CALENDAR:

The House and Senate are both in recess. The House will return the week of August 23, and will be in session for several days that week, and then will return to its previously-scheduled August recess, scheduled through September 20. The Senate will return on September 13.

LAST WEEK IN THE SENATE:

The Senate worked through the weekend last weekend, too, making it two weekends in a row for a body that usually considers itself tuckered out from a Monday evening-through-Thursday early afternoon schedule.

On Sunday, the Senate voted to adopt the Sinema-Portman amendment to H.R. 3684 by a vote of 68-29. Then the Senate voted to invoke cloture on the bill as amended, setting up a vote on final passage for the early morning hours of Tuesday.

Before that vote occurred, an agreement was reached to allow that vote to take place later on Tuesday morning. When the time came, the vote was 69-30, with 19 Republicans voting with all 50 Democrats.

Majority Leader Schumer then, as he had promised, brought up a Motion To Proceed to consideration of S. Con. Res. 14, the budget resolution that would unlock the door to the Democrats’ plan to spend $3.5 trillion on so-called “human infrastructure.” That motion passed by a vote of 50-49.

Under an agreement that had been worked out previously, both sides yielded back their 25 hours of debate time on the budget resolution, and the Senate moved immediately into its third Vote-a-Rama of the year. For the next fifteen hours, Senators offered 40 non-binding amendments to the resolution.

On Wednesday morning, at 3:51 AM, the Senate proceeded to a vote on the budget resolution as amended. The resolution carried, by a vote of 50-49.
Then, Majority Leader Schumer brought up a motion to discharge S. 1, the Corrupt Politicians Act, from the Committee on Rules and Administration. Remember, that bill had never been passed by the committee because it was stuck in committee on a tie vote. The only way for the Senate to deal with it was to employ a motion to discharge the bill from the committee, which requires a vote of the full Senate. So Schumer brought up the motion to discharge, and it passed, by a vote of 50-49.

And one final note – thanks to Sens. Ted Cruz and Mike Lee, who were the only Republicans left in the chamber when Majority Leader Schumer tried to pull a fast one. As almost everyone had left the chamber in the middle of the night after a long day of voting, Schumer, hoping to catch the Republicans napping called for passage of S. 1 by unanimous consent. Cruz immediately objected, and shut down the maneuver.

Then, just for good measure, Cruz also objected to unanimous consent to confirm a whole bunch of Biden foreign policy nominees, on the grounds that he wanted a full debate on the Biden Administration’s failures regarding the Nord Stream 2 pipeline between Russia and Germany.

And then they were done.

THE EVICTION MORATORIUM:

As predicted, the CDC’s new 60-day eviction moratorium was challenged in court by two state chapters of the National Association of Realtors.

On Friday, federal district judge Dabney Friedrich, a Trump appointee, let stand the new eviction moratorium, despite her belief that the CDC lacked the authority to issue the moratorium. She said it had to stay in effect because it was so similar to the eviction moratorium that the U.S. Circuit of Appeals for the D.C. Circuit had ruled could remain in force while it was being challenged in the courts, and because the Supreme Court had not struck it down.

“These intervening decisions call into question the D.C. Circuit’s conclusion that the CDC is likely to succeed on the merits,” she wrote. “For that reason, absent the D.C. Circuit’s judgment, this Court would vacate the stay. But the Court’s hands are tied.”

Judge Friedrich’s ruling was immediately appealed. On Saturday, the plaintiffs asked the D.C. Circuit of Appeals for “immediate” action to prevent enforcement of the eviction ban. Lawyers for the plaintiffs said that DOJ attorneys defending the eviction ban had agreed to a schedule that would call for filing of briefs by Wednesday and a ruling from the Court of Appeals by Thursday. A panel of judges from the Circuit Court of Appeals agreed to the schedule, but did not agree to issue a ruling by Thursday, and they did not agree to the Realtors’ demand for immediate relief.
INFRASTRUCTURE/BUDGET RESOLUTION:

The Senate finally passed the infrastructure package on Tuesday morning, and the budget resolution on Wednesday morning, and the House Democrat leadership followed that news with an announcement that the House would return from its August recess during the week of August 23 to take up the budget resolution and voting rights legislation.

Democrat leaders in both House and Senate have a tough job ahead of them. Keep in mind, the Senate is split 50-50, so the defection of even one Democrat there is a catastrophic event; in the House, Speaker Pelosi can afford to lose just three Democrat votes.

In other words, just about any Democrat in either the House or Senate can gum up the works.

