



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 8, 2020

Senate Banking hears testimony, will vote next week on nominations for SIGPR, Federal Housing Commissioner

The Senate Banking Committee held an extraordinary ["hybrid" hearing on Tuesday](#) to review the nominations of Brian Miller to serve as the Special Inspector General of the Treasury for Pandemic Recovery (SIGPR) and Dana Wade to serve as Assistant Secretary of Housing and Urban Development for Housing. Witnesses appeared in the hearing room, wearing masks, while Senators asked questions both in person and by videoconference. Miller, who spent nearly 10 years as Inspector General of the General Services Administration under Presidents Bush and Obama, said he would use his authority and resources to uncover waste, fraud, and abuse in the spending of \$500 billion authorized by the CARES Act. Wade, who has been serving as Assistant Secretary and Federal Housing Commissioner in an acting capacity, said her top priority would be protecting FHA homeowners and renters, and that she would continue to pursue modernization of the FHA's information systems. The Committee will vote on these nominations next Tuesday.

SEC eases crowdfunding requirements for smaller companies

The Securities and Exchange Commission (SEC) [announced Tuesday](#) that it is providing "temporary, conditional relief" to smaller established companies that are looking to increase crowdfunding during the COVID-19 pandemic. The temporary rules seek to expedite the process for new crowdfunding offerings by eligible companies; to be eligible, the company must meet all previous requirements but also must be at least six months old and must have previously sold securities in a Regulation Crowdfunding offering. Relief includes allowing financial statements to be certified by a company's principal executive rather than by an accountant, and lifting the 21-day moratorium on sales after an offering statement is published. Earlier closing will be permitted.

SBA extends deadline to May 14 for companies to return PPP funds

In an updated set of [answers to frequently asked questions \(FAQ\)](#) released this week, the Small Business Administration announced that it is extending the "safe harbor" to May 14 for companies to return PPP funds if they can't make the required certification that the loan is "necessary to support the ongoing operations of the Applicant." The agency will provide additional guidance on how it plans to review these certifications before May 14.

Regulators make change to liquidity coverage requirement

The Federal Deposit Insurance Corporation, Federal Reserve Board, and Office of the

Comptroller of the Currency issued a [joint interim final rule](#) this week to make it possible for lenders to participate in the Money Market Mutual Fund Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF) without any effect on their compliance with the liquidity coverage ratio rule. The adjustment took place immediately when it was published in the Federal Register on Wednesday; it is open for comment for 30 days.

Fed says banks were well-positioned for pandemic response

The Federal Reserve Board's latest [Supervision and Regulation Report](#), published today, says that banks were better capitalized, more liquid, and had better risk-management capabilities at the start of the COVID-19 pandemic than they did before the economic crisis of 2008. Bank deposits and loans grew significantly in March, as business borrowers sought liquidity and investors moved funds out of money markets. Many banks have temporarily shortened branch hours or closed branches, and have implemented parts of their business continuity plans in response to social distancing measures. First quarter earnings were more than 50 percent lower than in the first quarter of 2019; capital ratios declined accordingly, "but still significantly exceeded regulatory requirements."

Federal Reserve lifts caps and fees on daylight overdrafts

To ease liquidity constraints and support the flow of credit to households and businesses, the Federal Reserve Board [announced late last month](#) that it is temporarily lifting net debit caps and fees for healthy banks that borrow at the Fed's discount window. This is part of the Fed's broader effort to encourage institutions to utilize intraday credit extended by Reserve Banks, on both a collateralized and uncollateralized basis, to support the provision of liquidity . . . and the general smooth functioning of payment systems." The suspension will expire on September 30, unless the Fed chooses to extend it.

CFPB answers questions on how Regulation B applies to PPP loans

Today the Consumer Financial Protection Bureau published [answers to frequently asked questions \(FAQ\)](#) about how the Equal Credit Opportunity Act and Regulation B apply to loan applications submitted through the Paycheck Protection Program (PPP). The Bureau says that PPP applications should not be considered "completed" for purposes of Regulation B until the lender receives a loan number from the Small Business Administration or a notification about the availability of funds. The 30-day notice requirement doesn't begin until the lender gets a response from the SBA. If a lender takes adverse action on a PPP application without ever sending it to the SBA, the lender must notify the applicant within 30 days. Lenders may not deny applications for incompleteness unless the application is incomplete because of information the applicant could have provided but didn't.

SEC provides guidance on COVID-19 reporting relief

The Securities and Exchange Commission has [published FAQs](#) to explain how extensions and other compliance relief measures will apply to disclosure and filing requirements. The SEC issued a "[COVID-19 Order](#)" on March 25 that grants some public companies exemptions from reporting and proxy delivery requirements under certain conditions. The exemptions apply to registrants affected by the pandemic between March 1 and July 1.

