CALENDAR:

The House and Senate are both in recess for the Independence Day break, and will not return for two weeks.

LAST WEEK IN THE HOUSE:

The House came back on Tuesday and voted to pass a bill under Suspension of the Rules.

On Wednesday, the House took up and passed the Rule governing floor consideration of H.R. 4176, the LGBTQI+ Data Inclusion Act; H.R. 5585, the Advanced Research Projects Agency-Health Act; and H.R. 7666, Restoring Hope for Mental Health and Well-Being Act of 2022. Then the House began considering amendments to H.R. 7666, the Restoring Hope for Mental Health and Well-Being Act of 2022. After considering – and adopting – five amendments, the House voted to pass the bill as amended, by a vote of 402-20. Then the House took up H.R. 5585, the Advanced Research Projects Agency-Health Act, and considered – and adopted – an amendment to it. Then the House voted to pass the bill as amended, by a vote of 336-85. Then the House passed a bill under Suspension of the Rules.

On Thursday, the House took up and passed three bills under Suspension of the Rules. Then the House took up and passed H.R. 4176, the LGBTQI+ Data Inclusion Act, by a vote of 220-201.

On Friday, the House took up and passed the Murphy-Cornyn gun control bill. The bill passed by a vote of 234-193, with 14 Republicans voting with all the Democrats to pass the bill.

And then they were done.

LAST WEEK IN THE SENATE:

The Senate came back on Tuesday and voted to confirm the nomination of Ana Isabel do Alba to be a U.S. District Judge for the Eastern District of California. Then the Senate voted to agree to the Motion To Proceed to S. 2938, the House-passed bill that became the vehicle for the so-
called “Bipartisan Safer Communities Act,” also known as the Murphy-Cornyn gun control bill. That vote was 64-34, with 14 Republicans voting with all 50 Democrats to agree to the motion.

On Wednesday, the Senate voted to discharge from the Judiciary Committee the nomination of Arianna J. Freeman to be a U.S. Circuit Judge on the Third Circuit Court of Appeals. Then the Senate voted to confirm the nomination of Mary T. Boyle to be a Commissioner of the Consumer Product Safety Commission, and to discharge from the Judiciary Committee the nomination of Herman D. Vera to be a U.S. District Judge for the Central District of California.

On Thursday, the Senate voted to discharge from the Judiciary Committee the nomination of Jessica G.L. Clarke to be a U.S. District Judge for the Southern District of New York. Then the Senate voted to invoke cloture on the Motion to Concur in the House amendment to S. 2938, the vehicle for the so-called “Bipartisan Safer Communities Act.” That vote was 65-34, with 15 Republicans voting with all 50 Democrats. Then the Senate considered a Motion To Table the amendment. That motion failed by a vote of 39-58. Then the Senate voted on the amendment – that is, the Murphy-Cornyn gun control bill – and it passed, by a vote of 65-33.

And then they were done.

**GUN CONTROL:**

On Tuesday, Sens. Murphy and Cornyn – who had been deputized by their respective party leaders to negotiate a deal on gun control – released the legislative text of the deal they said they had reached the previous week.

The bill includes extended background checks for gun purchasers under the age of 21; $750 million in funds to incentivize states to adopt their own red flag laws and other crisis intervention programs; toughens laws against arms trafficking and straw purchases; and closes the so-called “boyfriend loophole.”

The NRA and the House Freedom Caucus both announced their opposition to the bill within an hour of the release of the legislative text. Explained the NRA, “This legislation can be abused to restrict lawful gun purchases, infringe upon the rights of law-abiding Americans, and use federal dollars to fund gun control measures being adopted by state and local politicians. This bill leaves too much discretion in the hands of government officials and also contains undefined and overbroad provisions – inviting interference with our constitutional freedoms.

TPPA also released a statement opposing the bill. Said Jenny Beth, “When House Minority Whip Steve Scalise was asked if he supports ‘red flag flaws,’ he said they ‘happen to be unconstitutional.’ If that’s good enough for Scalise – who was shot by a deranged gunman five years ago – that should be good enough for the rest of us. ‘Red flag laws’ are unconstitutional and impractical. Connecticut was the first state to implement a ‘Red flag law’ in 1999 but it didn’t stop the Newtown shooting in 2012. Furthermore, 18-20 year olds should be able to fully exercise their constitutional rights, and it’s appalling that fourteen Senate Republicans voted to gut those rights. What part of ‘shall not be infringed’ do they not understand? If Senate
Republicans can’t hold the line now, how can we expect them to hold the line if they win the majority in November?”

