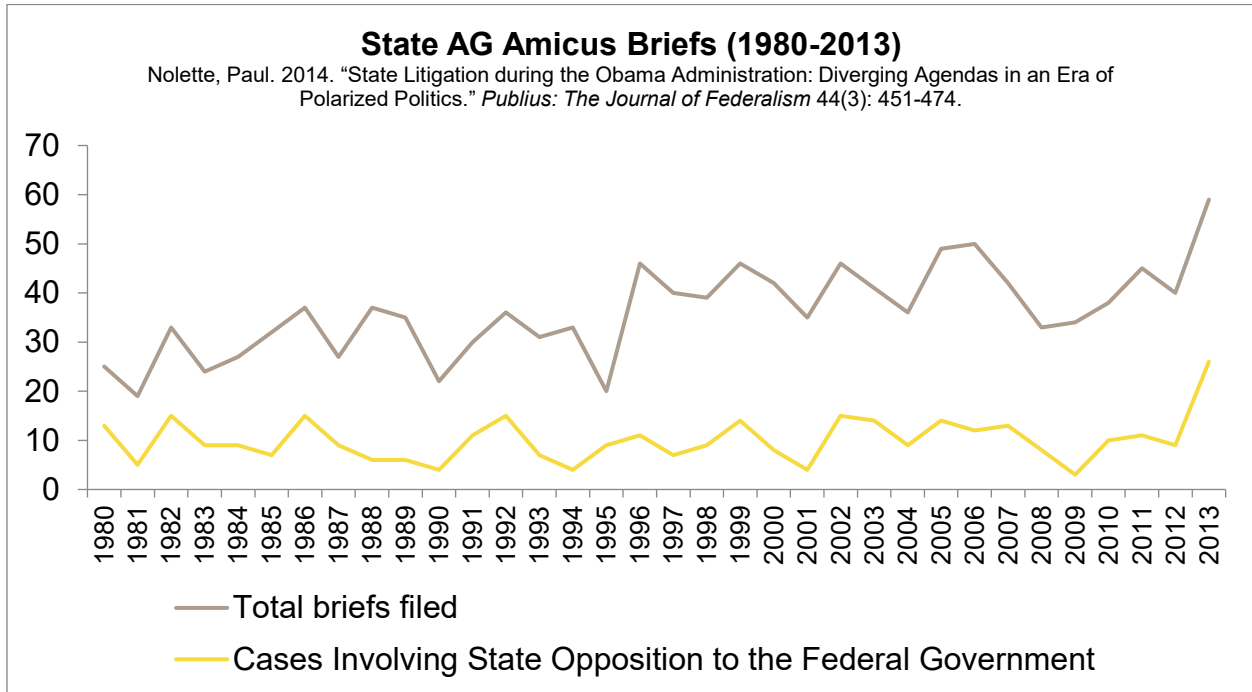
The office of AG has roots in thirteenth century England, when kings appointed attorneys to represent their “regal interests” across their kingdom.<sup>3</sup> American state AGs are counsel to state executive branch agencies and sometimes to state legislatures and offices of the judiciary. Importantly, they also represent the public interest more broadly through their roles in areas such as consumer protection, antitrust, and law enforcement.<sup>4</sup> Once strictly viewed as the “government’s lawyers,” AGs are often now seen as independent officers “responsible for justice.”<sup>5</sup> Following this trend, AGs in 43 states\* and the District of Columbia are now popularly elected.<sup>6</sup>

Either independently or in consultation with their state agency clients, state AGs have the authority to initiate lawsuits and influence litigation. State AGs affect policymaking by advising state lawmakers, defending state laws and regulations, and defending or challenging federal laws and policies – often by authoring “friend of the court” briefs (See *Figure 3 – State AG Amicus Briefs, 1980-2013*).<sup>7</sup> They directly influence state law and policy by drafting “AG request” legislation which is introduced on their offices’ behalf by state legislators. In

\* In five states the attorney general is appointed by the governor: Alaska, Hawaii, New Hampshire, New Jersey, and Wyoming. In Tennessee, the AG is appointed by the state supreme court, and in Maine the choice is made by the state legislature. (See [https://ballotpedia.org/Attorney\\_General\\_office\\_comparison](https://ballotpedia.org/Attorney_General_office_comparison)).

many states, the AG’s powers arguably are exceeded only by the governor who is “responsible for the faithful execution of the laws.”<sup>8</sup>

Figure 3 - State AG Amicus Briefs, 1980-2013



## America's 18 Newest State Attorneys General

As noted above, in 2018 there were more than 30 contested state AG elections resulting in the election of 13 new AGs. In addition, the election of new governors in Alaska, Maine, and Wyoming has resulted in new AGs being appointed for those states. In Missouri, the AG was elected to the U.S. Senate, resulting in the state's governor appointment of a new AG. In Maine, the AG's election to the office of Governor led to the legislature naming her replacement. And in Hawaii, Governor David Ige appointed new AG Clare Connors to replace acting Attorney General Russell Suzuki. Four elected state AG offices previously held by Republicans will now be held by Democrats in Colorado, Michigan, Nevada and Wisconsin.

The table below reviews these changes and is followed by an overview of each of the 18 newly-elected and appointed AGs. The new AGs' professional background and likely priorities in office are summarized.

Table 1 - 2018 Attorney General Elections and Appointments

(Click on new AG to jump to their section)

State	Incumbent	Open Seat?	Newly Elected or Appointed
Alaska	Jahna Lindemuth (Independent)	-	<a href="#">Kevin Clarkson</a>
Colorado	<a href="#">Cynthia Coffman</a>	✓	<a href="#">Phil Weiser</a>
Connecticut	<a href="#">George Jepsen</a>	✓	<a href="#">William Tong</a>
Delaware	<a href="#">Matthew Denn</a>	✓	<a href="#">Kathy Jennings</a>
Florida	<a href="#">Pam Bondi</a>	✓	<a href="#">Ashley Moody</a>
Hawaii	<a href="#">Russell Suzuki</a>	-	<a href="#">Clare Connors</a>
Illinois	<a href="#">Lisa Madigan</a>	✓	<a href="#">Kwame Raoul</a>
Maine	<a href="#">Janet Mills</a>	-	<a href="#">Aaron Frey</a>
Michigan	<a href="#">Bill Schuette</a>	✓	<a href="#">Dana Nessel</a>
Minnesota	<a href="#">Lori Swanson</a>	✓	<a href="#">Keith Ellison</a>
Missouri	<a href="#">Josh Hawley</a>	-	<a href="#">Eric Schmitt</a>
Nevada	<a href="#">Adam Laxalt</a>	✓	<a href="#">Aaron Ford</a>
New York	<a href="#">Barbara Underwood</a>	✓	<a href="#">Letitia James</a>
Ohio	<a href="#">Mike DeWine</a>	✓	<a href="#">Dave Yost</a>
Rhode Island	<a href="#">Peter Kilmartin</a>	✓	<a href="#">Peter Neronha</a>
South Dakota	<a href="#">Marty Jackley</a>	✓	<a href="#">Jason Ravensborg</a>
Wisconsin	<a href="#">Brad Schimel</a>	✓	<a href="#">Josh Kaul</a>
Wyoming	<a href="#">Peter Michael</a>	-	<a href="#">Bridget Hill</a>



## Alaska | Kevin Clarkson GOP

<http://www.law.state.ak.us/>

AG Kevin Clarkson (R), appointed by Alaska's Governor Mike Dunleavy (R), was sworn into office in December 2018.<sup>9</sup>

Clarkson is a decades-long litigator, practicing as a partner at the Anchorage firm Brena, Bell & Clarkson, P.C., for 30 years.<sup>10</sup> In private practice, he was a highly-regarded civil litigator, specializing in state and federal litigation, and Constitutional law.<sup>11</sup> As the next AG, Clarkson may take the office in a more partisan direction than his predecessor, Jahna Lindemuth, who prioritized nonpartisan multistate lawsuits and local issues. When questioned about the lawsuits filed by his predecessor, Clarkson said, "he was too new in the job to talk" about these cases.<sup>12</sup> He pledged that he will "represent the state as [Governor] Dunleavy requests."<sup>13</sup>

Clarkson may have an interest in joining high-profile multistate lawsuits and authoring "friend of the court" briefs on matters related to religious liberty, women's health, and "federal overreach." As a reliable social conservative, Clarkson has previously found an avenue for his political views through impact litigation against the state government.<sup>14</sup>

For example, Clarkson has a record of taking on high-profile religious-rights and abortion cases.<sup>15</sup> In 2010, he defended a ballot measure that would have required parents to be notified if their child under 18 wanted an abortion; earlier he defended a law that would have required parental consent for a child's abortion.<sup>16</sup> In 2018, Clarkson defended a faith-based Anchorage homeless shelter in a discrimination suit against a transgender woman.<sup>17</sup> These cases, among others, have earned Clarkson the support from Alliance Defending Freedom, a conservative Christian nonprofit organization.<sup>18</sup> "Kevin's life incorporates an extraordinary combination of top-notch legal skills with a burning desire to serve God in his practice," writes Joe Infranco, a senior counsel for ADF, in a public statement.<sup>19</sup> "He has emerged as one of the leading luminaries in the fight for religious freedom in Alaska."<sup>20</sup>

### BACKGROUND<sup>21</sup>

- Partner, Brena, Bell & Clarkson, P.C., 1988-2018
- Super Lawyer, 2014-2018
- Donated 10,000 pro bono hours to Alliance Defending Freedom
  - Recipient of their "Golden Service" and "Silent Watch Awards"<sup>22</sup>
- Sued the Anchorage Equal Rights Commission over discrimination protections for same-sex couples, 2000<sup>23</sup>
- Filed an amicus brief in support of banning same-sex marriage, 1999<sup>24</sup>
- Oregon State University, B.A.; Willamette University College of Law, J.D., 1985

### PRIORITIES<sup>25</sup>

- Curbing "federal overreach"
- Advocating for religious liberties
- Defending pro-life legislation
- Fighting same-sex marriage legislation
- Combatting local crime



## Colorado | Phil Weiser DEM

coag.gov

A former Obama Administration official and Dean of the University of Colorado Law School, Phil Weiser (D) was elected by 49.7% to 47%, defeating George Brauchler (R), a local district attorney.<sup>26</sup> Incumbent AG Cynthia Coffman (R) ran an unsuccessful campaign for governor.<sup>27</sup>

This will be Weiser's first elected political office but not his first position in government. He served in the Clinton and Obama administrations, working in the Justice Department's Antitrust Division and as a deputy assistant attorney general.<sup>28</sup> Weiser also served as a senior advisor for technology and innovation at the National Economic Council under President Obama, a position that reflected his continuing focus on antitrust law and competition. Weiser's roots are in academia. After clerking for U.S. Supreme Court Justices Byron White and Ruth Bader Ginsburg, he taught courses on antitrust law and telecommunications at several law schools. Most recently, he served as Dean of the University of Colorado Law School.<sup>29</sup>

Weiser has published a number of books and articles. Based on an analysis of his published work and public statements, it is evident that Weiser believes strongly in a measured approach to regulation and is a proponent of market competition.<sup>30</sup> He sees his role as AG "as a national leader" on the issues of "consumer protection, privacy, and antitrust enforcement."<sup>31</sup> He is committed to fighting for "consumers and good businesses" at a time when "the federal government is turning its back" on consumer protection.<sup>32</sup> "I believe we need a lawyer who is going to represent the people of Colorado, protect our democracy, to stand up for people and protect our land air and water."<sup>33</sup> Well-versed in the dynamics of the technology sector, Weiser has been somewhat less focused on data privacy and cyber security and more focused on potential anti-competitive behavior among the tech giants.

Weiser has also promised to focus on Colorado's economy. He believes that "Colorado must be a leader in" entrepreneurship and a source of "good-paying jobs."<sup>34</sup> He has pledged to "stand up to irresponsible companies" while also promoting prosperity through competition.<sup>35</sup> Weiser wants Colorado to continue to attract investments and startups, to create jobs, and grow its economy.<sup>36</sup>

### BACKGROUND:<sup>37</sup>

- Executive Director, Silicon Flatirons Center, University of Colorado at Boulder, 2016-2019
- Professor, University of Colorado at Boulder, 2016-2018
- Dean, School of Law, University of Colorado at Boulder, 2011-2016
- Senior Advisor, Technology and Innovation, National Economic Council, 2010-2011
- Deputy Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 2009-2010
- Professor, Law and Telecommunications, University of Colorado, 1999-2009
- Executive Director, Silicon Flatirons Center, University of Colorado at Boulder, 1999-2009
- Senior Counsel, Telecom Policy, Antitrust Division, United States Department of Justice, 1996-1998
- Law Clerk, United States Supreme Court, Byron White and Ruth Bader Ginsburg, 1995-1996
- Law Clerk, Tenth Circuit of the United States Court of Appeals, Judge David Ebel, 1994-1995
- Swarthmore College, B.A., 1990; New York University School of Law, J.D., 1994



**PRIORITIES:**<sup>38</sup>**Antitrust**

- Weiser’s legal career has centered on “fighting for competition, consumers, and entrepreneurs.” He believes that “Attorneys General play an important role in standing up to” anti-competitive behavior.
- He pledges to “enforce competition laws...to make sure that health care providers and insurers compete on cost and quality,” and to support a “legal environment that supports entrepreneurs and eliminates barriers to entry for new businesses.”

**Education**

- Weiser pledges to attend to “Coloradans who’ve found themselves mounted with large student debt after their university education.”
- He plans to “take on predatory debt collectors who take advantage of vulnerable students.”
- Weiser plans to “enforce [Colorado’s] gun laws and work with the legislature to develop safer measures so that we can guarantee a safe education for our children.”

