

DESCRIPTION OF S. 690

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A BILL RELATING TO THE RELIEF

OF THE

JEFFERSON COUNTY MEDICAL HEALTH CENTER  
LISTED FOR A HEARING

BY THE

SUBCOMMITTEE ON TAXATION AND  
DEBT MANAGEMENT

OF THE

COMMITTEE ON FINANCE  
ON OCTOBER 14, 1977

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PREPARED FOR THE USE OF THE

COMMITTEE ON FINANCE

BY THE STAFF OF THE

JOINT COMMITTEE ON TAXATION



OCTOBER 12, 1977

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1977

## I. INTRODUCTION

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The bill described in this pamphlet (S. 690) has been scheduled by the Subcommittee on Taxation and Debt Management of the Committee on Finance for a hearing on October 14, 1977. The bill relates to the relief of the Jefferson County Medical Health Center of Lakewood, Colorado, and 103 named employees of the Center.

In connection with this hearing, the staff of the Joint Committee on Taxation has prepared a description of the bill. The description indicates the present law treatment, the facts, the issue involved, an explanation of what the bill would do, the effective date of the bill, and the bill's revenue effect.

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## II. DESCRIPTION OF BILL

S. 690—Senator Haskell (and Senator Hart)

### *Relief of the Jefferson County Mental Health Center, Lakewood, Colorado*

#### *Present law*

Under present law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from taxation. Coverage may be provided retroactively for up to 5 years before the calendar quarter in which the waiver is filed. Employees of the organization at the time the waiver certificate is filed are given the option to participate in the program and, if they decide to do so, must sign a form accompanying the certificate waiving their right of exemption. All employees subsequently hired by the organization are automatically covered under the program. After a waiver certificate has been in effect for 8 years, an organization may terminate it after giving 2 years advance notice.

#### *Facts*

The staff understands the facts to be as follows:

The Jefferson County Mental Health Center, Inc. (Center), an exempt organization described in section 501(c)(3) of the Internal Revenue Code, in 1963 filed a waiver certificate pursuant to section 3121(k)(1)(A) of the Code, by which the Center waived the exemption for payment of social security (FICA) taxes. In accordance with that filing, the Center began deducting the employees' portion of FICA and paid that portion, along with its portion, to the Internal Revenue Service.

As a result of a mistaken response by the Center to a questionnaire circulated by the IRS, the Western Region Service Center of IRS at Ogden, Utah, mistakenly notified the Center by letter dated February 28, 1975, that the Center was not liable for the FICA taxes. As a result of that letter, and follow-up instructions received by telephone from the IRS, the Center contacted those persons whom they were able to locate who had been employed by the Center, (133 in number), during the calendar years 1972 through 1974, and each of those individuals was offered an election as to whether or not they wished to be covered over the prior 3 years (1972 through 1974) and in the future under FICA. One hundred and three of those contacted elected not to be covered by FICA, and to those 103 employees and former employees, the Center paid out \$74,128 from its own funds as refunds covering contributions by and for them to FICA over the 3 years, 1972, 1973 and 1974. Those employees unable to be contacted were treated as though they had elected to be covered. No refunds were made to those employees nor to those who elected to remain covered (a total of 30 in both categories). This action was taken

due to assurances by the IRS that a prompt refund would be made to the Center of the employees' tax and the tax the Center had paid, once refunds had been advanced by the Center out of its own funds to those employees.

After the Center had paid the employees \$74,128, the Western Region Service Center of IRS, on May 14, 1975, notified the Center that the Service had found a valid waiver certificate on file, and that neither the refunds nor the employees' elections should have been made.

Those employees who elected not to be covered by FICA and who remained employees of the Center after January 1, 1975, have been treated by the Center as continuing not to be covered by FICA in accordance with their election made pursuant to the IRS instructions arising out of the February 28, 1975, letter.

The IRS has advised the Center that there is no provision in the law which would authorize administrative relief for the action which the Center has taken in reliance upon the letter from IRS of February 28, 1975.

#### *Issue*

Whether the Center should be treated as not having a valid social security waiver certificate in effect for the Center's 103 named employees for the period from January 1, 1972, through the end of the quarter when the bill is enacted.

#### *Explanation of bill*

The bill would treat the waiver of exemption as not being filed with respect to the 103 named individuals for the period beginning on January 1, 1972, and ending on the last day of the calendar quarter in which the bill is enacted.

Also, the statute of limitations on claims for refund or credit of the FICA taxes would be waived if the Center files a claim within 90 days of the enactment of the bill. The Center's claim must show proof that the employees were repaid their FICA taxes withheld.

The bill also provides that the time period for which the waiver is treated as not filed shall not be taken into account in determining an individual's eligibility for social security benefits.

#### *Effective date*

The bill will be effective upon enactment.

#### *Revenue effect*

This bill will allow a refund of \$148,256 in fiscal year 1978. Net budget receipts will be reduced by that amount.