FHFA extends loan origination flexibilities for GSE-backed mortgages

The Federal Housing Finance Administration is [extending several relief measures for loan originations](#) until at least June 30. Between now and then, Fannie Mae and Freddie Mac can continue to accept alternative appraisals on purchase and rate term refinancings; alternative methods for verifying employment before loan closing; documentation from borrowers rather than inspections in order to allow renovation disbursements; and expanded powers of attorney and remote online notarizations to help with loan closings.

Fannie, Freddie create online tools for renters to find out whether they're protected from eviction

The FHFA also announced this week that [Fannie Mae](#) and [Freddie Mac](#) have created

multifamily loan lookup tools that renters can use to determine whether their buildings are financed by one of the government-sponsored enterprises. Under the CARES Act, landlords of properties with GSE-backed mortgages may not evict tenants who can't pay their rent for reasons related to COVID-19. The CARES Act also grants landlords forbearance on their GSE-backed mortgages if they can't make payments because of COVID-19.

SEC orders new NMS plan

On Wednesday, the SEC [issued an order](#) to the equity exchanges and the Financial Industry Regulatory Authority (FINRA), directing them to submit a new National Market System (NMS) plan with a modernized governance structure for producing public consolidated equity market data and distributing trade and quote data from other venues. Current NMS plans will remain in effect until the SEC approves a new one. The SEC said this week's order would address "conflicts of interest inherent in the current governance structure," and should improve the efficiency of NMS plan operations.

Confirmations, Nominations, Departures, etc.

- [Rep. Kweisi Mfume](#) (D-MD) was sworn in to fill the remainder of Rep. Elijah Cummings' term in Congress. Mfume served in the House of Representatives from 1987 to 1996, and was President of the NAACP from 1996 to 2004.

Next Week in Washington

- The House of Representatives will return to Washington next week, but as of Friday afternoon only [one House subcommittee](#) had announced a hearing. The Senate will vote on the nomination of Brian Montgomery to serve as Deputy Secretary of Housing and Urban Development sometime next week, possibly on Tuesday.
- **May 12 at 10:00 a.m.** Senate Banking Committee holds a remote hearing on "[Oversight of the Financial Regulators](#)." Federal Reserve Board Vice Chairman Randal Quarles, Federal Deposit Insurance Corporation Chairman Jelena McWilliams, Comptroller of the Currency Joseph Otting, and National Credit Union Administration Chairman Rodney Hood will testify.
- **May 12 at 2:30 p.m.** Senate Banking Committee will meet in executive session to vote on the nominations of the Honorable Brian D. Miller to be Special Inspector General of the Treasury for Pandemic Recovery and Dana Wade to be Assistant Secretary of the Department of Housing and Urban Development.
- **May 12 at 2:30 p.m.** Senate Judiciary Committee holds a hearing on "[Examining Liability During the COVID-19 Pandemic](#)."
- **May 13 at 10:00 a.m.** Senate Committee on Commerce, Science & Transportation holds a hearing on "[The State of Broadband Amid the COVID-19 Pandemic](#)."

President

Colorado: A Keating Research/OnSight Public Affairs survey (5/1-3; 800 CO likely general election voters) finds that former Vice President Joe Biden has opened up a large lead over President Trump in a state that continues to move toward the Democrats. The data finds Mr. Biden topping President Trump by a huge 55-36% spread. Results such as this will likely make Colorado a concession state for the Trump campaign.

Montana: The Montana State University at Bozeman just released a statewide survey (4/10-27; 738 MT adults; 548 MT likely voters; online) that tested the presidential race and the US Senate campaign (see Senate section below). The totals find President Trump leading former Vice President Joe Biden 45-40%. This is a much lower total than the President's 20-point victory here in 2016 over Hillary Clinton. More polling will undoubtedly be released after the June 2nd statewide primary.

Nevada: A newly released Nevada statewide presidential race survey from ALG Research (4/27-30; 763 NV likely general election voters) finds former Vice President Joe Biden leading President Trump 49-45%, which is very similar to the final total we saw in the 2016 presidential race. In that year, Hillary Clinton carried Nevada with a 48-46% margin spread. This type of result suggests that Nevada could again become a targeted state.

New York: Last week the New York State Board of Elections canceled the Democratic presidential vote even though the state primary for all other offices is occurring the same day. Lawsuits then were filed – former presidential candidate Andrew Yang is one of the plaintiffs – to reinstate the vote saying that people still deserve the right to cast their ballots even though the outcome is a foregone conclusion.

