



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.

May 15, 2020

Washington, DC Mayor Muriel Bowser has extended the District of Columbia's stay-at-home order through June 8, as the decline in new COVID-19 infections has not yet lasted the two weeks recommended by federal guidelines. We continue to work from our homes, and are experimenting with new hairstyles. We're all still healthy, and we hope that you are, too.

House votes on HEROES Act

Members of the House of Representatives returned to Capitol Hill this week and got right to work on [H.R. 6800](#), the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, introduced by Rep. Nita Lowey (R-NY). Before the House could vote on the measure, it had to approve [temporary remote voting procedures](#); at this writing, the voting process is still happening.

The [HEROES Act](#) is a massive document (1,815 pages) that includes:

- an additional direct payment of \$1,200 to most American households
- \$500 billion for the Treasury Department to help state governments
- \$375 billion for the Treasury to help local and municipal governments
- 90 billion for an Education Department State Fiscal Stabilization Fund to support elementary, secondary, and public post-secondary schools
- An additional \$100 billion for the Health Care Provider Relief Fund
- \$1 billion for the Health Resources and Services Administration (HRSA) to establish or expand medical schools in underserved areas or that serve minorities
- \$175 million for the Department of Health and Human Services to create a Public Health Workforce Loan Repayment Program
- \$75 billion for a COVID-19 National Testing and Contact Tracing Initiative
- Extensions for enhanced federal unemployment benefits through January 31, 2021
- \$25 billion in emergency funding for the US Postal Service

It would also extend the Fed's Municipal Liquidity Facility through the end of 2021 and allow the purchase of debt with a maximum of 10 years' maturity. It would extend the authorization for the Paycheck Protection Program to December 31, and provide an additional \$75 billion for the SBA's traditional 7(a) loan program. It includes details about when and how PPP loans would be forgiven and taxed, and adds personal protective equipment (PPE) to the list of things businesses can use PPP for.

The HEROES Act would require all insurance companies to cover treatments for COVID-19 without co-payments, and would expand Medicaid and Medicare coverage. It would create a new, pandemic-specific enrollment period for federal and state health insurance

exchanges under the ACA, and would subsidize COBRA payments for people who lost their jobs due to the pandemic.

It would also suspend the \$10,000 cap on tax deductions for state and local income taxes (SALT); expand eligibility and benefits for a number of tax credits, including the Earned Income Tax Credit (EITC), the Child Tax Credit, the credit for Dependent Care, the Employee Retention Credit, the Fixed Expense Credit, the Self-Employed Credit, the Paid Leave Credits, employee benefits, employee expenses, and loss deductions.

The HEROES Act would allow mortgage servicers to qualify for Treasury loans and guarantees under the CARES Act. It would require the Fed to create a facility for long-term, low-interest loans to landlords for losses of rental income. It would extend the moratoriums on foreclosures and evictions from properties with federally insured mortgages, and offer automatic mortgage forbearance to borrowers with loans that are 60 days delinquent. It would prohibit creditors from reporting adverse information about consumers during the national pandemic emergency, and would require the Consumer Financial Protection Bureau to compile a database of consumers who submitted declarations of economic hardship during the pandemic. It would bar all debt collection activities during the federal emergency, including those by federal or state governments.

It would also require the Occupational Safety and Health Administration (OSHA) to promulgate an emergency standard to protect health-care workers, first responders, and other at-risk workers from exposure to COVID-19. All employers would be required to report work-related COVID-19 infections and deaths, a requirement OSHA explicitly exempted most employers from on April 10.

There's more to this bill; as we said, it's more than 1,800 pages, and if you want a longer summary, feel free to ask. We expect the House to pass this bill sometime late this evening. It has no hope of passing the Senate, but will serve as a negotiating point for the next round of relief legislation.