**Healthcare**

- Weiser “will work to protect the Affordable Care Act’s provisions” and “defend Colorado from health insurance fraud.”
- “As Attorney General, I will enable hundreds of thousands of Coloradans to have access to reliable health care.”

**Criminal Justice**

- Weiser plans to reduce sexual assault incidents “by creating a special Sexual Assault Assistance Unit of specialized prosecutors and investigators in the Attorney General’s office.”
- He pledges to establish an Elder Abuse unit in the AG’s office “to combat the criminal targeting of Colorado’s elder population for financial and physical exploitation.”
- To reduce incarceration, Weiser pledges to seek “alternatives to incarceration for those suffering from substance abuse or mental illness.”

**Environment**

- Weiser has said that “no issue is more important ... than protecting our land, air, and water.”
- He campaigned on the promise to establish a special unit in the AG’s office to “support and counsel” local governments in dealing with oil and gas companies, particularly in developing “surface user agreements.”<sup>39</sup>

**Net-neutrality**

- Weiser has written that the “FCC has a role in ensuring net-neutrality, but ISPs should have the option to make deals with content companies to provide better service”<sup>40,41</sup>

**Consumer Protection and Debt Settlement**

- Weiser is committed to “protecting consumers—especially young people—from the challenges of student debt, shady servicing, and collection malpractice.”
- “With the [CFPB] eviscerated by President Trump, we must act together with other states to protect Coloradans from the forces that exploit the vulnerable every day.”
- He believes that it is “essential that we stand up against the troubling wave of mergers and industry consolidation that have led to higher prices and lower quality offerings in many sectors.”



## Connecticut | William Tong DEM

[ct.gov/ag/site/default.asp](http://ct.gov/ag/site/default.asp)

State Representative William Tong (D) was elected with a 51.9% to 47% majority, defeating state prosecutor Susan Hatfield (R).<sup>42</sup>

As Connecticut's new AG, Tong's "number one job is to protect Connecticut consumers from unfair business practices."<sup>43</sup> In this regard, he promises continuity as he succeeds not just his immediate Democratic predecessor but also a long line of Democratic AGs who have held the office since 1959.<sup>44</sup> Tong is an experienced legislator and litigator; he has served as a state representative since 2007 and entered law practice as a litigation associate after graduating law school in 2000.<sup>45</sup> "Knowing your way around state government is critical to being the state's lawyer, which is your first job," Tong says.<sup>46</sup>

Tong's legislative record provides some insight into his priorities as he assumes his new office. As the chairman of the state House's Banking Committee, Rep. Tong introduced legislation to "expand and extend" the state's foreclosure mediation program to streamline mediation and protect homeowners from foreclosure-related litigation.<sup>47</sup> Similarly, as a candidate for AG, he pledged to create a consumer financial protection bureau for Connecticut and a financial fraud task force.<sup>48</sup> Consumer financial protection—involving large banks, payday lenders, student loan lenders, and high-interest consumer lenders—is a top priority.<sup>49</sup>

Addressing healthcare costs and fraud is another of Tong's goals. He is committed to "protecting consumers from excessive health care and prescription drug costs," and will "expand [the] state's focus on consumer protection lawsuits" on a larger scale.<sup>50</sup> His campaign pledge to take on the "Addiction Industry" also suggests increased scrutiny of the pharmaceutical and healthcare sectors.<sup>51</sup>

### BACKGROUND:<sup>52</sup>

- Representative, Connecticut State House of Representatives, District 147, 2006-2018
  - Chairman of the Banking Committee
  - Vice-Chairman of the Energy and Technology committee
  - Member of the General Law and Judiciary committees
- Candidate, United States Senate, 2012
- Board Member, Person-to-Person, 2004-present
- Of Counsel, Finn Dixon and Herling LLP, 2003-present
- Commissioner, Personnel Commission, Stamford, 2002-2005
- Associate, Simpson Thacher and Bartlett LLP, 2000-2003
- Management Consultant, Price Waterhouse LLP, 1995-1997
- Brown University, A.B., 1995; University of Chicago Law School, J.D., 2000

### PRIORITIES:<sup>53</sup>

#### Consumer Protection – Healthcare and Financial Fraud

- Tong believes that the AG's "number one job is to protect Connecticut consumers from unfair business practices."
- He plans to create a state consumer financial protection bureau and financial fraud task force.

- Tong intends to use the powers granted to state AGs under the federal Dodd-Frank Act to protect residents from financial fraud and abuse.

**Privacy**

- Tong has said that if any company is “abusing their terms of service” to sell personal data, as AG, he promises to “bring action.”

**Net Neutrality**

- Tong pledges to join his predecessor and 20 other AGs to oppose the FCC’s decision to “repeal” net neutrality.<sup>54</sup>

**Workers’ Rights and the Right to Organize**

- Tong has the highest AFL-CIO rating of any candidate for AG; he opposes right-to-work legislation and promises to “defend collective bargaining and pension rights for workers.”
- He will defend “a \$15 minimum wage” and paid family and medical leave policies.

**Environment**

- As Rhode Island’s outgoing AG has already done, Tong plans to sue “the world’s largest fossil fuel companies for hastening climate change.”



## Delaware | Kathleen Jennings DEM

attorneygeneral.delaware.gov

Kathleen Jennings (D) was elected with a 61.3% to 38.7% majority, defeating Bernard Pepukayi (R), the former deputy legal counsel to Governor Ruth Ann Minner (D).<sup>55</sup>

Jennings has spent most of her career in Delaware law enforcement. For decades she worked as a prosecutor at Delaware’s Department of Justice trying criminal cases; most recently she was the State Prosecutor at the Office of the Attorney General.<sup>56</sup> Her priorities in office reflect her career in criminal law and include progressive stances on criminal justice reform.<sup>57</sup>

Jennings was somewhat less specific during her campaign on matters of consumer protection, the environment, and data privacy.<sup>58</sup> It is possible that she will run her office much like her predecessor, investigating consumer fraud through the office’s specially-staffed units and joining other state AGs in coordinated multistate consumer protection investigations.<sup>59</sup> She has pledged to pursue companies that have contributed to the opioid epidemic and to join ongoing state lawsuits against the EPA and the Trump Administration.<sup>60</sup> She is committed to holding “all polluters accountable by investigating and prosecuting civil and criminal violations of environmental laws.”<sup>61</sup>

### BACKGROUND:<sup>62</sup>

- Attorney, Phillips, Goldman & Spence Professional Association, 2011-2018
- State Prosecutor, Delaware Department of Justice
- Chief Deputy Attorney General, Delaware Department of Justice
- Chief Administrative Officer, New Castle County
- Co-Founder, Oberly and Jennings
- University of Delaware, B.A., 1975; Villanova University, J.D., 1978

### PRIORITIES:<sup>63</sup>

#### Consumer Protection

- Jennings is committed to protecting consumers from fraud and other unfair business practices.<sup>64</sup>
- Her campaign pledges did not target specific industries; rather, she has made clear that Delaware’s consumer protection statutes give her broad authority to enforce the law and prosecute violations.
- She pledges to use the office’s Senior Protection Unit to prosecute those “preying on our seniors.”<sup>65</sup>

#### Opioid Epidemic

- Jennings plans to sue opioid producers, manufacturers, and distributors.<sup>66</sup> She believes the AG’s office has the duty to “take substantial remedial steps” on behalf of the public.<sup>67</sup>

#### Environment

- Jennings will join the coordinated effort led by other state AGs to file suits to “protect our environment from the toxic agenda emanating from Washington D.C.”<sup>68</sup>
- She pledged to “[f]ight to protect Delawareans...from offshore drilling...” and to protect land from being auctioned off to gas and oil companies.<sup>69</sup>



## Florida | Ashley Moody GOP

myfloridalegal.com

Circuit Court Judge and law professor Ashley Moody (R) was elected with a 52.2% to 46% majority, defeating Sean Shaw (D), a State Representative.<sup>70</sup>

Moody replaced term-limited Pam Bondi as Florida’s AG. She is expected to follow her predecessor by prioritizing drug-related criminal cases and working collaboratively with the private sector.<sup>71</sup> Her campaign was endorsed by, among others, Florida’s Chamber of Commerce, Florida Medical Association’s PAC, and a large number of conservative leaders and law enforcement officials.<sup>72</sup> The endorsement statement of the Associated Builders and Contractors of Florida described Moody as “an excellent partner to the Commercial Construction industry.” She has been commended for “her steadfast support of reducing barriers to increase innovation and promote job creation.”<sup>73</sup>

Moody is likely to expand her office’s efforts to combat Florida’s opioid epidemic. During her campaign she pledged to “immediately put together a ... statewide task force,” in addition to assembling a grand jury system to bring in experts.<sup>74</sup> She comes to the AG office as an experienced prosecutor and jurist. Before joining the bench, she worked as an Assistant U.S. Attorney trying drug, firearm, and fraud felonies.<sup>75</sup> A trained accountant who has described herself as results-driven and a “numbers person,” Moody pledges to “to make sure we’re good stewards of the taxpayer money” and of law-enforcement resources.<sup>76</sup>

### BACKGROUND:<sup>77</sup>

- Judicial Faculty, Florida’s New Judges College
- Associate, Holland & Knight, 2001-2004
- Adjunct Professor, Stetson University College of Law
- Circuit Court Judge and Member of Various Committees, Thirteenth Judicial Circuit of Florida, 2006-2017
- Assistant U.S. Attorney, Middle District of Florida
- Member, Hillsborough County Bar Foundation, Board of Directors and Finance Committee, 2003
- University of Florida, B.S., M.A.; Stetson University, J.D. and LLM

### PRIORITIES:

#### Business Regulation

- Moody plans to “[work] with the private-sector and business leaders to ensure our state has a fair, competitive, and free marketplace.” She will also continue Florida’s lawsuit against the ACA and its efforts to challenge the CFPB’s Arbitration Rule.<sup>78</sup>

#### The Rule of Law

- As Florida’s AG, Moody “will seek justice for all Floridians, defend the rule of law and protect our state and citizens from crime and fraud.”<sup>79</sup>
- Her top priorities include: “Enforcing our laws, securing our borders, and eliminating gangs and criminal organizations.” She pledges to “ardently defend against politicians that violate our separation of powers and fight against activist judges.”<sup>80</sup>

- Moody pledges to “[v]igorously prosecut[e] violent criminals, scam artists, identity thieves, price gougers, human traffickers, pill pushers, and drug dealers.”<sup>81</sup>
- She opposes any restrictions on the availability of firearms as a self-described “staunch defender of the Second Amendment.”<sup>82</sup>

#### **Opioids**

- Combatting the opioid epidemic is a top priority. Moody plans to “relentlessly pursue ways to fight the battle on all fronts, in all available jurisdictions, effectively using the expertise and resources of the Attorney General’s Office.”<sup>83</sup>
- Her plans include “[c]oordinating a data-based attack on the opioid epidemic gripping our state.”<sup>84</sup>

#### **Senior Fraud and Abuse**

- Moody is committed to “Protecting our seniors and creating a statewide task force” to “aggressively punish those responsible for the physical and financial abuse” of seniors.<sup>85</sup>

#### **Environment**

- Moody may join other Republican AGs and challenge “federal overreach,” particularly when it comes to EPA regulation promulgated by the Obama Administration. This includes the multistate lawsuit against the EPA’s Clean Water Rule and Clean Power Plan.<sup>86</sup>



## Hawaii | Clare Connors DEM

ag.hawaii.gov

On January 3<sup>rd</sup>, 2019, Clare Connors (D) was appointed by Hawaii’s governor to become the state’s next attorney general.<sup>87</sup> Connors will replace acting AG Russell Suzuki (D) pending Senate confirmation.<sup>88</sup>

Connors comes to the office with legal experience in the federal government and the private sector.<sup>89</sup> After graduating from Harvard Law School, Connors clerked for Judge David Alan Ezra on the U.S. District Court for the District of Hawaii and then served as a trial attorney for the Department of Justice’s Tax Division.<sup>90</sup> Later, in the U.S. Attorney’s office in Virginia and Hawaii, Connors prosecuted fraud, child exploitation crimes, and other felonies.<sup>91</sup> In 2015, President Obama nominated Connors to serve as a United States District Judge, but she was never confirmed by the Senate.<sup>92</sup> At Davis Levin Livingston, Connors focused her civil practice on class action, consumer rights, medical malpractice and personal injury.<sup>93</sup> Her previous and current affiliations include memberships to the Hawaii State Bar Association, the Federal Bar Association, and other non-partisan organizations.<sup>94</sup> We can expect that Connors’ experience in the courtroom will translate into an effective, pragmatic leader of the office.<sup>95</sup> In a press release, Governor Ige (D) lauded her experience, stating that Connors “has the skills to defend the state in legal proceedings, provide outstanding legal advice and counsel, and manage the largest law firm in the State.”<sup>96</sup>

In a solidly blue state, Connors will likely maintain the office’s support in partisan, often multistate, lawsuits.<sup>97</sup> In this regard, Connors will aim towards continuity. Her predecessor, AG Doug Chin, was active in legal fights against the Trump Administration, bringing lawsuits against many of the federal government’s controversial policies.<sup>98</sup> In a press conference, Connors said that her motivation is to “serve the people of Hawaii.”<sup>99</sup> Public service is a “part of my DNA,” Connors said, “I think it’s an important component of what we do as attorneys to be of service and this is a fantastic opportunity to really do that on a different level.”<sup>100</sup>

### BACKGROUND:<sup>101</sup>

- Attorney, Davis Levin Livingston, 2011-2018
- Adjunct Professor of Law, University of Hawaii School of Law
- Assistant U.S. Attorney, Criminal Division, in the District of Hawaii, 2004-2011
- Special Assistant U.S. Attorney in the Eastern District of Virginia
- Trial attorney for the Dept. of Justice Tax Division, 2003-2004
- Law Clerk, U.S. District Court for the District of Hawaii, Judge David Alan Ezra, 2002-2003
- Operations Coordinator for the City of New York, Parks & Recreation Department under Mayor Giuliani
- Yale, B.A., 1996; Harvard Law School, J.D., 2002



## Illinois | Kwame Raoul DEM

[illinoisattorneygeneral.gov](http://illinoisattorneygeneral.gov)

State Senator and partner at Quarles & Brady, Kwame Raoul (D) was elected with a 54.1% to 43.3% majority, defeating Meyer Capel lawyer, Erika Harold (R).<sup>102</sup> Illinois is now a Democratic triplex state.<sup>103</sup>

Raoul swept the Illinois AG election, winning by a margin of over ten points and out-raising his Republican opponent by a factor of two.<sup>104</sup> Raoul's key priorities include keeping Illinoisans safe from crime, defending women's rights, safeguarding access to healthcare and standing up for workers and the environment.<sup>105</sup> Where most liberal Democrats stand, Raoul stands. Attuned to the politics of his voters, Raoul will try to work effectively with the Democrat state senate (where he has served since 2004) and newly elected Democrat governor.<sup>106</sup>

Despite widespread support, Raoul's ambitious plan in office will likely face obstacles. The state's dire fiscal situation will limit any attempt Raoul makes to invest greater resources in law enforcement and other priorities that are capital intensive. Raoul sees himself as an activist attorney general and is likely to coordinate with other progressives and Democratic AGs.

