



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.

February 28, 2020

As we say farewell to February — and not a moment too soon — we're sorry to have missed Alligator in the Sewer Day, which was February 9. That annual event reminds us that [almost every urban legend has a grain of truth](#) — and seriously, alligators don't make good pets.

Our new offices

The Washington, DC branch of GrayRobinson has settled into beautiful new office space at 99 M Street SE, zip code 20003. It's just a few blocks south of our former DC headquarters and the Capitol, and only a block from Nationals Park. We have not abandoned the townhouse on New Jersey Avenue; we'll still be using it for meetings and events, and as office space for visiting clients.

Fed promises action if necessary

Federal Reserve Chairman Jerome Powell [issued a statement this afternoon](#) to reassure everyone that "the fundamentals of the US economy remain strong" despite fears about the possible effects of the coronavirus. The Fed is monitoring developments, he said, and "We will use our tools and act as appropriate to support the economy."

HFSC approves seven bills

The House Financial Services Committee (HFSC) spent yesterday and this morning marking up [seven pieces of legislation](#), most of them housing-related. The Committee approved by voice vote [H.R. 4351](#), the Yes in My Backyard Act, which would require localities that receive Community Development Block Grants to report on how they're implementing policies to promote housing production. [H.R. 5932](#), the Ensuring Chinese Debt Transparency Act, also passed by voice vote. The Committee voted unanimously to report out [H.R. 5931](#), the bipartisan Improving FHA Support for Small Dollar Mortgage Act, which requires the FHA to look for and revise any policy barriers to supporting mortgages under \$70,000. The other four bills passed along party lines, including [H.R. 5187](#), the Housing is Infrastructure Act, and [H.R. 5929](#), the Shareholder Political Transparency Act, which would require public companies to disclose their expenditures for political activities.

FHFA seeks comment on Federal Home Loan Bank membership

The Federal Housing Finance Agency (FHFA) issued a [Request for Input \(RFI\)](#) this week on its rules for membership in the Federal Home Loan Bank System. The RFI asks questions about the rule's requirements for eligibility, safety and soundness, the Banks' mission, and how the

rule is enforced. The RFI is open for comment for 120 days.

Senate Democrats ask BlackRock to push for climate risk disclosure

In a letter to BlackRock Chairman and CEO Larry D. Fink this week, Senators Elizabeth Warren (D-MA), Sheldon Whitehouse (D-RI), Cory Booker (D-NJ), and Chris Van Hollen (D-MD) asked the investment management company to require the companies it invests in to issue public disclosures consistent with the Senators' proposed [Climate Risk Disclosure Act](#). That bill (S. 2075/H.R. 3623) would require disclosure of a company's own direct and indirect greenhouse gas emissions; the total amount of assets related to fossil fuels that the company owns or manages; the effects on the company's valuation if climate change continues at its current pace, or if greenhouse gas emissions are restricted to meet the goals of 1.5°C above pre-industrial levels; and the company's climate risk management studies. Fink announced last month that BlackRock will make environmental sustainability a core goal of its investment decisions.

FDIC publishes guide for fintech/bank relationships

[FDiTech](#), the Federal Deposit Insurance Corporation's technology lab, has published [Conducting Business with Banks: A Guide for Third Parties](#) to help financial technology companies and other businesses form partnerships with insured depositories. FDIC Chairman Jelena McWilliams said she had heard concerns from both banks and technology companies about the costs and regulatory uncertainty involved in these alliances. "Leveraging new technology may provide additional opportunities for [community banks] and their customers," she said.

CFPB answers questions about TRID

The Consumer Financial Protection Bureau (CFPB) has published [answers to frequently asked questions](#) (FAQs) about its [Truth in Lending-Real Estate Settlement Procedures Act Integrated Disclosure Rule \(TRID\)](#). The answers address questions about correcting closing disclosures and the three business-day waiting period; model forms; construction loans, providing loan estimates to consumers; and lender credits. The Bureau cautions, as usual, that the answers posted are "not a substitute for reviewing TILA, RESPA, Regulation Z, or its official interpretations."