Senate begins work on liability questions

Senate Majority Leader Mitch McConnell (R-KY) has said that liability protection would have to be part of the next round of COVID-19 relief legislation, so the Senate Judiciary Committee held a [lengthy hearing on the issue on Tuesday](#). While some Republican members are interested in creating temporary federal immunity from liability for COVID-19 related damages, Senator Mike Lee (R-UT) argued that this would be a serious infringement of states' rights, and possibly unconstitutional, depending on how they tried to draft this. Senator John Cornyn (R-TX) is working on legislation, but the draft did not circulate before Tuesday's hearing. All Committee members, including Chairman Lindsey Graham (R-SC), and all the hearing's witnesses agreed on the need for science-based, enforceable standards of care for workers; since regulatory compliance is a defense against liability, many noted, if OSHA issues specific guidelines for protecting workers from COVID-19, businesses could embrace them as a safe harbor.

CFPB, FHFA, HUD launch joint mortgage and housing assistance website

The Consumer Financial Protection Bureau (CFPB), Federal Housing Finance Agency (FHFA) and Department of Housing and Urban Development (HUD) launched [a new website](#) this week to provide a single source of information about help available to homeowners and renters. The website, www.cfpb.gov/housing, provides links to mortgage relief options and renter protection, and tips for avoiding scams and bad actors. It includes a short video that explains the mortgage forbearance provisions of the CARES Act.

FHFA extends foreclosure and eviction moratorium, offers payment deferral option

The Federal Housing Finance Agency has extended its moratorium on foreclosures and evictions from properties with mortgages backed by Fannie Mae and Freddie Mac to at least June 30, the agency [announced yesterday](#). The original moratorium had been scheduled to expire on May 17. On Thursday, the [FHFA announced](#) that Fannie and Freddie would offer

borrowers a “payment deferral” option that lets borrowers who are able to resume monthly mortgage payments defer their missed payments until the time their home is sold, refinanced, or at maturity. Fannie Mae and Freddie Mac are currently offering forbearance to borrowers with financial hardships due to the COVID-19 pandemic; Thursday's statement clarifies that “the Enterprises do not require lump sum repayment at the end of the forbearance.” Mortgage servicers will begin offering the payment deferral option on July 1.

Fed works on Main Street, Municipal Lending Facilities, while FDIC and OCC continue work on CRA reform

The federal financial regulators appeared before the [Senate Banking Committee by video conference](#) on Tuesday, and participated in a [video roundtable with the House Financial Services Committee](#) on Wednesday, to talk about how they and the institutions they supervise are responding to the COVID-19 pandemic. Federal Reserve Board Vice Chairman Randal Quarles made headlines by saying they would consider asking big banks to suspend dividends when the next round of stress testing happens next year, but the real news was that the Federal Reserve is still weeks away from having its Main Street Lending Facility and Municipal Lending Facility up and running. “Weeks, not months,” Quarles said. In response to a question from Senator Patrick Toomey (R-NC), Quarles said that he and Treasury Secretary Steven Mnuchin are discussing whether to allow nonbank lenders to participate in the Main Street Lending Facility, but had not yet made a decision. Meanwhile, Comptroller of the Currency Joseph Otting was adamant that the OCC and FDIC would proceed with plans to finalize a new Community Reinvestment Act regulation; in fact, he told Senator Bob Menendez (D-NJ), he thought they should accelerate the process.

FDIC seeks to mitigate deposit insurance costs of PPP participation

Participating in the Paycheck Protection Program (PPP), the PPP Lending Facility (PPPLF), and the Money Market Mutual Fund Liquidity Facility (MMLF) has some financial institutions taking in large new deposits and raising their risk profiles, at least temporarily. The Federal Deposit Insurance Corporation (FDIC) issued a [Financial Institution Letter](#) this week to share a proposed rule that would remove any risk measures related to PPP, PPPLF, and MMLF-related participate from the calculations of an insured institution's deposit insurance premiums, and would remove related deposits from the institution's assessment base. Once adopted, the rule will take effect on June 30, but will apply to activities from April 1 onward.

