



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.

July 24, 2020

Good Trouble

We join the nation in mourning the loss of Rep. John Lewis, who died last Friday at the age of 80. Rep. Lewis was known as the "conscience of Congress," and was the last survivor of the "Big Six" civil rights leaders who organized the 1963 March on Washington. He fought to make the rights of citizenship available to all Americans, and served most recently as Chairman of the House Ways and Means Subcommittee on Oversight. His last public statement was a press release with House Minority Leader Kevin McCarthy (R-CA) calling for an expansion of grants for teaching civic engagement in elementary, middle, and high schools nationwide. He will [lie in state](#) at the top of the East Front Steps of the US Capitol from Monday evening until late Tuesday night.

Senate votes to protect COVID-19 relief payments from garnishment

Yesterday the Senate gave unanimous consent to [S. 3841](#), which would prevent the attachment of any 2020 recovery rebate by levy or garnishment. The bill was introduced by Senator Chuck Grassley (R-IA) for himself and a bipartisan group of [six cosponsors](#). Rep. Gregory Meeks (D-NY) has introduced a companion bill in the House.

Senate Banking approves Fed nominees, hears testimony from SEC, NCUA nominees

The [Senate Committee on Banking, Housing, and Urban Affairs voted](#) 13-12 to approve the nomination of Judy Shelton and 18-7 to approve the nomination of Christopher Waller to the Board of Governors of the Federal Reserve System. Neither nomination has been scheduled for a floor vote yet. The Committee also [heard testimony](#) from Securities and Exchange Commissioner Hester Peirce, nominated to a full term on the Commission; from Caroline Crenshaw, nominated to a Democratic seat on the Commission; and from Kyle Hauptman, nominated to the board of the National Credit Union Administration (NCUA). Peirce said that she wants to finish the work she came to the SEC to do, including improving access to capital and setting up a regulatory framework to address crypto assets effectively. Crenshaw said she would focus on market stability and the reliability of market structures,

including circuit breakers. Hauptman said that the pandemic response had been an industry-wide lesson in providing remote services, and he expects many of these services to remain popular after the pandemic ends.

Technical assistance needed to boost access to relief programs for minority- and women-owned small businesses

Despite Congressional efforts to target relief to minority- and women-owned businesses through the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) grants and loans, these businesses have failed at disproportionate rates as a result of the COVID-19 emergency, Senate Small Business Committee Chairman Marco Rubio (R-FL) said at a [hearing on Thursday](#). The bipartisan hearing collected testimony from community-based lenders, advocates, and service providers, and one consistent message was the need to provide these businesses additional advice and support with accounting and other compliance tasks. The vast majority of minority- and women-owned small businesses are sole proprietorships without employees on payroll; many did not realize they were eligible for federal assistance, nor did they know how to apply. Those businesses are less likely to have traditional commercial banking relationships, and while fintech firms have taken an active role in PPP lending, they generally focus on transactions rather than long-term financial relationships. Rubio said that he and his colleagues would seek to address these challenges in the next round of relief legislation, currently under negotiation in the Senate.

Competition with China presents economic, security, social risks, witnesses say

The Senate Banking Subcommittee on Economic Policy heard [testimony on Wednesday](#) about the challenges presented to the United States by China's determination to dominate the world economy through innovation, manufacturing, and often-stolen intellectual property. Witnesses, including former Commodity Futures Trading Commission Chairman Chris Giancarlo, told Senators that the US needs to recognize that the Chinese Communist Party exerts substantive control over even privately owned Chinese businesses, and that the US must ally itself with its free-market trading partners to maintain fair access to markets and critical supplies. Chairman Giancarlo said that US financial infrastructure needs to be updated to remain competitive with China, and proposed the creation of a Central Bank Digital Currency that would preserve the dollar's status as the dominant global medium of exchange.

HUD terminates 2015 AFFH rule, allows self-certification

Calling the rule "unworkable and ultimately a waste of time," Secretary of Housing and Urban Development Ben Carson [announced yesterday](#) that the agency will terminate that rule and replace it with a new standard that allows grant recipients to self-certify their compliance with fair housing rules. This "Preserving Housing and Neighborhood Choice" rule will take effect 30 days after its publication in the Federal Register. The new rule defines "fair housing" as housing that is "affordable, safe, decent, free of unlawful discrimination, and accessible under civil rights laws," and recognizes any activity related to promoting those features as "affirmatively furthering fair housing" under the 1968 Fair Housing Act.

