



In classic Greek mythology, a golden apple of discord inscribed "For the fairest" was awarded to Aphrodite, beginning a chain of events that led to the Trojan War. GrayRobinson's newsletter reports on the most recent issues, individuals, and discourse deemed fairest in Washington.

November 20, 2020

House, Senate choose leaders for 117th Congress

Although party control of the Senate remains undetermined, Democrats and Republicans on both sides of Capitol Hill elected their respective leaders this week. We'll see few changes.

On the House side, Rep. Nancy Pelosi (D-CA) will continue to serve as Speaker, with Rep. Steny Hoyer (D-MD) as Majority Leader, Rep. Jim Clyburn (D-SC) as Majority Whip, and Rep. Hakeem Jeffries (D-NY) as Caucus Chairman. Rep. Katherine Clark (D-MA) was elected Assistant Speaker, the fourth-ranking leadership position, and Rep. Pete Aguilar (D-CA) will be Caucus Vice Chairman.

House Republicans reelected their top leadership, with Rep. Kevin McCarthy (R-CA) as Minority Leader, Rep. Steve Scalise (R-LA) as Minority Whip, Rep. Liz Cheney (R-WY) as Conference Chair, and Rep. Gary Palmer (R-AL) as Policy Committee Chairman. Rep. Tom Emmer (R-MN) will continue to serve as the National Republican Campaign Committee Chairman. New to the leadership are Rep. Mike Johnson (R-LA), Conference Vice Chairman, and Rep. Rich Hudson (R-NC), Conference Secretary.

On the Senate side, Republicans kept their leadership: Sen. Mitch McConnell (R-KY) will remain Republican Leader, Sen. John Thune (R-SD) continues as Republican Whip, Sen. John Barrasso (R-WY) is Conference Chairman, Sen. Roy Blunt (R-MO) is Policy Committee Chairman, and Sen. Joni Ernst (R-IA) is Conference Vice Chairman. Sen. Rick Scott (R-FL) will chair the National Republican Senatorial Committee, succeeding Sen. Todd Young (R-IN)

Senate Democrats reelected Sen. Chuck Schumer (D-NY) as Democratic Leader, Sen. Dick Durbin (D-IL) as Democratic Whip, Sen. Patty Murray (D-WA) as Assistant Democratic Leader, Sen. Debbie Stabenow (D-MI) as Democratic Policy and Communications Committee Chairwoman, and Sens. Elizabeth Warren (D-MA) and Mark Warner (D-VA) as Conference Vice Chairs.

Mnuchin asks Fed to return unused 13(3) funds

In a [letter to Federal Reserve Board Chairman Jerome Powell yesterday](#), Secretary of the

Treasury Steven Mnuchin asked the Fed to extend four of its emergency lending facilities for 90 days, but to return the funds committed to the other five facilities. Mnuchin wants to extend the Commercial Paper Funding Facility (CPFF), the Primary Dealer Credit Facility (PDCF), the Money Market Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF). The Primary Market Corporate Credit Facility (PMCCF), Secondary Market Corporate Credit Facility (SMCCF), Municipal Liquidity Facility (MLF), Main Street Lending Program (MSLP), and Term Asset-Backed Securities Loan Facility (TASLF) would expire as scheduled on December 31. Returning the "\$429 billion in excess Treasury funds" from the Federal Reserve facility would allow Congress to re-appropriate that money for another round of pandemic relief, Mnuchin said. The Federal Reserve immediately issued a statement calling for "the full suite" of facilities to be maintained into 2021.

Defense funding bill will include anti-money laundering provisions

Rep. Maxine Waters (D-CA), Chairwoman of the House Financial Services Committee, [announced this afternoon](#) that she had secured agreement to include several anti-money laundering provisions in the conference for the National Defense Authorization Act (NDAA). The NDAA will include the [Corporate Transparency Act](#) introduced by Rep. Carolyn Maloney (D-NY), which would require disclosure of beneficial ownership; the COUNTER Act introduced by Rep. Emanuel Cleaver (D-MO), which would make several changes and additions to the Bank Secrecy Act; and language similar to a bill introduced by Rep. Ben McAdams (D-UT) that would make it easier for the Securities and Exchange Commission to recover ill-gotten gains.