A federal judge sitting in New York City then reinstated the primary saying that other candidates could still win delegates that might influence the party platform at the Democratic National Convention. Therefore, pending appeal, the New York presidential primary is back on the schedule.

North Carolina: North Carolina, one of President Trump's key core states that he must win, is often in the swing category. In the new Civiqs statewide poll (5/2-4; 1,362 NC registered voters; online from a research pool of respondents that Civiqs invited to participate), Civiqs finds former Vice President Joe Biden holding a slight 49-46% edge over President Trump. North Carolina will be a focal point state again in this election cycle.

We can also expect the continuous polling to seesaw all the way to Election Day. Such would be a similar pattern to what occurred in the 2016 presidential race and in several recent US Senate contests.

Senate

Colorado: The Colorado state circuit court ruling that placed candidates Michelle Ferrigno Warren and Lorena Garcia on the ballot despite not having the required number of petition signatures was overturned this week in the state Supreme Court.

Though the Colorado Senate ballot has resulted in great indecision as to which of the original dozen or so Democratic candidates would actually achieve ballot status, it appears that the race will become a two-way affair between former Gov. John Hickenlooper and former state House Speaker Andrew Romanoff. The winner of the June 30th primary will then challenge first-term Sen. Cory Gardner (R).

The Keating Research/OnSight Public Affairs survey (5/1-3; 800 CO likely general election voters) found former Gov. John Hickenlooper (D) holding a big 55-36% advantage over Sen. Cory Gardner (R). Another survey, from Montana State University (4/10-19; 503 CO residents; 400 CO likely general election voters), finds Hickenlooper's lead to be 48-31%.

Georgia Poll: The Cygnal research firm released a new Georgia survey that polled both of the state's 2020 Senate races. In the special election, the Cygnal numbers (4/25-27; 591 GA likely voters) are consistent with other recent polls that find Rep. Doug Collins (R-

Gainesville) leading the jungle primary, while appointed Sen. Kelly Loeffler (R) is locked in a three-way battle for the second run-off position and well behind the leader.

Cygnal finds Rep. Collins' margin to be 29-12-11-11-4% over businessman Matt Lieberman (D), Baptist pastor Raphael Warnock (D), Sen. Loeffler, and former US Attorney Ed Tarver (D), respectively.

The regular election question produces underwhelming numbers for Sen. David Perdue (R), who is seeking his second term. Here, Sen. Perdue leads businessman and former congressional candidate Jon Ossoff (D), the only Democratic candidate tested, by a 45-39% margin.

Mr. Ossoff raised over \$31.6 million for his special election congressional race when he effectively became a national candidate since the 2017 6th District race was virtually a stand-alone election. For his Senate campaign, Mr. Ossoff is lagging behind his congressional fundraising prowess taking in \$3.3 million for his current political effort.

Iowa: Sen. Joni Ernst (R) is on the ballot for a second term and this is a race the Democrats are working to move into the first tier. A new poll suggests a close contest emerging. The Democratic firm Public Policy Polling released their new Iowa figures (4/30-5/1; 1,222 IA likely general election voters via automated response device) that find Sen. Ernst topping Democrat Theresa Greenfield by only a 43-42% margin.

The Democratic leadership has endorsed real estate executive Greenfield to oppose Sen. Joni Ernst (R) in November who acts as a consensus candidate, but another competitor is not conceding the Democratic nomination.

Self-funding businessman Eddie Mauro (D) just announced a \$500,000 media and digital buy attacking Ms. Greenfield for "failing to take responsibility for her own business failing." The Greenfield campaign responded by saying that "Wall Street corporate greed" was more responsible for the entity going out of business. Thus, the June 2nd primary is getting a touch more interesting.

Massachusetts: A new University of Massachusetts at Lowell poll was just released (4/27-5/1; 1,000 MA registered voters; 531 MA likely Democratic primary voters), and it finds Democratic Sen. Ed Markey and US Rep. Joseph P. Kennedy III (D-Newton) locked in a virtual tie. The results see Rep. Kennedy holding a slight 44-42% edge, a margin virtually unchanged from the university's last poll (2/12-18) that projected Mr. Kennedy ahead 35-34 percent.

The fact that Rep. Kennedy, steeped in Kennedy family history so entrenched within the state, hasn't pulled away in this race is a good sign for Sen. Markey, a Massachusetts politician who has been in elective office since his first term in the state legislature that began way back in 1973.

