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Restoring Congressional Function Through Bipartisan Commissions

A White Paper on the Bipartisan Priority Reform Commission Act (BPRCA)

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I. Executive Summary

For decades, the United States Congress has struggled to enact comprehensive solutions to some of the nation's most pressing and enduring challenges. Legislative gridlock, intensified by political polarization, procedural obstacles, and institutional incentives, has complicated efforts to address immigration reform, Social Security and Medicare sustainability, fiscal stability, healthcare affordability, housing access, federal election systems, and artificial intelligence regulation.

Although disagreement over national priorities is an inherent feature of representative democracy, the existing legislative process often permits disagreement to prevent Congress from reaching a final decision. In the Senate, the routine application of the filibuster to legislation effectively requires 60 votes to end debate on most contested measures. Committee inaction, leadership control of legislative calendars, and competing amendments can create additional obstacles.

The Bipartisan Priority Reform Commission Act (BPRCA) proposes an alternative legislative pathway. Rather than eliminating partisan differences or transferring legislative authority away from Congress, the Act creates a structured, bipartisan process through which Members of Congress and independent experts can develop proposals for consideration under expedited procedures.

The BPRCA establishes five principal mechanisms:

1. Bipartisan, bicameral Reform Commissions combining elected legislators with independent subject-matter experts.

2. Mandatory transparency and public participation, including hearings, public comment, recorded votes, and minority reports.
3. Defined deadlines for Commission deliberations, congressional committee review, and floor consideration.
4. Conditioned expedited procedures permitting qualifying legislation to receive a final vote without being subject to the Senate's ordinary 60-vote cloture threshold.
5. A fallback mechanism allowing legislative proposals that fail to obtain Commission approval to advance upon securing broader bipartisan congressional sponsorship.

The Act's central innovation is to change the point at which bipartisan cooperation becomes essential.

Under ordinary Senate procedures, legislation frequently requires support sufficient to overcome a filibuster near the end of the legislative process. Under the BPRCA, qualifying legislation must instead demonstrate bipartisan participation during Commission deliberations and through congressional sponsorship before receiving expedited consideration.

The legislation does not eliminate the need for bipartisan cooperation. It establishes earlier, defined requirements for that cooperation while preserving each chamber's authority to approve or reject the resulting legislation.

The Act also includes a limited trial period encompassing two successive Congresses, ordinarily approximately four years, allowing Congress to evaluate the process before deciding whether to extend it.

The objective is straightforward: to ensure that serious legislative proposals developed through a bipartisan process can receive a fair hearing and an up-or-down congressional vote.

II. The Problem: Structural Congressional Gridlock

A. The Evolution of Legislative Paralysis

Political disagreement has always been a defining feature of American government. The constitutional system deliberately distributes legislative authority among institutions representing different constituencies and interests.

Historically, Congress has nevertheless demonstrated an ability to enact major reforms through negotiation, compromise, and bipartisan coalitions.

During recent decades, increased ideological polarization and the expansion of procedural obstruction have complicated that process.

The Senate filibuster is particularly consequential. Although the Constitution generally permits ordinary legislation to pass by a simple majority in each chamber, subject to a quorum and any

applicable constitutional requirements, Senate rules ordinarily require three-fifths of all Senators duly chosen and sworn to invoke cloture on most legislation.

Consequently, a proposal supported by a majority of Senators may fail to advance to a final vote.

This distinction between the votes necessary to pass legislation and those necessary to obtain a vote has become an important feature of modern congressional gridlock.

B. Structural Sources of Gridlock

Several institutional characteristics contribute to legislative paralysis.

1. The Senate filibuster

The filibuster historically facilitated extended debate and minority participation. In modern practice, however, its routine use can operate as an effective supermajority requirement, allowing a sufficiently large minority to prevent legislation from reaching a final vote.

2. Leadership control of the legislative agenda

Congressional leadership exercises substantial influence over which legislative proposals receive floor consideration. Even proposals with significant support may never be brought to a vote.

3. Committee gatekeeping

Committees perform essential investigative and deliberative functions. Nevertheless, legislation can remain in committee indefinitely without a definitive decision.

4. Amendment procedures

Amendments are fundamental to legislative deliberation, but unrestricted or strategically deployed amendments can complicate negotiations and undermine carefully developed agreements.

5. Fragmented jurisdiction

Major national problems frequently involve multiple congressional committees and overlapping policy areas. This fragmentation can complicate comprehensive legislation and increase the number of procedural obstacles.

These mechanisms serve legitimate institutional purposes. The difficulty arises when their cumulative effect prevents Congress from resolving questions that elected representatives are prepared to decide.

