

# PROGRESSIVE USER FEES

ARIEL JUROW KLEIMAN\*

*Since the Tax Revolt of the 1970s, cash-strapped state and local governments have increasingly relied on user fees to pay for public programs. Scholars attuned to city budgets have raised alarms about these fees: They undermine government's redistributive role, impose regressive costs, and exclude low-income people from vital public services. This Article complicates these prevailing claims based on a first-of-its-kind study of user fee policies in a sample of American cities.*

*The Article reveals that policymakers regularly call on a progressive tool to reduce fees' harms: fee waivers. As implemented, user fees are thus more redistributive than the standard understanding of them has allowed. But they are also more complex. The survey finds that fee waiver eligibility rules are patchwork, burdensome, and narrowly targeted. User fee rules form a multifaceted tapestry of exclusion and protection, deprivation and generosity.*

*The Article also sounds a clarion call: User fees' protective features are not guaranteed. Without adequate defense, fee waivers risk succumbing to external attack from those who would outlaw them. Without adequate scrutiny, they risk falling victim to their own internal design flaws. The Article addresses these risks by offering reform principles drawn from model programs surveyed across the country. Mayors, city councils, school boards, and state legislatures can use this Article as a playbook to inform the design of user fees that raise revenue while protecting vulnerable American households.*

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\* Professor of Law, USC Gould School of Law. For exemplary research support, thank you to Michael Green, Ryan Hendry, Yixiang Niu, Denise Munguia Salazar, and the USC Gould Law Library research assistants under the leadership of Diane Ellis and Adrienne Kelish. For reading and commenting on various drafts, thank you to Peter Barnes, Tristin Green, Hayes Holderness, Orli Oren Kolbinger, Roberta Mann, Kaipo Matsumura, Timothy Mulvaney, Shu-Yi Oei, Leigh Osofsky, Darien Shanske, Gabriel Scheffler, Robert Wassmer, Steven Willborn, and Lawrence Zelenak. For generously sharing their expertise on ambulances and school fees, thank you to Patricia Kelmar, Christine Rienstra Kiracofe, and George Nation III. Thank you also to the collective wisdom among participants at the 2024 State and Local Government Works-in-Progress Conference at Arizona State Sandra Day O'Connor College of Law, Duke Law School Tax Policy Colloquium, National Tax Association Annual Meeting, the 2026 Poverty Law Conference at USC, and law school faculty workshops at the University of Oregon as well as the University of Richmond. Finally, thank you to the assiduous editors at the *New York University Law Review* for whipping the article into shape. All errors are my own. Copyright © 2026 by Ariel Jurow Kleiman.

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## INTRODUCTION

The story of user fees in American cities starts with a tax revolt. In the 1970s and '80s, voters across the United States rushed to ballot boxes to enact tax-limiting laws that tied the hands of their elected

officials.<sup>1</sup> This populist tide swept in a new mainstream anti-tax agenda.<sup>2</sup> Raising taxes had essentially become a nonstarter for cities and states across the country.<sup>3</sup> Policymakers on the hunt for revenue in this constrained fiscal environment came to rely more and more on non-tax sources, including bonds,<sup>4</sup> privatization,<sup>5</sup> and user fees.<sup>6</sup> This was the era of fees' rise and entrenchment.

As the twentieth century came to a close and the twenty-first century opened, legal scholars attuned to city and state budgets voiced concerns: User fees heralded a new market-based approach to local government.<sup>7</sup> Government agencies charge user fees in exchange for a specific government service. In contrast to taxes, which raise general

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<sup>1</sup> See Clyde Haberman, *The California Ballot Measure That Inspired a Tax Revolt*, N.Y. TIMES (Oct. 16, 2016), <https://www.nytimes.com/2016/10/17/us/the-california-ballot-measure-that-inspired-a-tax-revolt.html> [<https://perma.cc/Y8M3-JRQV>] (describing the Tax Revolt, which was initiated by California voters enacting Proposition 13 in 1978); Daniel R. Mullins & Bruce A. Wallin, *Tax and Expenditure Limitations: Introduction and Overview*, PUB. BUDGETING & FIN., Winter 2004, at 2, 4 tbl. 1 (listing tax limits as well as enactment and amendment dates across all fifty states).

<sup>2</sup> See ISAAC WILLIAM MARTIN, *THE PERMANENT TAX REVOLT: HOW THE PROPERTY TAX TRANSFORMED AMERICAN POLITICS* 126–42 (2008) (making the point that the Tax Revolt centered taxes as a partisan issue). See generally MICHAEL J. GRAETZ, *THE POWER TO DESTROY: HOW THE ANTITAX MOVEMENT HIJACKED AMERICA* (2024) (telling the story of the rise of the antitax movement in America).

<sup>3</sup> See BRUCE A. WALLIN, BROOKINGS INST., *BUDGETING FOR BASICS: THE CHANGING LANDSCAPE OF CITY FINANCES*, at v (2005) (“Most surveyed cities said they would like to expand services, but legislative tax limitations and an anti-tax electorate make such prospects remote.”); Dan Morain, *Aftershocks of Prop. 13 Are Still Being Felt*, L.A. TIMES (Dec. 14, 1999, at 00:00 PT), <https://www.latimes.com/archives/la-xpm-1999-dec-14-me-43740-story.html> [<https://perma.cc/GE3K-S42J>] (“[Prop. 13] spawned a generation of leaders dead set against raising taxes.”).

<sup>4</sup> See generally James T. Bennett & Thomas J. DiLorenzo, *Off-Budget Activities of Local Government: The Bane of the Tax Revolt*, 39 PUB. CHOICE 333, 334 (1982) (finding that tax limits cause governments to turn to revenue bonds to finance public projects).

<sup>5</sup> See Colin H. McCubbins & Mathew D. McCubbins, *Proposition 13 and the California Fiscal Shell Game*, 2 CAL. J. POL. & POL'Y, no. 2, 2010, at 2 (finding that the California government circumvents tax limits, in part, by “privatization of the public fisc”).

<sup>6</sup> See, e.g., RICHARD BRIFFAULT & LAURIE REYNOLDS, *CASES AND MATERIALS ON STATE AND LOCAL GOVERNMENT LAW* 740–41 (8th ed. 2016) (linking enactment of tax limits with increased use of non-tax fees and charges); Ronald J. Shadbegian, *The Effect of Tax and Expenditure Limitations on the Revenue Structure of Local Government*, 1962–87, 52 NAT'L TAX J. 221, 222 (1999) (finding that tax and expenditure limits cause governments to increase reliance on user fees); Gary M. Galles & Robert L. Sexton, *A Tale of Two Tax Jurisdictions: The Surprising Effects of California's Proposition 13 and Massachusetts' Proposition 2½*, 57 AM. J. ECON. & SOCIO. 123, 126, 131 (1998) (finding that local governments responded to tax limits by increasing fees).

