

What Should Ben Nelson Do?

Michael Sean Winters | Dec. 18, 2009 NCR Today

Mountains of pressure from all sides are landing on the shoulders of Sen. Ben Nelson, the conservative Democrat from Nebraska who has refused, so far, to sign on to any of the compromises on federal funding of abortion in the health care reform effort. Even the latest effort by Sen. Bob Casey to thread the needle on the difficult issue has met with a non placet from Nelson. What should he do?

Casey should be commended for continuing to try to resolve the issue. The Stupak language that passed the House went further than the Hyde Amendment in one regard: It effectively, although not by statutory language, prevented women using their own money from purchasing abortion coverage in the exchanges the legislation will set up. The actuary for the insurance companies said that the pool of individuals would be too small to warrant two plans, one that covers abortion and one that doesn't so while Stupak does not ban such coverage, Stupak-plus-market realities would. The insistence of some that Stupak is no different from Hyde is too cute by half. That said, Casey's proposal sticks to the "segregated funds" approach, embodied in the current Senate bill, which is also too cute by half. Casey's proposal moves the ball closer to Stupak, and that helps ensure that in Conference Committee the final language will come yet closer to Stupak's ban on the use of federal funds. The Senate's decision to kill the public option, regrettable for other reasons, made the most important part of Stupak, the part that banned abortion coverage from the public option, moot.

Nelson is to be commended for his courage and Casey should be commended for his perseverance. The last thing anyone needs at this point is to break off negotiations, even though I am sure most members of Congress are sorely tempted to stop the talking and move on to a vote. And, Nelson did not have the votes to pass his amendment. Should he filibuster? I think so. Erasing any doubt about federal funding of abortion is more a better reason to filibuster than to kill the public option. But, Harry Reid should insist that if the Senate supports Nelson, the moderates who have opposed the Medicare buy-in or the public option or some other significant progressive reform must give up something valuable too. Reid should be willing to trade support for Nelson's abortion amendment for moderate support of a public option. The danger now is that if the debate drags on much longer, Senate moderates will grow content with the prospect of the bill failing.

I am not Ben Nelson. I would have pushed hard for a strong public option. Hell, I would have supported a single payer system. Then, he would be in a stronger position to dig in on abortion. Still, if we are to commend Casey for trying to resolve the impasse I think we must also commend Nelson for his constancy. If the Democratic majority is more beholden to the pro-choice lobby than they are to passing real health care reform, if they can cave on everything except abortion coverage, then Sen. Nelson is right to stick to his guns. And, Sen. Casey needs to keep everyone talking, but they need to start talking about something other than segregated funds.