C. The Consequences of Inaction

Persistent legislative gridlock can impose substantial costs.

Economic consequences include uncertainty surrounding federal fiscal policy, entitlement funding, regulatory requirements, and long-term investment decisions.

Social consequences arise when unresolved questions concerning healthcare, immigration, housing, and other national priorities continue to affect American households and communities.

Institutional consequences include public frustration, reduced confidence in Congress, and the perception that legislative institutions cannot effectively address major national challenges.

The challenge is not simply to encourage elected representatives to cooperate. It is to establish procedures that make meaningful cooperation more productive while preserving democratic accountability.

III. The Imperative for Institutional Reform

Successful congressional reform should satisfy several principles.

First, it must make legislative action possible without creating a mechanism for unilateral partisan control.

Second, it must preserve meaningful minority participation and opportunities for public scrutiny.

Third, it must establish predictable procedures that prevent legislative proposals from being indefinitely delayed.

Fourth, it must encourage bipartisan cooperation early enough to influence substantive policy development rather than requiring negotiations only after positions have hardened.

Finally, it must preserve the constitutional responsibility of elected representatives to enact federal law.

The BPRCA is designed around these principles.

It does not create an alternative legislature. Its Commissions recommend legislation; only Congress can enact it.

Nor does it abolish ordinary congressional procedures. It creates a separate, limited pathway available only to proposals that meet specified substantive, procedural, and bipartisan participation requirements.

IV. The BPRCA Framework

The Act establishes an integrated process consisting of priority selection, bipartisan Commission development, public participation, expedited congressional consideration, fallback procedures, and independent administrative oversight.

A. Selection of National Priority Issues

At the beginning of each two-year Congress, the House and Senate may jointly designate one or two national Priority Issues for Commission consideration.

The Act identifies eight eligible subjects:

1. Comprehensive immigration reform.
2. Social Security funding reform.
3. Medicare and Medicaid funding reform.
4. Health insurance policy and regulation.
5. Housing policy and regulation.
6. Structural budget deficits.
7. Federal primary and general election reform.
8. Artificial intelligence regulation.

Selection ordinarily occurs through a concurrent resolution agreed to by both chambers within 60 calendar days after Congress convenes.

To prevent the selection process itself from becoming subject to indefinite delay, the Act establishes privileged procedures, limited debate, and restrictions on amendments.

If Congress fails to agree on a resolution within the prescribed period, the first previously undesignated issue on the statutory list is automatically selected.

This automatic designation mechanism ensures that failure to agree on an issue does not prevent the Commission process from beginning.

The chambers remain free to select different priorities through the prescribed congressional procedures.

B. Commission Membership and Bipartisan Safeguards

Each selected Priority Issue is assigned to a 16-member Reform Commission.

The Commission consists of:

- Eight Members of Congress: four Representatives and four Senators, with two members of each major party from each chamber.
- Eight non-legislative experts, appointed by the Oversight Board, with no more than four affiliated with the same political party.

Congressional leaders appoint their respective legislative members. The Oversight Board appoints the experts after publicly soliciting recommendations from both parties.

The Act includes appointment deadlines and a limited backstop permitting the Comptroller General to fill certain vacant expert positions if the Board fails to act.

Congressional membership positions, however, remain under the appointment authority of the appropriate congressional leadership.

Commission approval requires at least nine affirmative votes from the full 16-member Commission, including at least two affirmative votes from Legislative Members of each party.

Vacancies, abstentions, and recusals do not reduce these requirements.

This dual requirement combines majority Commission support with affirmative bipartisan participation by elected representatives.

Neither party's Legislative Members can independently satisfy the bipartisan approval requirement.

The inclusion of outside experts is intended to introduce specialized knowledge, empirical analysis, and longer-term policy considerations into deliberations that otherwise may be dominated by immediate political pressures.

C. Public Hearings and Commission Deliberations

The BPRCA requires Commission deliberations to be public, structured, and documented.

Each Commission must conduct at least three public hearings within six months after its first meeting.

It must also provide at least 60 calendar days for public comment before approving an Implementing Bill.

Proposed legislation must be publicly available sufficiently in advance of final approval to allow meaningful consideration of public submissions.

The Commission must submit its report within ten months after its first meeting.

The report includes findings, public comments, legislative proposals, recorded votes, and minority views.

Proposals that fail to obtain approval must also be disclosed, together with the relevant voting record.

These requirements are intended to make the process understandable and accountable to the public, even when a Commission cannot reach agreement.