<sup>7</sup> See, e.g., Laurie Reynolds, *Taxes, Fees, Assessments, Dues, and the “Get What You Pay For” Model of Local Government*, 56 FLA. L. REV. 373, 376, 407–15 (2004) (describing how fees contribute to a “dues mentality”); Gerald E. Frug, *City Services*, 73 N.Y.U. L. REV. 23, 29–30 (1998) (tracking the rise of a consumer-oriented vision of public services).

revenue, user fees only pay for the service received.<sup>8</sup> Due to this structure, scholars argued, fees undermined government's redistributive role.<sup>9</sup> Further, because fees are not based on ability to pay, scholars noted particular harms to low-income people in the form of restricted access to services and regressive costs.<sup>10</sup> This literature was both observant and prescient. America watched as fees became abusive, especially in the

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<sup>8</sup> Although circuits differ in how they define taxes versus fees, courts in most states impose three requirements for a charge to be considered a user fee: (1) The payor must directly benefit from the underlying service; (2) the fee must be related to the cost of the government activity; and (3) the charge must be voluntary. *Emerson Coll. v. City of Boston*, 462 N.E.2d 1098, 1105 (Mass. 1984); *see also* *State v. Medeiros*, 973 P.2d 736, 741–42 (Haw. 1999) (discussing taxes and fees, and defining fees as applying to the direct beneficiary of a service, defraying the cost of the service, and being reasonably proportionate to the benefit); Hugh D. Spitzer, *Taxes vs. Fees: A Curious Confusion*, 38 GONZ. L. REV. 335, 343 (2002) (describing fees as applying only to specific persons or activities and subject to legal constraints that ensure the charge is proportional to the service and is not used for general purposes).

<sup>9</sup> This Article presumes that redistribution to vulnerable people is a primary role of government. This position is scaffolded by hundreds (thousands?) of years of distributive justice philosophy and economic reasoning. I won't rehash those points here. Those who remain unconvinced should refer to the works of abler minds who have argued the point before. *See, e.g.*, Peter Diamond & Emmanuel Saez, *The Case for a Progressive Tax: From Basic Research to Policy Recommendations*, 25 J. ECON. PERSPS. 165, 165 (2011) (supporting redistribution because it increases aggregate social welfare); Richard Arneson, *Egalitarianism*, in STAN. ENCYCLOPEDIA OF PHIL. (Edward N. Zalta & Uri Nodelman eds., 2013), <https://plato.stanford.edu/archives/win2024/entries/egalitarianism> [<https://perma.cc/CY5Y-BYJB>] (supporting redistribution for the sake of egalitarianism); FRIEDRICH A. HAYEK, *THE CONSTITUTION OF LIBERTY* 285 (1960) (stating that public assistance is “unquestioned—be it only in the interest of those who require protection against acts of desperation on the part of the needy”); MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 191 (1982) (supporting redistribution because “we might all of us be willing to contribute to the relief of poverty, provided everyone else did”); Hershey H. Friedman & William D. Adler, *Moral Capitalism: A Biblical Perspective*, 70 AM. J. ECON. & SOCIO. 1014, 1019 (2011) (discussing support for redistribution in the Bible). *See generally* JOHN RAWLS, *A THEORY OF JUSTICE* 27–30 (rev. ed. 1999) (providing justifications for redistribution).

Although there is general agreement that the federal government is the optimal locus of redistribution, Professors Listokin and Schizer have argued that “taxes are more likely to be efficient if collected locally, instead of nationally,” and “public goods should be delivered and funded by the lowest feasible level of governance.” Yair Listokin & David M. Schizer, *I Like To Pay Taxes: Taxpayer Support for Government Spending and the Efficiency of the Tax System*, 66 TAX L. REV. 179, 201 (2013); *see id.* at 202 (listing reasons that the literature often favors redistribution at higher levels of government). Their argument is based on the reasoning that lower levels of government are more likely to generate “warm glow in tax collection.” *Id.* at 202. This Article focuses exclusively on redistribution within the confines of local government services, like public schools and EMS. I do not take a position on the optimal level of redistribution.

<sup>10</sup> *See, e.g.*, Michelle Wilde Anderson, *Mapped Out of Local Democracy*, 62 STAN. L. REV. 931, 958–59 (2010) (explaining how fees contribute to practices that exclude low-income residents from fee-dependent communities); Gerald E. Frug, *The City: Private or Public?* 3 (London Sch. of Econ. & Pol. Sci., Working Paper, Mar. 13, 2017) (on file with author) (describing how fees and the “fee-for-service” mentality undermine government's redistributive role).

criminal legal space.<sup>11</sup> Stories abounded of vulnerable men and women facing steep fees and languishing under immovable mountains of fee debt.<sup>12</sup>

This story of user fees in American cities has been told and retold in academic scholarship, policy reports, and popular media.<sup>13</sup> But the story is still taking shape, and this Article complicates it. Based on a survey of user fee policies in a sample of American cities,<sup>14</sup> I find that lawmakers regularly call on a progressive<sup>15</sup> tool to reduce fees' harms:

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<sup>11</sup> See, e.g., U.S. COMM'N ON C.R., TARGETED FINES AND FEES AGAINST COMMUNITIES OF COLOR: CIVIL RIGHTS & CONSTITUTIONAL IMPLICATIONS 1–4 (2017) (reporting on the increasing use of criminal fines and fees as well as attendant harms); Joseph Shapiro, *As Court Fees Rise, The Poor are Paying the Price*, NPR: INVESTIGATIONS (May 19, 2014, at 16:02 ET), <https://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor> [<https://perma.cc/WF6H-TQUE>] (reporting on an investigation into criminal legal fines and fees that “cause[] the poor to face harsher treatment than others who commit identical crimes and can afford to pay”).