### BACKGROUND:<sup>107</sup>

- Senator, Illinois State Senate, District 13, 2004-2018
  - Co-Chairperson, Committee on Pension Investments, Illinois State Senate
  - Co-Chairperson, Committee on Restorative Justice, Illinois State Senate
  - Member, Energy and Public Utilities Committee, Illinois State Senate
- Partner, Quarles & Brady, (Health Law Practice Group), 2012-2018
- Chair, Racial Profiling Prevention and Data Oversight Board, 2018
- Vice Chair, Sentencing Policy Advisory Council, present
- Member, Trinity United Church of Christ, present
- In-House Counsel, City Colleges of Chicago
- Prosecutor, Cook County State's Attorney's Office
- Senior Counsel, Miller, Canfield, Paddock and Stone Law Firm
- President, Relationship Strategies International, Limited Liability Company
- DePaul University, B.A., 1987; Chicago-Kent College of Law, J.D., 1993
- Raised more than \$8 million dollars for the AG election<sup>108</sup>

### PRIORITIES:<sup>109</sup>

#### Sexual Assault, Domestic Violence and Gun Crime

- As AG, Raoul expects to "work closely with local law enforcement and state's attorneys" to ensure enough resources are channeled to fighting crime. In the Illinois Senate, he sponsored tougher penalties for child pornography, and modernized the state's laws against cyberstalking.
- Raoul aims to strengthen penalties against gun traffickers and "expand background checks."



**Women’s Rights and Equal Pay**

- Raoul pledges to defend the right to access birth control and sue any attempts by the federal government to limit access.
- Raoul plans to defend the Equal Rights Amendment and the Equal Pay Act and has stated that he will “ensure woman-owned firms have fair opportunities to handle the investment of state pension funds’ assets.”
- Raoul said that he will “zealously defend a woman’s right to choose and access to the full spectrum of healthcare options.”

**Access to Healthcare**

- Raoul plans to defend legislation that expands availability of drug treatment facilities, cancer treatment centers, and HIV/AIDS prevention and care.
- Raoul promised to join the lawsuit against the Trump Administration’s attempt to end the ACA’s subsidies, claiming to “to fight in court for Illinoisans’ access to affordable healthcare.”

**Workers’ Rights**

- Raoul has the support of organized labor including the AFL-CIO.<sup>110</sup>
- He believes that the AG “should have the power to go directly after businesses accused of breaking prevailing wage, minimum wage, employee classification, equal pay and wage theft laws.”
- He pledges to create a Workplace Protection Unit to initiate labor law enforcement actions.
- Raoul promises to advocate and defend a higher minimum wage law.

**Environment**

- Raoul sponsored legislation that would allow residents to challenge environmental permits in court when proposals threaten “their personal health and property.”
- He is against “big coal polluters” and will respond to the EPA’s rollback of federal regulation by enforcement actions against polluters.”
- Raoul plans to take steps to strengthen the role of the Illinois Environmental Justice Commission and to bring civil rights actions against polluters.
- He supports committing Illinois to the Paris Climate Agreement, reducing carbon emissions and adopting a goal of 100% clean energy by 2050.

**Public Corruption**

- Raoul campaigned on the promise to pursue public corruption cases. Specifically, Raoul “proposed increasing the resources of the [public records division] and reduc[ing] the current backlog in Freedom of Information Act and Open Meetings Act complaints.”

**Criminal Justice**

- Raoul pledges to “confront the culture of violence” by “promoting evidence-based methods to keep dangerous criminals out of their communities.” He plans to defend legislation that seeks police reform and increasing resources to reentry programs.

**Voting Rights:**

- Raoul opposes “attempts to suppress voting rights and disenfranchise minority communities.”
- He plans to defend the state’s Voting Rights Act and challenge any attempts by the federal government to suppress voting rights.
- He supported Illinois’ previous AG, Lisa Madigan, to block actions made by the Presidential Advisory Commission on Election Integrity.



## Maine | Aaron Frey DEM

<https://www.maine.gov/ag/>

Aaron Frey (D) was sworn in as Maine’s 58<sup>th</sup> AG following a secret ballot election by the state legislature.\*

Frey’s stated goals are reforming the criminal justice system and developing a “more proactive” approach to fight the state’s opioid crisis.<sup>111</sup> In this way, Frey’s priorities fall in line with those of his predecessor and fellow AGs in the northeast; these states have been active in suing opioid distributors and manufacturers and expanding drug-treatment programs.<sup>112</sup> Maine has been especially hard-hit by the opioid crisis, with overdose deaths skyrocketing in recent years.<sup>113</sup> As the next AG, Frey’s tenure will likely be shaped by public pressure to reduce drug-related fatalities and combat the spread of fentanyl, the main driver of the state’s overdose death rate.<sup>114</sup> The former AG Janet Mills leaves Frey with a robust blueprint to address this problem during his tenure, but also suggests areas where Frey may go further.<sup>115</sup>

If Frey follows in the steps of other states hit hard by the opioid crisis, he may go beyond an approach that prioritizes treatment, prevention, and harm reduction.<sup>116</sup> Frey may organize a formal division in the AG office dedicated to opioid drug-related crime and a task force that investigates opioid distributors and manufacturers, such as neighboring Vermont.<sup>117</sup> It is likely that Frey will join multistate suits against major opioid manufacturers and distributors.<sup>118</sup> The magnitude of the opioid crisis in Maine will play a significant role in Frey’s day-to-day administration of the office. Given his experience in Democratic politics, Frey can be expected to join partisan multistate coalition lawsuits and amicus briefs. The replacement of former Governor Paul LePage (R) with former AG Janet Mills (D), portends Frey’s tenure will garner more support from the state’s executive.

Frey has taken public stands against the Trump Administration. In a speech addressed to Maine’s legislators, Frey called for Democratic opposition to Trump’s policies for being “inconsistent with our Maine values.”<sup>119</sup> We should expect Frey to defend federal regulations related to the EPA and fight the Administration against efforts to repeal the ACA, among other partisan issues.<sup>120</sup> At 39 years old, Frey is young among peers and has spent most of his adult life working in local politics.

### BACKGROUND:

- Member of the Maine House of Representatives, 2012-2018
  - Joint Standing Committee on Appropriations and Financial Affairs
  - Joint Select Committee on Marijuana Legalization Implementation
- Self-practicing defense attorney, general practice, 2008-2018<sup>121</sup>
- Saint Anselm College, B.A.; Roger Williams University School of Law, J.D., 2008

\* In Maine, the Attorney General is elected by the state legislature in a secret ballot vote. In turn, candidates do not campaign for the position; rather, candidates meet with legislators privately and “lobby” for the position. See: Steve Collins, “Candidates for Main attorney general campaign behind the scenes,” *Press Herald*, (11/16/2018). Accessed at: <https://www.pressherald.com/2018/11/16/attorney-general-candidates-campaigning-behind-the-scenes>.



## Michigan | Dana Nessel DEM

[michigan.gov/ag](http://michigan.gov/ag)

Dana Nessel (D) was elected with a 48.7% to 46.3% majority, defeating Tom Leonard (R), Michigan's former Speaker of the House of Representatives.<sup>122</sup> Previously a Republican triplex, Michigan will become a Democratic triplex in 2019.<sup>123</sup>

As Michigan's newly elected AG, Nessel promises to fight "aggressively against discrimination" of all types.<sup>124</sup> She is the state's first lesbian to hold a statewide office and was elected with national grassroots support.<sup>125</sup> Noteworthy endorsements came from former Vice President Joe Biden, labor groups, Planned Parenthood for Michigan, Sierra Club's Michigan chapter, and Michigan for Revolution.<sup>126</sup> In 2014, Nessel successfully argued for the plaintiffs in a same-sex couples' case in the U.S. Supreme Court, elevating her public profile and leading her to found the LGBTQ-rights nonprofit Fair Michigan.<sup>127</sup> With activist roots and nationwide ambition, Nessel will change the priorities of an office that has been held by Republicans since 2003.<sup>128</sup>

In the Democratic primary, Nessel won her nomination by taking strong positions on the environment, civil rights, and healthcare. She pledged to fight federal efforts at environmental deregulation and prosecute corporate polluters.<sup>129</sup> Nessel plans to invest resources in hate-crime investigations and "aggressively defend the ACA."<sup>130</sup>

The 2018 midterms will have a dramatic effect on the state as a whole. Michigan was in recent years a Republican triplex—the governorship, Secretary of State, and AG were all Republican.<sup>131</sup> In 2019, the legislature remains in Republican control but all statewide offices will be led by Democrats.<sup>132</sup> In this context, Nessel may have the opportunity to defend legislation that legalizes marijuana, expands access to healthcare, and protects the environment from polluters and extraction.<sup>133</sup> The Enbridge oil pipeline (also known as Line 5) is a certain target for progressives in office; Nessel has already pledged that on "the first day in office, I will ... shut down Line 5."<sup>134</sup> She pledges to "file a suit in the court of claims to seek an injunction shutting it down."<sup>135</sup>

### BACKGROUND:<sup>136</sup>

- Owner/Attorney, Nessel Defense Law, 2005-2018
- Managing Partner, Nessel & Kessel Law, 2018
- President and founder of the Fair Michigan Foundation (LGBTQ rights)
- Co-Founder, Fair Michigan Justice Project, 2016-2018
- Member, Police Conduct Review Team
- Assistant Prosecutor, Wayne County Prosecutor's Office
- University of Michigan, B.A.; Wayne State University Law School, J.D.

**PRIORITIES:****Civil Rights**

- Nessel has stated that “Michigan needs an Attorney General who advocates for greater inclusion in civil rights laws.”
- She pledges to “aggressively prosecute hate crimes and all cases of discrimination, protect women’s rights to access healthcare, and defend immigrants from federal overreach.”<sup>137</sup>
- Part of her strategy is to “create a unit that would handle...police-involved shootings,” and other public corruption cases.<sup>138</sup>

**Environment**

- Nessel pledges to “be a tireless advocate for our environment.” She promises to “fight to shut down Enbridge Line 5, and any other pipeline that threatens the Great Lakes,” and to “enforce environmental laws [by] prosecuting polluters who harm our environment and threaten the health and safety of Michiganders.”<sup>139</sup>
- Nessel believes that “the AG is uniquely situated to do something about all of [environmental] issues.”<sup>140</sup>
- On the Flint water crisis, Nessel pledges to “reopen those investigations [of government officials] and be certain that everyone who is criminally responsible is properly charged.”<sup>141</sup>
- Nessel wants to go after the chemical manufacturers responsible for PFAS, the chemical contaminating Michigan’s waters.<sup>142</sup>

**Workers’ Rights and Labor Unions**

- Nessel stated that “For years elected officials have attacked laws that protect workplaces and workers’ rights,” while she pledges to “make certain that Michiganders have safe workplaces, free from discrimination, sexual harassment, and environmental hazards.”<sup>143</sup>

**Legalize and Regulate Cannabis**

- Nessel will defend Michigan’s bill that legalizes marijuana. She believes that the state needs “common-sense licensing and regulation of cannabis manufacturing and distribution.”<sup>144</sup>
- Nessel plans to “work with the legislature and local law enforcement to ensure a safe market that keeps cannabis out of kids’ hands, and off the roads.”<sup>145</sup>

**Consumer Protection**

- Nessel has committed to “restor[ing] the Consumer Protection Division of the office” to “go after companies that exploit people.”<sup>146</sup>
- She “would absolutely join” the other 17 Democratic AGs in suing the Trump Administration over the ACA repeal efforts.<sup>147</sup>
- She has pledged to “go after bad actors, predatory lenders, and shady corporations that target Michigan residents. I will create an Auto Insurance Fraud Division to address our sky-high insurance rates, and I’ll work to protect student borrowers from aggressive debt-collection tactics.”<sup>148</sup>

**Safeguard Senior Citizens**

- Nessel pledges to “increase resources to defend seniors from neglect, abuse, and exploitation.”<sup>149</sup>
- Her goals include “ensur[ing] that unsafe assisted living facilities and in-home care providers are stripped of their licenses,” and “vigorously prosecut[ing] cases of Medicaid fraud.”<sup>150</sup>



## Minnesota | Keith Ellison DEM

ag.state.mn.us

Deputy Chairman of the DNC and a U.S. Representative from Minnesota, Keith Ellison won with a 49.1% majority, defeating Doug Wardlow, a former Minnesota House Representative at 45.1%.<sup>151</sup> Minnesota will remain a Democratic triplex.