D. Congressional Amendments

Before its final vote, each Commission must open a ten-calendar-day Amendment Window.

During that period, any Member of Congress may submit proposed amendments consistent with the Commission's findings.

Each proposed amendment and its disposition must be publicly recorded.

An amendment may become part of an approved Implementing Bill only if it satisfies the same Commission approval requirements applicable to the legislation itself.

Thus, an amendment cannot be incorporated merely through the support of a simple partisan majority.

The Amendment Window occurs before final Commission approval, allowing congressional input while preserving the integrity of the bipartisan proposal.

Following transmission to Congress, only amendments previously approved under the statutory Commission procedures are eligible for floor consideration under the expedited process.

E. Expedited Congressional Procedures

The Act's most consequential innovation is a defined pathway from bipartisan Commission approval to a final congressional vote.

An Implementing Bill approved by a Commission does not automatically receive expedited treatment.

It must first demonstrate additional bipartisan congressional support.

In each chamber, the bill must have at least:

- Five sponsors or cosponsors from the majority party; and
- Two sponsors or cosponsors from the minority party.

These requirements must be satisfied within 15 legislative days after formal transmission to the chamber.

The Clerk of the House and Secretary of the Senate, respectively, certify compliance.

Once certified, the legislation becomes eligible for expedited procedures in the relevant chamber.

Committee consideration

The committees of jurisdiction have 30 calendar days, subject to the Act's adjournment exclusions, to report the legislation.

If a committee does not act within that period, it is automatically discharged.

Floor consideration

Consideration must begin within two legislative days after the relevant committees report or are discharged.

Debate is limited to 20 hours.

Only previously approved amendments are permitted.

Final vote

At the conclusion of debate and disposition of permitted amendments, each chamber proceeds to a recorded vote on passage.

A simple majority of those voting, a quorum being present, is sufficient for passage.

In the Senate, Rule XXII does not apply to consideration under these expedited procedures.

Accordingly, qualifying legislation can reach a final vote without first obtaining the 60 votes ordinarily necessary to invoke cloture on contested legislation.

This does not guarantee passage. It guarantees a decision under the statutory procedures, subject to each chamber's constitutional rulemaking authority.

The President's constitutional role in approving or vetoing legislation remains unchanged.

F. The Fallback Mechanism: Preventing Commission Deadlock

A significant concern with any bipartisan Commission process is that disagreement among Commissioners could prevent legislation from advancing.

The BPRCA addresses this possibility through a separate fallback mechanism.

If a Commission fails to approve an Implementing Bill within ten months, legislative proposals identified in its report, or in an authorized substitute report, may become eligible for expedited consideration as Fallback Bills.

A second pathway addresses prolonged impasse before expiration of the ten-month period.

If a proposed bill remains unapproved for 30 calendar days following an initial recorded vote, the Commission must transmit the proposal, voting record, and minority views to the Oversight Board.

Under the proposed clarification to Section 401(a), the proposal becomes eligible for fallback submission upon that transmission, without awaiting the final Commission report.

Fallback legislation does not receive the same treatment as Commission-approved legislation.

It must secure broader congressional sponsorship:

- House: At least 25 Representatives, including at least two members from each party.

- Senate: At least ten Senators, including at least two members from each party.

The applicable sponsorship requirements must be satisfied and certified before the bill qualifies for expedited consideration in that chamber.

The fallback procedure therefore preserves an opportunity for legislative action while requiring an additional demonstration of congressional support.

It is important to distinguish the two processes.

Commission-approved legislation receives eligibility based on substantive bipartisan Commission approval followed by congressional sponsorship.

Fallback legislation, by contrast, may advance without Commission approval but must demonstrate broader congressional sponsorship.

Both pathways preserve Congress's ultimate authority to accept or reject the proposed legislation.

G. Independent Oversight Board

A five-member Oversight Board provides administrative supervision and transparency.

Four members are appointed individually by the Speaker of the House, House Minority Leader, Senate Majority Leader, and Senate Minority Leader.

The fifth member is appointed by the Comptroller General.

No more than three Board members may be affiliated with the same political party.

Three affirmative votes are required for Board action.

The Board's responsibilities include monitoring Commission deadlines, overseeing the appointment of outside experts, supervising transparency and reporting requirements, and performing specifically assigned administrative functions.

It may arrange hearings when a Commission fails to satisfy statutory hearing requirements, administer an Amendment Window when necessary, and publish reports concerning procedural compliance.

However, the Board's authority is deliberately limited.

It cannot enact legislation, compel either chamber to vote, waive statutory sponsorship requirements, or exercise executive authority.