OCC proposes rule to require lending based on risk, not category

The Office of the Comptroller of the Currency [published a proposal](#) this afternoon that seeks to ensure access to banking services for all legal businesses, and to prevent large national banks and federal savings associations from denying services to businesses or persons as part of an effort to discourage or disadvantage those potential customers. "The proposal would require a covered bank to ensure it makes its products and services available to all customers in the community it serves, based on consideration of quantitative, impartial, risk-based standards established by the bank," the OCC said in its press release. Under the proposed rule, banks with more than \$100 billion in assets could not enact policies that would deny services to certain types of businesses, such as gun dealers or oil companies. Comments on the proposal are due to the OCC by January 4, 2021.

House panel considers pandemic insurance proposals

The House Financial Services Subcommittee on Housing, Community Development, and Insurance [heard testimony yesterday](#) about proposals to create a business interruption insurance policy for pandemic risks. Rep. Carolyn Maloney (D-NY) has introduced [HR 7011](#), the Pandemic Risk Insurance Act, which would create a federal backstop for policies written by the private sector, similar to the Terrorism Risk Insurance program; she emphasized that the bill is a starting point intended to generate discussion and comment. Members disagreed on whether an insurance model would even be appropriate for efforts to reduce pandemic-related risk. Representatives from Marsh and Chubb said they believed the insurance industry could and should play a role in pandemic protection, but other segments of the industry are proposing a Business Continuity Protection Plan (BCPP) that would be modeled on the War Damage Insurance Corporation established during the Second World War. All agreed on the urgent need to get additional assistance to small businesses struggling during the pandemic emergency.

Clayton makes last appearance before Senate Banking, calls for better "corporate hygiene"

Securities and Exchange Commission Chairman Jay Clayton began his [testimony before the Senate Banking Committee](#) on Tuesday by confirming reports that he will step down from that position at the end of the year. He said the SEC should continue to work on issues of

“corporate hygiene” to make sure companies are as transparent as investors need them to be, particularly in the areas of 10b5-1 plans, option pricing, and “the 8-K information gap.” Clayton also thinks the proxy process needs further improvement, and said the SEC’s Section 13(f) proposal had revealed that companies do not have sufficient access to their shareholder base. Many of the SEC’s temporary pandemic-related changes should be permanent, he said, as the shift to telework showed the importance of being able to conduct business electronically and remotely.

Confirmations, Nominations, Departures, etc.:

- Securities and Exchange Commission Chairman **Jay Clayton** [confirmed reports](#) that he will leave office at the end of this year. Clayton has held the position since May 2017.
- Rep. **Cedric Richmond (D-LA)** announced that he is resigning his seat to join the Biden White House as senior advisor and Director of the Office of Public Engagement.
- Rep. **Ben McAdams (D-UT)**, a freshman member of the House Financial Services Committee, lost his reelection bid to the Republican candidate, Burgess Owens.

The Week Ahead

The House and Senate are not in session next week. GrayRobinson’s offices will be closed on Thursday for Thanksgiving. We are grateful for all of you, and wish you and your loved ones a safe and happy holiday.

The Ellis Insight

Jim Ellis reports on political news

Senate

Georgia: Atlanta-based Insider Advantage released new polling data for the upcoming Georgia Senate runoff elections. The survey (11/16; 800 GA likely runoff voters; live interview and interactive voice response system) found Democrat Raphael Warnock running slightly ahead of appointed Sen. Kelly Loeffler (R), 49-48%, in the special election to fill the balance of the unexpired term. In the race for the in-cycle six-year term, incumbent Sen. David Perdue (R) and documentary film producer Jon Ossoff (D) were tied at 49% apiece.

VCreek/AMG was also in the field, polling for the Americas PAC. This survey (11/10; 300 GA likely runoff voters; live interview and interactive voice response system) sees Sen. Loeffler running ahead of Rev. Warnock, 50-46%. Results for the Perdue-Ossoff race were not released. We can expect close polling in these two races all the way to the January 5th election day.

Kansas: Quelling rumors that he would run for Governor or retire from politics, Kansas Sen. Jerry Moran (R) announced yesterday that he will seek re-election to the US Senate next year. With Rep. Roger Marshall’s (R-Great Bend) convincing win in the open Kansas Senate seat this year, Sen. Moran looks like a cinch to win a third term in 2022 and will likely draw little in the way of serious opposition.

