



*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.*

March 13, 2020

## **But first, wash your hands**

Where to begin? GrayRobinson's offices are still open, but the [Capitol complex is closed to visitors not on official business](#). This week's hearings and meetings, originally scheduled to discuss topics other than COVID-19, became hearings and meetings to discuss COVID-19. At this moment, Speaker of the House Nancy Pelosi (D-CA) and Secretary of the Treasury Steven Mnuchin are hammering out an agreement on legislation to respond to the outbreak. The House is expected to approve this package later today; Senate Majority Leader Mitch McConnell (R-KY) announced yesterday that the Senate will return next week, despite the scheduled recess, to consider the legislation.

## **White House declares national emergency**

President Trump invoked the [Stafford Act](#) today, declaring a national emergency and triggering a structure for the Federal Emergency Management Agency (FEMA) to provide physical and financial assistance to state and local governments. FEMA will take responsibility for coordinating the government's response and implementing the National Response Framework, which seeks to stabilize the seven identified community lifelines: safety and security; food, water, and shelter; health and medical; energy (power & fuel); communications; transportation; and hazardous materials.

## **Regulators, legislators ask institutions to help customers affected by virus**

The Federal Reserve Board, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), National Credit Union Administration (NCUA), Consumer Financial Protection Bureau (CFPB) and Conference of State Bank Supervisors (CSBS) issued [joint guidance](#) this week to the nation's financial services providers, encouraging them to "work constructively with borrowers and other customers in affected communities," and pledging that examiners will not criticize "prudent efforts . . . consistent with safe and sound lending practices." The regulators said they would expedite any requests to make changes in service availability because of staffing challenges or community needs. On Thursday, House Financial Services Committee Chairwoman Maxine Waters and the eight subcommittee and task force chairs [wrote to financial association executives](#) asking for reports on how their members are responding to that guidance and accommodating their customers' needs.

## House Financial Services Committee cancels March hearings

Rep. Maxine Waters, Chairwoman of the House Committee on Financial Services, [announced yesterday](#) that the Committee is postponing the four hearings they had scheduled for later this month. Those include a third hearing on Wells Fargo's violations, a hearing on affordable housing, a hearing on domestic and international approaches to digital currency, and a hearing on the end of LIBOR. The Committee has not announced new dates for any of these hearings.

## SEC approves changes to accelerated filer definitions

Yesterday the Securities and Exchange Commission [adopted amendments](#) to its definitions of "accelerated filer" and "large accelerated filer" that should reduce unnecessary burdens on smaller issuers. The amendments would extend the five-year exemption created by the JOBS Act of 2012 for smaller issuers that have not yet reached \$100 million in revenues. Those issuers would have to certify that their principal executive and financial officers are responsible for maintaining internal control over financial reporting (ICFR). Business development companies in similar circumstances will also be exempt. The amendments will also increase the transition thresholds for accelerated and large accelerated filers to become non-accelerated from \$50 million to \$60 million, and will raise the threshold for exiting large accelerated filer status from \$500 million to \$560 million.

## CFPB will publish small-dollar lending rule in April, propose new QM rule in May

Testifying [before the Senate Banking Committee on Tuesday](#), Consumer Financial Protection Bureau Director Kathy Kraninger said the agency will finalize a small-dollar lending rule in April, as previously announced, after reviewing 190,000 comments from the public. She said the original rule would have had a "dramatic and substantial" effect on credit availability, and that she thinks they can do a lot with disclosure requirements and effective enforcement. Kraninger said that they are still on track to propose a new "ability to repay" rule for so-called qualified mortgages (QMs) in May. The Bureau is considering revisions that would move away from a strict debt-to-income (DTI) standard to include an alternative such as a pricing threshold. Senators Mark Warner (D-VA) and Chris Van Hollen (D-MD) asked Kraninger to use her authority to urge credit card companies and other consumer lenders to offer forbearance to borrowers affected by the COVID-19 outbreak.

## FHFA revises Duty-to-Serve standards for GSEs

This week the Federal Housing Finance Administration (FHFA) published [changes to its guidance to Fannie Mae and Freddie Mac for complying with the duty to serve](#) manufactured housing, affordable housing preservation, and rural housing markets. The new guidance will take effect with the GSEs' 2021-23 Plan cycle. It replaces the current five-tier rating system with four evaluation categories: Does Not Comply, Complies/Needs Improvement, Complies/Acceptable Results, and Complies/Excellent Results. The Enterprises' Plans will be required to achieve a score of 30 for each objective, rather than an average score of 30 across all objectives, and the threshold for compliance is being raised from a score of 7 to a score of 8. "FHFA expects the Enterprises to develop meaningful Plans that result in increases in liquidity in the three underserved markets, and to carry out innovative strategies that are impactful, consistent with safety and soundness," the guidance says.