Its determination concerning fallback eligibility, when the appropriate congressional officer fails to act, is expressly nonbinding.

The Board therefore functions as an independent administrative safeguard, not as a substitute for Congress or its legislative officers.

H. Constitutional Rulemaking Authority

The BPRCA expressly invokes Article I, Section 5, Clause 2 of the United States Constitution, under which each chamber determines its own rules of proceedings.

Section 304 provides that the expedited congressional procedures established by the Act operate as rules of the respective chambers and supersede inconsistent chamber rules to the extent specified.

Equally important, the Act expressly preserves the constitutional authority of either chamber to change its rules.

This safeguard recognizes that one Congress cannot permanently deprive a succeeding Congress of its constitutional rulemaking authority.

The BPRCA therefore establishes a statutory framework for expedited consideration while acknowledging the continuing independence of each chamber.

The result is a mechanism intended to be consistent with Congress's constitutional structure, although its implementation and effectiveness remain subject to the rules and decisions of each chamber.

I. Sunset Provision: A Two-Congress Trial

The Act establishes a limited period during which new Commissions may be created.

Authority to establish new Commissions expires at the conclusion of the Congress immediately succeeding the Congress in which the Act is enacted.

This ordinarily permits the program to operate across two successive Congresses, approximately four years.

Congress may extend that authority through subsequent legislation.

Commissions established before expiration may complete their work under the savings provision.

Similarly, qualifying legislation already submitted before expiration may remain eligible for expedited procedures, subject to the Act's requirements and each chamber's constitutional rulemaking authority.

The sunset provision is intended to provide an opportunity to evaluate whether the process produces useful legislative outcomes before extending it.

V. What the BPRCA Changes—and What It Does Not

A. What It Changes

1. The practical effect of the Senate filibuster

For qualifying legislation, the Act removes the ordinary requirement to obtain cloture under Senate Rule XXII.

This permits final passage by a simple majority rather than requiring a supermajority to end debate.

2. The role of bipartisan cooperation

   The Act requires meaningful bipartisan participation at the Commission stage and demonstrated bipartisan congressional sponsorship before expedited consideration.

   Cooperation is encouraged during legislative development rather than being left primarily to negotiations over final passage.

3. Committee and leadership bottlenecks

   Automatic discharge, privileged consideration, and defined floor procedures reduce opportunities for qualifying proposals to be indefinitely delayed.

4. Transparency and accountability

   Public hearings, recorded votes, minority reports, and disclosure of rejected proposals provide a more complete record of the legislative development process.

5. The consequences of Commission disagreement

   The fallback mechanism provides a potential congressional pathway for proposals that do not achieve Commission approval, subject to heightened sponsorship requirements.

B. What It Does Not Change

1. The Act does not eliminate partisan disagreement or guarantee that bipartisan legislation will emerge.
2. It does not permit a Commission to enact federal law.
3. It does not eliminate congressional committee review, public scrutiny, or the opportunity for elected representatives to vote against legislation.
4. It does not change the President's constitutional role in the legislative process.
5. It does not guarantee that every proposal supported by a simple congressional majority will qualify for expedited consideration.

6. Nor does it permanently alter the rules of either chamber. Congress retains its constitutional authority to modify those rules.

7. The Act's objective is procedural: to create a more predictable route to a congressional decision for legislation that has satisfied specified bipartisan requirements.

VI. Why the BPRCA Could Improve Legislative Outcomes

A. Removing a Late-Stage Procedural Obstacle

Under ordinary Senate procedures, legislation supported by a majority of Senators may nevertheless be blocked from reaching a vote because fewer than 60 Senators support cloture.

For qualifying BPRCA legislation, this procedural obstacle would not apply.

A proposal supported by 51 Senators, for example, could pass the Senate if it satisfied the Act's eligibility requirements, provided a quorum is present and the required simple majority votes in favor.

This distinction between obtaining a vote and obtaining passage is central to the proposed reform.

B. Encouraging Earlier Bipartisan Engagement

The BPRCA requires bipartisan cooperation before legislation reaches the floor.

Commission approval and sponsorship requirements encourage Members to negotiate during development rather than after a bill has become identified exclusively with one party.

By creating defined opportunities for early participation, the Act seeks to make bipartisan agreement a necessary part of the process.

C. Combining Expertise with Democratic Accountability

Complex national problems frequently require technical expertise that extends beyond the ordinary legislative process.

The Commission structure provides a forum for experts and elected representatives to work together.

Experts contribute analysis and recommendations, while congressional members provide political accountability and institutional knowledge.