The “blue wave” hit Minnesota in the 2018 midterm elections.<sup>152</sup> In 2019, the Democrats will hold power in the Minnesota House and the governorship; voters also sent two Democrats to the senate.<sup>153</sup> Although he will have to contend with the one-vote Republican majority in the state Senate, Minnesota’s newly-elected AG will have the electoral and institutional support to amplify his activist message.

“An Attorney General should be the people’s lawyer. That means holding those in power accountable when they step on Minnesotans’ rights.”<sup>154</sup>

Ellison has said he will pursue issues including “Monsanto telling a farmer how to raise their crops, Navient cheating student loan borrowers out of more money, or the federal government infringing upon healthcare, a woman’s right to choose, or the human and civil rights of all.”<sup>155</sup> Ellison campaigned with an ambitious vision for how he would lead the office as an anti-Trump progressive.<sup>156</sup>

Ellison may be more active in the National Association of Attorneys General (NAAG) and the Democratic Attorneys General Association (DAGA) than his predecessor, Lori Swanson, a “stay at home” AG who rarely ventured outside the borders of her state with her agenda. Ellison has a broad range of priorities, many of them implicating the current Administration.

### BACKGROUND:<sup>157</sup>

- Deputy Chair of the Democratic National Committee, 2017-2018
- Representative, United States House of Representatives, District 5, 2006-2018
  - Founder, Congressional Consumer Justice Caucus
  - Co-Chair, Congressional Progressive Caucus
- Attorney, Hassan & Reed Limited
- Executive Director, Legal Rights Center Incorporated
- Attorney, Linquist & Vennum
- Co-Founder, Environmental Justice Advocates of Minnesota
- Wayne State University, BA, 1986; University of Minnesota, J.D., 1990

### PRIORITIES:

#### Healthcare<sup>158</sup>

- Ellison believes that “Every Minnesotan should have access to affordable and accessible health care.”
- He pledges to “fight to hold drug corporations accountable for price gouging and to protect health care access under the Affordable Care Act.”<sup>159</sup>

- Ellison pledges to “hold drug companies accountable for their role in fueling the opioid crisis which has flooded our communities with addictive narcotics.”<sup>160</sup>
- He stated, “Big pharmaceutical companies are making millions by unfair price hikes on generic prescription drugs. They also are abusing patent law to keep cheaper medicine off the market.”

### **Economy**<sup>161</sup>

- Ellison promises to “hold large corporations and the powerful accountable by taking on wage theft, fighting for higher wages, going after student loan scammers, protecting seniors from fraud, and working to keep more money in families’ pockets.”<sup>162</sup>
- He plans to “partner with the Minnesota Department of Labor and Industry to enforce wage theft laws and hold offenders accountable by forcing them to repay any stolen wages, plus interest.”
- He intends to “put a stop to mortgage fraud and abuse and fight back against lenders.”
- “As Attorney General I will continue this work to stop predatory lenders who violate our consumer protection laws.”<sup>163</sup>

### **Workers’ Rights and Workplace Safety**

- Ellison pledged to challenge the Trump Administration’s rollback and delay in establishing workplace safety rules, stating that “I will put a stop to multi-billion-dollar companies taking shortcuts on worker health and safety.”<sup>164</sup>
- Ellison promised to protect “workers who exercise their legal right to join together and fight for higher wages and better working conditions.”<sup>165</sup>

### **Student Loans**<sup>166</sup>

- “As Attorney General, I would side with consumers with student loans and fight for fairness and debt relief.”<sup>167</sup>
- “While the U.S. Secretary of Education Betsy DeVos sides with fraudulent schools and the big lending companies, I will always stand with Minnesota students and families to fight for fairness and debt relief as your Attorney General.”

### **Competition**

- Ellison believes that “Corporate concentration is killing small businesses.”
- He vows to “crack down on the unfair competitive practices that stifle our economy by cheating workers and consumers.”<sup>168</sup>
- He will also “advocate for farmers throughout the state to stop supply and intermediary companies from violating antitrust laws.”<sup>169</sup>
- Ellison pledges to “fight employers who keep down wages by monopoly power or ... [employers] who use anticompetitive practices like non-compete agreements to keep workers’ wages low.”<sup>170</sup>

### **Housing**

- Ellison pledges to “level the playing field between landlords and tenants and combat the eviction crisis,” and “sue lenders and landlords who violate fair housing laws.”<sup>171</sup>

### **Immigration**

- Ellison vows to “fight efforts by the Trump Administration to remove protections from Dreamers” and “stand up to the un-American, discriminatory Muslim Travel Ban.”<sup>172</sup>

### **Environment**<sup>173</sup>

- Ellison promises to “stand up to efforts to undermine the Clean Power Plan.”<sup>174</sup>



## Missouri | Eric Schmitt GOP

ago.mo.gov

Treasurer and former State Senator, Eric Schmitt, was appointed by Governor Mike Parson to complete AG Josh Hawley’s term. Missouri will continue to be a Republican triplex.<sup>175</sup>

The newly elected Senator and Missouri’s former AG, Josh Hawley, recommended Schmitt to replace him as state AG, a position Schmitt will have until 2021.<sup>176</sup> Hawley supported Schmitt, the state’s treasurer, for his “clear understanding and respect for the rule of law”; he “is a proven leader and is fully qualified.”<sup>177</sup> During an address at his nomination, Schmitt stated that, “As the lawyer for six million Missourians, including the guy driving the big rig working his tail off and the waitress working two jobs to make ends meet, I’m their lawyer...I’m going to fight for them and make sure they’re treated fairly.”<sup>178</sup>

Schmitt believes it is too premature to “discuss any possible reorganization” of the AG’s office.<sup>179</sup> He has not commented on former AG Hawley’s decision to eliminate the office’s agriculture and environment division and replace it with a federalism unit.<sup>180</sup> Nor has he taken a public position on Hawley’s investigations of Google, alleged clergy abuse, and the multistate lawsuit against the ACA.<sup>181</sup>

Both men are conservatives, friends, and embody the right-leaning politics of the state.<sup>182</sup> As such, Schmitt will likely run the office in a manner similar to Hawley, fighting “federal overreach” and working with the legislature. “I’m committed to being an attorney general who listens,” Schmitt said on election day.<sup>183</sup> “Governor Parson has been a champion of transparency in the governor’s office. It is a commitment that I share and intend to bring that same commitment to this office as well.”<sup>184</sup>

### BACKGROUND:<sup>185</sup>

- Treasurer, State of Missouri, 2017-2019
- Partner, Lathrop & Gage, 2018
- Member, Missouri Tourism Commission
- Member, Quality Jobs Advisory Task Force
- Honorary Chairman of the Missouri Rising super PAC<sup>186</sup>
- Majority Caucus Chair, Missouri State Senate, 2013-2017
- Senator, Missouri State Senate, District 15, 2008-2017
- Secretary, Majority Caucus, Missouri State Senate, 2011-2012
- Alderman, City of Glendale, 2005-2008
- Truman State University B.A., 1997; Saint Louis University J.D., 2000

### PRIORITIES:

#### Legislative

- Growing the state’s economy with “quality jobs” is Schmitt’s primary goal.
- He intends to “make healthcare more available, affordable and portable,” and “keeping a watchful eye on the issue of property taxes.”<sup>187</sup>

- Schmitt is a self-described “constitutional conservative” who claims to have “a proven track record of standing up for taxpayers & citizens.”<sup>188</sup>

**Criminal Justice**

- Schmitt will likely use his office to spearhead further reform in policing, one of the few issues he has spoken publicly about. He says he will defend the Senate Bills 572 and 765 which limit what police can write tickets for and how much revenue municipalities can raise through ticketing.<sup>189</sup>
- In the effort to stop municipalities from collecting revenue from nuisance violations, Schmitt has addressed the need to “fight the abusive, revenue-generating schemes where some cities treated citizens as nothing more than ATMs.”<sup>190</sup>





## Nevada | Aaron Ford DEM

ag.nv.gov

Majority Leader in the Nevada State Senate, Aaron Ford (D) was elected 47.2% to 46.8%, beating Wesley Duncan (R), a partner at Hutchinson & Steffen Law.<sup>191</sup> Once a Republican triplex, Nevada will now have divided control.<sup>192</sup>

In a once red state, Ford won a close race to become Nevada's AG.<sup>193</sup> Nevada's political environment tempered his campaign message: he did not run as a defense against Trump but for "Nevada families first."<sup>194</sup> Overall, Ford avoided partisan confrontation.<sup>195</sup> Instead, Ford championed his record as a litigator working on "both sides of the v"—that is, as counsel for companies and consumers.<sup>196</sup> The theme of his campaign was public safety. "Families should be able to raise their kids without worrying about the safety of their neighborhoods and schools." To achieve that goal, and as his Republican predecessor did, Ford will engage on the issues of crime, consumer protection, the environment, and reigning in healthcare fraud.<sup>197</sup>

There are several areas where Ford's priorities depart from his predecessor. One is gun control. Ford has pledged to "work to find a solution and begin enforcing the voter-approved background checks on gun sales to prevent criminals and the mentally ill from getting guns."<sup>198</sup> He has also criticized the outgoing AG for his role in joining Republican-coalition lawsuits against the ACA. By contrast, Ford pledges to represent "what people want and not be driven by a narrow ideology."<sup>199</sup> Before signing onto lawsuits brought by other states, Ford promised to consult with the governor first—the first pledge of this kind by a state AG.<sup>200</sup> At the same time, Ford has also sworn to challenge the federal law on matters related to healthcare, immigration, and the environment, evading specific lawsuits.<sup>201</sup>

As the former Nevada State Senate majority leader, Ford will use his new office to influence state legislation. "I have relationships in the Legislature and I'm looking forward to deepening those relationships as we look to enact any legislation that's necessary."<sup>202</sup> But he has not taken an activist stance on every policy issue, such as the death penalty. "My personal opinion is [that] I'm opposed to the death penalty, but it is part of the law in our state and when appropriate it will be enforced."<sup>203</sup> And if laws such as Nevada's marijuana legalization, were challenged by the federal government, Ford pledged that he will defend them.<sup>204</sup>

### BACKGROUND:<sup>205</sup>

- Senator, Nevada State Senate, 2012-2019
  - Majority Leader, Nevada State Senate, 2017-2019
  - Vice Chair, Revenue and Economic Development
  - Member, subcommittee on Public Safety, Natural Resources, and Transportation
  - Member of Senate Judiciary Committee
- Partner, Eglet Prince, 2015-19
- Partner, Snell & Wilmer, 2007-2015
- Associate, Weil Gotshal & Manges, 2004-2007
- Associate, Bracewell & Giuliani, 2003-2004

- Former Law Clerk in the Ninth Circuit Court of Appeals
- Texas A&M University B.A.; George Washington University, M.A.; Ohio State University, M.A., J.D., PhD

### PRIORITIES:

#### Bi- and Non-Partisanship

- Ford vows to be “an Attorney General who always puts your families first,” and avoid partisanship.
- He describes the AG office as having been a vehicle to promote partisan politics and advance an extreme, ideological agenda that is far outside the mainstream, and believes that “Nevadans deserve better from their top law enforcement officer.”<sup>206</sup>
- “Partisan polarization has created an environment that lacks civil discourse and amplifies divisions,” Ford claims, vowing to “put politics aside and focus on using all the legal tools necessary to protect Nevada’s families.”<sup>207</sup>

#### Workplace Harassment

- Ford pledges to “combat workplace sexual harassment, including ensuring that taxpayers won’t foot the bill to defend harassers.”<sup>208</sup>

#### Gun Control

- Ford aims to enforce “the voter-approved background checks on gun sales to prevent criminals and the mentally ill from getting guns.”<sup>209</sup>

#### Criminal Justice

- Ford believes that Nevada can be safer “by being both tough and smart on crime, through the prosecution of “violent criminals and drug dealers ... and reduc[tion] [of] recidivism through diversion courts and re-entry programs.” He will ensure “our brave law enforcement officers have the tools and resources necessary to go after anyone trying to harm Nevada families.”<sup>210</sup>
- He has stated that he wants “to ensure Nevada’s law enforcement agencies have every tool necessary to tackle violent crime.”<sup>211</sup>
- Ford vows to “work closely with law enforcement to take on local gangs, transnational criminal organizations, and the individuals who want to inflict harm on Nevadans.”<sup>212</sup>
- Ford believes that “there is no criminal too ruthless and no corporation too powerful that I won’t take on if they are hurting Nevadans. I will be an Attorney General who always puts Nevada families first.”<sup>213</sup>

#### Consumer Protection

- Ford will focus on consumer protection and prevent “those who try to take advantage of Nevada consumers and small businesses.” He plans to “take on the scammers who prey on our seniors and the polluters who poison our water, as well as cybersecurity threats.”<sup>214</sup>
- He has pledged to “fight to protect Nevadans’ privacy and protect Nevada workers by taking on wage theft.”<sup>215</sup>
- Ford stated that he will “work on improving Nevada’s mental health and substance abuse programs, as well as crack down on prescription drug companies who profit off of dangerous addictions.”<sup>216</sup>
- Ford was an associate at Eglet Prince, a firm that is working on pharma lawsuits for municipalities. Ford claims no conflict of interest: “It would be unnecessary to recuse myself from the state level” in pursuing lawsuits against pharmaceutical companies.<sup>217</sup>



## New York | Letitia James DEM

ag.ny.gov

New York City's Public Advocate and longtime activist, Letitia James was elected with 61.9% majority to 35.7%, beating Keith Wofford, a Manhattan bankruptcy attorney.<sup>218</sup> New York will continue to be a Democratic triplex state.

