



*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 27, 2020

Walk around Washington, DC and you'd never know how much is happening, or how busy people are from their makeshift home offices. As you've heard, Congress passed the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) this week, a document of well over 800 pages that includes approximately \$2 trillion in direct aid and loans to individuals, small businesses, nonprofit organizations, corporations, and state and local governments. This is the third major piece of legislation Congress has passed in response to the COVID-19 outbreak, and each bill has layered new initiatives on top of the previous bill.

We at GrayRobinson, like many others, are going through all these bills right now to figure out exactly what relief is available to whom, and how, and we will be providing more information about this in the days, weeks, and months ahead. Check [GrayRobinson's COVID-19 news page](#) for regular updates and interpretations. In the meantime, we hope you, your families, and your coworkers are safe and healthy.

### **CARES Act expands assistance to small business**

The CARES Act includes a major expansion of the Small Business Administration's 7(a) loan program, including generous loan forgiveness provisions. **Essentially, the law seeks to make it possible for all small businesses to keep their employees paid and insured for the next eight weeks.** The bill grants the SBA \$349 billion in new lending authority, and makes loans available to **any** business, nonprofit organization, veterans group or tribal business with 500 employees or fewer; to sole proprietors, independent contractors, and other self-employed workers; and to hotel and food service chains with 500 or fewer employees **per location**. The 7(a) loan program limit has been raised to \$10 million or 250% of average monthly total payroll costs, with interest rates capped at 4%, and payments deferred for at least six months, up to one year. **Borrowers under this Paycheck Protection Program can apply for loan forgiveness for up to eight weeks of payroll costs, mortgage interest, rent, and utility payments, with the SBA paying lenders for accrued debt plus interest.** Lenders not previously part of the SBA program can apply to become lenders under this Paycheck Protection Program. The SBA also received \$17 billion to pay principal, interest, and associated fees for existing loans under the 7(a), 504, and microloan programs for the next six months.

### **Treasury gets \$500 billion for loans, guarantees, and other investments**

The Treasury's Exchange Stabilization Fund has \$500 billion available to provide loans, loan guarantees, and investments to businesses, states, and municipalities affected by the

COVID-19 outbreak. The Fund includes \$25 billion for passenger airlines and aviation services, and \$17 billion for businesses deemed “critical to national security.”

## **Mortgage relief, eviction and foreclosure moratoriums for GSE-backed loans**

Under the CARES Act, homeowners affected by the outbreak can suspend payments on mortgages guaranteed by the FHA, Fannie Mae, or Freddie Mac for 180 days, with another 180 days’ extension possible. Owners of multifamily properties with GSE-backed mortgages may take payment extensions of up to 90 days. The law prohibits foreclosures on single-family homes with GSE-backed mortgages for at least 60 days, starting on March 18, and suspends evictions on multifamily properties with GSE-backed mortgages for at least 120 days.

## **Capital requirements and lending limits eased, CECL exemptions provided for financial institutions**

The CARES Act includes a number of temporary regulatory relief measures for financial institutions, including reduced capital requirements for banks with less than \$10 billion in assets; expanded authority for national banks to lend to nonbank financial institutions; FDIC insurance for demand deposits; and the ability for corporate credit unions to borrow from NCUA’s Central Liquidity Facility. The law also provides a temporary exemption from the Financial Accounting Standards Board’s current expected credit losses (CECL) requirement, and allows other accounting rule exemptions for certain loan modifications related to the COVID-19 outbreak.

## **Federal regulators encourage small-dollar lending, forbearance**

The Federal Reserve Board, FDIC, Office of the Comptroller of the Currency, National Credit Union Administration, and Consumer Financial Protection Bureau [issued guidance](#) to banks, credit unions, and savings associations this week encouraging them to make “responsible small-dollar loans” to consumers and small businesses. The regulators also encouraged lenders to offer workout arrangements to borrowers affected by the COVID-19 outbreak. Separately, the CARES Act allows creditors to let borrowers suspend payments or make partial payments for 120 days without reporting negative information to credit agencies.