Fed expands access to three emergency lending facilities

The Federal Reserve [expanded the lists](#) of eligible agents for its Term Asset-Backed Securities Loan Facility (TALF) and eligible counterparties for its Commercial Paper Funding Facility (CPFF) and Secondary Market Corporate Credit Facility (SMCCF) this week. The Federal

Reserve Bank of New York, which administers these facilities, [said](#) it hopes “to broaden access to these facilities and increase the New York Fed’s operational capacity and reach into the respective markets.” The Fed encourages “smaller firms and minority-, women-, and veteran-owned business enterprises . . . to express their interest in serving in these counterparty and agent capacities.”

FDIC approves final rule easing employment restrictions for people convicted of certain crimes

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) voted unanimously today to [codify a Statement of Policy](#) on whether or how financial institutions may employ people convicted of certain types of crimes. Section 19 of the FDI Act generally prohibits financial institutions from hiring anyone convicted of a crime of dishonesty, breach of trust, or money laundering, unless the FDIC approves it in advance. The new rule allows financial institutions to hire anyone whose offenses were expunged, and anyone convicted of certain minimal offenses involving the use of fake IDs or small-dollar, simple thefts. It eliminates the waiting period for potential employees who have only one qualifying offense, and allows someone with two de minimis offenses to qualify for the de minimis exemption. FDIC Chairman Jelena McWilliams called this “[sound public policy](#),” and noted that the FDIC had approved every Section 19 application that met these criteria since the beginning of 2017.

OCC proposes “true lender” rule

The Office of the Comptroller of the Currency (OCC) [proposed a rule this week](#) to codify its longstanding position that a bank that makes a loan is the “true lender” for purposes of federal law, regardless of whether the bank makes the loan through a third-party, customer-facing relationship, or whether the bank later sells the loan. The proposal includes a “clear test” to determine whether the bank or its affiliated third-party is making the loan: if the loan agreement names the bank as lender, and the bank funds the loan, the bank is the true lender. The proposed rule affirms that national banks are subject to federal fair lending laws, Community Reinvestment Act requirements, and other federal measures to prevent predatory lending or deceptive practices. Comments on the proposal are due to the OCC by September 3.

National banks, thrifts may serve as custodians of crypto assets

The OCC also [published a letter to federally chartered banks and savings associations](#) clarifying that they may provide cryptocurrency custody services to their customers. These services include storing digital assets and holding unique cryptographic keys associated with cryptocurrency. These services help banks fulfill their historic role as financial intermediaries, the agency said, while noting that several states have authorized these activities for state banks and trust companies.

FDIC considers standards, voluntary certification for third-party models

The Federal Deposit Insurance Corporation (FDIC) published a [request for information](#) (RFI) today on “Standard Setting and Voluntary Certification for Models and Third-Party Providers of Technology and Other Services.” Noting that more and more financial institutions are using third-party computer models to manage credit, operational risk, valuation, and stress testing, the agency said it is “considering the value of standards for assessing models.” It asked for comment on whether and how it should develop these standards, and on

whether it should create a voluntary certification program to support financial institutions' due diligence on third-party providers. Comments are due to the FDIC by September 22.

Next Week in Washington

- **July 28 at 10:00 a.m.** Senate Committee on Homeland Security and Governmental Affairs holds a hearing on "[Oversight of COVID-19 Financial Relief Packages.](#)"
- **July 28 at 10:15 a.m.** Senate Finance Committee holds the first of two hearings on "[Protecting the Reliability of the US Medical Supply Chain During the COVID-19 Pandemic.](#)"
- **July 28 at 1:00 p.m.** FDIC Advisory Committee on Community Banking [holds a virtual meeting.](#)
- **July 28 at 2:30 p.m.** Senate Homeland Security Subcommittee on Regulatory Affairs and Federal Management holds a hearing on "[Modernizing Telework: Review of Private Sector Telework Policies During the COVID-19 Pandemic.](#)"
- **July 28 at 2:30 p.m.** Joint Economic Committee holds a hearing on "[Reducing Uncertainty and Restoring Confidence During the Coronavirus Recession.](#)"
- **July 29 at 10:00 a.m.** House Small Business Subcommittee on Rural Development, Agriculture, Trade, and Entrepreneurship will hold a hearing on "[Kick Starting Entrepreneurship and Main Street Economic Recovery.](#)"
- **July 29 at 10:00 a.m.** Senate Banking Committee holds a hearing on "[The Consumer Financial Protection Bureau's Semi-Annual Report to Congress.](#)"
- **July 30 at 12:30 p.m.** House Financial Services Committee holds a hearing on "Protecting Consumers During the Pandemic? An Examination of the Consumer Financial Protection Bureau."
- **July 30 at 9:30 a.m.** Senate Finance Committee holds its second hearing on "[Protecting the Reliability of the US Medical Supply Chain During the COVID-19 Pandemic.](#)"