<sup>12</sup> See, e.g., Melissa Bailey, *\$3,660 for a Four-Mile Ride? Ambulances are Hitting Patients with Surprise Bills*, L.A. TIMES (Nov. 29, 2017, at 07:00 PT), <https://www.latimes.com/business/la-fi-ambulance-surprise-charges-20171129-story.html> [<https://perma.cc/96W6-P7MA>] (reporting on exorbitant, out-of-network ambulance bills); David Lazarus, *Should a Man Taken to the ER in an Ambulance Against His Will Have to Pay the Bill?*, L.A. TIMES (Mar. 15, 2016, at 03:00 PT), <https://www.latimes.com/business/la-fi-lazarus-20160315-column.html> [<https://perma.cc/47EG-QWFV>] (reporting on ambulance fees for unwanted services); Emily Green & Lizzie Johnson, *SF's Steep Towing Fees Trouble City Supervisors*, SFGATE (Mar. 8, 2016, at 12:00 ET), <https://www.sfgate.com/politics/article/SF-s-huge-towing-fees-can-be-devastating-to-the-6876008.php> [<https://perma.cc/C9ZX-MT6L>] (reporting on exorbitant towing fees).

<sup>13</sup> See, e.g., Reynolds, *supra* note 7, at 376–77 (discussing the rise of fines and fees); U.S. COMM'N ON C.R., *supra* note 11, at 7–11 (same); Shapiro, *supra* note 11 (same).

<sup>14</sup> This Article focuses on user fees outside the criminal legal system, which have distinct harms. See *infra* text accompanying notes 35–39; see also *infra* Part I for a discussion on the rise of, and harms caused by, criminal legal user fees.

<sup>15</sup> The term “progressive” here does not refer to big-P Progressive, as in the Progressive political movement. See Sidney M. Milkis, *Progressivism*, ENCYCLOPEDIA BRITANNICA (Jan. 9, 2026), <https://www.britannica.com/topic/progressivism> [<https://perma.cc/E6PH-33ZK>] (defining progressivism as a political and social movement). Rather, it refers to the small-p progressive, a descriptive term for fiscal burdens that increase as a percentage of income as income increases. *Proportional, Progressive, and Regressive Taxes*, BRITANNICA MONEY, <https://www.britannica.com/money/taxation/Proportional-progressive-and-regressive-taxes> [<https://perma.cc/7DWG-2NZ8>] (last visited Dec. 19, 2025). In contrast to progressive taxes, regressive taxes impose a larger relative burden on those with lower incomes, while flat or proportionate taxes impose “the same relative burden on all taxpayers.” *Id.*

While certainly there is great divide over whether America should move in a big-P Progressive direction, there is general consensus that the rich should pay more, and the poor should pay less in taxes, even among conservatives. E.g., Howard Schneider & Chris Kahn, *Majority of Americans Favor Wealth Tax on Very Rich: Reuters/Ipsos Poll*, REUTERS (Jan. 10, 2020, at 06:12 ET), <https://www.reuters.com/article/business/majority-of-americans-favor-wealth-tax-on-very-rich-reutersipsos-poll-idUSKBN1Z9140> [<https://perma.cc/97CK-2ATB>] (reporting poll found cross-party support for a wealth tax); Susan Heavey, Bo Erickson & Jeff Mason, *Trump Says He's OK with Taxing the Rich But Warns of Political Fallout*, REUTERS (May 9, 2025, at 19:42 ET), <https://www.reuters.com/world/>

fee waivers.<sup>16</sup> Throughout the Article, I refer to user fees with waivers as “progressive user fees,” because they adjust for payors’ ability to pay. They are distinct from “traditional user fees,” which are ostensibly set equal to the marginal cost of the service received.

This research is more important now than ever. Federal policymakers have recently enacted budget cuts that will have an outside effect on state and local budgets.<sup>17</sup> User fees are poised to become even more significant in the current fiscal environment. Designing them well requires understanding them fully.

In the service of this goal, the Article makes three contributions to the legal and economic literatures concerned with state and local user fees.<sup>18</sup> First, it probes an underexplored nuance in how state and local user fees often work. Starting in the abstract, I explain how fee waivers can theoretically address the harms conventionally associated with user fees.<sup>19</sup> I show that properly designed fee waivers can enable government to reaffirm its redistributive role, improve access to public programs, reduce costs on low-income people,<sup>20</sup> and increase the progressivity of state and local fiscal systems.<sup>21</sup> Yet I identify tradeoffs

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us/trump-says-he-is-ok-with-republicans-raising-taxes-rich-2025-05-09 [https://perma.cc/NU6G-4968] (reporting Republican support for redistributive taxes).

<sup>16</sup> Fee waivers have been used for over a century to enable access to fee-funded public services, including federal courts. *See, e.g.*, Andrew Hammond, *Pleading Poverty in Federal Court*, 128 *YALE L.J.* 1478, 1481 (2019) (discussing poverty pleadings in federal court, dating their enactment to 1892); Judith Resnik, *Money Matters: Judicial Market Interventions Creating Subsidies and Awarding Fees and Costs in Individual and Aggregate Litigation*, 148 *U. PA. L. REV.* 2119, 2132–33 (2000) (describing the history of fee waivers in civil litigation as a matter of constitutional law). *See generally* Ben. C. Duniway, *The Poor Man in the Federal Courts*, 18 *STAN. L. REV.* 1270 (1966) (discussing evolution of rights for indigent civil litigants).

Others have examined fee waivers in the context of immigration and naturalization proceedings. *See generally* Vasil Yasenov, Michael Hotard, Duncan Lawrence, Jens Hainmueller & David D. Laitin, *Standardizing the Fee-Waiver Application Increased Naturalization Rates of Low-Income Immigrants*, 116 *PNAS* 16768 (2019) (discussing the 2010 standardization of the fee-waiver application process by the U.S. Citizenship and Immigration Services).

<sup>17</sup> *See* Lucy Dadayan, *The OBBBA Is Here and States Are Making Some Big Choices*, *TAX POL’Y CTR.: TAXVOX* (Aug. 12, 2025), <https://taxpolicycenter.org/taxvox/obbba-here-and-states-are-making-some-big-choices> [https://perma.cc/6V62-X4LM] (describing potential state revenue losses in the wake of the One Big Beautiful Bill Act); Abby Telgenhof & Morgan Scarborough, *Here’s How States Are Responding to Trump’s One Big Beautiful Bill Act*, *MULTISTATE: INSIDER* (Oct. 8, 2025), <https://www.multistate.us/insider/2025/10/8/heres-how-states-are-responding-to-trumps-one-big-beautiful-bill-act> [https://perma.cc/CV2V-8S4M] (describing federal budget cuts to Medicaid and SNAP that will impact state budgets).

<sup>18</sup> For a retelling of the dominant themes and concerns in these literatures, see *infra* Part I.

<sup>19</sup> *Infra* Sections II.A–B.

<sup>20</sup> *Infra* Section II.B.

<sup>21</sup> *Infra* Section II.B.

as well. Waivers are complex to design, apply for, and administer. They can also undermine user fees' capacity to improve allocative efficiency by driving a wedge between the price people pay for a service and the marginal cost to provide it.<sup>22</sup> Fee waivers thus portend a fiscal landscape that is more redistributive and also more complex than the standard understanding of user fees has allowed.