## **Federal regulators make rule changes to improve liquidity**

Today the federal banking agencies issued two new interim rules to give banks additional flexibility. Banks and bank holding companies can implement the new [Standardized Approach for Calculating the Exposure Amount of Derivative Contracts \(SA-CCR rule\)](#) for the first quarter of 2020, on a “best efforts” basis. Banking organizations that begin to implement the current expected credit losses (CECL) standards in 2020 [may wait up to two years to estimate CECL’s effect on regulatory capital](#), followed by a three-year transition period. Separately, the federal banking agencies have [given financial institutions a 30-day grace period](#) for filing first-quarter call reports.

## **Federal Reserve creates facility for asset-backed loans**

The Federal Reserve Board announced Monday that it was setting up a Term Asset-Backed Securities Loan Facility ([TALF](#)) to support the flow of credit to consumers and businesses. The TALF will enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets. It joins the previous facilities set up for commercial paper (CPFF), primary dealers (PDCF), and money market mutual funds (MMLF), which serves state and municipal money markets as well.

## **SEC publishes disclosure guidance for COVID-19 risks**

The Securities and Exchange Commission (SEC) has [posted guidance](#) for how companies and their managers should disclose the risks and effects of COVID-19 on their businesses. This disclosure should include information about how the outbreak is affecting a business's capital and financial resources, and the assets on its balance sheet; any anticipated material impairments; potential adverse effects from remote work arrangements; effects of the outbreak on demand and supply chains; and the effects of the outbreak on human capital. Companies should also disclose any anticipated material impacts from travel restrictions and border closures.

### DHS delays REAL ID enforcement

The Department of Homeland Security [announced yesterday](#) that it will postpone enforcement of REAL ID requirements until October 1, 2021.

### State regulators seek help for mortgage servicers

The Conference of State Bank Supervisors (CSBS) has asked Secretary of the Treasury Steven Mnuchin and Federal Reserve Board Chairman Jerome Powell to create a liquidity facility to support mortgage servicers. In a [letter on Wednesday](#), CSBS President and CEO John Ryan warned that without additional liquidity, "mortgage servicers will experience a severe liquidity shortage that may threaten their continued viability and, by extension, the health of the nation's housing finance market."

### Regulators move to telework, publish additional guidance

The Federal Deposit Insurance Corporation (FDIC) [announced today](#) that **all** employees will be working remotely until at least April 12. Recognizing that many banks will face staffing and operational challenges, they ask institutions to contact their examiners-in-charge or Regional Directors in order to coordinate their responses and maintain critical operations. The Office of the Comptroller of the Currency has posted its supervisory guidance and answers to frequently asked questions to a [centralized web page](#). The Federal Reserve Board has set up a [single page for all of its COVID-19 resources](#), as has the [National Credit Union Administration](#). The Consumer Financial Protection Bureau (CFPB) has posted advice to consumers [here](#), and details of the relief offered to and through Fannie Mae, Freddie Mac, and the Federal Home Loan Banks are on the Federal Housing Finance Agency's website [here](#).

## Next Week in Washington

The Senate is officially in recess until April 20. The House has been in recess, and will return to recess after its voice vote on the CARES Act, at least until late April. We've heard reports that the House Rules Committee is discussing scenarios for remote voting, if that becomes necessary.

No public meetings or hearings are scheduled for next week, but we will publish a *Golden Apple* next Friday as the implementation of the CARES Act begins.

## The Ellis Insight

Jim Ellis reports on political news

### Senate

**Michigan:** In what is thought to be one of the most competitive US Senate races in the country next year, a new poll finds Michigan Sen. Gary Peters (D) expanding his small lead over consensus Republican challenger John James (R).

The Marketing Resource Group, a regular Michigan pollster (3/16-20; 600 MI likely voters),

posts Sen. Peters to a 42-35% lead over Mr. James. Three other polls conducted between January and March found Sen. Peters leading Mr. James within a range of four to ten points. The Firehouse Optimus poll conducted in early March, however, forecast Mr. James to be holding a one-point edge.