The Ellis Insight

Jim Ellis reports on political news

Senate

Alaska: A recently released Alaska Survey Research firm poll (6/26-7/7; 716 AK registered voters; 663 likely general election voters) counters the Public Policy Polling (7/7-8; 1,081 AK voters) data in projecting first-term Sen. Dan Sullivan (R) ahead of surgeon Al Gross (I/D), 53-40%. PPP found the Senator leading only 39-34%. Alaska is a difficult place to poll, so seeing companion surveys here with markedly different results is not particularly unusual.

Iowa: Spry Strategies, as part of their national survey series, tested the Iowa Senate race as many other pollsters have done previously. According to the Spry data (7/11-16; 701 IA likely general election voters), Sen. Joni Ernst, in a must-win situation for Republicans,

continues to slightly trail her Democratic opponent, Des Moines real estate executive Theresa Greenfield (D). The Spry data finds the Greenfield edge to be 45-43%, well within the polling margin of error that has been consistent with all Iowa post-primary surveys.

Louisiana: The Bayou State always hosts the latest developing federal elections because their jungle primary isn't until Election Day, November 3rd. If no candidate receives majority support, the top two finishers will advance to a runoff election on December 5th. Until now, little has developed against Sen. Bill Cassidy (R) who is seeking a second term this year.

With candidate filing closing this Friday, Sen. Cassidy now has his first significant opponent. Announcing his candidacy is Democratic Shreveport Mayor Adrian Perkins, who is capable of waging a credible statewide campaign. Sen. Cassidy, however, is a prohibitive favorite.

Montana: Spry Strategies tested the Montana electorate (7/11-16; 701 MT likely voters) and produced results consistent with other pollsters. In yet another firewall must-win for Republicans, Sen. Steve Daines (R) is posted to a slight three-point advantage over Democratic Gov. Steve Bullock, 47-44%. Within the same polling period, the Civiqs firm, polling for the Daily Kos Elections website (7/11-13; 873 MT registered voters), sees Sen. Daines holding a similar 49-47% edge. The slightly earlier Public Policy Polling study (7/9-10) gave Gov. Bullock a 46-44% slim lead.

New Hampshire: The eventual Republican campaign against incumbent Sen. Jeanne Shaheen (D) is slow starting because of the state's late September 8th primary, but self-funding businessman Corky Messner is jumping out to a strong lead over retired Brigadier Gen. Don Bolduc.

According to a new Tarrance Group survey (7/12-14; 401 NH likely Republican primary voters), Mr. Messner hold a 39-27% lead over Gen. Bolduc who has been campaigning in the Republican primary for months but raised little in the way of election funds. The race against Sen. Shaheen is a long shot for the GOP, but Mr. Messner appears well positioned to advance into the general election.

Tennessee: A third consecutive poll is confirming that the Republican primary race to succeed retiring Sen. Lamar Alexander (R) is close. Late this week, a JMC Analytics & Polling (7/18-19; 600 TN likely Republican primary voters) survey was published showing former US Ambassador Bill Hagerty leading Nashville orthopedic surgeon Manny Sethi, 36-32%, as we approach the August 6th primary. Two other polls, from the Trafalgar Group and Victory Phones beginning at the end of June, found similar spreads in the three-point range. The GOP winner becomes a big favorite to claim the seat in November.