## FDIC extends comment period for sign and advertising rules

The Federal Deposit Insurance Corporation announced Wednesday that interested parties have until April 20 to comment on the agency's [request for information \(RFI\) on updating its sign and advertising rules](#). As banks have transformed their customer interactions to include digital and mobile banking as well as physical branches, the requirements for how they communicate their FDIC-insured status may need to be updated. The FDIC also wants comments about how to address possible misrepresentations by nonbanks about their

insured status, and how best to distinguish between insured and uninsured financial institutions, especially online.

## Confirmations, Nominations, Departures, etc.

- Geoffrey Okamoto, who had been acting assistant secretary of the Treasury for international finance and development, has been named first deputy managing director at the International Monetary Fund. Okamoto had been a staffer to Senator Pat Toomey (R-PA) before joining Treasury in 2017.

## Next Week in Washington

As best we can tell, all public events in Washington, DC have been cancelled for at least the next week. The House was already scheduled to be in recess, but may need to return if the Senate does not approve the House's version of COVID-19 response legislation.

**March 16** G-7 leaders will meet by conference call to discuss a global response to the virus outbreak.

## The Ellis Insight

Jim Ellis reports on political news

### President

**March 10 Voting:** Former Vice President Joe Biden placed a strong first in Michigan, Mississippi, and Missouri last night, and ran just over six points ahead of Sen. Bernie Sanders (I-VT) in Idaho, but fell short in North Dakota, and probably Washington. Still, the delegate totals accumulated from Super Tuesday and March 10th suggest that Mr. Biden is building an insurmountable lead and should effectively wrap up the presidential nomination next week when voters in Arizona, Florida, Illinois, and Ohio go to the polls. The former VP has strong polling leads in each of those places.

**Florida:** The March 17th primary day features electorates in four key states voting, Arizona, Florida, Illinois, and Ohio. Former Vice President Joe Biden is opening up large leads in all four, as the latest released survey suggests. The University of Northern Florida (3/5-10; 1,502 FL likely Democratic primary voters) projects Mr. Biden to be holding a huge 66-22% lead over Sen. Bernie Sanders (I-VT). It is clear that Mr. Biden will unofficially clinch the party nomination on Tuesday night.

### Senate

**Alabama:** Several post-primary polls were released during the week, and WT&S Consulting (3/5; 1,234 AL self-identified Republican voters) gives retired Auburn University head football coach Tommy Tuberville a 49-43% lead over former US Attorney General and ex-Senator Jeff Sessions in the Republican run-off election scheduled for March 31st. In the March 3rd primary, Mr. Tuberville edged ex-Sen. Sessions 33-32%. The winner faces Sen. Doug Jones (D) in the general election.

The Cygnal polling organization (3/6-8; 645 AL likely Republican runoff voters) finds Mr. Tuberville posting a 50-42% advantage, equivalent to what the survey summary describes as leading by "two touchdowns in the 4th quarter."

WPA Intelligence (3/4-5; 500 AL likely Republican runoff voters) finds retired Auburn University head football coach Tommy Tuberville leading former US Attorney General and Alabama Senator Jeff Sessions, 49-45%, a margin quite consistent with the other recently released data. WPAi, however, asked if President Trump endorsing Mr. Tuberville would influence their vote. With that overlay, Tuberville's advantage went to a whopping 58-34%.

**Arizona:** The new OH Predictive Insights survey of the Arizona electorate (3/3-4; 600 AZ likely voters) finds retired astronaut Mark Kelly (D) again leading appointed Sen. Martha McSally (R), this time by a 49-42% margin, the largest advantage either has held to date. Polls in February consistently gave Mr. Kelly a small lead, after Sen. McSally held a two-point edge in a late January survey. The Arizona Senate race will be one of the most expensive and important such campaigns in the country and will go a long way toward determining which party controls the chamber in the next Congress.

**Michigan:** The Senate Majority Fund, the major Senate Democratic non-party organization that directly supports candidates, is indirectly confirming recent polling data that suggests Republican John James, a Detroit area manufacturing company owner and retired Army Ranger, is within low single digits of Sen. Gary Peters (D). The SMF just announced they will launch a "seven figure media buy" attacking Mr. James on healthcare. The Michigan race is clearly becoming a top tier campaign, and this action signals that the Democratic leadership believes so, as well.