James won in a landslide election to become New York's next AG.<sup>219</sup> As the former New York City's Public Advocate since 2013,<sup>220</sup> she is a progressive Democrat who will find support from the Governor, the Mayor, the City Council, and Albany where the legislature is controlled by Democrats.<sup>221</sup>

James' election is important for a number of reasons. First, New York is home to Wall Street, a likely target for James. "Wall Street malfeasance has had devastating consequences in New York," James has said.<sup>222</sup> "I will have both the power and the responsibility to prosecute financial fraud that harms consumers and investors."<sup>223</sup> Her view towards the financial sector will motivate her to aggressively pursue white collar crime, particularly with the departure of U.S. Attorney Preet Bharara in the Southern District of New York.<sup>224</sup> James has pledged to take the lead on buffeting the current president's Administration with lawsuits.<sup>225</sup> Presently, the office has hundreds of lawsuits filed.<sup>226</sup>

### BACKGROUND:<sup>227</sup>

- Public Advocate, City of New York, 2014-2018
- Head, Brooklyn Regional Office of the New York State Attorney General's Office
- Public Defender, Legal Aid Society
- Member, 35th District, Brooklyn, New York City Council, 2004-2013
- Supported Paid Sick Leave and passed the Safe Housing Act
- City University of New York B.A., Howard University J.D.

### PRIORITIES:

#### Financial Services and Banking<sup>228</sup>

- James focused her campaign on reigning in alleged abuses from the financial services industry. She believes the "real threat to the American economy and the American people" is the "combined effect of loosening controls on risky investments, growing debt, and an active market in collateralized debt."
- "As Attorney General," James has stated, "I will have both the power and the responsibility to prosecute financial fraud that harms consumers and investors."
- She intends to "utilize the broad powers of the Martin Act to pursue investigations that protect shareholders and investors, including workers' pension funds and savings."
- James pledged to "vigorously investigate fraudulent business practices by strengthening the Criminal Enforcement and Financial Crimes Bureau."
- She has vowed to "investigate and pursue actions into discriminatory and abusive payday lending, mortgage lending abuse, for-profit college student loans."

**Immigration**<sup>229</sup>

- James believes that “it is critically important that the New York Attorney General protects New Yorkers [including non-U.S. citizens] from federal policies that hurt them and fight perpetrators of fraud who manipulate fear for profit.”
- James pledges to “bring legal action to keep ICE out of our courts,” and “work with other Attorneys General to protect” DACA recipients.

**Gun Control**<sup>230</sup>

- James pledges to “investigate the legitimacy of the NRA as a charitable institution,” and “investigate arms dealers and enforce prohibitions against the sale of illegal firearms.”
- She intends to “target weapons manufacturers” and “investigate the financial backing of gun makers and sellers.”
- Working with policymakers, James plans to “push a legal and legislative agenda to close legal loopholes.”

**Police and Prosecutorial Accountability**<sup>231</sup>

- “Reforming the criminal justice system” will be one of James’ “top priorities.”
- James intends to “expand and codify the Attorney General’s role as special prosecutor,” and “lead the way on real criminal discovery reform.”
- She plans to “bring body-worn cameras” to police as a statewide policy.

**Women’s Rights**<sup>232</sup>

- James promises to “enforce access to reproductive healthcare, protect a woman’s right to choose.”
- She vows to “protect women from workplace pregnancy discrimination and “work with other Attorneys General to fight against attacks on women’s healthcare.”

**Equity in the Workplace**<sup>233</sup>

- James promises to “fight for statewide legislation to ban employers from asking workers about their salary history.”
- She intends to “create a Wage Discrimination Task Force to investigate and prosecute instances of systemic wage discrimination.”

**Environment**<sup>234</sup>

- James promises to “investigate and take legal action to stop environmental injustices that exacerbate racial disparities in asthma rates, lead poisoning, and other environmental illnesses.”
- She will defend legislation and “take legal action that would ban fracking infrastructure in New York.”
- She vows to “lead the fight for the State to divest fully from fossil fuels.”
- James plans to “litigate to prevent the rollback of federal regulations that protect our air, our water, and our food,” and “investigate and prosecute corporate polluters.”



## Ohio | Dave Yost GOP

ohioattorneygeneral.gov

Auditor of the State of Ohio, Dave Yost (R) was elected with a 52.4% to 47.6% majority, defeating current partner at BakerHostetler and former U.S. Attorney, Steve Dettelbach (D).<sup>235</sup> Ohio will continue to be a Republican triplex state.

As Ohio Auditor, Yost pursued a “skinnier, smarter government.”<sup>236</sup> Now, as the state’s AG, Yost will focus his office on public corruption and defending legislative attempts to reduce and cut fiscal spending.<sup>237</sup> Yost will likely introduce measures to improve accountability in local government, and, as a moderate Republican, may shy away from taking high-profile stances on federal issues. In this way, Yost’s predecessor, Governor Mike DeWine, will serve as his model.

Combatting the opioid epidemic is an area where Yost will likely take an aggressive stand. Ohio is considered the epicenter of the drug crisis, and Yost believes that fighting the opioid epidemic is “the most important case that prosecutors” can work on.<sup>238</sup> While campaigning, Yost criticized his Democratic opponent’s white-collar defense practice, drawing attention to his role as counsel to the pharmaceutical companies sued by Ohio.<sup>239</sup> We can expect Yost to support ongoing investigations into pharmaceutical companies that may have played a role in the state’s opioid crisis.<sup>240</sup> At the very least, Yost has called on the state to use a “more efficient” treatment options and “modernized prevention methods” to better deal with the addiction crisis.<sup>241</sup>

The 2018 midterms secured Ohio as a solid red state.<sup>242</sup> All four statewide offices will be held by Republicans, continuing their eight-year control of state government for an additional four years.<sup>243</sup> The politics of Ohio—red, but moderate—will inform Yost’s position on hot button issues such as immigration, healthcare and the environment.<sup>244</sup> On other matters, Yost will determine if there are violations to the Constitution or administrative rules, or “whether Ohioans were harmed.”<sup>245</sup> “I’m not going to ever abuse the office or let politics drive the conduct of the office. There’s too much politics in attorneys generals’ offices now,” Yost argues.<sup>246</sup>

On election night, Yost pledged to “protect our kids, our communities, our environment and our most vulnerable. I will apply the law equally to everyone—whether you’re a CEO in a corner office dumping poison into our waterways, or a dealer on the street distributing poison in our communities.”<sup>247</sup>

### BACKGROUND:<sup>248</sup>

- Auditor, State of Ohio, 2010-2019
- Attorney, Burkam, Yost & Fuller
- Reporter, *Columbus Citizen-Journal*
- Senior Administrator, Columbus Mayor Buck Rinehart
- Senior Administrator, Ohio Governor George Voinovich
- Prosecuting Attorney, Delaware County, 2003-2011
- Delaware County Auditor, 1999-2003

- The Ohio State University, B.A.; Capital University Law School, J.D.

**PRIORITIES:**<sup>249</sup>**Gun Control**

- Yost believes that “guns do not belong in the hands of felons or the mentally ill,” and that Ohio’s “existing background check systems have serious deficiencies.”<sup>250</sup>
- Yost has also claimed that “an attorney general who will not defend one provision of the Constitution is a danger to all of it. I support the Second Amendment. As attorney general, it will be my duty to defend all Ohio laws regardless of my personal views.”<sup>251</sup>

**Consumer Finance**

- Yost will likely join the Republican AGs who filed an amicus brief against the Consumer Finance Protection Bureau.<sup>252</sup>
- He has stated that the CFPB is unconstitutional.<sup>253</sup>

**Healthcare**

- Yost believes that “Congress never appropriated the money for [federal ACA subsidies]” and supports the Trump Administration’s withholding of the ACA subsidies.<sup>254</sup>
- Yost does “support protections for individuals with pre-existing conditions,” and he pledges to “not join the lawsuit filed by other Republican attorneys general.”<sup>255</sup>

**Opioids**

- On day one, Yost pledges to “establish an executive management team charged with implementing my plan to combat opiates and opioids.”<sup>256</sup>
- Yost’s said that his plan involves a combination of “law enforcement, treatment, and prevention.”<sup>257</sup>



## Rhode Island | Peter Neronha DEM

riag.ri.gov

Peter Neronha (D), a former U.S. Attorney, was elected with an 80.7% to 19.3% majority over Alan Gordon (I), continuing the state’s Democratic triplex.<sup>258</sup>

Neronha is not afraid to go after big fish. For eight years, Neronha led the U.S. Attorney’s Office, prosecuting notable politicians, including the former Rhode Island Democratic House Speaker Gordon Fox.<sup>259</sup> Recently, Neronha led a criminal probe into the illegal marketing of non-FDA-approved prescription drugs on Google AdWords; Google paid a \$500 million-dollar settlement.<sup>260</sup> His experience as a prosecutor will be beneficial to his role as Rhode Island’s AG. He will come to the office with a decade of experience fighting corporate and public corruption, and a familiarity with the state’s legislature.<sup>261</sup>

Over the course of his campaign, Neronha has made his priorities clear. He is committed to hold public officials accountable and leading criminal justice reform. He will develop a comprehensive response to the opioid crisis, targeting distributors of drugs and improving treatment facilities.<sup>262</sup> On consumer and worker protection, Neronha is not shy about using his office to “investigate anti-competitive business practices,” and to bring civil and criminal actions against companies who “violate the privacy of Rhode Islanders.”<sup>263</sup> Neronha is ready to fight “in the courts, at the State House, and in Washington” on behalf of consumers and against “fraud and abusive business practices.”<sup>264</sup>

In 2018, Rhode Island reaffirmed its Democratic bona-fides. Seats that were up for reelection turned blue in a Democratic landslide.<sup>265</sup> And the state’s AG is no exception; the office has been led by a Democrat since 1999.<sup>266</sup> But Neronha is not overtly partisan; he has only recently registered as a Democrat.<sup>267</sup>

### BACKGROUND:

- United States Attorney, District of Rhode Island, United States Department of Justice, 2009-2017
  - Appointed on the Attorney General’s Advisory Committee (AGAC)
- Assistant United States Attorney, United States Attorney’s Office, 2002-2009
- Assistant Attorney General, State of Rhode Island, 1996-2002
- Attorney, Goodwin Procter, 1989-1996
- Boston College B.A., 1985, J.D., 1989

### PRIORITIES:

#### Gun Control<sup>268</sup>

- Neronha takes a moderate stance on gun control. He has stated that while “there are some things we can do to make progress,” the government should also “respect[] the rights of law-abiding gun owners.”
- He believes that “background checks should be required for every firearms transaction, without exception.”
- Neronha has also suggested that physicians should “counsel patients about firearms safety.”

**Environment**<sup>269</sup>

- Neronha is “committed to prioritizing the Attorney General’s important role in environmental protection, both nationally and here at home.”
- Nationally, he pledges to “work with other Attorneys General to push back against Trump administration policies that fail to recognize the impact of climate change.”
- In Rhode Island, he will “use the full power of the civil and criminal divisions to make sure that polluters are held to account for their actions.”
- Neronha believes that “civil actions are an important tool in ensuring compliance, but in the most egregious cases, felony criminal statutes are applicable.”
- Neronha plans to create an environmental advisory group to inform “good environmental policy and enforcement.”

**Public Corruption**<sup>270</sup>

- As U.S. Attorney, Neronha made public corruption a top priority, and as AG he intends to bring “case after case against politicians who violated their oath.”<sup>271</sup>
- He vows to “build a strong team of experienced, talented prosecutors and investigators who know how to investigate and prosecute these cases, and give them the resources to do so.”
- Neronha intends to “create new partnerships, with the Board of Elections and the Ethics Commission, so ... investigations can proceed quickly and effectively.”

**Crime**<sup>272</sup>

- Neronha has said that he will “bring a ... three-part approach to reducing violent crime, focused on three equally important areas: prevention, focused enforcement, and prisoner re-entry.”
- He plans to launch a “community advisory board that will help inform crime prevention and other law-enforcement policy.”

**Consumer Protection**<sup>273</sup>

- Neronha pledges to “protect Rhode Islanders from companies that break the rules, engage in deception or fraud, and take advantage of workers.”
- He will “prioritize consumer and worker protection,” and “investigate ... anti-competitive business practices.” He intends to “bring civil actions against [consumer protection law] violators and, when necessary, use criminal enforcement tools to protect Rhode Islanders.”
- Neronha promises to “dedicate more resources to protecting Rhode Islanders from the rising threat of identity theft.” He has stated that “recent data breaches ... make clear that we need better privacy protections for consumers.”
- He pledges to “join other Attorneys General in standing up to protect consumers and workers. We’ll fight in the courts, at the State House, and in Washington to make sure that all consumers are safe from fraud and abusive business practices.”





## South Dakota | Jason Ravensborg GOP

atg.sd.gov

Jason Ravensborg (R), a local prosecutor and partner at Harmelink, Fox, and Ravensborg, was elected with a 55.2% to 44.8% majority over Randy Seiler (D), a former U.S. Attorney.<sup>274</sup> South Dakota will remain a Republican triplex state.

Ravnsborg will join the long line of Republican AGs for the State of South Dakota, a partisan stronghold spanning as far back as 1975.<sup>275</sup> Ravensborg campaigned with the state's meth and opioid crisis as his top priority: "I want to help as many people for the lowest amount of dollars that we can," Ravensborg has said.<sup>276</sup> He was attacked based on his experience, particularly as a litigant and practicing attorney. Critics argued that his opponent, Randy Seiler, has been a lawyer for 38 years, 22 of which has been as a prosecutor in the U.S. Attorney's Office in the District of South Dakota.<sup>277</sup> Nevertheless, in a deep red state, clinching the Republican primary was sufficient for the general election success.

### BACKGROUND:<sup>278</sup>

- Deputy Attorney, Union County States Attorney's Office, 2016-2019
- Partner, Harmelink, Fox and Ravensborg, 2004-2019
- Lieutenant Colonel, United States Army Reserves
- Candidate, United States Senate, 2014
- University of South Dakota B.A., M.A., J.D.

