




MEMORANDUM

Date: June 8, 2021

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelbert 
County Administrator

Re: **Report on Pay-As-You-Go (PAYGO)**

Introduction

This is another communication demonstrating the equity of allocating up to \$225 million of General Fund Pay-As-You-Go (PAYGO) to repair roads in the unincorporated County based on 1997 Highway User Revenue Fund (HURF) Bond Program dollars spent in the municipalities. My prior [February 14, 2020](#) and [November 14, 2019](#) communications on this topic are available for reference. A list of projects where County HURF has been spent inside a city or town is contained the November 14, 2019 memorandum. The analysis contained in these memoranda demonstrate that the County has already spent or committed \$173.2 million of its HURF monies for projects in municipalities. The November 5, 2019 Board adopted PAYGO policy calls for \$225 million to be spent on unincorporated road repairs. The assessed value of the incorporated cities and towns is 58 percent of the region; therefore, 58 percent of \$225 million is \$130.5 million. Given the County has or will spend \$173.2 million of County HURF on incorporated roads, there is no tax equity issue given the amount of County HURF provided to the municipalities through the 1997 HURF Bond Program. The Board approved PAYGO Policy proposes to spend much less Property Tax General Funds from city or town taxpayers on road repair than what has or will be spent of County HURF inside cities or towns.

Origin and Uses of Highway User Revenue Funds (HURF)

As a reminder, each jurisdiction in Arizona receives HURF dollars allocated strictly for use within the roads of that jurisdiction. The City of Tucson HURF dollars, for example, can only be spent on City of Tucson roads. It is obvious that the City of Tucson, City of South Tucson and the Towns of Oro Valley, Marana and Sahuarita are all located within Pima County. However, not so obvious is that these jurisdictions who receive city or town HURF were never intended to receive County HURF according to State HURF fund distribution laws. The County allocation of HURF can only be spent on unincorporated County roads. In this regard, transportation funding is very different from other functional areas of the County such as Health, Environmental Quality and Flood Control, where County funding is allocated throughout both unincorporated and incorporated areas. Attachment 1 is a flow of funds analysis from the Arizona Department of Transportation showing the separate distribution for counties as well as cities in 2020. All counties received \$273.3 million and cities and towns received \$438.6 million. Clearly, cities and towns already receive significantly more HURF than counties by 60.5 percent. Counties clearly should not be contributing more of their HURF to cities and towns.

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City Requested County HURF Bonds to Vote for 1997 County HURF Revenue Bond Question

For a deeper understanding of the equity issue, it is useful to revisit the environment leading to the 1997 HURF Bond election. In 1996, the County Citizen Bond Advisory Committee proposed a bond election to use unincorporated County state-allocated HURF dollars to fund improvement projects in the unincorporated County. However, contrary to the rights provided to municipalities, Arizona statutes preclude counties from limiting voting to unincorporated areas for matters affecting only unincorporated residents. This limitation in state law was exploited by then City of Tucson Mayor George Miller who requested that unincorporated residents pay \$184.1 million for roadway projects within the City of Tucson without which the City would actively oppose the election. Mayor Miller's proposal was unanimously approved by the City Mayor and Council on June 23, 1997, with the requested list of City projects forwarded to the County by City Manager Luis Gutierrez on July 1, 1997.

Between July and mid-October 1997, correspondence was exchanged between the County and the municipalities to refine a project list. This period also saw multiple articles appearing in the press highlighting the equity issues associated with the use of County HURF within the municipalities along with messaging by Mayor Miller such as "If the city of Tucson and city [sic] of Marana don't back this, the bond election isn't going anywhere" as reported in the Arizona Daily Star on Sept 9, 1997.

Since all residents can vote in a County revenue bond election, the Board conceded to the City demand, agreed to increase the bond authorization by \$100 million and approved the allocation of \$129.3 million of unincorporated resident funds to projects within the municipalities on October 21, 1997. This amount has since grown to \$173.2 million due to bond issuance costs and debt service.

County had to Jump through Legal Hoops to Spend County HURF Inside a City or Town

To be able to spend County HURF inside the City, a lawsuit was filed to obtain a declaratory judgement regarding whether County HURF could be spent within municipalities. The final disposition of the judgement occurred on October 29, 1997, just prior to the November bond election, when the Arizona Court of Appeals ruled that the County is prohibited from spending its share of state gas taxes and vehicle license fees inside incorporated areas unless it reaches agreements with cities to do so. In order to spend unincorporated HURF dollars within the municipalities in a manner compliant with the court ruling, the County and the municipalities agreed that municipal roads receiving 1997 HURF Bond dollars would be designated as "County highways" for the duration of the construction project.