Weeks ago, Speaker Pelosi and Leader Schumer tipped their hat to the power of the progressives in each of their caucuses by declaring that the $3.5 trillion budget reconciliation bill would be passed before the infrastructure bill was signed into law. That’s because progressives had made clear they were scared that moderate Democrats would vote for the smaller infrastructure package, but not vote for the larger reconciliation package, where most of the progressives’ policy demands reside.

Moderates were unhappy, but what could they do? Not much. Until Friday, that is, when nine of them sent a letter to Speaker Pelosi declaring that they would not vote for the budget resolution until they had first voted through the infrastructure bill that the Senate had just sent them.

Of course, the progressives were infuriated. Voting for the infrastructure bill first would be a reversal of Pelosi’s promise, and would create a situation wherein the moderates got what they wanted – a small-bore infrastructure bill – while giving them the opportunity to vote later against the much larger, more liberal reconciliation bill.

Speaker Pelosi appeared to be caught between a rock and a hard place. If she tried to appease the moderates, she would lose support among the progressives. The moderates say that’s okay, they’ll make up whatever votes go missing from Democrats with votes from Republicans who want to be seen as being able to work in a bipartisan fashion. And the progressives could very well have decided to take the opportunity to show the moderates just who really was running the House Democratic Caucus, by voting against the infrastructure bill, thereby defeating the moderates’ wish. If, on the other hand, Pelosi said no to the moderates in order to keep the progressives happy, she might lose nine votes on the budget resolution, and then the progressives would be stymied.

Speaker Pelosi did not get to be Speaker by being stupid. She may be far too liberal for anyone on this call, but she is not stupid. So she thought about it and on Sunday sent a Dear Colleague letter to House Democrats, informing her Democrat allies that she “requested that the Rules Committee explore the possibility of a rule that advances both the budget resolution and the bipartisan infrastructure package.”
Voting to adopt such a Rule would not be the same as voting to pass either measure. A Rule merely sets the terms for the floor debate on the resolution, or resolutions, in question. But it would possibly be one way of showing both sides that they were linked at the hip.

The moderates she was targeting with this maneuver did not buy it. They released a statement that said this: “While we appreciate the forward procedural movement on the bipartisan infrastructure agreement, our view remains consistent: We should vote first on the Bipartisan Infrastructure Framework without delay and then move to immediate consideration of the budget resolution. As the President echoed after the infrastructure bill passed the Senate, we must get shovels in the ground and people to work. This once-in-a-century bipartisan infrastructure legislation will fix our roads, bridges, rails and tunnels; it will invest in broadband connectivity and green energy and address climate change. It will help create two million jobs a year and has the support of the AFL-CIO and the Chamber of Commerce – not to mention Democrats and Republicans in Congress and across the country. We simply can’t afford any delays. As Democrats, we remain committed to working with our colleagues to advance the President’s agenda, including getting this bill to the President’s desk.”

As Punchbowl News put it, “In other words, give us a vote on infrastructure first – period, thank you very much.”

The House returns one week from today. Speaker Pelosi has until then to figure out her next move.

**MASKING KIDS:**

President Biden said Tuesday that he is “checking” to see if he has the authority to overrule governors and local officials in the 50 states to order universal masking in public schools. “I don’t believe that I do [have that power] thus far,” he told reporters at the White House. “We’re checking that.”

That sounds remarkably and suspiciously like the same locution he used two weeks ago, when he said he did not believe he had the authority to order an extension of the CDC-issued eviction moratorium – less than 24 hours before the CDC issued a new eviction moratorium.

**CUOMO RESIGNS:**

Soon-to-be-former New York Governor Andrew Cuomo announced early last week that he would step down in the wake of a devastating report from the state’s attorney general asserting that he had sexually harassed at least eleven women.

On Friday, Speaker Carl Heastie of the New York Assembly declared that the New York Assembly would no longer pursue its impeachment inquiry against the governor. Some legislators had urged even after Cuomo’s announcement that the Assembly should continue its impeachment efforts, to ensure that Cuomo could never again hold state office in the Empire State.
Heastie said attorneys had advised the Assembly’s judiciary committee that the state constitution does not allow for an impeachment of a former elected official no longer in office.

There are ongoing county-level criminal investigations of the sexual harassment allegations. The state attorney general’s office is still investigating potential misuse of government resources in the writing of a book on the governor’s experiences with the coronavirus pandemic that paid him $5 million, and federal prosecutors are investigating his administration’s handling of information regarding deaths at nursing homes.

