

plans through reporting, disclosure and fiduciary requirements. It is a government insurance program which is designed to provide health care protection to workers who were previously unable to afford such protection. In short, the health insurance protection provided by the Hawaii Prepaid Health Care Act is not the type of program which ERISA was designed to regulate or preempt.

Mr. President, the exemption from ERISA's preemption of the Hawaii Prepaid Health Care Act is strongly supported by both the Committee on Labor and Human Resources and Finance Committee, the U.S. Department of Labor, the State of Hawaii, the Hawaii State Federation of Labor AFI-CIO, and Local 142 of the International Longshoremen's & Warehousemen's Union.

As adopted by the Finance Committee, the bill would also authorize a 2-year study by the U.S. Department of Labor to the effect of exemption on the administration of the ERISA program, the improvement in health insurance protection among the employees directly affected by the Hawaii act, and the effect of any subsequent preemption of the Hawaii act by Congress.

Upon completion of the study, the Department of Labor would provide the appropriate committees of the Congress with its findings and further legislative recommendations on the preemption of the Hawaii Prepaid Health Care Act and other State health insurance laws for employees.

Mr. President, section 409 of S. 1076 would provide an important and long overdue clarification of the intent of Congress on the preemption of the Hawaii Prepaid Health Care Act by ERISA. It will provide a reasonable and equitable resolution of the preemption issue. I therefore urge my colleagues to join me in rejecting any amendment to eliminate this provision.

CHURCH PLAN DEFINITION

Mr. TALMADGE. Mr. President, I want to ask a question about the church plan definition. Do I understand that this bill will permit a minister serving outside his denomination to be included in a church plan without affecting its status as a church plan?

Mr. LONG. Yes, as under the original definition of church plan, the plan must be established and maintained for the employees of a church. The term "employee" is defined under the bill to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation. In this context, the words "in the exercise of his ministry" are to be given their plain meaning, and the restrictions placed upon those words in the regulations under such provisions of the Internal Revenue Code as sections 1402 and 3121 are not to be employed. For example, a chaplain in the armed services of the United States or a chaplain in a prison or hospital operated by the United States or a State would be performing services in the exercise of his ministry. A minister who teaches religious studies at a university which is not church related could also be retained in the church plan. An

evangelistic minister who has no employer would also be entitled to coverage.

Mr. TALMADGE. Mr. President, I understand that many church plans are maintained by separately incorporated organizations called pension boards. These boards have historically been considered by church denominations as parts of their church. May I ask whether the bill would enable a church pension board to maintain a church plan?

Mr. LONG. Yes, I concur that a pension board that provides pension or welfare benefits for persons carrying out the work of the church and without whom the church could not function is an integral part of the church and is engaged in the functions of the church, even though separately incorporated. Nevertheless, we believed that the church plan definition should be clarified. The bill recognizes the status of a church plan maintained by a pension board by providing that a plan maintained by an organization, whether separately incorporated or not, the principal purpose of which is the administration or funding of a plan or program for the provision of retirement or welfare benefits for the employees of a church, is a church plan, provided such organization is controlled by or associated with the church.

Mr. INOUE. Mr. President, today we are considering the multiemployer pension plan bill, S. 1076, provisions of which will amend the Employee Retirement Income Security Act of 1974. One of these expressly exempts Hawaii's Prepaid Health Care Act from the current preemption requirements.

Since its enactment in 1974, Hawaii's health insurance law has instituted a model health care delivery system and I appreciate my colleague's efforts to protect the special benefits provided by this Nation's first mandatory, comprehensive, prepaid health insurance legislation.

The Hawaii act was designed to mandate good health coverage for employees and has directly benefited 48,000 non-unionized minimum wage workers. A full-time, as well as a part-time minimum wage earner, is protected by a substantial basic health care benefit package at an annual premium price that will not exceed 1.5 percent of the worker's wages, while employers of the private sector are required to contribute one-half of the premium cost. Today 98 percent of our State's population is covered by prepaid, comprehensive health care, more than any other State in the Nation.

As brought out during hearings on the Hawaii situation, the preemption of State health insurance laws for employees was not an issue during the consideration of the original ERISA legislation. Accordingly, ERISA as constituted does not reflect the success of the Hawaii health care delivery system and further does not establish any substantive standards for health care. The amendment allows the Hawaii Prepaid Health Care Act to be exempt in a manner comparable with workers compensation, disability insurance and unemployment compensation provisions.

Hawaii's health insurance legislation is in accordance with the President's 10

principles for a national health care plan. This act has stimulated growth in the insurance industry of Hawaii and the private sector accepts most of the financial responsibility with very little public supplementation.

The provision we are adopting today also directs a 2-year study to analyze the effect of this exemption on other similar State laws.

SUPPLEMENTAL RETIREMENT INCOME

Mr. LONG. I wish to ask a question about the supplemental retirement income payments provided for under the Multiemployer Pension Plan Amendments Act of 1980. Do I understand that an employer might, for example, provide for the payment of supplemental benefits to retirees based on a formula related to the number of years that such retiree's pension benefits have been in pay status?

Mr. WILLIAMS. Yes; an employer might, for example, provide for the payment of monthly supplemental payments to retirees based on a formula amounting to 3 percent multiplied by the retiree's monthly pension benefit multiplied by the number of years that such retiree's pension benefit has been in pay status. This assumes, of course, that the total increase in any retiree's pension benefits since the date of retirement does not exceed the increase in the cost of living since that date.

Mr. LONG. I understand that the Department of Labor is to prescribe regulations applicable to such supplemental retirement income payments in order to prevent the circumvention of the Employee Retirement Income Security Act of 1974 (ERISA) as it applies to pension plans.

Mr. WILLIAMS. Yes; these regulations are to prevent the treatment of such payments as welfare plans where a principal effect of their use is the evasion of the standards or purposes of ERISA applicable to pension plans. Thus, in formulating such regulations, the Department of Labor is to take into account both the overall percentage of retiree's total retirement benefits represented by such payments and also the extent to which retirees are apprised of any gratuitous nature of such supplemental payments.

Mr. ARMSTRONG. Mr. President, this is an extremely complicated piece of legislation. Every word of this bill is subject to interpretation by the IRS, the courts, the Department of Labor, and by boards of lawyers in the private sector.

On this bill rests the financial future not only of many of America's largest corporations and pension plans, but also of thousands upon thousands of American workers.

And yet there is no committee report. I think it is irresponsible to those persons whose futures depend on this legislation for us to act without such a report.

We almost passed this bill 30 days ago. Were it not for the quick action by some of my colleagues on this side of the aisle who put a hold on this bill, it might well have been passed 30 days ago as reported by the Labor Committee.

Over the objections of the managers