By Tuesday evening, the Senate was voting on a motion to proceed to the House-passed bill that became the vehicle for the legislative text. By using a bill that had already passed the House, it became a “message from the House,” and that meant one fewer cloture motion was needed to get onto the bill.

On the initial vote, to get on the bill, 14 Republicans crossed party lines to vote with all 50 Democrats to get on the bill. They were: Roy Blunt of MO, Richard Burr of NC, Shelley Moore Capito of WV, Bill Cassidy of LA, Susan Collins of ME, John Cornyn of TX, Joni Ernst of IA, Lindsey Graham of SC, Mitch McConnell of KY, Lisa Murkowski of AK, Rob Portman of OH, Mitt Romney of UT, Thom Tillis of NC, and Todd Young of IN.

On final passage, when the bill came to the Senate floor on Thursday evening, it was the same 14 Republicans plus one more who had missed the first opportunity – Pat Toomey of PA.

Then the bill came to the House floor on Friday morning. Not surprisingly, there were 14 Republicans who voted with all 220 Democrats. They were: Steve Chabot of OH, Liz Cheney of WY, Mike Fitzpatrick of PA, Anthony Gonzalez of TX, Tony Gonzalez of OH, Chris Jacobs of NY, Dave Joyce of OH, John Katko of NY, Adam Kinzinger of IL, Peter Meijer of MI, Tom Rice of SC, Maria Elvira Salazar of FL, Michael Turner of OH, and Fred Upton of MI.

Despite passing the Senate on Thursday and the House on Friday, the bill was signed into law on Saturday morning, rather than Friday afternoon. Somebody at the White House finally showed some competence – they knew Friday morning that no matter what the White House did Friday afternoon, the headlines in Saturday’s newspapers were going to be about the Supreme Court decision that was released on Friday morning. So rather than try to compete – and fail – the White House comms team decided instead to have President Biden sign the bill Saturday morning.

But the news on the Second Amendment front was not ALL bad last week. On Thursday, the Supreme Court issued its ruling in the case of New York State Rifle & Pistol Association v. Bruen, in which the New York state affiliate of the National Rifle Association challenged a century-old New York state law that required New Yorkers who want to carry a handgun in public to prove that they had a special need to do so. In a 6-3 decision authored by Justice Clarence Thomas, the majority declared that the Second Amendment guarantee of the right “to keep and bear arms” protects a broad right to carry a handgun outside the home for purposes of self-defense. Five other states – California, Hawaii, Maryland, Massachusetts, and New Jersey – impose similar restrictions.

Thomas noted in his ruling that the wording of the Second Amendment does not distinguish between gun rights in the home and gun rights outside the home, in public places. Further, he wrote, there is “no other constitutional right that an individual may exercise only after demonstrating to government officers some special need.”
THE DOBBS RULING:

Leaks don’t always work the way the leaker thinks and hopes they will. That’s one of the lessons we draw from the leak of the draft ruling in the case of Dobbs v. Jackson Women’s Health Organization. The leaker was clearly hoping to put so much public pressure on one of the conservative justices that he or she would peel off the majority holding, and that just didn’t happen. In fact, the leak may have actually worked to the opposite effect, and hardened the majority.

A second lesson we draw from last week is that there is one law that you cannot repeal, and that is the Law of Unintended Consequences. You may recall that when Senate Democrats had the majority in 2013, and Barack Obama had just been reelected to a second term as president, then-Senate Majority Leader Harry Reid decided to eliminate the filibuster for lower ranking judicial nominees. Republicans warned him he would not like the consequences if he went through with his plan to overturn decades of Senate precedent, but he ignored their warnings. It was because of his decision to eliminate the filibuster for lower ranking judicial nominees that Mitch McConnell was able to eliminate the filibuster for the highest-ranking judicial nominees, Supreme Court justices. And it’s because of that maneuver in early 2017 that President Trump was able to nominate, and McConnell was able to confirm, the three pro-life justices who just righted a half-century-old wrong.

