



The Golden Apple

Reporting on the latest discord from Capitol Hill

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.

August 2, 2019

The House and Senate have left Washington for the August recess. The Golden Apple will take most of August off as well but may publish an elections-related issue or two. We'll be back to normal service the week of September 9, when Congress returns.

Welcome Keenan Hale Jr.

The Washington office of GrayRobinson is delighted to announce the addition of Keenan Hale Jr. as a Government Relations Consultant. Keenan has been a Legislative Assistant to Rep. Al Green (D-TX), covering Agriculture and Food, Armed Forces and National Security, Arts, Culture and Religion, Education, Small Business, and Telecommunications. He is a graduate of Syracuse University, where he was a member of the 2012 BIG EAST All-Academic football team.

Senate Banking Republicans tell regulators to fix Madden

The 13 Republican members of the Senate Banking Committee [wrote to](#) Federal Reserve Board Chairman Jay Powell, Comptroller of the Currency Joseph Otting, and FDIC Chairman Jelena McWilliams this week to urge them to take additional actions to relieve excessive regulatory burden as the agencies formulate regulations implementing S. 2155. Specifically, the Senators asked the regulators to help financial institutions cope with the transition to FASB's current expected credit losses (CECL) standard; exempt affiliated entities from initial margin requirements, as the CFTC has; and "use all available authorities to clarify uncertainties" about the valid-when-made doctrine in the wake of the Madden v. Midland Funding, LLC decision. The Senators suggested that the regulators "weigh in with courts considering outstanding cases" on these issues.

Senate Banking discusses regulatory framework for blockchain, virtual currencies

The Senate Banking Committee [heard testimony from three experts Tuesday](#) about how best to build a regulatory structure for digital currencies and blockchain technology. Circle CEO Jeremy Allaire, testifying on behalf of The Blockchain Association, called for legislation

to define digital assets as a new asset class, with appropriate rules and exemptions. Witnesses agreed that the current regulatory structure is badly out of date, but did not agree on which existing agency should conduct comprehensive oversight of these new products. Dr. Rebecca M. Nelson, a trade expert with the Congressional Research Service, noted that a growing number of central banks are exploring virtual currencies that would be legal tender.

USMCA is “a new standard” for trade agreements, Grassley said

This week Senate Finance Committee held what is likely to be its [last hearing on the US-Mexico-Canada free trade agreement \(USMCA\)](#) before the Senate votes on it this fall. Representatives of small business, the auto industry, trucking, dairy farmers and organized labor testified in favor of the agreement, though the labor representative called for substantive changes that would “fix NAFTA” by improving enforcement provisions and ensuring that Mexico follows through on labor reforms. Witnesses stressed the need for the economic certainty that having an agreement in place would provide, though Senator Pat Toomey (R-PA) that NAFTA remains in force until another agreement is ratified.

FAA is still recovering from shutdown, faces worker shortfalls

Airplane safety and oversight were the main topics at an FAA [oversight hearing](#) of the Senate Appropriations Subcommittee on Transportation this week, but Acting Deputy Administrator Carl Burleson warned that the pipeline of new workers in aviation may not be enough to sustain anticipated growth and technological advances. Air traffic control towers around the country are already having trouble hiring qualified workers, and the FAA has created an Aviation Steering Committee to make recommendations for enhancing training, identifying the skills necessary for the future, and partnering with academia and industry. Panel members noted that most FAA air traffic personnel worked for five weeks without pay during the government shutdown earlier this year, and the shutdown delayed training programs for new controllers as well as the implementation of several of the FAA's NextGen projects.

Senate panel approves sweeping infrastructure bill

The Senate Committee on Environment and Public Works unanimously approved [S. 2302](#), America's Transportation Infrastructure Act of 2019, on Tuesday. The bill would authorize \$287 billion over five years, an increase of more than 27% over FAST Act levels; \$259 billion would go to state-level formula programs for repairs and improvements to roads and bridges. It would also create grants for states and localities to build alternative fuel corridors.

Waters announces HFSC agenda for September

Before the House of Representatives left town, House Financial Services Committee Chairwoman Maxine Waters (D-TX) announced a [jam-packed schedule for September](#). The full Committee will hold hearings on student loan debt, SEC oversight, and abusive debt collection. The various subcommittees and task forces will hold a total of eight hearings on a variety of issues, from the future of identity in financial services to the future of real-time payments. Chairwoman Waters also announced a markup for September 18 and 19, though she did not say which bills would be considered.