CFPB agrees on schedule for small business lending rule

This week the Consumer Financial Protection Bureau (CFPB) agreed to court-ordered deadlines for rulemaking to implement Section 1071 of Dodd-Frank, which requires the Bureau to collect and report fair lending data for small business loans. The Bureau must request comment by September on a proposal that outlines its data collection plans, and must establish a Small Business Advocacy Review panel by October. Additional deadlines must be negotiated with the coalition of small business and community groups that sued the CFPB in the US District Court for the Northern District of California, and the Bureau must report to the court on its progress every 90 days.

FDIC reports decline in net bank income

Lower net interest income and higher expenses led to a decline in the banking industry's overall net income in 2019, the [FDIC reported on Tuesday](#). FDIC Chairman Jelena McWilliams said the industry remains strong, and the number of "problem banks" declined to 51, the lowest level since 2006. The industry continued to consolidate, with 77 institutions absorbed by mergers in the fourth quarter of 2019 and three banks failing, while only three new banks opened.

Confirmations, nominations, departures, etc.:

- Rep. Ralph Abraham (R-LA) announced that he will not run for reelection this year. Abraham, elected in 2014, is one of 14 physicians currently serving in the House of Representatives.

Next Week in Washington

March 3 Super Tuesday: Democratic presidential primary elections in Alabama, American Samoa, Arkansas, California, Colorado, Maine, Massachusetts, Minnesota, North Carolina, Oklahoma, Tennessee, Texas, Utah, Vermont, and Virginia. Reporting of results may be slow, especially since some states (California, specifically) allow voting by mail. Tuesday's votes will leave 62% of the 3,979 available Democratic delegates remaining to be awarded.

March 3 at 9:00 a.m. House Ways and Means Committee [hears testimony from Secretary of the Treasury Steven Mnuchin](#) on the Administration's proposed FY 2021 budget.

March 3 at 10:00 a.m. House Transportation Subcommittee on Aviation holds a hearing on "[The Airline Passenger Experience: What It Is and What It Can Be.](#)"

March 3 at 10:00 a.m. House Small Business Subcommittee on Economic Growth, Tax, and Capital Access holds a hearing on "[South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street.](#)"

March 4 at 10:00 a.m. House Appropriations Subcommittee on Financial Services and General Government holds a hearing on "[Department of the Treasury Budget Request for FY 2021.](#)" Secretary of the Treasury Steven Mnuchin will be the only witness.

March 4 at 10:00 a.m. House Financial Services Subcommittee on National Security, International Development, and Monetary Policy holds a hearing on "[The Traffickers' Roadmap: How Bad Actors Exploit Financial Systems to Facilitate the Illicit Trade in People, Animals, Drugs, and Weapons.](#)"

March 4 at 10:00 a.m. The Securities and Exchange Commission [meets in open session](#) to consider proposing regulatory amendments that would simplify, harmonize, and improve the framework for exemptions from registration under the Securities Act of 1933. The meeting will be webcast at www.sec.gov.

March 4 at 10:30 a.m. House Appropriations Subcommittee on the Departments of Transportation, Housing and Urban Development, and Related Agencies [hears testimony from Secretary of Housing and Urban Development Ben Carson](#) on the Department's FY 2021 budget request.

March 4 at 11:30 a.m. House Committee on Small Business holds a hearing on "[Building Blocks of Change: Blockchain Technology for Small Businesses.](#)"

March 4 at 8:00 p.m. The Employment Law Alliance hosts a webinar on "[Coronavirus and the Workplace: The Asia Experience.](#)" to discuss employment issues raised by the spread of COVID-19. The webinar is free, but registration is required.

March 4 at 2:00 p.m. House Financial Services Subcommittee on Housing, Community Development, and Insurance holds a hearing on "[Drivers of Discrimination: An Examination of Unfair Premiums, Practices, and Policies in the Auto Insurance Industry.](#)"

March 5 at 2:00 p.m. Bloomberg Government hosts a webinar on "[What's Happening with](#)

[Infrastructure and the Highway Bill?](#)” Registration is open to non-subscribers.