### PRIORITIES:

#### Meth and Opioid Crisis

- One of Ravensborg's answers to the drug epidemic would be "the construction of a new prison in western South Dakota specifically designed for Meth and opioid offenders."<sup>279</sup>
- He has stated that "we have to make sure [addicts] get the treatment that they need to get off of this addiction [to] Meth. We have way too much Meth in our state."<sup>280</sup>
- "We'll need to reform a couple laws we passed a few years ago. [Senate Bills] 70 and 73 need a little bit of tweaking. They got some very good parts, such as the drug courts. I think drug courts are very valuable to people. But I think that we need to end presumptive probation."<sup>281</sup>



## Wisconsin | Josh Kaul DEM

doj.state.wi.us

Josh Kaul (D) unseated incumbent state AG Brad Schimel in a close election. As a first-time candidate for public office, Kaul's victory is notable—he is young, progressive and ran against an experienced incumbent. The blue tide that brought Kaul to office also elected a Democratic governor, unseating Scott Walker. Kaul criticized AG Schimel for joining lawsuits against the ACA and environmental deregulation.<sup>282</sup>

As AG, Kaul promises to serve as “Wisconsin’s watchdog.”<sup>283</sup> Kaul is expected to bring enforcement cases targeting drug traffickers, polluters and violators of consumer protection laws.<sup>284</sup> Kaul’s specific campaign priorities center on healthcare and public health. He will fight “to expand Medicaid in Wisconsin” and end the state’s lawsuit against the ACA.<sup>285</sup> The opioid crisis featured prominently in his campaign pledges, as well. Kaul has pledged to “hold[] pharmaceutical companies accountable for their role in the opioid epidemic.”<sup>286</sup> He criticized Schimel for his decision to not sue pharmaceutical companies.<sup>287</sup>

Kaul accused Schimel of “politicized” leadership at Wisconsin’s Department of Justice.<sup>288</sup> Over his four years in office, Schimel, like many other state AGs, used his Solicitor General to bring lawsuits against the federal government.<sup>289</sup> Now Kaul will face pressure to join his Democratic AG colleagues to sue the Trump Administration.

### BACKGROUND:<sup>290</sup>

- Attorney, Perkins Cole, (voting rights and election litigation practice group), 2014-2019<sup>291</sup>
- Assistant United States Attorney, U.S. Attorney’s Office for the District of Maryland, 2010-2014
- Attorney, Jenner & Block, 2007-2010
- Law Clerk, U.S. Court of Appeals for the First Circuit, Honorable Michael Boudin, 2006-2007
- Yale University, B.A., 2003; Stanford Law School, J.D., 2006
  - President of the *Stanford Law Review*

### PRIORITIES:

#### Opioid and Meth Crisis

- Kaul believes that “we have an opioid epidemic that’s ripping families apart—and it’s getting worse. We’re not going to beat it until we start responding to it like the crisis it is. We also need a more effective response to our growing meth problem.”<sup>292</sup>
- He plans to ensure “enforcement efforts are targeting large-scale drug traffickers,” and he will likely advocate for “expanding access to substance abuse treatment here in Wisconsin.”<sup>293</sup>

#### Sexual Assault

- Kaul has said that “we need an Attorney General who will ensure that getting justice for survivors of sexual assault is a priority.”<sup>294</sup>
- He pledges to “make it a priority to make sure that [rape kit] tests are happening and happening efficiently at the State Crime Labs.”<sup>295</sup>

### **Consumer Fraud and the Environment**

- Kaul believes that he will “seriously and even-handedly enforce the laws that keep us safe from consumer fraud and preserve our natural resources.”
- “Those who try to cheat Wisconsinites should expect to be held accountable,” Kaul has said. “So should polluters who break our environmental laws.”<sup>296</sup>
- Kaul pledges to defend the Clean Power Plan and challenge the FCC’s “end to net neutrality.”<sup>297</sup>
- While campaigning, he criticized AG Schimel for not fining 3M in the settlement of a pollution case, which caused significant controversy in the state.<sup>298</sup>

### **Healthcare**

- Kaul supports the Affordable Care Act. He has said that “no one in Wisconsin should be denied health insurance coverage because of a pre-existing condition, and protection for people with a pre-existing condition shouldn’t be put at risk.”<sup>299</sup>

### **Voting Rights**

- Kaul’s legal practice centers on voting rights. We can expect Kaul to focus his office on efforts to “protect the right to vote” and limit partisan gerrymandering.<sup>300</sup>



## Wyoming | Bridget Hill GOP

<http://attorneygeneral.wyo.gov/>

Governor Mike Gordon appointed Bridget Hill (R) to replace AG Peter Michael (R).<sup>301</sup>

AG Hill comes to the office as a long-time high-level government official in Wyoming. Before she became AG, Hill was Director of Wyoming's Office of State Lands and Investments, managing 4 million acres of public revenue-generating land.<sup>302</sup> As Director, Hill routinely worked with the state's highest-ranking officials, including the Governor and Secretary of State.<sup>303</sup> She was responsible for ensuring long-term growth in the value of the land trust and sustainable growth in revenue generated from the land and minerals.<sup>304</sup> Hill also served as a staff attorney for the Office of State Lands and Investments in the Wyoming's Attorney General's Office for eight years.<sup>305</sup> She was a member of the Wyoming Oil and Gas Conservation Commission.<sup>306</sup>

In selecting Hill to become the next AG, Governor Mark Gordon remarked that Wyoming's "success moving forward is going to depend on having optimistic and energized veteran leaders with experience."<sup>307</sup> "This team of skilled policy experts and administrators will not only help me hit the ground running on day one, but help me steer the ship in the coming months."<sup>308</sup> By Governor Gordon's side, Hill will stand as an experienced leader and legal officer.

### BACKGROUND:

- Director, Wyoming Office of State lands and Investments, 2013-2018
- Member, Wyoming Oil and Gas Conservation Commission<sup>309</sup>
- Attorney, Wyoming Attorney General's Office
- Staff Attorney, Justice Larry Lehman and Michael Golden of the Wyoming Supreme Court<sup>310</sup>
- University of Wyoming, B.A., J.D., 2002

## The Big Picture

It bears noting that many past multistate actions by AGs were bi-partisan, and many are today, as well. The AGs' response to the opioid crisis is one such example; so, too, was their response to the mortgage crisis. In large part, while AGs on the campaign trail get to pick the issues, once in office, it is often the issues that pick the AGs.

With this caveat in mind, the class of 18 new AGs coming into office has the potential to alter the current business and regulatory landscape. This year's elections brought into office more new AGs than any since 2010, when 14 new AGs assumed office. New personalities, shifting priorities, new staff, and a tumultuous political landscape could affect nearly all industries, whether directly or indirectly. This year, 30 states out of the 43 that elect AGs held elections. Here's what has changed:

- Democrats won four previously Republican-held AG offices including open seats in Colorado, Michigan, Nevada, and Wisconsin.
- Republicans gained Alaska's AG office by winning the gubernatorial election.
- Democrats will have 27 AGs to Republicans' 24.
- Republicans lost seats to Democrats in battleground races.<sup>311</sup>

With Democrats taking control of more AG offices, we can expect a shift in those offices' enforcement priorities. It is likely that Democratic AGs will continue to sue the federal government with greater frequency and in greater numbers. Further, with the public's attention focused on Silicon Valley, Wall Street, and Big Pharma, we can expect more AG lawsuits against technology, financial, and healthcare-related companies.

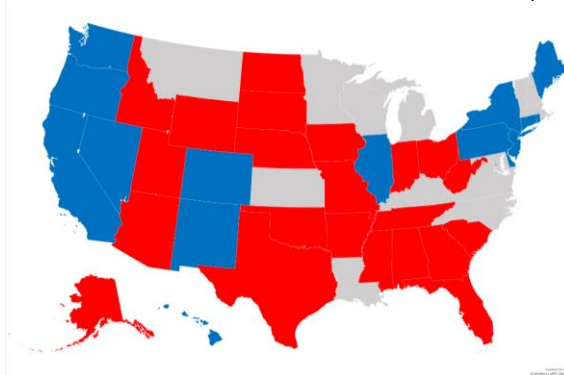
State AGs will also navigate a realignment in American politics. The 2018 midterms changed the political environment, reflecting the country's shifting political landscape.<sup>312</sup> While partisan conflict during the George W. Bush-era divided along regional lines—blue coasts and the red heartland—voting behavior from the midterms suggests that conflicts are now more local.<sup>313</sup> Data shows that cities and suburbs split with exurbs and rural areas, creating in turn, more divided state governments than in recent years.<sup>314</sup> Thirteen states are under split partisan control, a level higher than what we've seen over recent election cycles.<sup>315</sup> The partisan makeup of several state legislatures changed: pre-election, Republicans controlled 67 state legislative chambers, Democrats 32. Post-election: Democrats gained four legislative chambers (See *Figure 4 – Post Mid-term Elections, State Government Trifectas*).<sup>316</sup> Seven governors' seats also flipped from Republican to Democrat.

To summarize:

- In 2018, there were six flips from divided government to a Democratic triplex—where one party controls the governorship and both legislatures.<sup>317</sup>
- The four states where Republicans lost triplexes turned into divided-rule states.<sup>318</sup>
- A total of ten states experienced a triplex status change.<sup>319</sup>
- There are now 22 Republican and 12 Democratic triplexes.<sup>320</sup>

The backdrop of shifting politics will affect the priorities and impact state AGs. In states with split control of government, AGs may find less institutional support in defending legislation and bringing suits. They may even find conflict.<sup>321</sup>

Figure 4 - Post-Midterm Elections, State Government Triplexes



On the other hand, in states where one party dominates, AGs will have like-minded governors and legislatures to work with. Business should anticipate greater scrutiny by AG offices in states with a Democratic triplex but, as we have seen, Republican AGs have also not hesitated to target certain sectors – such as opioids manufacture and distribution – in states like Ohio and Oklahoma. As such, companies should take proactive steps in developing an AG-specific strategy. We highlight below specific areas of business and government that presumably will undergo a shift in AG enforcement.

## Enhanced Scrutiny

### Cybersecurity and Privacy

AGs are cooperating across party lines on the issue of cybersecurity and privacy. For example, a coalition of more than 40 AGs is investigating Equifax’s data breach that resulted in compromised personal data for 143 million Americans.<sup>322</sup> In another case, a coalition of AGs secured an \$18.5 million-dollar settlement with Target Corp. for its 2013 data breach.<sup>323</sup> The lack of federal strategies for data protection and policymaking, in addition to the FCC ceding consumer protection enforcement of the internet to the FTC, has left a vacuum that state AGs and local legislatures are not hesitating to fill.<sup>324</sup>

Moving forward, we can expect laws like California’s Consumer Privacy Act of 2018 (AB 375) to fill the void left by the federal government, and for AGs to ramp up investigations into possible wrongdoing.<sup>325</sup> “State attorneys general have always been very active in protecting consumers’ needs,” says Erik Rasmussen, North American practice leader of Kroll’s cybersecurity and investigations group.<sup>326</sup> “Given that you can’t go a day without reading about a data breach, states will likely be very committed to these issues in response to constituents who are looking for the government to do something about this problem.”<sup>327</sup>

As such, AG authority stems from states’ unfair and deceptive acts and practices statutes.<sup>328</sup> As we have seen, AGs will apply these statutes to technology issues, ranging from privacy to data security, and autonomous vehicles to e-commerce. It is expected that state AGs will pay extra attention to potential harms resulting from disclosure and use of consumer data and set the terms for how companies manage consumer information.<sup>329</sup>

### The Opioid Epidemic

The response by state AGs to the spiraling number of opioid overdoses is another reminder that AG coalitions can be, and often are, bipartisan.<sup>330</sup> Every AG has taken a public stance on fighting the opioid epidemic, and almost all have committed themselves to multistate litigation. In 2018, 41 AGs, led by then-New York AG Barbara Underwood, launched a bipartisan coalition to investigate the opioid crisis.<sup>331</sup> There is ample evidence that the new AGs will intensify scrutiny of opioid marketers and distributors in the coming years.