Hawley, Baldwin propose bipartisan legislation to impose fees for foreign purchases of US stocks

This week Senators Josh Hawley (R-MO) and Tammy Baldwin (D-WI) introduced the [Competitive Dollar for Jobs and Prosperity Act](#), which would require foreign purchasers of US stocks, bonds, and other financial instruments to pay a “market access charge.” Hawley and Baldwin say their bill will thwart currency manipulators and improve global trade markets for US goods. The bill would also require the Federal Reserve to balance the US current account within five years.

Brown offers bill to reduce stock buybacks, create “worker dividend”

Senator Sherrod Brown (D-OH), ranking member of the Senate Banking Committee, [introduced legislation on Wednesday](#) that would lower permissible amounts for stock buybacks and require public companies to issue worker dividends to all non-executive workers based on the total amount spent on stock buybacks, dividend increases, and special dividends. The “worker dividend” would equal \$1 for every \$1 million spent on rewards to investors.

FHA, Ginnie Mae lower cash-out refinancing limits

Yesterday the Department of Housing and Urban Development announced new limits on homeowners' ability to convert home equity to cash. The FHA is [lowering its maximum loan-to-value requirements for cash-out refinancings](#) from 85% to 80%, effective for all case numbers assigned on or after September 1. Ginnie Mae is [setting new pooling criteria for cash-out refinancings](#) with LTVs over 90%, effective for securities backed on or after November 1.

Confirmations, Nominations, Departures

- The Senate Finance Committee voted to send the nominations of Brent McIntosh as Under Secretary of the Treasury for International Affairs, Brian Callanan as General Counsel of the Treasury Department and Brian McGuire as Assistant Secretary of the Treasury for Legislative Affairs to the Senate floor.
- [Rep. Will Hurd \(R-TX\)](#) announced that he will not seek reelection when his third term ends next year. Hurd, a former CIA covert operative, is the only African-American Republican member of the House.
- Senate Majority Leader Mitch McConnell (R-KY) has scheduled Senate floor votes for the week of September 9 on the nominations of Michelle Bowman to a new term as Governor on the Federal Reserve Board and Thomas Peter Feddo to be Assistant Secretary of the Treasury for Investment Security.

Coming Up in Washington

- The House and Senate are out until September 9.

- August 5 at 1:30 p.m. Federal Reserve Governor Lael Brainard will give a presentation on the payments system at a town hall meeting held by the Federal Reserve Bank of St. Louis. The presentation will stream online [here](#).
- August 8 at 10:00 a.m. The Securities and Exchange Commission [holds an open meeting](#) to consider whether to propose updates to the descriptions of business, legal proceedings, and risk factor disclosures that registrants must make under Regulation S-K. The meeting will stream online via the [SEC's website](#).

The Ellis Insight

Jim Ellis reports on political news

President

September Debates: With the second debate just completed, some qualifiers for the third debate, from Houston over September 13-14, were announced. The top candidates of course qualify: Ex-VP Joe Biden, Sens. Elizabeth Warren (D-MA), Bernie Sanders (I-VT), and Kamala Harris (D-CA), along with South Bend Mayor Pete Buttigieg. Also present are a pair from the lower tier, Sen. Cory Booker (D-NJ) and ex-Rep. Beto O'Rourke (D-TX).

Close to making the next stage are Sen. Amy Klobuchar (D-MN) and businessman Andrew Yang. The requirements mandate the candidates at least have 130,000 individual campaign donors and receive 2% support in a series of polls that the Democratic National Committee recognizes. The qualifying deadline is August 28th.

California Law: Rocky de la Fuente is a habitual candidate for President who has, like President Trump, not released his tax returns. In responding to the new California law that requires presidential candidates to disclose five years of their tax returns as a condition of accessing the California primary ballot, Mr. de la Fuente has filed a lawsuit claiming that the imposed new requirement is unconstitutional. He argues that the new qualification supersedes the candidate requirements defined in the US Constitution.

Nevada Poll: The Nevada Caucus, which is the third nomination event on the 2020 calendar and scheduled for Saturday, February 22nd, should become more prominent in this year's campaign. The Morning Consult firm just released their latest polling numbers for the Nevada Caucus, which came from their rolling national sample conducted during the first three weeks of July. The 749 Nevada Democratic respondents give former Vice President Joe Biden a 29-23% lead over Sen. Bernie Sanders (I-VT) with Sens. Elizabeth Warren (D-MA) and Kamala Harris (D-CA) following with 12 and 11%, respectively. All other candidates landed in single digits.

Senate

Kansas: Though US Secretary of State Mike Pompeo has previously said that he is not planning to return to Kansas to run for the state's open Senate seat, he was more definitive in comments made earlier this week, saying such a move "is off the table."