March 6 at 10:00 a.m. House Financial Services Subcommittee on Consumer Protection and Financial Institutions holds a field hearing on “[Modern-Day Redlining; the Burden on Underbanked and Excluded Communities in New York.](#)”

The Ellis Insight

Jim Ellis reports on political news

President

California: The latest California Democratic presidential polls find Sen. Bernie Sanders (I-VT) pulling away from his opponents, but is it too late? According to Point Blank Strategies (2/23-25; 2,098 CA registered voters), Sen. Sanders posts a 34-13-11-11% lead over Sen. Elizabeth Warren (D-MA), former South Bend Mayor Pete Buttigieg, and ex-Vice President Joe Biden in the battle for the large 415 member delegate contingent to the Democratic National Convention. YouGov, in their latest CA survey (2/23-25; 584 CA likely Democratic primary voters) projects Sanders leading Biden, 30-20%.

While the results might be in the realm of accuracy, the polls did not take into account the 1.3 million voters who have already cast their ballots under California's early voting law. Regardless of the late polling results, it is fair to suggest that multiple candidates will qualify for delegate allocation in the Golden State, thus limiting the large delegation's influence.

Colorado: Precious little polling data has come from the Centennial State of Colorado despite it being a Super Tuesday primary state, but a new study was just released. Data for Progress (2/23-25; 471 CO likely Democratic primary voters) finds Sen. Bernie Sanders (I-VT) leading Sen. Elizabeth Warren (D-MA), 34-20%, with ex-Mayors Pete Buttigieg and Michael Bloomberg tied at 14% apiece. Former Vice President Joe Biden lags behind the group at only 10% support. The numbers suggest that the top four candidates all have the potential of qualifying for delegate allocation. Colorado has 67 first ballot national convention delegates.

Florida: Two Florida Democratic voters, who a Democratic former circuit judge represents, have filed suit to remove Sen. Bernie Sanders (I-VT) from the Florida Democratic primary ballot and not count any Sanders vote that has already been cast in the early voting process. State election authorities report more than 244,000 ballots have already been cast. The lawsuit argues that Sen. Sanders, who is not a registered Democrat, fails to qualify as a partisan candidate in a closed primary state. The suit is not likely to gain legs because precedent has allowed the political parties leeway in determining who is placed on their primary ballot. The Florida Democratic Party opposes the suit.

Michigan: Looking directly past Super Tuesday to an important March 10th voting state, YouGov tested the Wolverine State Democratic electorate (2/11-20; 662 MI likely Democratic primary voters). The results show only two candidates qualifying for delegate allocation, Sen. Bernie Sanders and former Vice President Joe Biden, with 24 and 16%, respectively. Ex-Mayor Michael Bloomberg and Sen. Elizabeth Warren (D-MA) are close to qualifying with 13% apiece, while former Mayor Pete Buttigieg follows with 11%. All could

conceivably reach the 15% delegate allocation threshold when the votes are actually cast. Michigan has 125 first ballot delegates and is the largest of the six states voting on March 10th.

Minnesota: Mason-Dixon Polling & Strategies reports that their latest data (2/17-20; 500 MN likely Democratic primary voters), and one of the only polls for Minnesota's Super Tuesday vote, show Sen. Amy Klobuchar now pulling ahead in her home state. The results find her total at 28%, followed by Sen. Bernie Sanders at 23%. The M-D numbers forecast only these two qualifying for delegate allocation. If this were to prove accurate, Sen. Klobuchar would take approximately 41 of the state's 75 first ballot delegates, while Sen. Sanders would capture the remaining 34.

Nevada: Last week's Nevada Caucus took several days to sort out the final count, but Sen. Bernie Sanders (I-VT) easily finished first, with 40.4% of the aligned vote. Former Vice President Joe Biden was second with 18.9% and ex-Mayor Pete Buttigieg also qualified for delegate apportionment with 17.3% of the final aligned vote. Delegate-wise, Sanders clinched 24 bound delegate votes, Biden 9, and Buttigieg 3.