The Article's second contribution is empirical. Having laid out the theory, I then present the results of a first-of-its-kind survey of user fee waivers for a subset of fees in a sample of U.S. cities.<sup>23</sup> Surveyed fees include those for emergency medical services (EMS), public school programs, occupational licensing, and car registration.<sup>24</sup> While not exhaustive,<sup>25</sup> this list of fees offers a broad spectrum of user fee types and structures. It covers standard user fees that operate like a price for public services<sup>26</sup> and regulatory user fees that offset the government's cost to regulate certain activities.<sup>27</sup> It also covers fees levied at the local and state level, as well as fees levied directly by government agencies and those often levied by private contractors.<sup>28</sup> Perhaps most importantly, many households, including low-income households, regularly use these services and face these fees in the ordinary course of their lives.<sup>29</sup> Moreover, these fees are important because they adhere

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<sup>22</sup> *Infra* Section II.C.

<sup>23</sup> For survey methodology, see *infra* Section III.A.

<sup>24</sup> *Infra* Section III.A.2; Appendix, Sections A–B.

<sup>25</sup> Many other fees could have been covered in such a survey. Other user fees that raise important issues for vulnerable users include those for state civil court, car towing, personal identification documents, and public transportation. On state civil court fees, see generally Wayne Holbrook Scott, Note, *Indigent Access to Civil Courts: The Tiger Is at the Gates*, 26 VAND. L. REV. 25 (1973). On car towing and impound, see generally JORGE ALVARADO ET AL., TOWED INTO DEBT: HOW TOWING PRACTICES IN CALIFORNIA PUNISH POOR PEOPLE (2019), <https://wclp.org/wp-content/uploads/2019/03/TowedIntoDebt.Report.pdf> [<https://perma.cc/S93N-HVUS>]. On personal identification documents, see generally Gregory Zlotnick, *Picking the Lock: A Proposal for a Standard Fee Waiver in Texas for Identification Documents*, 22 SCHOLAR 345 (2020). On public transportation, see generally Wesley Darling, Emily Carpenter, Tami Johnson-Praino, Candace Brakewood & Carole Turley Voulgaris, *Comparison of Reduced-Fare Programs for Low-Income Transit Riders*, 2675 TRANSP. RSCH. REC. 335 (2021).

<sup>26</sup> See Richard M. Bird, *Charging for Public Services: A New Look at an Old Idea*, CANADIAN TAX PAPERS, no. 59, Dec. 1976, at 11–12 (describing the benefit theory of taxation as an individual paying only for the benefit they receive from a particular government service).

<sup>27</sup> See *Emerson Coll. v. City of Boston*, 462 N.E.2d 1098, 1105 & n.16 (Mass. 1984) (describing regulatory fees, such as licensing and inspection fees, as “reimbursing the city, town, or county for all expenses imposed upon it by the business sought to be regulated” (quoting *United Bus. Comm'n v. City of San Diego*, 154 Cal. Rptr. 263, 269 (Cal. Ct. App. 1979))).

<sup>28</sup> See *infra* Section III.A.2; Appendix, Sections A–B.

<sup>29</sup> For further discussion of these points, see *infra* text accompanying notes 157–62.

to fundamental public services that are necessary for full participation in the social and economic community.

The survey makes two primary findings. First, for every fee type in the sample, a majority of localities or states offer a waiver of some kind.<sup>30</sup> In many places and for many fees, these waivers make fees somewhat more progressive, improve access, and reduce harms on certain low-income and vulnerable users.

Second, the survey identifies that fee waiver eligibility rules differ significantly even within cities.<sup>31</sup> Some are exceedingly narrow, for instance, only applying to military spouses<sup>32</sup> or blind persons.<sup>33</sup> Such restrictive waivers do little to improve fees' progressivity, particularly where eligibility doesn't track ability to pay. Some waivers entail burdensome documentation requirements, asking people to prove household income with paystubs, bank statements, W-2s, and so forth.<sup>34</sup> This patchwork landscape also creates learning costs for applicants, who must conduct research anew for each fee,<sup>35</sup> and leads to idiosyncratic outcomes depending on where one happens to live.

The stakes here are high. Where there isn't a waiver, where eligibility criteria are too narrow, or where compliance costs keep people out, these fees inflict all the harms critics predict. Someone who can't afford to pay a fee might suffer deprivation after paying it, incur debt to the government or private lenders,<sup>36</sup> or suffer exclusion from vital public programs.<sup>37</sup> Consider EMS fees, which can amount to

<sup>30</sup> See *infra* Section III.B.1, Table 10.

<sup>31</sup> See *infra* Section III.B.2, Table 11.

<sup>32</sup> E.g., N.Y. EDUC. LAW § 6501 (McKinney 2022) (waiving one-half of the application fee for military spouses).

<sup>33</sup> E.g., L.A. CNTY. CODE § 7.14.020 (2025) (waiving application fees for blind persons).

<sup>34</sup> See, e.g., CITY OF CUYAHOGA FALLS, AMBULANCE FEE EXEMPTION APPLICATION (2023) (on file with author) (requiring applicant to prove income by providing various income documents); FIRE DEP'T OF N.Y., FDNY CHARITABLE CARE POLICY FOR AMBULANCE TRANSPORTS [hereinafter FDNY] <https://www.nyc.gov/assets/fdny/downloads/pdf/about/charitable-care-policy.pdf> [<https://perma.cc/83PF-8CCW>] (last visited Dec. 23, 2025) (stating that applicants must prove household income, by submission of pay stubs, tax returns, or other similar documents, to receive fee relief).

<sup>35</sup> See Pamela Herd & Donald Moynihan, *Administrative Burdens in the Social Safety Net*, 39 J. ECON. PERSPS. 129, 130 (2025) (defining “[l]earning costs” to include the time and effort it takes to learn about a benefit, including eligibility rules and how to access a program).

<sup>36</sup> See Lori Teresa Yearwood, *Taken for a Ride: How Ambulance Debt Afflicts the Extreme Poor*, AM. PROSPECT (Mar. 29, 2019), <https://prospect.org/economy/taken-ride-ambulance-debt-afflicts-extreme-poor> [<https://perma.cc/Q5QA-KP8H>] (detailing the personal consequences of ambulance debt accrued while being unhoused).