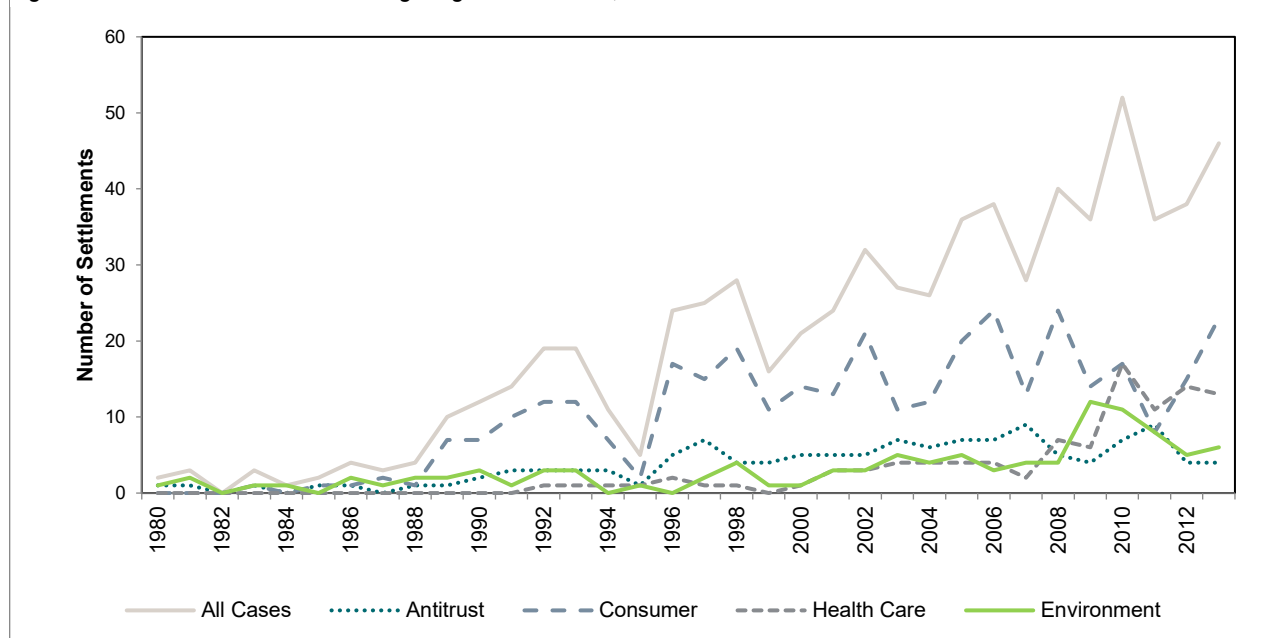
### The Trump Administration

Blue-state AGs are unified in their attacks on the Trump Administration’s policies.<sup>332</sup> There have been more lawsuits filed against this presidency in one year than in all of Obama’s eight years as president.<sup>333</sup> Most newly-elected Democratic AGs campaigned on the message of challenging President Trump. The upshot is two-fold. First, the Administration will continue to face high-profile lawsuits on matters related to immigration, climate change, healthcare, education, and more. Already, the Administration has faced losses in lower courts that have blocked, for instance, the EPA’s efforts to roll back some environmental regulations.<sup>334</sup> Second, Democratic AGs will garner significant public attention during the Trump presidency as they play a role in “holding Trump accountable.”<sup>335</sup> Phil Weiser, the newly-elected AG in Colorado, sums up this sentiment in a campaign ad: “Ever since, I’ve been writing down all the ways I can protect Colorado from Donald Trump.” He raised a record amount of campaign donations in Colorado, nearly \$3 million.<sup>336</sup>

### Healthcare

State AGs, regardless of party affiliation, will engage on healthcare-related issues—as regulators, consumer advocates and law enforcers.<sup>337</sup> In recent years, AG participation in multistate lawsuits and settlements has been highest for healthcare issues (See *Figure 5 – Multistate AG Lawsuits brought against business, 1980-2013*).<sup>338</sup> Multistate healthcare-related lawsuits have, on average, at least 30 states joining. Examples of AG action include Boehringer Ingelheim Pharmaceuticals’ 2017 settlement over deceptive-marketing claims and

Figure 5 - Multistate AG lawsuits brought against business, 1980-2013



Novo Nordisk's 2017 settlement over the company's failure to communicate risks associated with a diabetes drug.<sup>339</sup>

Looking forward, we can expect state AGs to exert greater pressure on pharmaceutical companies over the manufacturing and marketing of opioids through coordinated multistate litigation. In 2017, the NAAG presidential initiative centered on the healthcare marketplace, drawing attention to healthcare provider consolidation, rising drug costs, fraud and abuse in healthcare, and problems in rural markets.<sup>340</sup> This is a clear signal of where AGs will ramp up their efforts in enforcement and shape the national discussion on policy issues.

### **Consumer Finance**

With the Consumer Finance Protection Bureau revising its role as a regulator and enforcer of consumer finance protection law, state AGs are certain to ramp up their efforts. In 2018, 17 Democratic AGs publicly condemned Mick Mulvaney, the CFPB's acting director, for what they see as a weakening of the agency.<sup>341</sup> "If incoming CFPB leadership," the letter signed by the AGs reads, "prevents the agency's professional staff from aggressively pursuing consumer abuse and financial misconduct, we will redouble our efforts at the state level to root out such misconduct and hold those responsible to account."<sup>342</sup> The response by the Pennsylvania AG is indicative of the direction other AGs may follow: AG Shapiro started a Consumer Financial Protection Unit staffed with former CFPB attorneys.<sup>343</sup>

Moving forward, we can also expect state AGs to focus on FinTech, particularly online lending, payment processing, and the use of artificial intelligence in financial products.<sup>344</sup> One noteworthy development is Arizona AG Mark Brnovich's effort to establish a statewide regulatory sandbox for FinTech innovation.<sup>345</sup> Nevertheless, consumer protection is the bread-and-butter of AG enforcement, and FinTech is no exception—state AGs are eager to win restitution for their consumers in cases against perceived wrongdoers: mortgage lenders, student loan servicers, debt collection companies, payday lenders, and many others.

### **Antitrust**

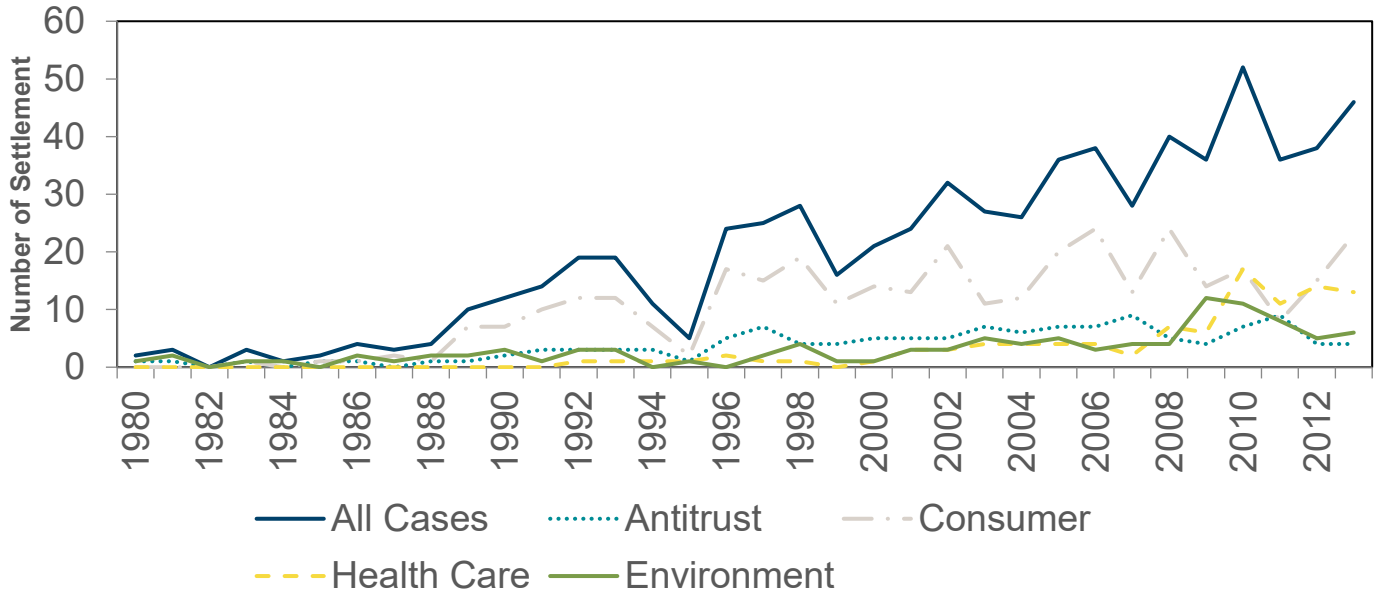
Antitrust investigations into mergers, price-fixing, and monopolization have received increasing attention from state AGs. The total number of lawsuits involving antitrust issues has increased through bi-partisan multi-state litigation and joint investigations with the DOJ and FTC.<sup>346</sup> Victor Domen, Tennessee's AG and recent head of the NAAG Anti-Trust task force, has described the relationship between state AGs, the FTC, and the DOJ as "very, very close."<sup>347</sup> Michigan's AGO provides one example. In 2014, the AG brought criminal antitrust charges against Chesapeake Energy while the DOJ pursued its own investigation, resulting in an indictment of the CEO.<sup>348</sup> We can expect this trend to continue due to underlying economic trends—industries will continue to consolidate—and the rewards of settlement further motivate AG action. In addition, state AGs will likely see increased opportunities if the federal government relaxes its own anti-trust enforcement efforts.<sup>349</sup>



Exhibits: Multistate lawsuits

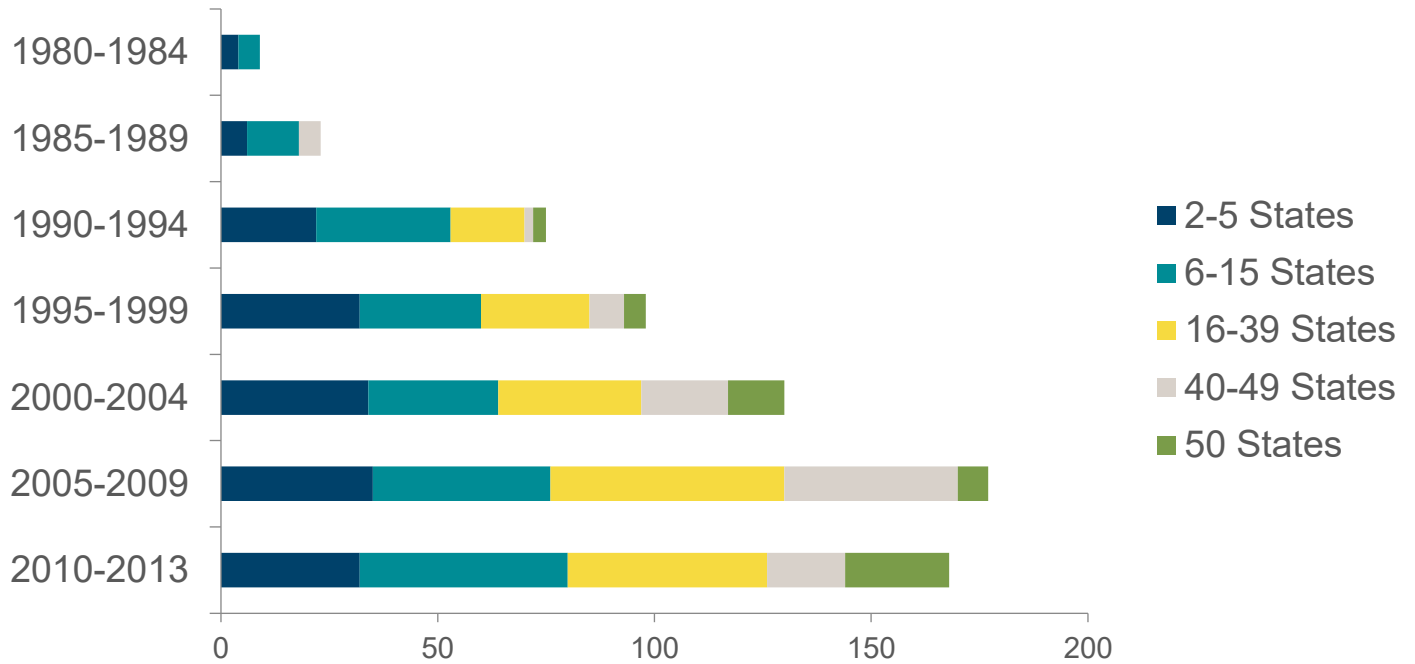
Multistate AG lawsuits brought against business, 1980-2017

Sources: Lexis-Nexis "United States News Verdicts, Settlements & Decisions" database



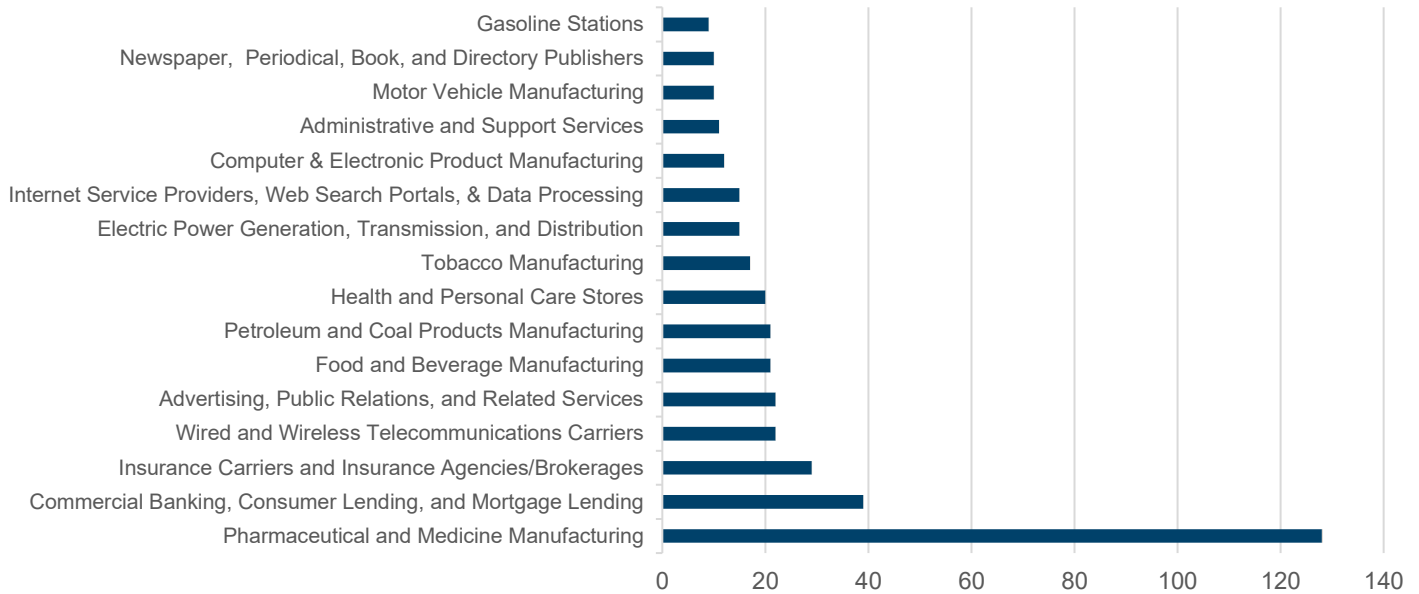
### Number of Multistate Cases, by Presedential Administration