Summary

The 1997 HURF Bond program continues to impede the ability to repair roads in the unincorporated County with \$12.8 million and \$4.5 million of unincorporated HURF funds programmed for City projects in the next two fiscal years.

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Due to delays in City projects, the 1997 HURF Bond program will remain active until 2023, with unincorporated residents continuing to have their state-shared roadway revenues used to pay off the debt accrued on City projects for an additional ten-year period.

It should also be noted that the County ten-year road repair program has in the last year further reduced projected reliance on General Fund PAYGO from the initially requested \$235 million to \$219.2 million. Our Department of Transportation has been able to achieve this reduction by allocating \$279.8 million of County HURF over this period, despite the large amount of HURF used to pay for municipal projects. The Department should be commended for the major restructuring and efficiency efforts of the last few years which have allowed the redirecting of the majority of funding required to repair our roads and to maintain them in good condition following the limited infusion of General Fund PAYGO.

As such and as detailed in my two prior communications on this topic, it is equitable to reimburse unincorporated residents for at least a portion of their roadway funds that were used in incorporated areas. The adopted General Fund PAYGO road repair program does just that. Of the up to \$225 million allocated to unincorporated County road repair, \$136.4 million is collected in the municipalities to offset a roadway funding loss of \$173.2 million by unincorporated residents to date, and growing.

CHH/anc

Attachment

c: Jan Leshar, Chief Deputy County Administrator
Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Yves Khawam, PhD, Assistant County Administrator for Public Works

ATTACHMENT 1

ARIZONA DEPARTMENT OF TRANSPORTATION FY 2020 HURF ACTUAL REVENUE DISTRIBUTION FLOW

NOTES:

- /1. Arizona Revised Statutes 28-5926 and 28-5927 transfer 1.6 percent of gas tax revenues to the State Lake Improvement Fund (SLIF) and 0.55 percent of gas tax revenues to the Off-Highway Vehicle Recreation Fund (OHVRF). The \$515.4 million of gas tax revenue is before of a total \$11.1 million transferred to the above two funds.
- /2. In FY 2020, \$658,000 was appropriated to MVD for the vehicle registration enforcement and 3rd party programs.
- /3. The appropriation from HURF to DPS in FY 2020 was \$0. There was a \$0.2 million reversion from DPS to HURF for unused FY 2019 appropriations.
- /4. Starting in FY 2015, special off-the-top distributions to cities, towns and counties have been made each fiscal year. Laws 2018, 2nd Regular Session, Chapter 283 (SB1529) amends Laws 2017, chapter 312, lowering the distribution from \$60 million to \$30 million in FY 2020. Actual FY 2020 distributions: 1. Cities over 300,00 persons - \$1.6 million, 2. Cities/Towns - \$14.4 million, 3. Counties over 800,000 persons - \$4.0 million, 4. Counties - \$10.0 million. Counties over 800,000 persons distribution was deposited into the MAG and PAG 12.6% accounts within the State Highway Fund.
- /5. Laws 2011, 1st Regular Session, Chapter 28 (SB 1616) transfers from the State Highway Fund share of HURF VLT generated the difference in the two-year and five-year VLT to the state general fund which totaled \$2.5 million. Laws 2010, 7th Special Session, Chapter 12 (HB 2012) an amount equal to 90 percent of the fees collected under 28-4802 (A) and 60 percent of the fees collected under 28-4802 (B) shall be transferred from the State Highway Fund share of HURF VLT to the State General Fund which totaled \$6.2 million.
- /6. Per Arizona Revised Statutes 28-5808, 1.51 percent of the State Highway Fund share of HURF VLT is distributed to the DPS Parity Compensation Fund.
- /7. The 12.6% (statutory) and 2.6% (non-statutory) allocations from the State Highway Fund share of HURF distributions.
- /8. Revenues to the State Highway Fund are reduced by the amount retained by Authorized Third Parties for the collection of VLT.
- /9. Laws 2019, First Regular Session, Chapter 263 (HB 2747), transfers \$7.9 million in FY 2020 from SHF VLT to the SGF and transfers \$15.5 million in FY 2020 from the Arizona highway patrol fund into the SHF and then transfers \$15.5 million in FY 2020 from SHF VLT to the SGF.