<sup>37</sup> See *infra* text accompanying notes 223–30 (discussing exclusion caused by school fees and occupational licensing fees).

thousands of dollars for the uninsured.<sup>38</sup> When these exorbitant bills go unpaid, people can suffer damage to credit, bankruptcy, and even loss of a home.<sup>39</sup> Public school program fees are no better. Children whose families can't afford school extracurricular fees miss out on critical academic, athletic, and social opportunities.<sup>40</sup> Other surveyed fees present similar hardships.<sup>41</sup> Thus, while it's important to acknowledge the relief that waivers offer to some would-be payors, we also should not forget that the consequences to those left out can be severe. Moreover, it's not only the presence of a waiver that determines a fee's progressive or regressive effect, but its design as well.

Third, the Article's final contribution is to sound a clarion call: Fees' progressive potential is threatened both from without and within. Externally, those who distrust user fees' capacity for redistribution have pursued laws and litigation that make adopting progressive user fees more difficult.<sup>42</sup> Internally, the survey reveals that certain design features can undermine fees' progressive potential by imposing burdens

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<sup>38</sup> E.g., Samantha Kummerer, *7 Investigates: Patients Charged Thousands of Dollars After an Ambulance Ride*, 7 NEWS BOSTON (June 4, 2024), <https://whdh.com/7-investigates/7-investigates-patients-charged-thousands-of-dollars-after-an-ambulance-ride> [https://perma.cc/X2HT-B935] (describing ambulance fees of several thousand dollars); PJ Randhawa, *Surprise Billing After 5-Mile Ambulance Ride Costs Suburban Family Nearly \$9,000*, NBC CHI. (Nov. 20, 2023, at 15:44 ET), <https://www.nbcchicago.com/consumer/surprise-billing-after-5-mile-ambulance-ride-costs-suburban-family-nearly-9000/3278889> [https://perma.cc/D38G-28LR] (describing a nearly nine-thousand dollar ambulance fee); see also *infra* note 216 and accompanying text (discussing the uninsured rate in the U.S.).

<sup>39</sup> See, e.g., Yearwood, *supra* note 36 (reporting personal experience with damage to credit caused by ambulance fee debt); Noam N. Levey, *100 Million People in America Are Saddled with Health Care Debt*, KFF HEALTH NEWS (June 16, 2022), <https://kffhealthnews.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt> [https://perma.cc/4NQ2-BFKX] (reporting on a survey finding that 17% of respondents with current or past medical debt declared bankruptcy or lost their homes as a result of the debt).

<sup>40</sup> See, e.g., Will Sentell, *Public School Fees Go Largely Unchecked in Louisiana, Prompting Reform Proposals*, ADVOCATE (Oct. 18, 2018), [https://www.theadvocate.com/baton\\_rouge/news/education/public-school-fees-go-largely-unchecked-in-louisiana-prompting-reform-proposals/article\\_9c8b9bfe-d870-11e8-8b2f-aba70d162f7e.html](https://www.theadvocate.com/baton_rouge/news/education/public-school-fees-go-largely-unchecked-in-louisiana-prompting-reform-proposals/article_9c8b9bfe-d870-11e8-8b2f-aba70d162f7e.html) [https://perma.cc/3XSA-MJCL] (describing how children are denied access to educational programs if their parent cannot pay school fees in Louisiana); C.S. Mott Children's Hosp., *Pay-to-Play Sports Keeping Lower-Income Kids Out of the Game*, NAT'L POLL ON CHILD'S HEALTH, May 14, 2012, at 1 fig. 1, <https://mottpoll.org/sites/default/files/documents/051412paytoplayreport.pdf> [https://perma.cc/7RD5-D36X] (reporting that 19% of low-income families had recently decreased their children's sports participation due to cost, compared with 5% of households with higher income).

<sup>41</sup> See *infra* Section III.C.

<sup>42</sup> See, e.g., CAL. CONST. art. XIII C § (1)(e)(2) (defining a fee to be a tax, and therefore subject to California's tax limits, if the service is "provided to those not charged"); see also Sharmila L. Murthy, *Disrupting Utility Law for Water Justice*, 76 STAN. L. REV. 597, 646 & n.337 (2024) (discussing how Detroit failed to adopt progressive water utility rates for fear of litigation under the state's tax limit, known as the Headlee Amendment).

on applicants and administering agencies.<sup>43</sup> The Article finishes by suggesting ways to address these threats and challenges. Waiver design recommendations—drawn from model programs in the survey—include requiring and enforcing publicity, using simple proxies for low-income status, automating waiver approval when possible, codifying eligibility rules in state or local laws, and more. Incorporating these design elements can help reduce administrative burdens on applicants and agencies.

Before proceeding, it's worth clarifying two points, one about the scope and the other about the aim of this Article. First, this Article focuses on the progressive potential of somewhat ordinary user fees that low-income people often face. It is not about criminal legal fines and fees, which have been amply covered elsewhere<sup>44</sup> and raise a host of concerns distinct from those raised here.<sup>45</sup>

Second, this Article does not take the position that user fees are superior to taxes in terms of progressivity or redistributive capacity. There is consensus in the tax literature that broad-based progressive taxes are the gold standard when it comes to redistributing income.<sup>46</sup>

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<sup>43</sup> See *infra* Section III.B.2.

<sup>44</sup> See, e.g., Katherine Beckett & Alexes Harris, *On Cash and Conviction: Monetary Sanctions as Misguided Policy*, 10 CRIMINOLOGY & PUB. POL'Y 509, 520 (2011) (arguing that fees impede reentry); Alexes Harris, Heather Evans & Katherine Beckett, *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 AM. J. SOCIO. 1753, 1777–85 (2010) (finding that criminal legal fees reduce income and increase recidivism); Fred O. Smith, Jr., *Abstention in the Time of Ferguson*, 131 HARV. L. REV. 2283, 2313–21 (2018) (noting that court fees may incentivize findings of guilt); Neil L. Sobol, *Charging the Poor: Criminal Justice Debt & Modern-Day Debtors' Prisons*, 75 MD. L. REV. 486, 498–504 (2016) (discussing criminal legal debt collection practices); Katherine Beckett & Naomi Murakawa, *Mapping the Shadow Carceral State: Toward an Institutionally Capacious Approach to Punishment*, 16 THEORETICAL CRIMINOLOGY 221, 227–29 (2012) (describing how failure to pay civil legal debts can lead to incarceration).