Apparently, more people are taking Mr. Pompeo's comments seriously. According to western Kansas Rep. Roger Marshall's (R-Great Bend) staff, contributions of more than \$100,000 immediately flowed into Mr. Marshall's campaign account after the Pompeo comments were published. It is widely believed that the Congressman will run for the Senate should Mr. Pompeo remain in his current position.

New Hampshire: Reports emanating from WMUR-TV in Manchester, NH suggest that former Trump for President campaign manager-turned political pundit Corey Lewandowski (R) is considering launching a challenge against Sen. Jeanne Shaheen (D). While former House Speaker Bill O'Brien and retired Army General Dan Bolduc are already announced candidates, a Lewandowski candidacy would certainly upset the Republican primary apple cart. It is doubtful that any could mount a winning challenge against Sen. Shaheen, however.

North Carolina: Businessman Garland Tucker, who is challenging Sen. Thom Tillis in the North Carolina Republican primary, released an internal campaign poll that shows a closing race. According to a Diversified Research survey taken earlier this month and now publicly released (7/8-9; 500 NC likely Republican primary voters), Sen. Tillis would maintain only a 40-30% lead over Mr. Tucker.

Tennessee: It appears that Tennessee Republicans are beginning to seriously coalesce behind Ambassador Bill Hagerty to succeed retiring Sen. Lamar Alexander (R). Earlier this week, two-term Rep. David Kustoff (R-Germantown) said he would not enter the statewide race and will presumably seek re-election to the House. The only serious Republican candidate other than Mr. Hagerty, who has yet to formally announce, is Nashville surgeon Manny Sethi. For the Democrats, attorney and Iraq War veteran James Mackler has the early field all to himself. The candidate filing deadline is April 2nd with an August 6th partisan primary date.

House

AL-1: The WPA Intelligence organization tested the open Alabama 1st District Republican primary that will be decided on March 3rd, concurrent with the state's presidential primary. According to the poll, (7/23-24; 400 AL-1 likely Republican primary voters) former state Sen. Bill Hightower scores 34% followed by state Rep. Curt Pringle (R-Mobile) with 16%, and Mobile County Commissioner Jerry Carl posting 12% preference.

The data suggests that the primary race will end in the top two finishers advancing into an April 14th run-off election. The eventual Republican nominee will become a prohibitive favorite for the general election. The seat is open because Rep. Bradley Byrne (R-Mobile) is running for the Senate.

AL-2: Five-term Rep. Martha Roby (R-Montgomery) announced over last weekend that she will not seek a sixth term next year, releasing a statement that thanked her family and the people of the 2nd District for supporting her throughout the decade. Ms. Roby is one of six GOP House members during the week to announce that their current congressional

term will be their last. Alabama's 2nd District is safely Republican (Trump '16: 65-33%; Romney '12: 63-36%) so there is little chance of this becoming a competitive general election seat.

FL-27: Donna Shalala, the former Health & Human Services Secretary and president to both the University of Wisconsin and Miami University, won a South Florida congressional seat in the last election. She defeated former Spanish-language channel news anchorwoman Maria Elvira Salazar, 52-46% in the 2018 general election. Yesterday, in an expected move, Ms. Salazar announced that she will return for a re-match next year.

KS-3: Sara Weir, the former president of the National Down Syndrome Society, announced her congressional candidacy this week. She has a strong chance of coalescing Republicans around her political bid before the August 2020 primary, which will help her build a strong campaign organization against freshman Rep. Sharice Davids (D-Kansas City). Ms. Davids unseated four-term Rep. Kevin Yoder (R) in November, and the 3rd District electorate has typically voted in swing fashion. This could be a race to watch.

KY-6: In 2018, retired Marine Corps fighter pilot Amy McGrath (D) raised and spent over \$8 million to challenge GOP Rep. Andy Barr (R-Lexington), and came within three percentage points of beating him. Now in the Senate race against Majority Leader Mitch McConnell (R), the Democrats were actively attempting to recruit a new challenger for Mr. Barr.

Yesterday, it was announced that another Marine Corps veteran, Josh Hicks (D), has stepped forward to run for Congress. It remains to be seen if he can raise as much in the way of resources as Ms. McGrath did but, considering Rep. Barr's strong performance in 2018, it will be much more difficult to dislodge him in 2020 and especially so with President Trump running strongly in the state.