Missouri: Sen. Roy Blunt's (R) campaign spokespeople are confirming that the Senator will seek a third term in two years. At this early point, no Democrat is emerging. In 2016, then-Secretary of State Jason Kander (D) held Sen. Blunt to a 49-46% victory. Well after the campaign, however, Mr. Kander underwent treatment for PTSD and individuals close to him are quoted as saying that he will not seek a rematch two years from now.

The only Missouri Democratic statewide elected official, State Auditor Nicole Galloway, just lost the Governor's race to incumbent Mike Parson (R). Her current position is on the ballot in 2022, so there is yet no indication that she is contemplating challenging Sen. Blunt. There are only two Democratic US House members from the state, and one is an incoming freshman. The GOP also controls both houses of the legislature. Therefore, it is likely that the Democratic leadership will recruit someone from outside of elected office as their Missouri 2022 Senate candidate.

House

House Update: The Republicans have now gained a net of nine seats in the House with four races remaining uncalled. In the outstanding contests, Republicans lead in each.

In Iowa, state Sen. Mariannette Miller-Meeks (R-Ottumwa) has been certified as a 47-vote winner, but Democratic nominee Rita Hart has requested a recount in all 24 of the 2nd District's counties, which is underway. Republicans, including Rep. Mike Garcia (R-CA), hold tenuous leads in the two remaining California races, and former Rep. Claudia Tenney (R-NY) maintains a tenuous lead in New York's 22nd District.

Another race will be decided in a Louisiana December 5th runoff election. There, former congressional aide Luke Letlow and state Rep. Lance Harris (R-Alexandria) advance to a secondary vote. Since both are Republicans, the GOP is assured of holding the open seat regardless of the outcome.

LA-2: This week, Louisiana Rep. Cedric Richmond (D-New Orleans) announced that he would resign his seat in the House to accept a position in the Biden Administration. The Congressman is slated to become a senior advisor to the President and the Director of the Office of Public Engagement. This means we will see a special election held in the LA-2 district. Since the seat is heavily Democratic, we can expect a double-Democratic runoff election after a jungle primary is scheduled and held.

State Sens. Karen Carter Peterson (D-New Orleans) and Troy Carter (D-New Orleans) appear to be the first of many to enter the new campaign. It is expected that more than a dozen individuals will become candidates. Gov. John Bel Edwards (D) will schedule the special election once Rep. Richmond officially resigns. It is likely the special election calendar will coincide with the municipal elections already in place for March 20th with a runoff date of April 24.

MA-4: Not yet even sworn into the House of Representatives, incoming Massachusetts freshman Rep. Jake Auchincloss (D-Newton) has already drawn a re-election opponent. Former Attleboro City Councilmember Julie Hall (R), who recorded just over 39% in the 2020 general election, announced that she will seek a re-match in 2022. Mr. Auchincloss' more formidable potential opponent, however, could come in the form of a Democratic primary challenge in September of the next election year.

NJ-7: Vote tabulation is almost complete in New Jersey's 7th CD. The contest was originally called for freshman Rep. Tom Malinowski (D-Rocky Hill) on election night but put back in the undetermined column when late voting pulled state Senate Minority Leader

Tom Kean, Jr. (R) back within shouting distance. The race has now been resolved. Though Mr. Malinowski's lead has dwindled to well under 5,000 votes, there are now fewer ballots to count than the margin between the two candidates. Therefore, the Congressman has been re-projected as the winner.

New York: The New York US House contests are either called or conceded with the exception of the state's 22nd District in the Upstate. There, former Rep. Claudia Tenney (R) leads freshman Rep. Anthony Brindisi (D-Utica) by just under 11,000 votes with approximately 91% of the vote recorded depending upon what source is reporting. That being said, it is likely that Mr. Brindisi will need to obtain at least two-thirds of the remaining votes in order to overcome the challenger's lead.

Reps. Lee Zeldin (R-Shirley), Tom Suozzi (D-Glen Cove), Sean Patrick Maloney (D-Cold Spring), Antonio Delgado (D-Rhinebeck), and John Katko (R-Syracuse) have now all been re-elected. Republican Anthony Garbarino has held retiring GOP Rep. Peter King's seat on Long Island. So far, Republicans have gained one seat in the New York delegation as state Assemblywoman Michelle Malliotakis defeated freshman Rep. Max Rose (D-Staten Island).

North Carolina: Betting that the new North Carolina congressional seat will be drawn in western Wake County, state Sen. Wiley Nickel (D-Raleigh) yesterday declared himself a candidate when the state receives a new 14th District upon the national apportionment formula announcement expected in January. It is a certainty that the state will receive one more seat, but where that district will be placed is far from decided.