Powell, Kashkari call for more fiscal relief

The federal government should offer more direct financial response to American households and businesses, representatives of the Federal Reserve System said this week. In [remarks delivered on Wednesday](#), Federal Reserve Chairman Jerome H. Powell said that while the federal government's response to the COVID-19 pandemic had been “both timely and appropriately large, it may not be the final chapter.” Long-term effects might include the loss of thousands of small and medium-sized businesses, and “an extended period of low productivity growth and stagnant incomes.” The Fed has lending powers, he noted, but those might not be enough; “Additional fiscal support could be costly, but worth it if it helps avoid long-term economic damage.” Minneapolis Federal Reserve Bank President Neal Kashkari was more direct in comments yesterday, telling a CBS virtual event, “money in the pockets of people who have lost their jobs is what we need right now until we can get the health care system to catch up.”

Confirmations, Nominations, Departures, etc.

- Christopher Mirabile, Senior Managing Director and Board Member of Launchpad Venture Group and Chair Emeritus of GR client Angel Capital Association,

was [appointed to the Securities and Exchange Commission's Investor Advisory Committee](#).

- Securities and Exchange Commission Chairman Jay Clayton announced the addition of Aleah Borghard, and Matthew Cook to his office as Senior Advisors to the Chairman, and Peter Frans Gimbrere as Senior Advisor to the Managing Executive. An updated roster of the Chairman's executive staff is [here](#).
- The Senate confirmed Brian D. Montgomery's nomination as Deputy Secretary of Housing and Urban Development, 61-32.
- Senator Richard Burr (R-NC) is temporarily stepping down as Chairman of the Senate Intelligence Committee while the FBI investigates allegations of insider trading.

Next Week in Washington

- **May 19 at 10:00 a.m.** Senate Banking Committee holds a [remote hearing to receive the quarterly CARES Act report to Congress](#). Secretary of the Treasury Steven T. Mnuchin and Federal Reserve Board Chairman Jerome H. Powell will testify.
- **May 21** The Federal Reserve Board hosts a virtual "Fed Listens" event on "[How is COVID-19 Affecting Your Community?](#)" Chairman Jerome H. Powell will make opening remarks, and Governor Lael Brainard will moderate a panel that includes representatives of large and small businesses, workers, housing groups, education, and banking.

The Ellis Insight

Jim Ellis reports on political news

President

Jesse Ventura: Former Minnesota Governor and professional wrestler Jesse Ventura announced that he will not become a candidate for the Green Party presidential nomination. Mr. Ventura says doing so would force him to relinquish his employment and health insurance.

The eventual Green Party nominee will qualify for slotting on most state ballots, as will the Libertarian Party. Michigan Rep. Justin Amash (L-Cascade Township/Grand Rapids), now the first official Libertarian Party member to hold a seat in Congress, is a candidate for his party's presidential nomination.

CNN Poll: CNN conducted a nationwide political poll (5/7-10; 1,112 US adults; 1,001 registered voters; 302 over sample in 15 battleground states) and compared the national results to those found in 15 battleground states. The latter group included the typical swing states like Florida, North Carolina, Michigan, and Wisconsin, but also added Colorado, New Mexico, and Virginia, places where former Vice President Joe Biden has developed significant leads.

On the national count, as found in most other polls, Mr. Biden leads President Trump, 51-46%, but the numbers are virtually reversed, 52-45%, in Mr. Trump's favor within the all-important battleground states.

Polling Trio: Three polls from key 2020 presidential states were released yesterday and yielded rather predictable results. In Wisconsin, Marquette Law School released their quarterly statewide survey (5/3-7; 811 WI registered voters) and found former Vice President Joe Biden edging President Trump, 46-43%.

In Ohio, Emerson College (5/8-10; 725 OH registered voters) sees the President topping Mr. Biden, 51-49%, in a poll where all respondents were pushed to make a choice. In the Lone Star State of Texas, Emerson (5/8-10; 800 TX registered voters) gives the President a 52-48% advantage.