**South Carolina:** Former South Carolina Democratic Party chairman Jaime Harrison had already raised over \$7.6 million by the end of 2019 for his race this year against Sen. Lindsey Graham (R), and now a new poll finds him closing the spread. The Brilliant Corners survey research company (3/3-11; 804 SC registered voters) just released their results from a poll conducted two weeks ago that projects Mr. Harrison trailing Sen. Graham by just a 47-44% margin.

If this survey proves accurate, the race has significantly changed since NBC News/ Marist College released their poll taken in mid-February. Their online poll of slightly under 2,400 registered voters found Sen. Graham holding a substantial 54-37% edge over Mr. Harrison. Democrats believe this is a sleeper race for them, nationally, and with a strong fundraising operation already in place, the contest could turn competitive despite South Carolina's strong Republican voting history.

## House

**CA-25:** The special primary election to replace resigned Rep. Katie Hill (D) was held on Super Tuesday, March 3rd, but questions were being posed as to what Gov. Gavin Newsom (D) might do with the May 12th special general election in reference to COVID-19 virus precautions. Some other states voting that day have already postponed.

Mr. Newsom, on the other hand, has decided that all CA-25 registered voters would receive a mail ballot and a small number of polling places will be operational for those who want to vote in person. Therefore, the May 12th special election between state Assemblywoman Christy Smith (D-Newhall) and retired Navy fighter pilot Mike Garcia (R) will proceed as scheduled.

**MI-13:** When controversial Michigan freshman Rep. Rashida Tlaib (D-Detroit) won her seat in the 2018 Democratic primary to succeed 27-term Rep. John Conyers (D-Detroit), she did so by defeating Detroit City Council President Brenda Jones, 38-36%, in a crowded field. In the same election, however, a special election was held to fill the unexpired portion of Mr. Conyers' final term. Ms. Jones, within a slightly different field of candidates, defeated Ms. Tlaib, 31-30%, and would then serve two months in the House.

Though the end of the Michigan candidate filing period is still almost a month away, Ms. Jones this week announced that she will force a re-match with Rep. Tlaib. Therefore, we will see another competitive Democratic primary between these two, this time on August 4th.

**NC-11:** Though North Carolina Rep. Mark Meadows (R-Skyland/ Buncombe County) has been named incoming White House Chief of Staff for President Trump, he reminded reporters earlier this week that he is still a member of the House. Mr. Meadows says that he will resign from Congress at the end of this month in order to accept his new position. In the meantime, Acting Chief of Staff Mick Mulvaney remains in place.

Whether or not a special election will be called to replace Mr. Meadows is an open question once an official vacancy occurs. The situation is now muddled even further since the 11th District Republican runoff election – necessary because no candidate in the crowded field to replace Rep. Meadows, who chose not to see re-election, received 30% of the vote – has been moved to June 23rd. The vote was originally scheduled for May 12th. Apparently, North Carolina election law may give Gov. Roy Cooper (D) some leeway in whether to hold a special to fill the balance of the remaining term.

**SC-2:** Term-limited Springdale, SC Mayor Michael Bishop announced yesterday that he will

challenge veteran Rep. Joe Wilson in the June 9th Republican primary. Springdale, a Columbia suburb in Lexington County, is a town of fewer than 3,000 people and is also Rep. Wilson's hometown. Mr. Bishop indicates, however, that he will challenge Mr. Wilson over local issues and if elected will focus only on district concerns. Rep. Wilson remains a heavy favorite for re-nomination and re-election.

**Sunrise Movement:** The Sunrise Movement, described by some as a left-wing extremist environmental group, announced it is targeting two major Democratic US House committee chairmen in their respective party primaries. Both Reps. Richard Neal (D-MA) and Eliot Engel (D-NY) have announced primary opposition. So far, Sunrise backed Democratic primary challengers have won one race, Marie Newman over Rep. Dan Lipinski in Illinois, but failed against both Reps. Henry Cuellar (D-TX) and Bobby Rush (D-IL).