On Friday morning, the Supreme Court issued its ruling in the case of Dobbs v. Jackson Women’s Health Organization. At issue was a Mississippi law which bans abortion after 15 weeks. According to one of the justices, the Court made two crucial decisions here: First, by a vote of 6-3, the Court upheld the Mississippi law at issue. Then, by a vote of 5-4, the majority of the Court overruled the 49-year-old ruling in Roe v. Wade that struck down state-level prohibitions on abortion. If you guessed that Chief Justice John Roberts was the justice who voted with five colleagues to uphold the Mississippi law and then voted with three colleagues against overturning the Roe decision, you would be right.

At least, that’s what he wants you to believe. The fact of the matter is, his so-called “concurring opinion,” necessitated by his desire to hew to the Constitution on the one hand, but not to be seen as throwing in with what he can only view as “extremists” on the other, is garbage. When he voted to uphold the Mississippi law – that is, the issue at law in this case – he was simultaneously voting to overturn Roe, whether he wants to acknowledge that or not, because you simply cannot support upholding the Mississippi law and still say you support keeping Roe in place. The Mississippi abortion clinic that brought the legal challenge to the Mississippi law was quite right – that Mississippi law violates the standard set by Roe. The two cannot coexist. Either Roe prevails (in which case the Mississippi law must be struck down), or the Mississippi law stands (in which case Roe has been struck down). There is simply no way to square that circle – one leads inevitably to the other. Both litigants in the case recognized this fundamental truth, and included that observation explicitly in their briefs.

“The Constitution does not confer a right to abortion,” wrote Justice Samuel Alito for the majority. “Roe and Casey are overruled; and the authority to regulate abortion is returned to the people and their elected representatives.
“We end this opinion where we began,” Alito continued. “Abortion presents a profound moral question. The Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion. Roe and Casey arrogated that authority. We now overrule those decisions and return that authority to the people and their elected representatives.”

This ruling does not make abortion illegal. That might sound odd, given that it is a ruling that overturns a ruling that made abortion legal, but it is nevertheless accurate. This ruling simply strikes down a ruling that wrongly said that states did not have the legal authority to regulate abortion. So legally it’s as if the Roe ruling had never been issued, and we revert to the status quo ante. And the status quo ante is that we are a nation with a patchwork of laws on abortion, reflecting the different values of the varied cultures and communities that make up America.

In 13 states – Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, and Wyoming – the legislature has already adopted a so-called “trigger ban,” so that abortion will be outlawed within 30 days. In some of these states, that will happen automatically 30 days from the day Roe was struck down; in other states, a state official will have to certify the court’s decision.

In four states – Alabama, Georgia, Iowa, and South Carolina – courts have already blocked or struck down state laws that banned most or all abortions. With no valid Roe ruling in place, those laws may soon take effect.

Then there’s a group of states where uncertainty reigns. Michigan, Pennsylvania, and Wisconsin have Democrat governors who can block pro-life legislation that comes out of their states’ Republican-led legislatures.

Kansas will hold a statewide referendum in August to decide on a constitutional amendment that would remove abortion protections established by the state’s supreme court.

In Arizona and Florida – each of which has already passed a 15-week abortion ban similar to Mississippi’s – GOP-controlled legislatures could move to further restrict abortion.

Alaska, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington have protections for abortion in place.

Democrats and the media, predictably, went nuts.

A common talking point was that now that the GOP had succeeded in stripping women of their right to reproductive freedom, next on the chopping block would be the rights to contraception, homosexual behavior, and same sex marriage. Justice Thomas published a concurring opinion in which he opined that a future court could revisit earlier decisions that relied on the same flawed reasoning that Roe relied on – but, interestingly, he did not say that earlier Supreme Courts had reached the wrong conclusions in those cases, he merely argued that they had used the wrong
reasoning. None of his colleagues chose to join him in his opinion, so it doesn’t appear that the Supreme Court is ready to go down that path, no matter how much the hard left fears it.