House

GA-5: Veteran Georgia Representative and Civil Rights Leader John Lewis (D-Atlanta) passed away late last week, and Democrats had only one day to replace him on the ballot for November under Georgia election law. A special seven-person committee was immediately assembled to send three to five candidates to the Georgia Democratic Party state executive committee members. As expected, the members chose its state chair and Atlanta state Senator Nikema Williams to replace Mr. Lewis on the November general election ballot.

Gov. Brian Kemp (R) must call a special election to fill the balance of Mr. Lewis' final term, and it is likely he will make the contest concurrent with the regular November election. The special election would be different than the regular process, in that we will likely see a partisan special primary prior to the regular general election. Ms. Williams already becomes an overwhelming favorite to win in November in a district where President Trump scored only 12% in 2016.

IA-3: In 2018, Democrat Cindy Axne unseated then-Rep. David Young (R) by a two-point margin, 49-47%. A new Tarrance Group survey (7/7-9; 400 IA-3 likely voters) sees an equally close race again developing this year. According to the Tarrance findings, Mr. Young posts a 44-43% slight edge over Rep. Axne, which is similar to their March survey that found the two candidates locked in a 48-48% tie.

KS-2: Freshman Rep. Steve Watkins' (R-Topeka) indictment for voter fraud and the bad publicity surrounding it has already taken a toll on him and is making this seat, which has elected only one Democrat since the 1994 election, competitive in the general election.

A new Battleground Connect poll (7/16-17; 1,250 KS-2 likely voters via live telephone interview) finds Mr. Watkins badly trailing Topeka Democratic Mayor Michelle De La Isla 37-50%, while State Treasurer Jake LaTurner (R) leads her 42-41%. During this time, Rep. Watkins' favorability index has dropped to 25:50% favorable to unfavorable, and a very concerning 17:61% among Independents.

KY-6: After defeating now-US Senate Democratic nominee Amy McGrath by 10,000 votes after she raised and spent more than \$8.3 million in 2018, Rep. Andy Barr (R-Lexington) looked strong for his 2020 re-election bid. A new Bluegrass Data survey (7/13; 700 KY-6 likely general election voters via live telephone interview), however, finds Rep Barr leading Democratic nominee Josh Hicks by a scant 44-43% margin. When pushed for an answer, those recorded as leading to one of the candidates actually forge Mr. Hicks into a 50-48% lead.

MI-3: Now that the Independent and minor party candidate filing deadline has passed in Michigan, we know for certain that Rep. Justin Amash (L-Cascade Township/Grand Rapids) is truly retiring from the House, since that was his last chance to file. As a member

of the Libertarian Party, speculation was strong that the Congressman, who for a time was considering running for his new party's presidential nomination, would attempt to seek re-election in a three-way US House race as either the Libertarian Party nominee or an Independent.

MI-13: In 2018, ex-state Rep. Rashida Tlaib and Detroit City Council President Brenda Jones split the two election contests to replace resigned Rep. John Conyers (D-Detroit) with the former winning the full term and the latter woman taking the special election. Now, the two battle in a re-match Democratic primary to be settled August 4th that doesn't appear close. A new Target Insyght poll (7/20-22; 500 MI-13 likely Democratic primary voters) finds Rep. Tlaib leading Ms. Jones, 52-24%, with the incumbent recording a 70:16% favorability ratio.

NJ-3: The Congressional Leadership PAC just released a new survey of New Jersey's 3rd CD, which could become the closest of the competitive Garden State US House campaigns. According to the CLF's Basswood Research data (7/13-15; 400 NJ-3 likely general election voters), Rep. Andy Kim (D-Bordentown) has only a 45-42% lead over new Republican nominee David Richter, a venture capitalist. This is a race to watch and will become a top national GOP conversion target. In 2018, Mr. Kim unseated then Rep. Tom MacArthur (R), 50-49%.

NY-12: With Messrs. Jamaal Bowman (NY-16) and Mondaire Jones (open NY-17) both being declared winners in their respective campaigns, the former defeating veteran Rep. Eliot Engel (D-Bronx), the only outstanding race is in NYC's 12th District where absentee ballots still have not been fully counted from the June 23rd primary. The margin between Rep. Carolyn Maloney (D-Manhattan) and challenger Suraj Patel is tight, but the veteran Congresswoman has the advantage.