**Mississippi Primary:** The Mississippi primary did not attract much attention because most of the races were uncontested. In the Senate contest, we will now officially see a re-match between Sen. Cindy Hyde-Smith (R) and former US Agriculture Secretary Mike Espy (D). The two fought to a 54-46% Hyde-Smith decision in the 2018 special election.

In the current primary, Sen. Hyde-Smith was unopposed for re-nomination and Mr. Espy easily won the Democratic contest. The only significant incumbent challenge to a House incumbent yielded five-term Rep. Steven Palazzo (R-Biloxi) easily outpacing three Republican opponents with 67% of the vote to claim re-nomination to a sixth term. He will have clear sailing in the general election.

**Montana:** With the state candidate filing period closing this week, outgoing Gov. Steve Bullock (D), who repeatedly said he would not challenge Sen. Steve Daines (R), reversed course as many predicted and filed to run. With Sen. Daines scoring a 58-40% victory in 2014 and President Trump racking up a big 56-36% win here in 2016, Gov. Bullock, despite winning two terms as the state's chief executive, begins this race as the underdog. Still, the Democrats have successfully transformed what was an easy re-election ride for Sen. Daines into a highly competitive battle.

**New Mexico:** Candidate filing closed in New Mexico earlier this week, and 3rd District Congressman Ben Ray Lujan (D-Nambe/Santa Fe) will run unopposed for his party's open US Senate nomination in the June primary. Becoming the Democratic Party standard bearer in this situation makes him a heavy favorite in the fall to succeed retiring Sen. Tom Udall (D). Five Republicans filed, but none have ever been elected to any office.

**Oregon:** The Oregon candidate filing deadline has just passed, and Sen. Jeff Merkley (D) looks like a sure bet to win a third term in November. Four Republicans filed against Sen. Merkley, all individuals who have run for other offices without success. Former Linn County Republican Party chair and 2014 US Senate nominee Jo Rae Perkins returns for another attempt at ousting Sen. Merkley, but her chances are slim at best.

## House

**CA-16:** While not all the ballots have been counted in California's Central Valley 16th District, it is now clear that Rep. Jim Costa (D-Fresno) has qualified for the general election placing second behind Republican realtor Kevin Cockingham but ahead of his more

serious challenger, Fresno City Councilwoman Esmeralda Soria (D). A double-Democrat general election might have spelled trouble for Rep. Costa, but against a Republican he should again sail to re-election.

**CA-25:** With over 100,000 votes now counted in the 25th District congressional primary, former Rep. Steve Knight (R), who was consistently in third position in the counting both for the special election and regular primary, has conceded defeat even though vote tabulation continues.

The decision means that defense contractor and Iraq War veteran Mike Garcia (R) will challenge Assemblywoman Christy Smith (D-Newhall) in both the May 12th special and the November general election. The 25th began the decade as a Republican seat, represented by former Rep. Buck McKeon (R) and then Mr. Knight, but it has now moved toward the Democrats.

Non-profit executive Katie Hill converted this seat for the Democrats in 2018 but resigned a year later because of a sexual scandal. The special election will be competitive, but Ms. Smith must be considered the favorite.

**CA-50:** With over 185,000 votes now recorded in the 50th District jungle primary, former US Congressman Darrell Issa (R) has officially secured a ballot position for the November campaign. Yesterday, third place finisher Carl DeMaio, a former San Diego City Councilman, radio talk show host, and ex-congressional and mayoral candidate, conceded second place to Issa, understanding that he could not close the vote gap between he and the former nine-term House member. Mr. Issa and Democrat Ammar Campa-Najjar now officially advance to the general election, a contest that will favor the Republican.

**MN-7:** House Agriculture Committee chairman Collin Peterson (D-Detroit Lakes), who was first elected in 1990 and is always coy about whether or not he will seek re-election, announced on Friday that he will run for another term. Mr. Peterson's northwestern Minnesota seat is the strongest Trump district (Trump '16: 62-31%) in the nation that a Democrat represents. He is the only sitting Democratic House member who did not vote to impeach the President.

It is likely he will face former Lt. Governor and ex-state Senate President Michelle Fischbach, who is favored to become the Republican nominee and expected to give Mr. Peterson his toughest re-election battle since the early 1990s. Even in his last two contests against a lesser opponent, Mr. Peterson's victory percentage had dropped to 52.1% in 2018 and 52.5% in the 2016 general election, so it is likely the Republicans will heavily target this seat for the coming electoral contest.