Michigan Poll: Public Policy Polling tested the Michigan Senate race (4/28-29; 1,270 MI registered voters via automated response device), and their results are consistent with others taken this year. PPP finds Sen. Gary Peters (D) leading presumed Republican nominee John James, 46-37%, in what is the fifth survey of the Michigan Senate electorate released in 2020 according to the Real Clear Politics polling archive. The polling range stretches from Peters leading by four points, all the way to ten.

Montana: The Montana State University at Bozeman also covered the US Senate race in their statewide poll (4/10-27; 738 MT adults; 548 MT likely voters; online) and it returns a surprising result. Their data finds Gov. Steve Bullock (D) opening the race with a seven-point lead over incumbent Sen. Steve Daines (R), 46-39%.

It appears the major reason for Gov. Bullock's early advantage is his solid 70% approval rating on his handling of the Coronavirus situation. On the negative side, with a very long 18-day sampling period and only self-identified online likely voters responding, the poll is vulnerable to reliability points of inquiry.

House

CA-25: Resigned US Rep. Katie Hill (D-Agua Dulce/ Palmdale) released an ad this week for the May 12th special election being held to replace her, but curiously doesn't mention supporting Democratic candidate Christy Smith or even attacking Republican Mike Garcia. The ad starts with blaming people in "the building behind me" for how they are handling the Coronavirus pandemic, but it is not clear to what building she is referring as the camera pans the area behind her from a distance. Then, she simply urges people to vote in Tuesday's special election.

IA-4: Embattled nine-term Iowa incumbent Steve King (R-Kiron), who ran into major trouble when comments he made were associated with white supremacy that ultimately led to his being stripped of committee assignments, just received another blow. The US Chamber of Commerce announced their endorsement for Mr. King's principle opponent, state Sen. Randy Feenstra (R-Hull/Sioux County). The Business-Industry PAC (BIPAC) endorsed Sen. Feenstra early in the year.

Polling is suggesting a tightening race with the momentum clearly on the challenger's side as the candidates move toward the June 2nd primary election.

MN-2: Marine Corps Reserve officer Tyler Kistner easily defeated four other Republican candidates last weekend at the virtual Minnesota Republican convention to capture the official GOP endorsement for the August 11th primary election. Most of the time, Minnesota candidates end their campaign after the state convention delegates act, but it remains to be seen if any of the non-endorsed candidates choose to force a primary. The candidate filing deadline is June 2nd.

Should Mr. Kistner ultimately capture the party nomination he will face freshman Rep. Angie Craig (D-Eagan) who has already amassed a campaign treasury of just over \$2 million. The 2nd is a marginal district, so a competitive 2020 contest is again possible.

Governor/States

Missouri: The Missouri Governor's race hasn't attracted too much attention so far this year, but a recent poll was released this week testing Gov. Mike Parson's (R) political standing. Mr. Parson, then the state's Lt. Governor, assumed his position when then-Gov. Eric Greitens (R) resigned the office.

The Remington Research Group, polling for the Missouri Scout political blog (4/28-29; 1,356 MO registered voters via automated response device), finds Gov. Parson leading presumed Democratic nominee and state Auditor Nicole Galloway by double-digits, 52-39%. By a margin of 50-40%, the respondents favor Gov. Parson's plan to reopen the Missouri economy.

Utah: Lawsuits from candidates attempting to convince a court to lower the number of petition signatures required to obtain ballot position have now been decided, and the two candidates who have been disqualified, businessman Jeff Burningham and businesswoman Jan Garbett, will not pursue any further legal remedies.

Therefore, the Utah Republican gubernatorial ballot is now set and will feature Lt. Gov. Spencer Cox, former Governor and US Ambassador Jon Huntsman, former state House Speaker Greg Hughes, and ex-Utah Republican Party chairman Thomas Wright. The primary election is June 30th, and the winner faces Democrat Chris Peterson, a law professor who was previously nominated in convention. Three-term Gov. Gary Herbert (R) is retiring.

North Dakota: Previously, Gov. Doug Burgum (R) issued an executive order allowing each county to decide if they wanted to convert to an all-mail June 9th primary. Like in Montana, which was operating under a similar order, all 53 North Dakota county clerks have opted for the all-mail format. Therefore, Montana and North Dakota will join the all-mail states at least for the upcoming primary election.

Lawsuits: Progressive left voter groups are expanding their moves to file lawsuits in states that they hope will change the election system to one emphasizing mail voting. New suits have been filed to expand absentee voting options and outreach in Alabama, Connecticut, South Carolina, and Tennessee. The goal of the action is to increase mail voting not only for upcoming primary elections, but for the 2020 general election, as well, and probably beyond.

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