<sup>45</sup> For one, criminal legal fines and fees are often regressive and exploitative regardless of whether they include fee waivers. This is in part because criminal defendants are largely powerless to determine the scope of the criminal court and carceral services they receive. See Ariel Jurow Kleiman, *Nonmarket Criminal Justice Fees*, 72 HASTINGS L.J. 517, 536–42 (2021) (explaining these dynamics). Moreover, for a variety of reasons, criminal defendants are more likely to have other characteristics that make them vulnerable, including being low-income and being victims of institutionalized racism. See U.S. COMM'N ON C.R., *supra* note 11, at 3 (finding that criminal fees tend to target low-income communities); STEPHEN BINGHAM ET AL., STOPPED, FINED, ARRESTED: RACIAL BIAS IN POLICING AND TRAFFIC COURTS IN CALIFORNIA 5 (2016), [https://ebclc.org/wp-content/uploads/2016/04/Stopped\\_Fined\\_Arrested\\_BOTRCA.pdf](https://ebclc.org/wp-content/uploads/2016/04/Stopped_Fined_Arrested_BOTRCA.pdf) [<https://perma.cc/6STN-G9NK>] (noting that Black and Latino/a drivers are pulled over at disproportionately high rates). Convicted felons are also explicitly disenfranchised in twenty-five states, making them politically powerless by design. BRENNAN CTR. FOR JUST., CRIMINAL DISENFRANCHISEMENT LAWS ACROSS THE UNITED STATES 1 (2025), <https://www.brennancenter.org/media/13961/download/2025.05.19-bc-criminal-disenfranchisement-laws-map.pdf?inline=1> [<https://perma.cc/3UG2-LZYB>] (tracking disenfranchisement laws).

<sup>46</sup> E.g., Alex Raskolnikov, *Accepting the Limits of Tax Law and Economics*, 98 CORN. L. REV. 523, 546 (2013) (“Its fundamental conclusion that the optimal tax is a progressive, nonlinear tax on labor income is as widely accepted in public economics as any.”).

I do not challenge this position. Rather, this Article points out that in some cases, fees might be more progressive than the user fee literature has previously appreciated.<sup>47</sup> And, more generally, if we want to understand user fees' effect on the progressivity of state and local revenue systems, we must understand how fee waivers work to both improve and undermine progressive goals.

Finally, I have a personal note in the spirit of transparency. I embarked on this research expecting to make the opposite argument: User fees are regressive and harmful to vulnerable payors, full stop. But I could not ignore the signs of progress that I found. These efforts to protect vulnerable groups should not go unexamined.

The Article proceeds in four parts. Part I relates the story of user fees as told in the legal and economic literature on the topic. Part II explores how fee waivers can theoretically address fees' purported harms but also undermine fees' purported benefits. Part III presents findings and observations from a survey of user fee waivers in thirteen U.S. cities. Part IV finishes by describing threats to progressive user fees and how to address them.

## I

### THE STORY OF USER FEES

This Part tells the story of user fees' rise to prominence in state and local finance. As user fees proliferated, scholars attuned to the trend noted both concerns and potential benefits. User fees, they argued, undermine redistribution, impose regressive charges, and impede access to services. On the positive side, however, user fees can also improve allocative efficiency. This Part summarizes these arguments for and against user fees as made in the local government and public finance literatures.

Because user fees expanded in part to replace lost tax revenue, understanding the difference between taxes and user fees is important background knowledge. Generally stated, a tax is a compulsory government charge intended to raise revenue.<sup>48</sup> It doesn't bear any relationship to the government services it finances.<sup>49</sup> In contrast, government agencies charge user fees in exchange for specific services

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<sup>47</sup> See *infra* Section II.B.2 for further explanation of how fee waivers affect progressivity.

<sup>48</sup> See *Bolt v. City of Lansing*, 587 N.W.2d 264, 269 (Mich. 1998) (distinguishing taxes from fees, and concluding that “[a] ‘tax’ . . . is designed to raise revenue” (citing *Bray v. Dep't of State*, 341 N.W.2d 92, 98 (Mich. 1983))).

<sup>49</sup> DAVID N. HYMAN, PUBLIC FINANCE: A CONTEMPORARY APPLICATION OF THEORY TO POLICY 21 (10th ed. 2010), <https://www.uv.mx/personal/clelanda/files/2014/09/Hyman-David-2011-Public-Finance.pdf> [<https://perma.cc/LZ4W-ZQSZ>] (explaining that a citizen who pays \$10,000 in taxes receives the same level of military protection and has the same right to use public roads as someone who pays less or nothing).

or benefits.<sup>50</sup> While taxes fund all of government, including redistributive programs, a fee funds only the good or service paid for.<sup>51</sup> Fees are not traditionally intended to redistribute.<sup>52</sup> Thus, the greater the proportion of revenue a government raises through fees, the less it can redistribute. This limitation applies even to progressive fee structures, because fees cannot fund purely redistributive programs like welfare.<sup>53</sup>

The standard story of user fees in American cities starts with the Tax Revolt of the late 1970s.<sup>54</sup> Fed up with high property taxes—or, depending on who you ask, profligate government spending,<sup>55</sup> the end of homeowner tax breaks,<sup>56</sup> or just all taxes, period<sup>57</sup>—voters enacted tax-limiting laws in states across the nation.<sup>58</sup> Today, forty-six states impose some kind of tax limit on state and local legislators.<sup>59</sup> These laws differ from state to state, but most either outright ban tax increases or impose heightened procedural requirements to raise taxes, such as voter approval or supermajority legislative approval.<sup>60</sup> Even in those few states that didn't enact strict tax limits, a newly dominant anti-tax agenda took hold as Reagan assumed the Oval Office and trickle-down economics trickled down into America's fiscal consciousness.<sup>61</sup> In most cities in America, raising taxes had become a political liability.<sup>62</sup>

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<sup>50</sup> Circuits differ in how they define taxes versus fees. *See supra* note 8 and accompanying text.

<sup>51</sup> *See* David G. Duff, *Benefit Taxes and User Fees in Theory and Practice*, 54 U. TORO. L.J. 391, 393 (2004) (defining taxes as not bearing a relationship to specific goods and services while defining fees as bearing such a relationship); HYMAN, *supra* note 49, at 21 (defining taxes as not bearing a relationship to specific goods and services); Spitzer, *supra* note 8, at 343 (defining fees as funding specific programs).

<sup>52</sup> *See* Frug, *supra* note 10, at 3 (describing fees as not allowing for redistribution).

<sup>53</sup> *See infra* Section II.B.2.

<sup>54</sup> *See* Haberman, *supra* note 1.

<sup>55</sup> *See* Ariel Jurow Kleiman, *Tax Limits and the Future of Local Democracy*, 133 HARV. L. REV. 1884, 1913–18 (2020) (providing evidence that tax limit enactors sought to exert stronger control over government representatives).