**MT-AL:** The field is set for the June 2nd Montana Republican and Democratic primaries for the state's lone congressional seat. State Auditor Matt Rosendale (R), who has run for a different office in every election of the current decade, looks to be the man to beat for the nomination after running a respectable effort against Democratic Sen. Jon Tester (losing 50-47%) in the 2018 general election. He has a wide lead in campaign resources over Secretary of State Corey Stapleton, President Trump's endorsement, and support from the Club for Growth organization.

Four other Republicans, including former Montana Republican Party chair and ex-state legislator Debra Lamm, are also on the ballot.

For the Democrats, 2018 nominee Kathleen Williams, a former state legislator who held incumbent Rep. Greg Gianforte (R) to a 51-46% victory, returns for another attempt. State Rep. Tom Winter (D-Missoula) opposes her for the party nomination. A competitive general election is forecast. This is likely the last at-large congressional race to be run in Montana. The state looks to gain a second seat in the coming reapportionment.

**NC-11:** Retiring North Carolina Mark Meadows' (R-Skyland/Buncombe County) appointment as White House chief of staff will vacate another congressional district. North Carolina election law gives the Governor wide latitude in scheduling special elections when a middle-term opening occurs in one of the state's congressional districts. Observers believe Gov. Roy Cooper (D) will not call a special election, meaning the Republican seat will remain vacant until the next Congress.

The regular North Carolina primary occurred on Super Tuesday, and the Republicans are forced to a May 12th run-off election between Haywood County Republican Party chair Lynda Bennett, who has Rep. Meadows' endorsement, and real estate investment company owner Madison Cawthorn. The runoff winner likely outpoll Democratic nominee Moe Davis in the general election but will have to wait until January to occupy the office.

**Oregon:** The Oregon candidate filing deadline has now passed in preparation for the state primary on May 19th. Four of the state's five incumbent House members are seeking re-election, with former House Energy & Commerce Committee chairman Greg Walden (R-Hood River) retiring after serving 11 terms when the current Congress concludes.

Vying to replace him in the safely Republican seat are 11 candidates headed by 2018 gubernatorial nominee and ex-state Rep. Knute Buehler (R-Bend). Within the large field are two former state Senators. Mr. Buehler clearly has the highest name identification among the candidates, and a crowded field in a plurality primary suggests that he must be considered the early favorite for the party nomination.

All four incumbents seeking re-election face primary challenges from multiple candidates, but only one, Rep. Kurt Schrader (D-Salem), has an elected official running. Milwaukie Mayor Matt Gamba is making the race. His city sits seven miles south of Portland and is a community of slightly over 20,000 individuals. Rep. Schrader is the prohibitive favorite, but Mr. Gamba could generate more support than the other frequent candidates who adorn the ballot elsewhere in the state.

**TX-7:** A new Remington Research survey (3/4-5; 1,044 TX-7 likely voters via automated response device) finds Republican challenger Wesley Hunt and freshman Rep. Lizzie Fletcher (D-Houston) deadlocked with 45% support, apiece. The poll was begun a day after the Texas Republican primary when Mr. Hunt defeated three other GOP candidates with 61% of the vote. He and Rep. Fletcher are their respective party standard bearers for a general election that looks to be a hard fought, toss-up battle.

## **Governor**

**Montana:** The state candidate filing deadline yields two competitive gubernatorial primary battles. For the Republicans, at-large US Representative and former gubernatorial nominee Greg Gianforte will battle Attorney General Tim Fox. On the Democratic side, Lt. Gov. Mike Cooney and Whitney Williams, daughter of former US Rep. Pat Williams, will oppose each other to advance into the general election. We can expect strong contests in both primaries, and what should be a close general election irrespective of who wins both nomination campaigns.

**Utah:** A new Deseret News/University of Utah gubernatorial survey was released yesterday (2/24-3/1; 312 UT likely Republican primary voters), and for the second time in a major statewide poll former Governor and US Ambassador Jon Huntsman has the lead in the Republican primary. According to this study, Mr. Huntsman commands 32% of the GOP vote with Lt. Gov. Spencer Cox posting 20%. Following are state House Speaker Greg Hughes and businessman John Burningham, both with 7% preference. Minor candidates are bringing up the rear.

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[Kirk Pepper\\*](#) | [Joseph Salzvera](#) | [Todd Steibly\\*](#) | [Robert Stuart\\*](#) | [Jason Unger](#)

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