



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 29, 2020

The District of Columbia began its [first phase of reopening](#) today. Gatherings of more than 10 people are still prohibited, but nonessential retail businesses are open for pickup and delivery, and people can leave their homes as long as they continue to maintain physical distancing. Masks are recommended but not required in the District, while across the river in northern Virginia they are required for public indoor spaces.

President announces plans to revoke special treatment for Hong Kong

This afternoon President Donald Trump announced that the United States will end its special treatment of Hong Kong, which is codified under the US-Hong Kong Policy Act of 1992. Although the US, Australia, Canada, and the United Kingdom issued a [statement yesterday](#) deploring China's imposition of a new national security law on Hong Kong and calling for the restoration of rights and freedoms to Hong Kong residents, President Trump said today that he would end Hong Kong's special treatment. The President said his action would "affect the full range of agreements we have with Hong Kong," including its preferential treatment as a separate customs and travel territory from the rest of China. A formal executive order has not been issued.

Hoyer announces new House schedule, agenda for 2020

House Majority Leader Steny Hoyer (D-MD) circulated a new schedule today for the House of Representatives' work in the remainder of the 116th Congress. The House [approved remote voting by proxy](#) earlier this month, and held its first votes under the new system this week. Hoyer told his colleagues that he expects the House to vote sometime in June on the Senate's response to the HEROES Act, and that he will give members at least 72 hours' notice of floor action related to COVID-19 relief. Otherwise, however, Hoyer has scheduled no floor votes until June 30, leaving the rest of the month for committee work. The House is scheduled to vote on June 30, July 1, and July 2 before returning to committee work only for two weeks. Votes will resume on July 20 and continue through July 31, after which—assuming the House has completed work on some critical legislation—a District Work Period (recess, to us in DC) will run until September 8. Floor votes will resume that night and continue through September, with breaks for Rosh Hashanah (September 18-20) and Yom Kippur (September 28). Hoyer expects the House to cast its last floor votes before the election on Friday, October 2, then to leave DC until November 16.

The Majority Leader identified several pieces of must-pass legislation:

- 2021 National Defense Authorization Act (NDAA)

- An infrastructure bill to replace the expiring Fixing America's Surface Transportation (FAST) Act
- Reauthorization of the Water Resources Development Act (WRDA)
- A bill to expand and strengthen the Affordable Care Act
- Appropriation bills for FY 2021

Most of these bills have yet to pass their respective committees, and Hoyer noted that committees are required to practice using remote tools in at least two hearings before holding a remote markup. He said he would revisit schedules for the autumn as needed, depending on how much the House can do in July.

OCC finalizes Madden rule

Acting Comptroller of the Currency Brian P. Brooks assumed those responsibilities today and immediately announced that the agency has [finalized a rule](#) to clarify that legal interest rates on loans made by national banks continue to be permissible after the bank sells, assigns, or otherwise transfers a loan. The final rule affirms the "valid when made" doctrine, which had been called into question by the US Court of Appeals for the Second Circuit in its *Madden v. Midland Funding, LLC* decision. Brooks said that the rule affirms President Abraham Lincoln's vision for a national banking system that ensures "the efficient and consistent exchange of value." The FDIC has not yet finalized their version of this proposal, but is expected to do so shortly.

House approves extension of PPP forgiveness period

Yesterday the House of Representatives voted [417-1](#) to change forgiveness requirements for Paycheck Protection Program (PPP) loans so that recipients may spend up to 40% of funds on operating expenses other than payroll. Recipients would also have an additional six months to apply for forgiveness. [H.R. 7010](#), sponsored by Rep. Dean Phillips (D-MN), had 86 cosponsors from both sides of the aisle.

SBA, Treasury set aside \$10 billion of PPP funds for CDFIs

Community Development Financial Institutions (CDFIs) are getting \$10 billion to make small business loans through the Paycheck Protection Program (PPP), the Small Business Administration and Treasury Department [announced yesterday](#). CDFIs have already lent \$3.2 billion from the second round of PPP funding, so have another \$6.8 billion to lend.

FDIC extends comment period on industrial bank proposal

The Federal Deposit Insurance Corporation (FDIC) is extending the comment period for its proposed rule on the safety and soundness of industrial banks by 30 days, the agency [announced Wednesday](#). The proposal would set certain conditions and commitments for any industrial bank or industrial loan company to be owned or acquired by a company not subject to consolidated supervision by the Federal Reserve Board. Comments are now due to the FDIC by July 1.