Sunrise Movement is backing Holyoke Mayor Alex Morse against Mr. Neal, chairman of the House Ways & Means Committee, in the state's September 1st Democratic primary, so this race has some time to develop. Foreign Affairs Committee chairman Engel's top opponent is local Bronx middle school principal Jamaal Bowman who, in addition to Sunrise Movement's support, also has the Working Families Party endorsement. The WFP backing is significant because this could give Mr. Bowman the option of advancing into the general election even if he loses the Democratic primary.

## Governor/States

**Utah:** A total of 17 candidates have qualified to participate in their respective political party conventions for the Utah open Governor's race. A total of eight Republicans, six Democrats, and three Independent or minor party contenders have filed their paperwork.

The biggest names are former Governor and US Ambassador Jon Huntsman and Lt. Gov. Spencer Cox, both on the Republican side. Presumably the state GOP nominating convention will send the two of them to the June 23rd primary. Among the six Democrats are former state Rep. Neil Hansen and law professor Chris Peterson. The eventual Republican nominee becomes the prohibitive favorite to succeed retiring three-term Gov. Gary Herbert (R).

**Election Schedule Changes:** Several Governors or state election officials made decisions this week to either move their state's primary or run-off election or change their respective voting system. All of the moves are in relation to adopting COVID-19 precautions.

The **Alaska** presidential primary will now be an all-mail operation. Therefore, the deadline for sending in ballots has been moved from April 4th to April 10th. The state primary remains scheduled for August 18th.

Governor John Carney (D) announced this week that the **Delaware** presidential primary will transfer from April 28th to June 2nd, joining a cavalcade of states that have changed an election date or process – several are keeping their electoral calendar but moving to an all-mail election – in adherence to COVID-19 virus precautions.

**Hawaii** officials have cancelled the in-person option for the April 4th presidential primary. Instead, the election will be conducted solely through the mail. The state primary remains on August 8th.

The **Indiana** Elections Board moved its May 5th primary to June 2nd, which will now be a very significant primary day as many states are moving to what was an already crowded election day.

**Mississippi** Gov. Tate Reeves (R) transferred the state's runoff election from March 31st to June 23rd. There is only one federal runoff in Mississippi, in the 2nd Congressional District, and the outcome will have no effect upon the general election as Rep. Bennie Thompson

(D-Bolton/ Mississippi Delta) is the prohibitive favorite to defeat whichever Republican becomes the party nominee.

The **New York** Attorney General has recommended to Gov. Andrew Cuomo (D) that the state's presidential primary remain on April 28th but be conducted through the mail. No action has yet occurred regarding changing the June 23rd state primary election date.

The **North Carolina** Board of Elections has moved the state's lone congressional runoff, in the open Republican 11th District (Rep. Mark Meadows-R), from May 12th to June 23rd. The winner of the secondary GOP election will claim the seat in the November election.

**Ohio** Gov. Mike DeWine (R), who postponed the March 17th presidential and state primary, is considering changing to an all-mail system. This is largely because thousands of votes were already cast through the mail in anticipation of the originally scheduled primary.

**Oregon** Secretary of State Bev Clarno (D) announced that the May 19th state primary will remain in place. Ms. Clarno indicated that because the state uses a universal mail system for its regular elections, there is no increased risk of spreading the Coronavirus. Therefore, the Oregon primary will proceed as scheduled.

**Pennsylvania** Gov. Tom Wolf (D) has reached an agreement with Republican legislative leaders to move the April 28th presidential and state primary to June 2nd.

The **Puerto Rico** presidential primary has been transferred from March 29th to April 26th.

**Rhode Island** Gov. Gina Raimondo (D) also signed an executive order moving the state's presidential primary from April 28th to June 2nd. The state primary will remain set for September 1st.

**Texas** Gov. Greg Abbott (R) issued a letter over the weekend that indicated he is moving the state's May 26th runoff that features 16 federal and state secondary elections to July 14th.

### The GrayRobinson Lobbying Team

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