Senate

Colorado: The Colorado Democratic Senate ballot has become a political football with several candidates filing lawsuits to reduce the number of petition signatures required due to the COVID-19 precautions, while previously disqualified candidates attempted to obtain ballot placement through court decree. What began as twelve candidates looking to run for the Democratic nomination to oppose Sen. Cory Gardner (R) is now down to two official contenders for the June 30th primary: former Gov. John Hickenlooper and ex-state House Speaker Andrew Romanoff. With the courts finally making definitive rulings, the ballot is now set

Kansas: Public Opinion Strategies released a new Kansas Republican primary survey for the Roger Marshall for Senate campaign (5/10-12; 600 KS likely Republican primary voters) that projects the western district Congressman has taken the lead over former Secretary of State and 2018 gubernatorial nominee Kris Kobach.

The ballot test shows Rep. Marshall leading Mr. Kobach and state Senate President Susan Wagle, 33-26-7%, with two minor candidates finishing even further behind in single digits. This is a significant change from their March poll that found Mr. Kobach holding a 34-28% advantage over Rep. Marshall. Polling suggests that the normally safe Kansas seat would be vulnerable to Democratic candidate Barbara Bollier, a physician and Mission Hills state Senator, if Mr. Kobach were to win the GOP nomination.

Additionally, Manhattan Mayor Usha Reddi, who appeared to be Sen. Barbara Bollier's strongest Democratic primary opponent has dropped out of the race. She stated late this week that she will not file as a candidate on the June 1st deadline. The move assuredly wraps up the nomination for Sen. Bollier, and she will await the Republican primary winner on August 4th.

Massachusetts: On the heels of our report last week that the latest University of Massachusetts at Lowell survey finds US Rep. Joseph P. Kennedy III (D-Newton) leading Sen. Ed Markey (D) in a 44-42% virtual toss-up result, Emerson College (5/5-6; 740 MA registered voters; 620 MA likely Democratic primary voters) sees a much different political landscape. According to the Emerson data, Rep. Kennedy has a whopping 58-42% lead after voters were pushed to make a decision. The UMass Lowell poll is closer to the three others conducted in 2020, which yield only a three-point average Kennedy advantage.

Mississippi: PA rare Mississippi US Senate poll was released from the Impact Management Group (5/4-7; 606 MS likely voters) and the data finds first-term incumbent Sen. Cindy Hyde-Smith (R) claiming a large double-digit lead over her previous special election opponent, former US Agriculture Secretary Mike Espy (D) who is returning for a re-match this year. The ballot test gives the Republican Senator a 58-31% major advantage. This is a significant improvement over Sen. Hyde-Smith's 54-46% win in 2018 to fill the balance of the late Sen. Thad Cochran's (R) final term in office.

Nebraska: Sen. Ben Sasse (R) was easily re-nominated last night with a 75% Republican regular primary win against minor opposition. For the Democrats, local Omaha business owner Chris Janicek topped a field of seven candidates in a campaign where no one even raised \$100,000. Sen. Sasse now becomes a prohibitive general election favorite.

North Carolina: With the FBI wanting to search Sen. Richard Burr's (R) financial records regarding stock transactions executed after receiving COVID-19 briefings, speculation is buzzing about what would happen to the Senate seat if this eventually leads to a Burr resignation. The Senator next comes before the voters in 2022, but he said even before being re-elected in 2018 that he would not seek further re-election.

North Carolina is one of three states that has a law requiring a Governor to appoint a member of the departing incumbent's political party should a US Senate vacancy occur. Therefore, in the event of a North Carolina vacancy, for example, the state Republican Party would present Democratic Roy Cooper a list of three replacement potentials of which he must choose one.

House

CA-25: Despite thousands of ballots still to be received and counted in the California special congressional election, Democratic state Assemblywoman Christy Smith (D) has conceded defeat to Republican Mike Garcia. The early totals, representing almost 144,000 votes, broke heavily for the GOP retired Navy fighter pilot, 56-44%. His total included a surprisingly large 55-45% margin in dominant Los Angeles County, which was enough to spell defeat for the Democratic candidate who was originally favored to hold the seat that scandal-ridden Rep. Katie Hill (D) resigned late last year.

