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## How to Repeal Obamacare in the Senate

Posted By [Brian Darling](#) On January 18, 2011 @ 10:30 am In [Health Care](#) | [2 Comments](#)

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This week the House will pass a bill to repeal Obamacare. Congressional experts will argue that the Senate won't pass a full repeal. They are correct to argue that full repeal will not be passed by both the House and Senate in the next few months, but they may be wrong that a full repeal bill will not pass in this Congress within the next two years. If Senators don't take two procedural steps this week, they will make it virtually impossible to ever get a vote on the House-passed full repeal bill this Congress.

The House will pass [H.R. 2](#) <sup>[1]</sup> this week. Once that bill is passed, it will be sent to the Senate for consideration. Once the Senate receives the bill, any Senator can use [Rule 14](#) <sup>[2]</sup> to object to the second reading of the bill. This procedural objection will "hold at the desk" the House-passed bill and allow the Senate to act on the full repeal measure.

If the bill is referred to committee, it will never get to the Senate floor. This procedural objection by one or a number of Senators will stop the bill from being referred to the [Senate Health, Education, Labor and Pensions Committee](#) <sup>[3]</sup> (HELP). If the bill is referred to committee, there is little to no expectation that the committee will pass the bill, let alone have one hearing on the bill.

Objecting to Rule 14 would hold the bill at the desk of the Senate and would put H.R. 2 on the Senate calendar. This procedure could be done with a letter or call from one Senator to the party leader. This would allow the Senate Majority Leader to commence debate on the matter when he so chooses. It is unlikely that Senate Majority Leader Harry Reid (D-NV) would move to proceed to the bill, yet there is a procedure that any Senator can use to force a debate.

Any Senator can use [Rule 22](#) <sup>[4]</sup> to commence debate on H.R. 2 if they have held the bill at the desk. Rule 22, the filibuster rule, states:

Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question: "Is it the sense of the Senate that the debate shall be brought to a close?"

And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

If any Senator can gather 16 signatures on a cloture petition, then they could file that petition with the clerk of the Senate. This would commence a proceeding that would end with a vote requiring 60 votes to shut off debate on a motion to proceed to a full repeal of Obamacare within two days of the filing of the petition. It is expected that Senate liberals would use Rule 22 to filibuster a full repeal of Obamacare. This would put many Senate Democrats in the interesting situation of voicing support for so-called "filibuster reform" while at the same time using the filibuster rule to block an up or down



vote on Obamacare.

Once a bill is held at the desk, they can gather 16 signatures, then wait until the appropriate time to file cloture. They could do so next week or next year. If the courts continue to declare parts of Obamacare unconstitutional and the American people continue to despise this law, then the probability of full repeal may go up over time. At a minimum, Senators have the power to force a vote on full repeal of Obamacare if they have the will to do so.

If the supporters of a full repeal of Obamacare don't use the Senate's rules to force a vote on full repeal, don't take them seriously when they say they are really want to repeal President Obama's de facto government takeover of health care.

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[1] H.R. 2: [http://thomas.loc.gov/cgi-bin/query/z?c112:H.R.2:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.R.2)

[2] Rule 14: <http://rules.senate.gov/public/index.cfm?p=RuleXIV>

[3] Senate Health, Education, Labor and Pensions Committee: <http://help.senate.gov/>

[4] Rule 22: <http://rules.senate.gov/public/index.cfm?p=RuleXXII>

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