Confirmations, Nominations, Departures, etc.

- The Federal Reserve Board has extended the [application period for its Community Advisory Council](#) to July 3.

Next Week in Washington

- **June 1 at 9:30 a.m.** The Securities and Exchange Commission's Fixed Income Market Structure Advisory Committee holds a [public meeting via webcast](#).

- **June 2 at 2:00 p.m.** Senate Banking Committee holds a Webex hearing on "[Implementation of Title IV of the CARES Act.](#)"
- **June 2 at 11:30 a.m.** House Energy and Commerce Subcommittee on Oversight and Investigations holds a virtual hearing on "[On the Front Lines: How Governors are Battling the COVID-19 Pandemic.](#)" 11:30 a.m.
- **June 3 at 10:00 a.m.** Senate Committee on Small Business & Entrepreneurship holds a hearing on "[Perspectives from Main Street: COVID-19's Impact on Small Business.](#)"
- **June 3 at 1:00 p.m.** House Budget Committee holds a Webex hearing on "[Addressing the Economic Impacts of COVID-19: Views from Two Former CBO Directors.](#)"
- **June 3 at 2:30 p.m.** Senate Committee on Commerce, Science, and Transportation holds a hearing on "[The State of Transportation and Critical Infrastructure: Examining the Impact of the COVID-19 Pandemic.](#)"
- **June 3 at 2:30 p.m.** Senate Budget Committee holds a [hearing on the nomination of Russell Vought to be Director of the Office of Management and Budget.](#)
- **June 4 at 11:00 a.m.** Senate Banking Committee holds a Webex hearing on "[Crisis in Hong Kong: A Review of US Policy Tools.](#)"

The Ellis Insight

Jim Ellis reports on political news

President

Arizona Poll: In the middle of May, OH Predictive Insights (5/9-11; 600 AZ likely general election voters) released their Arizona statewide survey that received considerable attention in the political pundit community due to the Grand Canyon State's importance in the presidential campaign. With its 11 electoral votes, Arizona is a must-win state for the Trump campaign. The OH poll found former Vice President Biden leading 50-43%, his largest margin to date, but little in the way of analysis accompanied the poll release. Several days later, Redfield & Wilson Strategies released their Arizona poll taken during relatively the same time frame as OH Predictive Insights (5/10-14; 946 AZ likely general election voters) and found a much closer result: Biden, 45-41%. Now, another Phoenix-based pollster, HighGround, Inc., (5/18-22; 400 AZ likely voters), sees a race well within the statistical margin of error: Biden, 47.0 – 45.3%.

The May trend again suggests that Arizona, while moving closer to the ideological center as its population continues to rapidly expand, is a domain very much in play for both candidates as we begin the general election campaign in earnest.

Hawaii: Voters in Hawaii cast their ballots in a Democratic presidential nomination primary over the Memorial Day weekend that is not particularly important in the scope of campaign politics but did provide an interesting note. In a first round of voting that included ten candidate names who had previously qualified for the Hawaii primary, former Vice President Joe Biden, the party's presumptive nominee, received only 56% as compared to Sen. Bernie Sanders' (I-VT), 31%. In a second round, featuring only Biden and Sanders, the former VP's total was still a rather unimpressive 63% for a candidate who has no active Democratic opposition.

Minnesota Poll: Minnesota, the most loyal of all states to Democratic presidential candidates, was close in 2016 when Hillary Clinton carried the state with only a 1.5 percentage point margin. A new Mason-Dixon Polling & Strategy survey (5/18-20; 800 MN registered voters) finds presumptive Democratic nominee Joe Biden leading President Trump, but the spread again suggests the state election could be close. According to M-D, Mr. Biden holds a 49-44% advantage. Minnesota carries 10 electoral votes. This state is a must-win for Mr. Biden.

Libertarian Party: After US Rep. Justin Amash (L-MI) decided not to seek his new party's presidential nomination, Libertarian Party delegates met in a Memorial Day weekend virtual convention to choose its national general election nominee. After multiple rounds of voting, Clemson University professor Jo Jorgensen prevailed, and will advance to the general election by constructing a majority coalition of delegates mostly from the South and Midwest. Ms. Jorgensen will have ballot access in all 50 states, but it is unlikely that she will be able to earn a national debate podium if and when those forums are scheduled.