IA-4: American Viewpoint, polling for the Randy Feenstra for Congress campaign, is out with a new poll (5/7-8; 350 IA-4 likely Republican primary voters) that finds state Sen. Feenstra (R-Hull/Sioux County) continuing to gain ground in his Republican primary challenge to veteran Rep. Steve King (R-Kiron). The new survey finds King's lead dwindling to 39-36%. Two weeks ago, AV found Rep. King leading 41-34%. Originally behind 31 points in January, Sen. Feenstra clearly has strong momentum as the campaign makes its way toward the June 2nd primary election.

MI-6: Democratic candidate Jon Hoadley, a state Representative from Kalamazoo, released his internal Victoria Research poll (5/2-5; 400 MI-6 likely general election voters) showing him edging ahead of veteran incumbent Rep. Fred Upton (R-St. Joseph) by a 38-37% margin. Whether or not this is yet a one-point race, it is clear that the southwestern Michigan district is becoming more competitive. In 2018, Rep. Upton was re-elected with a 50-46% victory margin.

Nebraska: The US House general election ballot in the Cornhusker State is now set. In the 1st District, veteran Rep. Jeff Fortenberry (R-Lincoln) will face state Sen. Kate Bolz in what could be a more competitive general election.

In the 2nd District, 2018 Democratic nominee Kara Eastman, who scored 49% of the vote against two-term Rep. Don Bacon (R-Papillon/Omaha), will get her re-match after scoring a 61% victory over Ann Ashford, wife of former Congressman Brad Ashford (D-Omaha), and restaurant manager Gladys Harrison in last night's Democratic primary. Rep. Bacon defeated a minor Republican opponent with 91% of the vote.

In the expansive 3rd District that occupies about 3/4 of the Nebraska land area, seven-term Rep. Adrian Smith (R-Gering/Grand Forks) easily defeated four Republican opponents with 82% of the vote. He will face marijuana legalization activist Mark Elworth Jr. in the general election. Mr. Elworth was unopposed in the Democratic primary. Rep. Smith is a prohibitive favorite to win in November.

VA-5: In a Republican contest that looks to be serious, freshman Virginia Republican US Rep. Denver Riggleman (R-Manassas) will have to win re-nomination at a party convention in a church parking lot outside of the district.

Fifth District GOP committeemen have scheduled their nominating assembly for Saturday, June 13th at the Tree of Life Ministries Church in Lynchburg, which isn't even in the 5th CD, and deliver their ballots to party officials in the parking lot. The Congressman's principle opponent is Campbell County Supervisor Bob Good, who is a member at Tree of Life. Rep.

Riggleman, who is contesting the convention process and favors a primary to decide the nomination, is exploring his legal options.

WI-7: Republican state Senator Tom Tiffany (R-Minocqua) recorded a landslide 57-43% special election win over Democratic school board member Tricia Zunker last night and will finish the remainder of resigned Rep. Sean Duffy's (R-Wausau) term. Rep-Elect Tiffany will now file for the regular primary election before June 1st. The Wisconsin primary is scheduled for August 11th. The new Congressman will not likely face major opposition during the regular election cycle.

Governor

Alaska: After a long court battle, the Alaska Supreme Court ordered that a recall campaign against Gov. Mike Dunleavy (R) can proceed. Alaska has stringent conditions for launching such an effort, and both sides argued their legal positions through several court proceedings attempting to determine whether Mr. Dunleavy's performance in office warranted a recall election.

Now that the recall can proceed, proponents must obtain at least 71,252 valid registered voter signatures to place the petition on the November ballot. Reportedly, the recall drive has so far collected about half the minimum amount needed meaning they have a lot of work ahead of them in an uncertain logistical environment. There is no official established signature deadline as yet, but assumptions presume the petitions must be submitted in early July.

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