**DEBT LIMIT:**

As noted above, Senate Democrats introduced their budget resolution without a provision to raise the debt limit, and continued the game of chicken launched earlier. Republican Leader McConnell reiterated his determination not to provide any GOP votes for a measure to raise or suspend the debt limit. On Tuesday, Wisconsin Republican Sen. Ron Johnson, determined to show the world that McConnell was accurately reflecting the will of the Senate GOP Conference, circulated a letter on the floor of the Senate during the budget resolution Vote-a-Rama and got 46 of his colleagues to sign it. The letter said, “We should not default on our debts under any circumstances. If Democrats threaten a default, it will only be because they refused to vote for the debt ceiling increase necessitated by their own irresponsible spending.”

President Biden, asked about the likelihood of a credit crisis if neither side blinked, said, “Nope, they’re not going to let us default. $8 trillion of that is on the Republicans’ watch.”

Here’s my concern: We may be watching the set up for a scheme to entice Democrat Sens. Joe Manchin of WV and Kyrsten Sinema of AZ to cave on their support for the filibuster and agree to join with their Democrat colleagues in invoking the nuclear option.

Here’s how that would work: We come back from the August recess in mid-September, with two weeks to go before the government runs out of money. Democrats take their Continuing Resolution and add a provision suspending the debt limit for, say, two years. Republicans refuse to vote for it, and it cannot break a filibuster. As the clock winds down, and the September 30 funding deadline approaches, Majority Leader Schumer goes to Manchin and Sinema and says, “This is no longer an argument about some arcane Senate rule. This is the full faith and credit of the U.S. Government on the line now. Republicans are so determined to make trouble for us that they’re willing to do something that’s never been done before – they’re willing to let us default on our debt payments. The only option we have at this point is to invoke the nuclear option and eliminate the filibuster, so we can move this vital legislation with 51 votes.”

Keep your eye on this one.

**IMMIGRATION:**

The July numbers are out, and they’re a doozy – the federal government says it made 212,672 apprehensions of people illegally trying to cross the southern border last month. That’s a 13 percent increase from one month ago, and the highest number in 21 years. Trying to put the
best face possible on those numbers, DHS Secretary Alejandro Mayorkas stressed that the number does not represent the number of individual illegal immigrants who were captured crossing the border unlawfully; apparently, at least some of them were caught at least twice in the same month.

On Thursday, according to a leaked audio tape that was reported by FOX News, Secretary Mayorkas met with Border Patrol agents in Texas said that the border crisis is “unsustainable” and “we’re going to lose” if “borders are the first line of defense.”

“A couple of days ago I was down in Mexico, and I said look, you know, if our borders are the first line of defense, we’re going to lose and this is unsustainable,” he said. “We can’t continue like this, our people in the field can’t continue and our system isn’t built for it.”

On Friday, federal district judge Matthew J. Kacsmaryk ordered the Department of Homeland Security to relaunch former President Trump’s so-called “Remain in Mexico” policy, ruling that the Biden Administration had rushed to overturn the Trump policy without properly considering the merits of the policy. “Defendants are ordered to enforce and implement MPP [Migrant Protection Protocols] in good faith until such time as it has been as it has been lawfully rescinded in compliance with the [Administrative Procedures Act] and until such a time as the federal government has sufficient detention capacity to detain all aliens subject to mandatory detention,” he wrote.

Texas Attorney General Ken Paxton and Missouri Attorney General Eric Schmitt brought the lawsuit.

JENNY BETH MARTIN/TEA PARTY PATRIOTS:

WT: Jenny Beth Martin: Masking School Children Is Abuse

WE: Bill Pascoe: The CDC’s Eviction Moratorium Puts Us on the Path to Marxism

EVICTION MORATORIUM:

WSJ: Eviction Moratorium Left in Place by Judge Despite Legal Doubts

Hill: Federal Judge Rejects Effort To Block Eviction Moratorium

Politico: Biden’s New Eviction Ban Survives Initial Court Challenge

Politico: Appeals Court Asked To Block Biden's Retooled Eviction Ban
INFRAS TRUCTURE:

AP News: Senators Struggle To Amend, Finish $1T Infrastructure Bill

Hill: It's Now Pelosi's Move On Bipartisan Roads Bill

Daily Signal: 6 Troubling Leftist Wins In $1.1 Trillion Infrastructure Bill

Politico: The Power Of 10: Inside The 'Unlikely Partnership' That Sealed An Infrastructure Bipartisan Partnership

WaPo: Senate Moves Toward Passing Infrastructure Bill

WSJ: Former Enron Adviser Praises 'Accounting Gimmicks'