<sup>56</sup> MARTIN, *supra* note 2, at 51, 57–61 (arguing that some tax protesters reacted to states' efforts to modernize and equalize property tax collections, which threatened homeowner tax breaks).

<sup>57</sup> *See* Jurow Kleiman, *supra* note 55, at 1895–97 (providing support for the antitax justification for the Tax Revolt).

<sup>58</sup> *Id.* at 1893 (describing the adoption of tax limits by states following California's Proposition 13); Mullins & Wallin, *supra* note 1, at 2, 4–5 tbl. 1 (surveying tax limits across the country).

<sup>59</sup> Jurow Kleiman, *supra* note 55, at 1887.

<sup>60</sup> *Id.* at 1959, 1960 tbl. 5 (coding property tax limits in each state); *id.* at 1924–26 tbl. 2 (coding procedural requirements to override tax limits in each state).

<sup>61</sup> *See* SIMON HALL, *AMERICAN PATRIOTISM, AMERICAN PROTEST: SOCIAL MOVEMENTS SINCE THE SIXTIES* 110 (2011) (describing the Tax Revolt as “a contributor to the conservative political realignment”); MARTIN, *supra* note 2, at 126–42.

<sup>62</sup> *See supra* note 3 and accompanying text.

With less tax revenue yet stable demand for public services,<sup>63</sup> policymakers had to look elsewhere for funding. A standard playbook developed, including increased use of bonds,<sup>64</sup> privatization,<sup>65</sup> and, of course, user fees.<sup>66</sup> Policymakers began to levy fees for government services that were previously offered without charge, like fire and flood protection, emergency medical services, and public-school sports.<sup>67</sup> Fee revenue grew dramatically.<sup>68</sup> Today, fees are one of local governments' primary self-generated sources of revenue.<sup>69</sup>

This expansion of user fees is typically where local government scholars and public finance scholars pick up the thread. Local government scholars tend to view the increased reliance on user fees with concern.<sup>70</sup> At the risk of oversimplifying a diverse and nuanced body of work, many of the apprehensions about fees can be placed into two broad buckets: (1) fees reflect and exacerbate a trend toward privatization in state and local finance, for instance by limiting governments' ability to

<sup>63</sup> See Jack Citrin, *Do People Want Something for Nothing: Public Opinion on Taxes and Government Spending*, 32 NAT'L TAX J. (SUPPLEMENT) 113, 115 (1979) (noting that, at the time of Proposition 13's passage, thirty-eight percent of California voters believed that they could impose tax limits without forcing spending cuts).

<sup>64</sup> See Bennett & DiLorenzo, *supra* note 4, at 336–37 (documenting the rise of nonguaranteed bond debt in response to declining local tax revenue in the 1970s).

<sup>65</sup> See McCubbins & McCubbins, *supra* note 5, at 2 (arguing that California's tax and expenditure limitations have led to fiscal privatization). Privatization and user fees are intrinsically related. See Jack M. Beermann, *Privatization and Political Accountability*, 28 FORDHAM URB. L.J. 1507, 1541 (2001) (discussing why charging user fees is a form of privatization, in part because fee payors engage in private market thinking when they decide how much of a public service to consume based on its price).

<sup>66</sup> See *supra* note 6 and accompanying text.

<sup>67</sup> See Reynolds, *supra* note 7, at 408; U.S. FIRE ADMIN., FED. EMERGENCY MGMT. AGENCY, FUNDING ALTERNATIVES FOR FIRE AND EMERGENCY SERVICES 1-1, <https://www.iaff.org/wp-content/uploads/2024/06/FundingforFireandEMS.pdf> [<https://perma.cc/85SQ-QVJR>] (last visited Dec. 29, 2025) (“What was once a free service now often has charges for transport to the hospital, and, increasingly, charges for providing medical care even without transport.”); U.S. GOV'T ACCOUNTABILITY OFF., GAO-12-350, K-12 EDUCATION: SCHOOL-BASED PHYSICAL EDUCATION AND SPORTS PROGRAMS, at 17 (2012) (noting that about a third of surveyed schools required fees for participation in interscholastic or club sports).

<sup>68</sup> LINCOLN INST. OF LAND POL'Y, *Cities Increasing Reliance on Fees as Other Revenues Fall, Lincoln Institute Analysis Shows*, PR NEWswire (May 7, 2015, at 09:21 ET), <https://www.prnewswire.com/news-releases/cities-increasing-reliance-on-fees-as-other-revenues-fall-lincoln-institute-analysis-shows-300079138.html> [<https://perma.cc/TMY5-MCQ8>] (citing data showing that user charge revenue increased by 143% between 1977 and 2012).

<sup>69</sup> See TAX POL'Y CTR., *What Are the Sources of Revenue for State and Local Governments?*, in THE TAX POLICY BRIEFING BOOK (2024), <https://taxpolicycenter.org/briefing-book/what-are-sources-revenue-state-and-local-governments> [<https://perma.cc/8TQ7-EDUT>] (listing charges and fees as the second largest category of local government own-source revenue at sixteen percent).

<sup>70</sup> See, e.g., Reynolds, *supra* note 7, at 376–77 (expressing concern that reliance on fees will undercut efforts to lower regional inequality); Frug, *supra* note 7, at 29–31 (same); Anderson, *supra* note 10, at 959 (same).

fund redistributive programs;<sup>71</sup> and (2) fees impose particular harms on low-income people and communities, for instance by reducing access to vital services and imposing regressive charges.<sup>72</sup> The literature reflects other perspectives, to be sure, and not all of them critical. Most notably, some local government scholars and public finance scholars, among others, emphasize fees' ability to improve allocative efficiency, for instance by reducing overconsumption of certain public resources.<sup>73</sup> I will briefly expand on each of these positions.

Starting with the first bucket of concerns, some local government scholars assert that fees reflect and worsen the shift away from a collective public approach and toward a privatized, market-driven approach to urban development and finance.<sup>74</sup> Tax funding is collective in the sense that all taxpayers contribute to general tax revenue, typically according to ability to pay. In contrast, each user pays a fee only when they decide to use a public service.<sup>75</sup> Both the payment and the consumption result from private decisionmaking. As more government services become fee-funded, more of the public sector becomes subject to this private, rather than collective, mode of transacting. Not all scholars view the trend toward privatization negatively. Some note, for instance, that privatization generally, and user fees specifically, can improve political accountability.<sup>76</sup>

One specific concern with privatization is that it limits a government's ability to raise revenue for redistribution, which is a quintessential public action.<sup>77</sup> For example, Professor Reynolds argues that fee-paying city residents have come to expect that they should "get what [they] pay for" from government programs.<sup>78</sup> Once accustomed to this alternative way of funding government, voters may reject broad-based taxes and

<sup>71</sup> *E.g.*, Reynolds, *supra* note 7, at 376–77.