OH-1: Democratic nominee Kate Schroder just released her internal campaign poll from Greenberg Quinlan Rosner Research (6/29-7/2; 605 OH-1 likely general election voters) that finds another competitive contest developing for Cincinnati Congressman Steve Chabot (R).

The ballot test projects the Congressman leading, 50-48%. In 2018, he defeated Hamilton County Clerk of Courts Aftab Pureval, 51-47%. Mr. Chabot was first elected in 1994 but lost the seat in 2008. He regained it in 2010, and subsequently won four more elections. He remains the favorite for 2020, but we will again see an aggressive campaign in this part of southwest Ohio.

PA-1: Last week we covered a Public Opinion Strategies survey (7/11-14; 400 PA-1 registered voters) that posted Rep. Brian Fitzpatrick (R-Levittown) to a 53-39% general election lead and questioned the results. The POS poll was not consistent with either the Victoria Research and Consulting survey (6/7-14; 403 PA-1 likely voters) that found Rep.

Fitzpatrick and Democratic nominee Christina Finello locked in a tied 46-46% race, or even the Republican primary results that saw the Congressman secure only a 63% victory against an opponent who put forth little campaign effort.

The new American Viewpoint poll (7/13-15; 400 PA-1 likely general election voters), however, confirms the POS result. They see Mr. Fitzpatrick holding a very similar 50-35% advantage in this Philadelphia suburban district that Hillary Clinton carried by two percentage points.

TX-21: In what will likely become a national House campaign, Democratic pollster Garin-Hart-Yang Research conducted a survey of Texas' 21st Congressional District, the seat that contains parts of San Antonio, Austin, and the Texas Hill Country, to determine how the race between freshman Rep. Chip Roy (R-Austin) and 2014 Texas gubernatorial nominee Wendy Davis (D) is progressing. With no surprise considering the nature of other current polling around the country, we see a toss-up race. The GHY data finds Rep. Roy holding the slightest of leads, 46-45%, over Ms. Davis.

UT-4: Former NFL pro-football player Burgess Owens is one of the stronger Republican challenger candidates and has a discernible opportunity to defeat an incumbent Democrat. The Congressional Leadership Fund just released a survey (Moore Information Group; 7/8-9; 400 UT-4 likely general election voters) that finds Mr. Owens leading Rep. Ben McAdams (D-Salt Lake City) well beyond the margin of polling error at 43-34%.

VA-2: Republican Scott Taylor was ousted in 2018 after serving one term in the House and returns for a re-match with freshman Rep. Elaine Luria (D-Norfolk). A new Tarrance Group poll (7/14-16; 402 VA-2 likely general election voters) rather surprisingly finds the two candidates tied with 48% apiece, however. This is not far from the 51-49% margin that Rep. Luria posted against Mr. Taylor two years ago but considering the course of the race at this point, the ballot test is unexpectedly good for the latter man.

Fundraising overwhelmingly favors Rep. Luria, \$3.8 million to \$815,000 in the latest disclosure filing ending June 30th, but polling numbers such as these should help to elevate Mr. Taylor.

VA-7: At an in-person district convention, state Delegate Nick Freitas (R-Culpeper) won the 7th District Republican nominating convention in three rounds of voting with 56% of delegate support. Mr. Freitas advances into the general election against freshman Rep. Abigail Spanberger (D-Glen Allen) in what should become a major GOP targeted race in a district that was once solidly Republican. That is, if Mr. Freitas survives a Democratic legal challenge to the state Board of Elections' members granting Freitas ballot access even though he missed the candidate filing deadline.

Governor

North Carolina: A Cardinal Point Analytics survey (713-15; 537 NC likely general election voters), while producing consistent numbers with other pollsters in the presidential and US Senate races, finds Lt. Gov. Dan Forest (R) closing to within three points of Gov. Roy Cooper (D). The latter man has typically been recording double digit leads in other surveys.

In the presidential race, Cardinal finds President Trump holding a one point 49-48% edge in a state that he must win, and Democrat Cal Cunningham leading Sen. Thom Tillis (R), 47-44%. Both of these numbers are well within the ranges that other pollsters are reporting. Yet, in the Governor's race, Mr. Cooper's advantage is only 49-46% as compared to the average 10.5 percentage point lead he has in six other surveys conducted since the beginning of June.

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