



**House
Legislative
Analysis
Section**

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FEDERAL BANKHEAD-JONES PAYMENTS

House Bill 5430 (Substitute H-1)
First Analysis (2-27-90)

RECEIVED

Sponsor: Rep. Dave Camp
Committee: Towns and Counties

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THE APPARENT PROBLEM:

In October of 1976, Congress passed Public Law 94-565, commonly referred to as the "Payment in Lieu of Taxes" (or "PILT") act (31 U.S.C. 1601-1607), which provides for payments to local units of government containing certain federal lands. (Federal land is not taxable by state or local governments). PILT payments are intended to supplement, rather than replace, other federal land revenue sharing payments that local governments may be receiving, so usually the PILT payments are in addition to these other federal land revenue sharing payments. Although payments received under the act may be used by the recipients for any governmental purpose, when a federal law does direct distribution of certain PILT money for specific purposes, the money is deducted from a local government's payment if there is no state statute which gives statutory confirmation to the specified distribution.

The federal Bankhead-Jones Farm Tenant Act of 1935 authorizes payments to counties where federal lands are located, and specifies that the money be used for school or road purposes (or both). More specifically, Section 33 of title III of Bankhead-Jones provides that 25 percent of the net revenues received from the use of federally owned lands shall be paid to the counties in which the land is situated to be used for school or road purposes, or both.

Michigan did have a law that accepted the terms of the Bankhead-Jones act (Public Act 27 of 1937). However, in 1978, the state Department of Treasury issued a directive to the fifteen affected counties saying that Bankhead-Jones payments were to be distributed in accordance with the provisions of a state law known as the national forest school and highway aid act (Public Act 37 of 1933). (The 1933 state law allowed Michigan to accept money from the federal government for national forest reserves under a federal law passed in 1908, and required that 75 percent of such money be given to the schools and 25 percent for roads.) Thus, it appeared that statutory assent to the federal Bankhead-Jones act had been transferred from the 1937 state law (Public Act 27) to the 1933 law, and the 1937 law was repealed in 1980 (by Public Act 180, which repealed 48 state laws or parts of laws as being "conflicting, duplicative, or obsolete").

However, the federal government apparently has said that the 15 counties in the state that could have received payments under Bankhead-Jones cannot be paid unless there is statutory confirmation of the federal act. At the request of the treasurer of one of the affected counties, legislation has been introduced which would reinstate reference to the federal Bankhead-Jones law in state statute.

THE CONTENT OF THE BILL:

The bill would create a new act to require counties to redistribute to schools and road commissions payments they received from the federal government under section 33 of title III of the Bankhead-Jones Farm Tenant Act, giving 75 percent of the payment to school districts and 25 percent to the county road commission.

FISCAL IMPLICATIONS:

The U.S. Department of Agriculture Forest Service estimated that the 25 percent payment to be made to counties in fiscal year 1987 from federally owned lands administered by the Forest Service (under Title III, Section 33, of The Bankhead-Jones Farm Tenant Act) amounted to a total of \$169,816. Although the payments will vary from year to year, they reportedly have generally increased, as the following comparison of the estimated payments to the fifteen counties for the years 1979 and 1987 suggests.

County	1979	1987
Arenac	\$ 229	\$ 1,195.35
Cheboygan	2,320	12,152.73
Clare	3,069	16,075.73
Crawford	4,759	24,933.77
Gladwin	337	1,762.38
Kalkaska	3,500	18,803.77
Missaukee	2,185	11,447.78
Montmorency	3,222	16,888.15
Ogemaw	3,247	17,010.75
Oscoda	1,880	9,853.98
Presque Isle	776	4,015.15
Roscommon	3,646	19,110.27
Allegan	10,000	16,500.00
Muskegon	250	20.00
Ottawa	1,250	46.00

ARGUMENTS:

For:

If the fifteen northern Lower Peninsula counties could be receiving federal money but are prevented from doing so by the simple absence of state enabling legislation, the necessary law should be passed. Though the amounts may seem negligible when compared to the budgets of more populous counties (or when compared to state budgets), the money is badly needed by these counties. The bill would restore to these counties the money which they cannot otherwise receive from the federal government.

POSITIONS:

The Michigan Association of Counties supports the bill. (2-22-90)

The County Road Association of Michigan supports the bill. (2-21-90)

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