Sources: Lexis-Nexis "United States News Verdicts, Settlements & Decisions" database



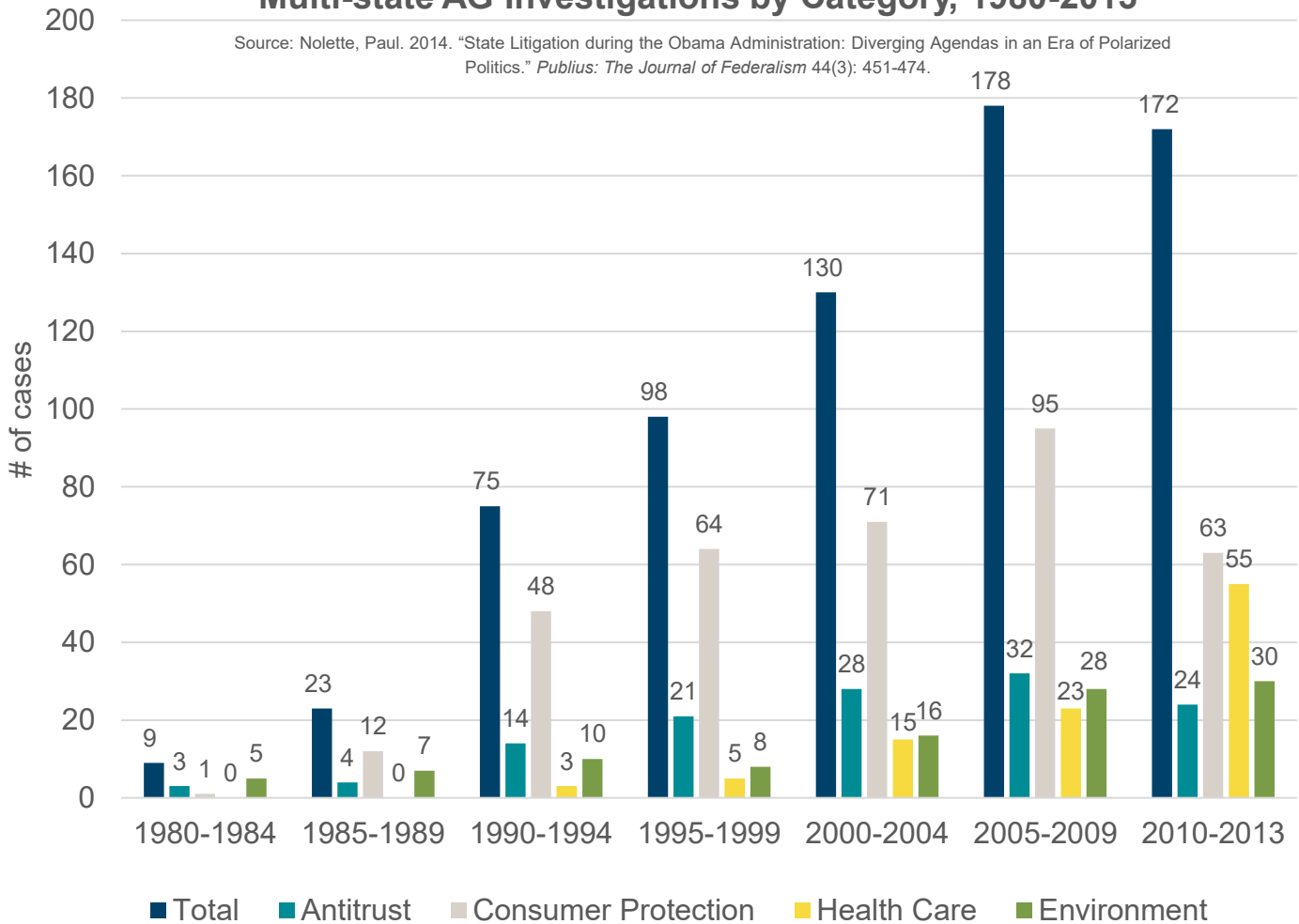
### Number of Multistate Cases by Industry, 1980-2013

Source: Nolette, Paul. 2014. "State Litigation during the Obama Administration: Diverging Agendas in an Era of Polarized Politics." *Publius: The Journal of Federalism* 44(3): 451-474.



### Multi-state AG Investigations by Category, 1980-2013

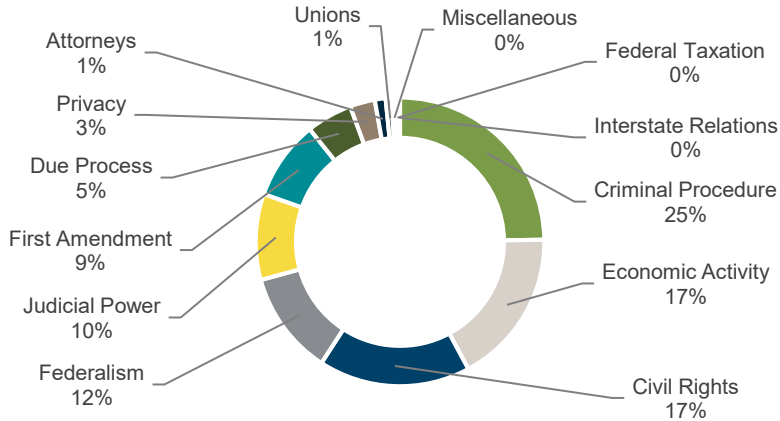
Source: Nolette, Paul. 2014. "State Litigation during the Obama Administration: Diverging Agendas in an Era of Polarized Politics." *Publius: The Journal of Federalism* 44(3): 451-474.



**Exhibits: Amicus briefs**

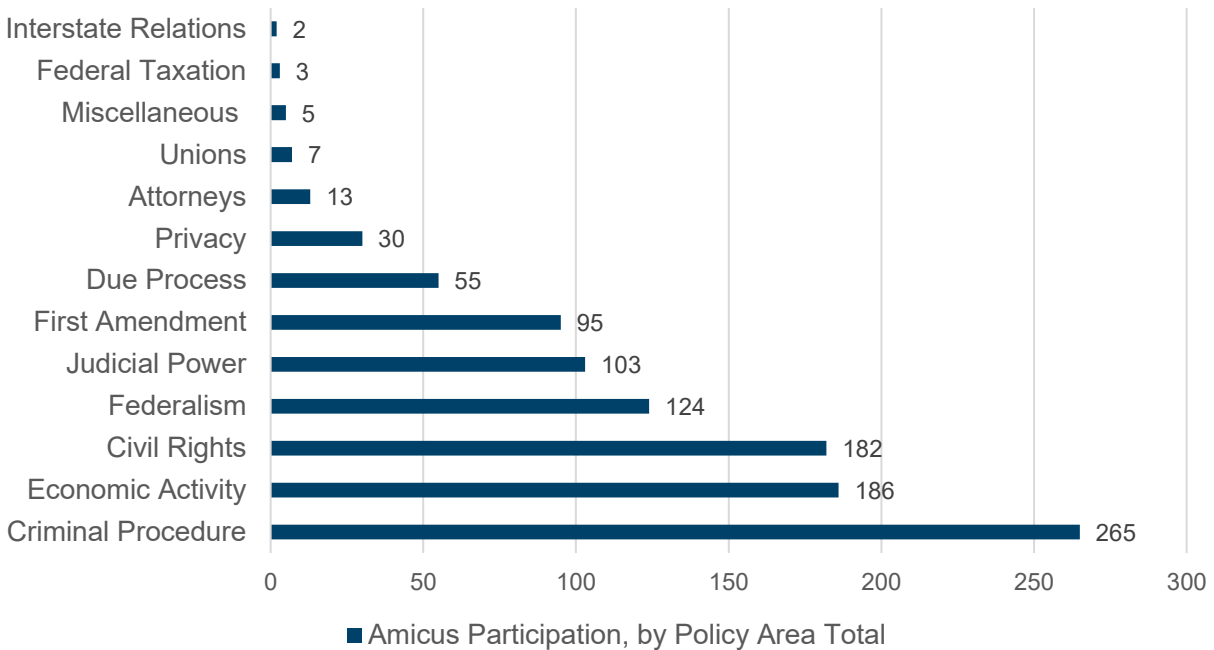
**Amicus participation by issue, percentage of total by all states, 1980-2013**

Nolette, Paul. 2014. "State Litigation during the Obama Administration: Diverging Agendas in an Era of Polarized Politics." *Publius: The Journal of Federalism* 44(3): 451-474.



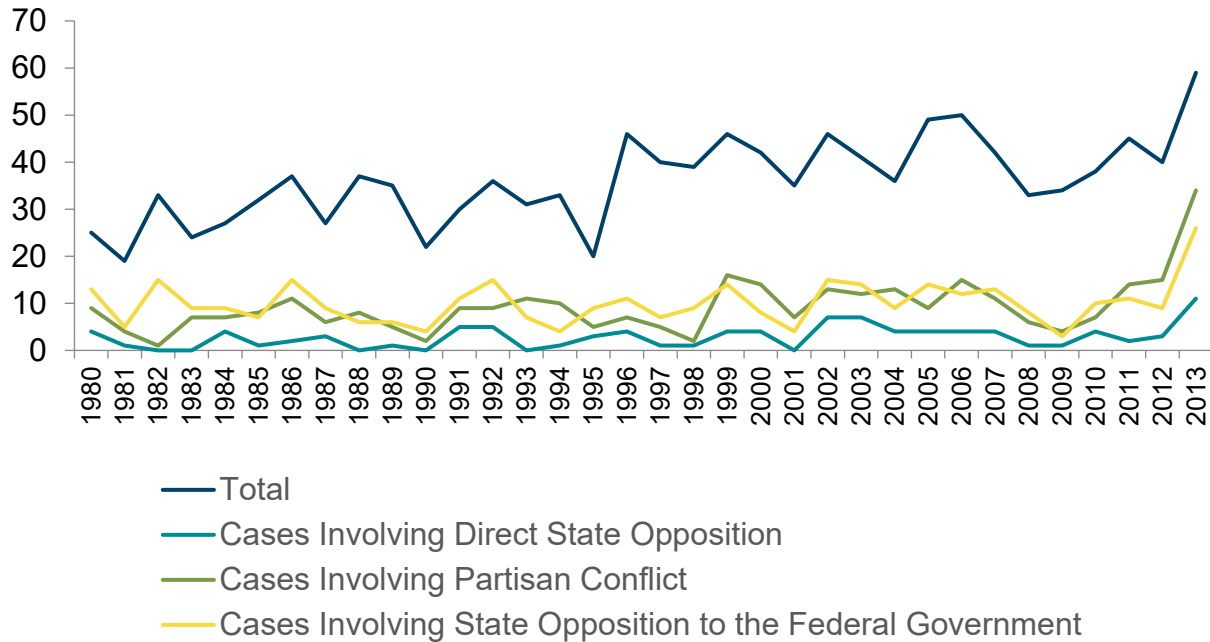
**Amicus Participation by Policy Area, 1980-2013**

Nolette, Paul. 2014. "State Litigation during the Obama Administration: Diverging Agendas in an Era of Polarized Politics." *Publius: The Journal of Federalism* 44(3): 451-474.



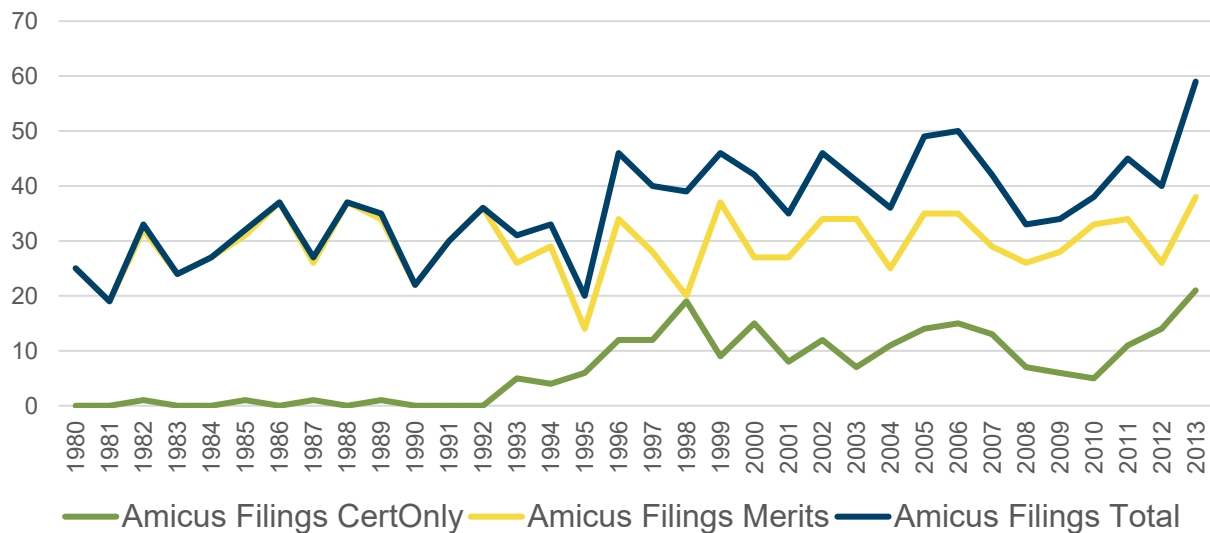
### State AG Amicus Briefs (1980-2013)

Nolette, Paul. 2014. "State Litigation during the Obama Administration: Diverging Agendas in an Era of Polarized Politics." *Publius: The Journal of Federalism* 44(3): 451-474.



### Amicus Filings by State AGs (1980-2013)

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## Endnotes

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