Senate

Alabama: Apparently, former US Attorney General and Alabama Senator Jeff Sessions realizes he is not getting back in President Trump's good graces after the latter man reiterated his strong support for retired Auburn University head football coach Tommy Tuberville in the upcoming Republican Senate runoff election scheduled for July 14th. Mr. Sessions tweeted a response to President Trump that the law required his recusal from the Mueller investigation and that he (Trump) should be grateful the rule of law was preserved; action, Sessions contended, principally responsible for the President being exonerated in the Russia investigation.

Previously, Mr. Sessions was attempting to emphasize the positive aspects of his stormy relationship with the President, but that was clearly not translating into a rise in his polling numbers. According to the latest surveys, Mr. Tuberville still maintains a strong lead in the runoff election. The winner faces Sen. Doug Jones (D) in the Fall.

Arizona: The HighGround Consulting firm poll (5/18-22; 400 AZ likely general election voters) released earlier this week that projected former Vice President Joe Biden to be running ahead of President Trump by less than two percentage points sees consensus Democratic candidate Mark Kelly, the retired astronaut, leading appointed Sen. Martha McSally (R), 51-41%. Polling has consistently shown Kelly with an advantage, and now his edge is regularly reported as being well beyond the polling margin of error.

Kansas: State Senate President Susan Wagle (R-Wichita) ended her US Senate campaign yesterday. State Republican Party chairman Mike Kuckelman had asked all candidates but Rep. Roger Marshall (R-Great Bend) to leave the race in order not to split the primary vote. A crowded field situation theoretically would make it easier for former Secretary of State and failed 2018 gubernatorial nominee Kris Kobach to therefore win the Senate nomination with plurality support.

The National Republican Senatorial Committee released a new Kansas poll (5/17-19; 506 KS likely general election voters) pairing both Rep. Marshall and Mr. Kobach individually against consensus Democratic candidate Barbara Bollier, a party-switching state Senator and physician who represents the Mission Hills area. The data finds Rep. Marshall leading Sen. Bollier, 46-35%, which is a typical range for a Kansas Senate race at this point in the election cycle. With Kris Kobach as the hypothetical nominee, the contest changes. He would hold only a slight 44-43% edge over Sen. Bollier.

Maine: A new entry into the polling scene, Victory Geek, released a new Maine Senate survey (5/13-18; 512 ME registered voters via interactive response device; 100 person Democratic voter over-sample) that finds former state House Speaker Sara Gideon (D) opening up a larger lead over Sen. Susan Collins (R), 51-42%, while Democratic candidate Elizabeth Sweet only musters a one point edge.

There is no question that Ms. Gideon will be the Democratic nominee, so the data pairing Ms. Sweet with Sen. Collins is largely irrelevant. The idea that Sen. Collins is behind has become a recent pattern in recently released research, but whether such a trend holds for the long term remains to be seen.

South Carolina: A new poll from the progressive left research firm Civiqs (5/23-26; 591 SC registered voters) sees Sen. Lindsey Graham (R) falling into a 42-42% tie with former South Carolina Democratic Party chairman Jaime Harrison, who has already raised over \$15 million for his race.

Even in the poll analysis, however, the point is made that Sen. Graham is lagging a bit with Trump Republicans, a group in which he should be able to recover support. While the President maintains a ten-point advantage over Joe Biden within the overall sampling universe and has a 93% loyalty factor among Republicans, Sen. Graham commands only 78% support from the same partisan cell segment.

Perhaps Sen. Graham's biggest negative, according to this poll, are his unfavorable approval ratings. His index is a poor 35:56% favorable to unfavorable, similar to former Vice President Biden's 35:59%. Conversely, Sen. Tim Scott (R-SC) scores 48:30%, President Trump records a 51:47% ratio, and former UN Ambassador and ex-South Carolina Governor Nikki Haley (R) posts a 56:33% approval ratio. While the turnout model favors Sen. Graham in the general election, it is clear that this race is becoming more competitive.

House

TX-4: President Trump's nomination of former Texas Congressman John Ratcliffe (R-Heath/Rockwall) as Director of US Intelligence has led to a 4th Congressional District Republican Party convention gathering in early August to choose a replacement general election nominee. The convention winner advances into the general election and then will take the seat in the next Congress. Texas Gov. Greg Abbott (R) has already announced that he will not call a special election to fill the balance of the current term.