Congress retains final legislative authority.

D. Reducing Procedural Uncertainty

Defined deadlines reduce the uncertainty associated with indefinite committee consideration or unstructured floor scheduling.

The Commission reporting deadline, sponsorship period, committee discharge provisions, debate limits, and required final votes create a more predictable legislative sequence.

These mechanisms may also improve accountability by making procedural failures more visible.

E. Preserving a Path When Consensus Fails

The fallback mechanism recognizes that even well-structured bipartisan negotiations may fail.

Rather than allowing Commission disagreement to terminate all consideration, the Act permits certain alternative proposals to advance upon demonstrating broader congressional support.

This creates a limited means of moving beyond Commission deadlock without treating an unapproved proposal as though it had secured Commission consensus.

VII. Limitations and Realistic Expectations

The BPRCA is not a cure-all for congressional polarization.

It cannot compel Members of Congress to agree on immigration, healthcare, fiscal policy, or other controversial issues.

A Commission may fail to approve legislation.

An Implementing Bill may fail to obtain the required congressional sponsorship.

A Fallback Bill may fail to attract sufficient bipartisan support.

Even legislation that qualifies for expedited consideration may be rejected by either chamber or fail to become law.

The Act also depends on Congress maintaining the expedited procedures it establishes. Each chamber retains constitutional authority to change its rules, including those governing expedited consideration.

Other practical questions will require attention during implementation, including the selection of qualified experts, administrative resources, the treatment of complex legislation involving multiple committees, and the timing of proceedings approaching the end of a Congress.

The fallback mechanism also creates a deliberate tradeoff. While it reduces the ability of a Commission impasse to halt consideration entirely, fallback legislation may have less substantive bipartisan support than Commission-approved legislation. The higher sponsorship thresholds are intended to address that difference but do not eliminate it.

Finally, the public hearing and reporting requirements impose obligations that may require substantial staff support and coordination.

These limitations should be recognized rather than minimized.

The Act offers a structured opportunity to improve congressional decision-making. Its success would depend on the willingness of Members from both parties to use that opportunity constructively.

VIII. Measuring Success

The proposed two-Congress trial period would allow policymakers to evaluate the BPRCA against observable criteria. Relevant measures would include:

A. Commission participation and performance

Whether Commissions are constituted promptly, meet their deadlines, complete public hearings, and produce substantive legislative recommendations.

B. Bipartisan participation

Whether Commissioners from both parties participate meaningfully in deliberations and whether proposals secure the required cross-party support.

C. Congressional consideration

How many Implementing Bills and Fallback Bills qualify for expedited procedures, reach the floor, and receive recorded votes.

D. Legislative outcomes

How many proposals pass one or both chambers, become law, or contribute to subsequent legislative negotiations.

E. Public transparency

Whether hearings, public comments, rejected amendments, minority reports, and voting records are made publicly available as required.

F. Institutional durability

Whether Congress finds the procedures sufficiently useful to continue, amend, or extend the program after the initial trial period.

These measures would help distinguish procedural effectiveness from substantive policy success.

A Commission might contribute meaningfully to national deliberation even if its recommendations are not enacted. Conversely, a completed vote should not automatically be treated as evidence that a proposal was substantively sound.

The central test is whether the process improves Congress's capacity to deliberate, decide, and remain accountable to the public.

IX. Conclusion

The Bipartisan Priority Reform Commission Act offers a different approach to overcoming congressional gridlock.

Rather than eliminating legislative safeguards or relying exclusively on appeals for greater cooperation, it changes the process through which cooperation is organized and rewarded.

Its principal innovation is to replace a late-stage procedural supermajority obstacle with a series of earlier bipartisan participation requirements and a defined path to congressional consideration.

The Act combines bipartisan representation, independent expertise, public participation, enforceable procedural deadlines within the statutory framework, expedited consideration, and a fallback mechanism for unresolved Commission disagreements.

At the same time, it preserves the authority of Congress to accept or reject legislative proposals, the President's constitutional role, and each chamber's power to determine its own rules.

The proposed two-Congress trial period would give Congress an opportunity to determine whether this approach can improve legislative performance without permanently committing itself to the process.

The BPRCA does not promise agreement on every controversial issue. It offers a mechanism through which elected representatives can attempt to develop bipartisan solutions and, when the statutory requirements are met, bring those solutions to a final decision.

Congress does not need to eliminate political disagreement to function effectively. It needs a process that permits disagreement to be addressed through deliberation, negotiation, and ultimately a vote.

That is the central purpose of the Bipartisan Priority Reform Commission Act.

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