South Carolina: In the closing days before tomorrow's South Carolina Democratic primary, US House Majority Whip Jim Clyburn (D-Columbia/Florence) formally endorsed former Vice President Joe Biden as expected. Rep. Clyburn's support will likely help Mr. Biden with African American turnout that will reinforce his polling lead within the state. Mr. Biden looks to be putting some distance between he and the Democratic field. It appears he is returning to his large lead status at precisely the right time. His polling range swings from +28 percentage points (Starboard Communications; 2/26; 1,102 SC likely Democratic primary voters) to +20 (Monmouth University; 2/23-25; 454 SC likely Democratic primary voters) to +17 (Emerson College; 2/26-27; 425 SC likely Democratic primary voters) to just +4 points (Change Research; 2/23-27; 543 SC likely Democratic primary voters). All signs point to a Biden victory in South Carolina.

Virginia: The Data for Progress polling organization tested the Virginia Super Tuesday electorate (2/23-25; 499 VA likely Democratic primary voters). Here Sen. Bernie Sanders (I-VT) leads former Vice President Joe Biden, Sen. Elizabeth Warren (D-MA), and ex-Mayor Michael Bloomberg 28-19-17-17%. Here, too, the numbers suggest that the top four candidates will likely qualify for delegate allocation. Virginia has 99 first ballot national convention delegates.

Senate

Georgia: Secretary of State Brad Raffensperger this week enjoined the special Senate race candidate filing with the regular election timeline, which is March 6th. While the special election filing schedule is now the same as the regular calendar, the special remains unique. Instead of partisan primaries on May 19th with a potential run-off on July 21st for all other races, the special jungle primary runs concurrently with the November 3rd general election, with a run-off on January 5, 2021 if no one obtains 50% in the first vote. Therefore, while the special Senate candidates are filing in early March, they won't be on a ballot until eight months later.

Kentucky: The Democratic Senatorial Campaign Committee released a pair of polls from

the Blue Grass State, but they are over a month old. Garin-Hart-Yang Research conducted a statewide Kentucky poll in mid-January (1/8-13; 802 KY likely general election voters) that gave Senate Majority Leader Mitch McConnell only a 43-40% edge over retired Marine Corps helicopter pilot Amy McGrath (D).

In a similar time frame Change Research (1/17-21; 1,281 KY likely general election voters; online) forecast a dead tie between the two contenders at 41-41%. This is a typical pattern for Mitch McConnell. In his last two elections, early and mid-campaign polling found him to be in a close race, and then he ran away with a 53 (2008) and 56% (2014) victory margin in each of those electoral contests.

Massachusetts: The University of Massachusetts at Lowell surveyed the September Democratic primary between Sen. Ed Markey and Rep. Joseph P. Kennedy III (D-Newton) and finds a virtual tie between the two men. According to their study (2/12-19; 450 MA likely Democratic primary voters), Rep. Kennedy would lead the early Democratic primary preference, 35-34%.

The numbers split almost evenly throughout the crosstab segmentation, but the underlying issue numbers clearly favor Rep. Kennedy. Therefore, it appears Rep. Kennedy is stronger than the ballot test reveals. This race has a long way to go before the September 1st state primary, so we can expect a long and competitive political contest to capture the Bay State Democrats.

Oklahoma: During the week, veteran Sen. Jim Inhofe (R), who is now 85 years of age, issued a statement saying that he will reveal his political plans on March 6th. He has not yet indicated whether or not he will seek a fifth full term later this year. The Oklahoma candidate filing deadline is April 10th for the June 30th state primary. Sen. Inhofe was first elected in a 1994 special election. He then won full terms in 1996, 2002, 2008, and 2014. Coming to the Senate after serving four terms in the House, Mr. Inhofe was also elected as Mayor of Tulsa and to stints in both the Oklahoma House and Senate.