Moreover, the Dobbs ruling itself raises this potential concern and then dashes it. Writing of other rights based on the same legal reasoning, the majority ruling declares a crucial distinction: “What sharply distinguishes the abortion right from the rights recognized in the cases on which Roe and Casey rely is something that both those decisions acknowledged: Abortion is different because it destroys what Roe termed ‘potential life’ and what the law challenged in this case calls an ‘unborn human being.’”

In several other places, the ruling says essentially the same thing: For example, “Nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion.”

Some on the left are making the argument that Justices Gorsuch and Kavanaugh lied during their confirmation hearings, falsely promising to recognize the precedent set by Roe and keep it in place. Sens. Susan Collins of Maine and Joe Manchin of West Virginia seem to be very exercised about this, and Sen. Elizabeth Warren of Massachusetts said the Court had “set a torch” to its legitimacy and called for an expansion to the number of justices – court-packing, in other words. Congresswoman Alexandria Ocasio-Cortez is calling for conservative justices to be impeached for lying. Of course, saying you recognize that Roe sets a precedent and deserves the consideration of stare decisis is not at all the same as saying that since it was decided, it must remain in place. If it were, America’s laws would be a very different thing than they are now – as the majority opinion points out in a two-page footnote which cites any number of Supreme Court rulings that were overturned by later Supreme Courts.

“Stare decisis,” write the majority, “the doctrine on which Casey’s controlling opinion was based, does not compel unending adherence to Roe’s abuse of judicial authority. Roe was egregiously wrong from the start. Its reasoning was exceptionally weak, and the decision has had damaging consequences.”

**TEA PARTY PATRIOTS/JENNY BETH MARTIN:**

CNS News: Jenny Beth Martin: Post-Dobbs Is the Time to Save Nine

**GUN CONTROL:**

SCOTUSBlog: In 6-3 Ruling, Court Strikes Down New York’s Concealed-Carry Law

Red State: BREAKING: Text of Senate Gun Bill Released, And Your Rights Are Dangling by A Thread

Hill: Republicans Lash Out Against Senate Gun Bill And Each Other
Politico: House GOP Scorns Bipartisan Senate Guns Deal

Rick Scott Statement on Gun Control

WT: House Republicans Won't Back Gun Bill, Defying Senate GOP

Hill: House Passes Gun Safety Bill, Sending Measure to Biden's Desk

WE: Joe Biden Signs Gun Legislation

THE DOBBS RULING:

WSJ: What's Ahead as Supreme Court Nears Session's End

Politico: Inside the Democratic Strategy Sessions Planning the Post-Roe Campaign

WaPo: These States with Trigger Bans Will Outlaw Abortion as Roe v. Wade Is Overturned

Supreme Court Ruling in Dobbs

Hill: Supreme Court Strikes Down Roe v. Wade

Fox News: Supreme Court Overturns Roe V. Wade in Landmark Opinion

The Blaze: Breaking: Life Wins as Supreme Court Overturns Roe v. Wade

Hill: Supreme Court Overturns Roe v. Wade: What Happens Now?

Hill: Thomas Calls for Overturning Precedents on Contraceptives, LGBTQ Rights

Guttmacher: 26 States Are Certain or Likely to Ban Abortion Without Roe: Here's Which Ones and Why

WT: Attorney General Merrick Garland Warns Against Violence After Supreme Court's Abortion Ruling

NRO: Roe Was Never Law

NYT: Decades Ago, Alito Laid Out Methodical Strategy to Eventually Overrule Roe

NYT: The Man Most Responsible for Ending Roe Worries That It Could Hurt His Party

CNN: Inside Biden's Response to the End of Roe v. Wade

Politico: Abortion Laws by State: Where Abortions Are Illegal After Roe v. Wade Overturned
JANUARY 6 COMMITTEE ACTION:

Politico: Jan. 6 Committee to Highlight Trump's State-Level Pressure to Overturn The 2020 Election

Hill: Jan. 6 Committee Delays Hearing Schedule Until July

MISCELLANEOUS:

NYT: Liz Cheney Encourages Wyoming Democrats to Change Parties to Vote for Her

CNN: Nicholas John Roske: Man Charged with Attempting to Kill Justice Brett Kavanaugh Pleads Not Guilty

WaPo: Biden's Latest Economic Message: A Recession Is Not Definite

WT: Democrats Balk at Biden's Push for Gas Tax Holiday: 'Shortsighted and Inefficient'