OH-13: In what appears to be a veiled attempt to keep his Youngstown anchored congressional seat intact in the face of Ohio losing another seat in the next reapportionment, Rep. Tim Ryan (D-Warren) announced yesterday that he will not challenge Gov. Mike DeWine (R) or Sen. Rob Portman (R) next year and is not looking for a Biden Administration appointment. Mr. Ryan was briefly in the 2020 presidential race but dropped out when it became apparent that his national campaign had no political legs. He further signaled that he would remain in the House assuming the Republicans do not eliminate his seat in the next redistricting.

UT-4: A day before the 4th District results were scheduled to be certified as official, freshman Rep. Ben McAdams (D-Salt Lake City) conceded defeat to challenger Burgess Owens (R), a retired NFL football player and Salt Lake City businessman. Provisional vote counting ended on Saturday, pushing Mr. Owens' margin over the Congressman to 2,139 votes, which was enough for Mr. McAdams to make his public statement.

Governor

Maine: Former Maine two-term Governor Paul LePage (R), who left the state for Florida after his time expired as the Pine Tree State's chief executive in 2018, announced that he will challenge Gov. Janet Mills (D) in 2022. Mr. LePage returned home last year in order to re-launch his political career. In Maine, a Governor is limited to two consecutive terms but may run again after a break in service.

Virginia: With Gov. Ralph Northam (D) ineligible to seek a second term under Virginia election law, the field of candidates is beginning to gel, particularly on the Democratic side.

Signals continue to remain strong that former Gov. Terry McAuliffe (D) is preparing to run again. Lt. Gov. Justin Fairfax (D) is already an announced candidate, as are state Sen. Jennifer McClellan (D-Richmond) and Delegate Jennifer Carroll Foy (D-Woodbridge). For

the Republicans, state Delegate and former House Speaker Kirk Cox (R-Colonial Heights) and state Sen. Amanda Chase (R-Midlothian) are the only announced contenders.

Term Limited Governors: As we look to the next election cycle that will feature a preponderance of 38 gubernatorial bids, several will be open due to state term limit laws. Virginia Gov. Ralph Northam (D), who is the only state chief executive limited to just one term, is barred from seeking re-election in 2021. The 2022 open gubernatorial races are: Arizona (Gov. Doug Ducey-R), Arkansas (Gov. Asa Hutchinson-R), Hawaii, (Gov. David Ige-D), Maryland (Gov. Larry Hogan-R), Nebraska (Gov. Pete Ricketts-R), Oregon (Gov. Kate Brown-D), Pennsylvania (Gov. Tom Wolf-D), and Rhode Island (Gov. Gina Raimondo-D).

Cities & States

Alaska: With almost all of the votes now counted, a change has occurred among the Alaska ballot propositions that will drastically affect future elections. By a margin of 50.5 – 49.5%, voters have adopted a measure to become the first state in the Union to hold a “top four primary,” after it appeared the proposition was headed for defeat.

The new process will create a jungle primary with all participants on the same ballot regardless of party affiliation. Instead of just two finalists advancing to the general election, four will. In the general, Ranked Choice Voting will then be in effect, meaning a winner will be declared with majority support.

Analysts believe the change will be a short-term boon to Sen. Lisa Murkowski (R) when remembering she lost the 2010 partisan Republican primary. She then won re-election that year via the write-in process in the general election. Sen. Murkowski is expected to seek re-election, and the primary could have presented her with another competitive challenge. This system, however, will guarantee that she will easily advance into the November 2022 general election.

New York City: Just days after New York Rep. Max Rose (D-Staten Island) conceded re-election defeat to state Assemblywoman Nicole Malliotakis (R), it appears he is already testing the waters for another political run. Reports are surfacing that Rep. Rose may be looking to enter the open New York City Mayor’s race next year. Incumbent Bill de Blasio (D), who was a focal point of negative attacks during the congressional campaign, is ineligible to seek a third term. Therefore, interest is growing among Democrats looking to run for the position.

Announcing his candidacy yesterday was Brooklyn Borough President Eric Adams. Other Democrats already in the race is former US Housing & Urban Development Secretary Shaun Donovan, NYC Comptroller Scott Stringer, and NYC Councilman Carlos Menchaca.

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