The district convention, scheduled for August 8th as previously reported, will only feature 158 voting precinct chairs from throughout the district's 16 whole and two partial counties. Candidates will be nominated at the convention, so there is no filing period. Therefore, various individuals announcing their candidacies carries no particular significance other than to inform the precinct chairmen they want to be considered for nomination.

Additionally, the 158-voting number is set because a quirk in the party rules won't allow the many vacant precinct slots to be filled prior to the vote.

Apparently, Democrats are weighing the option of filing a lawsuit to declare the convention process unconstitutional under US law or the state of Texas. Doing so, and if successful, could mean the Republican Party would have no avenue of replacing Mr. Ratcliffe for the general election, meaning Democratic nominee Russell Foster, chosen in the March 3rd regular primary election vote, would face only Libertarian Party candidate Lou Antonelli in what is a 75% Trump district. Much remains to occur here before we see who emerges as Mr. Ratcliffe's successor.

UT-4: Y2 Analytics, polling for the Utah Policy Center and KUTV Channel 2, finds former NFL football player and Utah businessman Burgess Owens leading the Republican field for the June 30th primary election. The poll, however, has a high error rate of over 8% because the sample segment, 148 likely Republican primary voters drawn from a statewide general election sample of 1,099 Utah likely voters, is extremely small.

That being said, Mr. Owens leads former radio talk show host Jay McFarland, state Rep. Kim Coleman (R-West Jordan), and banker Trent Christensen, 36-28-23-13%, respectively. The eventual Republican nominee faces freshman Rep. Ben McAdams (D-Salt Lake City) in the general election.

Governor/States

California: The Republican National Committee and California Republican Party have filed a federal lawsuit in the Eastern District of California attempting to declare unlawful Gov. Gavin Newsom's (D) executive order that all voters be mailed absentee ballots for the coming general election. Previously, absentee ballot request forms were sent prior to a qualified voter receiving an actual ballot.

Among other points, the lawsuit contends that, "automatically mail(ing) ballots to inactive voters...invites fraud, coercion, theft, and otherwise illegitimate voting. Fraudulent and invalid votes dilute the votes of honest citizens and deprive them of their right to vote in violation of the Fourteenth Amendment."

Oklahoma: On the other end of the voting law spectrum, the Democratic Congressional Campaign Committee and the Oklahoma Democratic Party have filed a federal lawsuit challenging the state's absentee ballot law that requires an applicant to have their signature notarized. Earlier, the Oklahoma state Supreme Court ruled that the government document notarization law did not apply to absentee ballots, but the legislature quickly passed a new law specifically requiring notarization directly in response to the high court's ruling.

Now, the plaintiffs have gone to federal court asking that the notarization requirement be eliminated, and then adding that the state should prepay all postage for mailed ballots, and votes received up to a week after the election should be accepted and counted. Currently, Oklahoma law requires all absentee ballots to be received no later than Election Day.

Missouri: The We Ask America research organization surveyed the Missouri electorate (5/26-27; 500 MO likely general election voters) and found Gov. Mike Parson (R), who ascended to the Governorship when elected incumbent Eric Greitens resigned two years ago, is again posting favorable polling numbers. Against consensus Democratic gubernatorial nominee Nicole Galloway, the Missouri State Auditor, Gov. Parson again has a lead beyond the polling margin of error, 47-39 percent.

Montana: The Montana state Supreme Court reversed a lower court ruling allowing county clerks to receive ballots after the June 2nd primary election so long as they are postmarked on Election Day. The ruling means the state returns to their long-held practice of requiring all ballots to be received by Election Day.

West Virginia: A Triton Polling and Research survey (5/18-26; 719 WV likely Republican primary voters) produces good news for West Virginia Gov. Jim Justice, seeking re-election to a second term, but in his first run as a Republican. Mr. Justice was elected in 2016 as a Democrat but switched parties a year later. The primary ballot test reports Gov. Justice pulling 53% support in anticipation of the June 9th primary as compared to ex-state Delegate Mike Folk at 15%, and former WV Commerce Department Secretary Woody Thrasher, who is running an active campaign and advertising on television, posting only 14% preference.

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