Hill: Moderates Revolt on Infrastructure in New Challenge for Pelosi

Politico: 9 Dems Threaten Mutiny over Pelosi's Budget Plan

RC: Pelosi Offers To 'Advance' Budget and Infrastructure Measures Together

BUDGET RESOLUTION:

WT: Manchin, Sinema Prepare To Exert Influence On $3.5T Spending Bill

Flip: Here Are 5 Hurdles That Democrats Face Now For Their $3.5 Trillion Budget

CNN: House Moderate Democrats Threaten Pelosi’s Strategy And Demand Vote On Infrastructure Bill

Letter To Pelosi

WaPo: Bernie Sanders Passes Legacy Defining Budget

Politico: House Dem Moderates Lay Out Battle Lines As Pelosi Stands Firm

WaPo: Democratic Divisions Emerge After Senate Adopts $3.5 Trillion Budget

Hill: Manchin Sends Warning Shot Over 'Serious Concerns' About $3.5 Spending Plan

Politico: GOP Prays Sinema And Manchin Pare Back Dem's Big Spending Bill

Politico: Senate Adopts Budget That Paves Way For $3.5T Spending Plan

NYT: Senate Passes $3.5 Trillion Budget Plan, Advancing Sweeping Safety Net Expansion

Hill: House To Cut Recess Short, Take Up Democratic Budget Plan
Hill: Democrats Take First Step Toward $3.5T Spending Plan

NJ: Dems Look To Avoid 'Byrd Bath' On Reconciliation

NYT: Senate Democrats Begin $3.5 Trillion Push For 'Big, Bold' Social Change

Hill: Budget Package Includes Plan For Pathway To Citizenship, Green Cards For Millions

Politico: Dems Reveal $3.5T Budget That Sidesteps Debt Ceiling

MASKING KIDS:

NYP: Biden Looking At Ordering Universal Masking For School Kids

Fox News: Rashida Tlaib Spotted Dancing Maskless At Large Indoor Gathering In CDC Orange Zone

WaPo: Ted Cruz Calls For 'Zero' Covid Mandates, While Rand Paul Urges Defiance Amid Delta Surge

WSJ: The Case Against Masks For Children

Fox News: Fauci Says 'Hopefully' Making Young Kids Wear Masks Won't Have A 'Lasting Negative Impact'

CUOMO RESIGNS:

NYT: Cuomo Resigns Amid Scandals, Ending Decade-Long Run In Disgrace

AP News: NY Legislature Won't Try To Impeach Cuomo After He Quits

REDISTRICTING:

NYT: Let the Gerrymandering (and the Legal Battles) Begin

Politico: Redistricting Sprint Begins with Major Census Data Drop

NBC: Congress Is About To Get a Shake-Up. Here's What's Coming with New Census Data.

Hill: Census Shows US Growth Driven by Minorities; White Pop Falls Under 60 Percent

Hill: Five Takeaways from a Groundbreaking Census Report

AP News: Census Data Sets Up redistricting Fight Over Growing Suburbs
THE CORRUPT POLITICIANS ACT:

Flipboard: Ted Cruz Blocks 4 a.m. Attempt To Pass Democrat's Voting Rights Package

Hill: Schumer Sets September Voting Rights Fight After GOP Blocks Quick Debate

Politico: Dems Plot Last-Ditch Voting Rights Push As Midterm Clock Ticks

Politico: Senate Dems Plot New Paths On Voting Reform, Sidestepping Filibuster

DEBT LIMIT:

WSJ: Most GOP Senators Sign Pledge To Not Help Democrats On Debt Ceiling

Politico: Dems Double-Dare McConnell On Debt

Hill: Democrats Gamble On GOP Caving In Debt Ceiling Fight

BI: Biden Dismisses GOP Threats To Not Cooperate with Democrats on Lifting Debt Ceiling: 'Nope, They're Not Going To Let Us Default'

CBO On Debt Limit

IMMIGRATION:

WT: Judge orders DHS To Restart Trump's 'Remain in Mexico' Policy

FOX: Mayorkas Says Border Crisis 'Unsustainable' and 'We're Going To Lose' in Leaked Audio

MISCELLANEOUS:

CNN: Inflation Wiped Out America's Pay Raises

Hill: Progressives Turn Up Heat On Biden Over Student Loans

NYT: Abbott Sets Up New Voting Showdown With Absentee Texas Democrats

WE: DHS Dropped 40,000 Covid-19 Positive Migrants In US Cities: Ex-Border Chief