MI-10: Two-term Michigan Rep. Paul Mitchell (R-Dryden/Macomb County) announced that he will not seek a third term, the first of the cavalcade of GOP House members to declare the current term will be their last. Mr. Mitchell cited his frustration with Congress as being one of the chief reasons that he will leave office. The 10th District is the safest Republican seat in Michigan (Trump '16: 64-32%) so the GOP primary winner will become a prohibitive favorite to hold the district in the 2020 general election.

NJ-5: With almost 30 viable primary challenges to Democratic House members already underway, two-term New Jersey Rep. Josh Gottheimer (D-Wycoff) has now attracted an opponent. Glen Rock City Councilwoman and neuroscientist Arati Kreibich announced her candidacy yesterday, saying that "incremental change isn't cutting it." Mr. Gottheimer has already raised \$1.74 million for his 2020 campaign and has more than \$5.6 million in his campaign account.

NY-3: While many Democratic incumbents are attracting credible primary challengers, one who appears to have avoided one is two-term Long Island Rep. Tom Suozzi (D-Glen Cove). Former Democratic National Committee member Bob Zimmerman, who had been

publicly considering running and was actively exploring his chances, this week said he would not challenge Rep. Suozzi. The Congressman is, at least for the time being, left with only minor opponents.

TX-4: President Trump announced that he will nominate three-term Rep. John Ratcliffe (R-Heath/Rockwall) to replace outgoing National Intelligence Director Dan Coats, thus opening a second Texas seat. The development means that 14 districts will feature incumbent-less campaigns. Post-confirmation, it is likely a special election will be held to fill the balance of the current term. We can expect a hard-fought Republican special and regular election primary to occur in this district that gave President Trump 75% of its votes. Mr. Ratcliffe was re-elected in November with 76 percent.

TX-6: Texas freshman Rep. Ron Wright (R-Arlington) disclosed that he has been diagnosed with lung cancer. But, Mr. Wright says he is responding strongly to treatment and will seek re-election. The Congressman is a strong favorite to win again in 2020 after scoring an original 53-45% victory last November. The 6th District has been in Republican hands since former Representative and US Senator Phil Gramm switched parties and won a special congressional election in 1983.

TX-11: Eight-term Texas Rep. Mike Conaway (R-Midland) also announced that he has decided not to seek re-election in 2020. Texas' 11th District is one of the safest Republican seats in the country. At 79% support, it is President Trump's third-best district in the country. Therefore, the successor to Rep. Conaway will be determined in a hard-fought Republican nomination cycle.

TX-22: Rep. Pete Olson (R-Sugar Land) is another of the Republican retirements. He will depart after completing four terms in office. Former Congressman Nick Lampson (D) represented the Beaumont district from 1997-2005 until he was unseated in the 2004 election. He returned to win the 22nd District in 2006 but lost it in 2008. On Monday, Mr. Lampson, now 74 years old, says he is considering attempting a comeback now that the 22nd is open again.

Democrats already have three candidates, including 2018 nominee Sri Preston Kulkarni who posted 45% of the vote against retiring Congressman Pete Olson (R-Sugar Land). A crowded Republican primary is expected, and this field will yield a highly competitive general election contest.

TX-23: Continuing the retirement parade, three-term Texas Rep. Will Hurd (R-San Antonio), who represents the most evenly divided voting district in the country and one that stretches all the way from San Antonio to El Paso, says he will not seek re-election next year. Mr. Hurd, a former CIA officer, says he wants to leave the House "to pursue opportunities outside the halls of Congress to solve problems at the nexus between technology and national security." Already in the race is 2018 Democratic nominee Gina Ortiz Jones, a former US Trade Office staff member and Iraq War veteran. She held Mr. Hurd to a 926-vote win last November.

UT-4: In the last election, then-Salt Lake County Mayor Ben McAdams (D) unseated Rep. Mia Love (R) by just 694 votes, the second closest raw vote margin of any US House race in the country. Now, Mr. McAdams will stand for re-election in what is typically a safe Republican district. Yesterday, Republicans saw a new candidate step forward. Jay McFarland is a local radio talk show host and gaming app developer. He has created over 100 successful gaming apps and his talk program is widely listened to in Utah.

Governor

Mississippi: Mason-Dixon Polling & Strategy (7/24-27; 500 MS likely Republican primary voters) released a new pre-primary poll just days before the August 6th Mississippi nomination election. While the Democrats are poised to nominate Attorney General Jim Hood, Republicans are likely headed to an August 27th run-off election. According to the M-D data, Lt. Gov. Tate Reeves has only a 41-31-13% lead over retired state Supreme Court Justice Bill Waller and state Rep. Robert Foster (R-Hernando). To win nomination, a candidate must receive 50% support.

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