South Carolina: Marist College/NBC News tested the South Carolina electorate and surveyed the upcoming US Senate race between Sen. Lindsey Graham (R) and presumed Democratic nominee Jaime Harrison, the former South Carolina Democratic Party chairman. The research study (2/18-21; 2,661 SC adults; 2,382 registered voters via telephone interview) finds Sen. Graham topping Mr. Harrison 54-37%. This race has generated some national attention as Mr. Harrison has raised over \$7.6 million for the race with \$4.7 million cash on hand.

Texas: Polling for the Democratic US Senate primary that will be held on Super Tuesday, March 3rd, has consistently shown very little separation among the 12 candidates running for the party nomination to eventually oppose veteran Sen. John Cornyn (R). Until a just released YouGov/University of Houston poll (2/6-18; 1,352 TX likely Democratic primary voters; online) found retired Army helicopter pilot M.J. Hegar putting some distance between herself and the rest of the field, no one had even reached 15% support in any survey.

YouGov sees Ms. Hegar posting 22%, fifteen points better than her next closest opponent, and suggesting that she will secure one of the positions for the certain May 26th run-off election. Battling for the second position are state Sen. Royce West (D-Dallas) with 7%, former Congressman and 2014 gubernatorial nominee Chris Bell (6%), and civil rights activist Cristina Tzintzun Ramirez (4%).

House

AL-1: A Strategy Research poll for local television station WKRG Channel 5 (2/17; 2,000 Democratic, Republican, and non-affiliated voters; un-segmented) found the south Alabama open Republican congressional primary gaining definition, and likely headed to a run-off.

According to their results, local Mobile County Commissioner Jerry Carl is leading among the likely Republican primary voters with a 29-21% edge over former state Sen. Bill Hightower (R). State Rep. Chris Pringle (R-Mobile) follows with 13%. Therefore, it is likely that Messrs. Carl and Hightower will advance to the secondary election if this poll is accurate. The Alabama statewide primary is on Super Tuesday, March 3rd. A run-off election would occur on March 31st.

CA-50: Survey USA, for KGTV television and the San Diego Union Tribune (2/20-23; 606 CA-50 registered voters), finds former US Rep. Darrell Issa (R) putting some distance between he and third place poll finisher Carl DeMaio (R), a former San Diego City Councilman just before the Super Tuesday primary. According to S-USA, Democrat Ammar Campa-Najjar leads the jungle primary with 35% of the vote, while Mr. Issa captures 21 percent.

Regardless of party affiliation and primary percentage, the top two finishers advance into the general election. Within this polling sample, Mr. DeMaio records 15% support. Even in this poll, the aggregate Republican vote has the advantage over the combined Democratic number (45-40%) in what is viewed as one of the few safely Republican seats in California. Still, Mr. Campa-Najjar leads the field by a large margin.

LA-5: Three-term US Rep. Ralph Abraham (R-Alto/Monroe), who ran unsuccessfully for Governor in 2019 and originally self-term limited to six years in the House, announced this week that he will keep his promise and retire at the end of the current Congress. This yields an open seat in north/central Louisiana, and we can expect to see multiple candidates come forward well before the July 17th candidate filing deadline.

Louisiana employs the jungle primary system but holds their election concurrently with the regular general. If no one receives majority support on November 3rd, which will be likely, the top two finishers advance into a December 5th run-off contest. Mr. Abraham's departure means there are 42 open seats headed into the next election, with 31 coming from the Republican column as compared to only 11 from the majority Democrat category.

MI-6: Veteran Michigan US Representative Fred Upton (R-St. Joseph), formerly the House Energy & Commerce Committee chairman, finally announced this week that he will seek re-election. The Congressman was first elected in 1986. For months, Mr. Upton has been

coy about his political plans but was raising significant money and printing 2020 election materials.

Rep. Upton was re-elected in 2018 with only a 50-46% over Democratic physician Matt Lonjohn in a competitive race. State Rep. Jon Hoadley (D-Kalamazoo) looks to be the leading Democratic candidate for 2020.

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