<sup>72</sup> *E.g.*, Anderson, *supra* note 10, at 958–59 (arguing that "service pricing," which includes fees and charges, creates a "functionally exclusionary barrier for low-income communities" whose households can't afford "vital services necessary for habitability").

<sup>73</sup> *See, e.g.*, Clayton P. Gillette, *Fiscal Home Rule*, 86 DENV. U. L. REV. 1241, 1247 (2009) (arguing that user fees mimic price feedback in competitive markets); Bird, *supra* note 26, at 33–34; Beermann, *supra* note 65, at 1543–44; *see also* Robert W. Wassmer & Ronald C. Fisher, *Interstate Variation in the Use of Fees to Fund K-12 Public Education*, 21 ECON. EDUC. REV. 87, 90–91 (2002) (explaining when schools should consider adopting program fees, in particular when the charges can closely approximate "the share of marginal benefits that accrue to direct beneficiaries (students and their families)").

<sup>74</sup> *See* Reynolds, *supra* note 7, at 380; Gillette, *supra* note 73, at 1245; Frug, *supra* note 10, at 2–3; Beermann, *supra* note 65, at 1541; Anderson, *supra* note 10, at 957–59.

<sup>75</sup> *See* Beermann, *supra* note 65, at 1543 (noting that user fees "privatize the decision of whether government should provide a particular good or service").

<sup>76</sup> *E.g., id.* at 1508, 1546–47 (suggesting that user fees can improve political accountability by reducing collective action problems and imposing competitive pressure on government agencies).

<sup>77</sup> *See* Reynolds, *supra* note 7, at 376–77; Frug, *supra* note 10, at 3.

<sup>78</sup> Reynolds, *supra* note 7, at 376–77.

tax-funded redistributive programs.<sup>79</sup> More generally, fees cannot fund *purely* redistributive programs, such as Medicaid or TANF, because it would be perverse to charge a fee for a net transfer. Thus, a systemwide shift toward more fee revenue means less redistribution.<sup>80</sup>

The second bucket of concerns relates to special harms that user fees inflict on low-income families. For one, fees may limit low-income peoples' access to specific services and to entire neighborhoods that rely on fee financing.<sup>81</sup> Consider "impact fees," charges levied on developers for public services extended to new housing developments.<sup>82</sup> These fees are passed on to homebuyers, shifting some portion of the government's service costs from all taxpayers to newcomers to a jurisdiction.<sup>83</sup> The access concerns here are twofold. First, impact fees raise housing prices and thus make housing less affordable.<sup>84</sup> Second, cities that rely on impact fees might preemptively reject low-income housing because its intended residents cannot self-fund the services it requires.<sup>85</sup> Fees for specific services raise essentially the same concerns: lack of access to the service and physical exclusion of low-income communities that cannot self-fund the services they need.<sup>86</sup>

In addition to concerns about exclusion, commentators in both the local government and public finance fields note that user fees may impose regressive burdens on low-income payors.<sup>87</sup> This argument is

<sup>79</sup> *Id.*; see also Listokin & Schizer, *supra* note 9, at 200–01 (arguing that increased reliance on user fees can undermine the public's willingness to pay redistributive taxes).

<sup>80</sup> Frug, *supra* note 10, at 3; cf. Gillette, *supra* note 73, at 1245 (asserting that this general shift in government budgets toward fees reflects a preexisting distrust of state and local governments' redistributive roles).

<sup>81</sup> *E.g.*, Anderson, *supra* note 10, at 959 (discussing why cities might be unwilling to approve "fiscally unattractive annexations" of low-income unincorporated communities); Frug, *supra* note 7, at 31.

<sup>82</sup> Ronald H. Rosenberg, *The Changing Culture of American Land Use Regulation: Paying for Growth with Impact Fees*, 59 SMU L. REV. 177, 181–82 (2006) (describing development impact fees).

<sup>83</sup> See, e.g., Lee Anne Fennell, *Homes Rule*, 112 YALE L.J. 617, 640 (2002) (reviewing WILLIAM A. FISCHER, *THE HOMEVOTER HYPOTHESIS: HOW HOME VALUES INFLUENCE LOCAL GOVERNMENT TAXATION, SCHOOL FINANCE, AND LAND-USE POLICIES* (2001)) (describing the mechanism through which new builders compensate current homeowners with impact fees); see also Rosenberg, *supra* note 82, at 182 (describing how impact fees capitalize into housing prices).

<sup>84</sup> See Vicki Been, *Impact Fees and Housing Affordability*, 8 CITYSCAPE 139, 156–63 (2005) (reviewing empirical research on the effect of impact fees on housing prices, and concluding that "impact fees raise the price of both new and existing housing").

<sup>85</sup> See Fennell, *supra* note 83, at 640 (discussing why wealthy residents would reject lower-income residents due to their inability to finance public services).

<sup>86</sup> Anderson, *supra* note 10, at 958–59.

<sup>87</sup> See Gillette, *supra* note 73, at 1253 (describing fees as "regressive in ways that property taxes are not"); Erin Scharff, *Cities on Their Own: Local Revenue When Federalism Fails*, 48 FORDHAM URB. L.J. 919, 933–35 (2021) (explaining that fees are "a much larger share

premised on the fact that user fees are based on the cost of the service consumed rather than one's ability to pay.<sup>88</sup> Some further argue that governments may target regressive fees at especially vulnerable low-income payors who can't organize effectively, like criminal defendants or incarcerated individuals.<sup>89</sup>

Experience has confirmed many of the concerns raised in the literature. For instance, reflecting fears around privatization of quintessential public services, stories surfaced in the early 2010s of a Tennessee fire department charging fees to fight house fires and refusing to save the houses of non-payors.<sup>90</sup> Newspaper accounts of too-high public school program fees reflect fears about regressive costs and lack of access to enriching public programs.<sup>91</sup> Reporting in Texas from 2017, for instance, revealed that low-income families were paying thousands of dollars in fees to public charter schools, sometimes in

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of income for those living at or close to the poverty line, [and] those lacking the funds to immediately pay . . . must often bear high interest rates and pay fees to enter repayment programs"); cf. Edward L. Glaeser, Caitlin S. Gorbach & James M. Poterba, *How Regressive Are Mobility-Related User Fees and Gasoline Taxes?*, 37 TAX POL'Y & ECON., 2023, at 1 (analyzing the regressivity of gas taxes and public transportation user fees and finding that airport, subway, and commuter rail charges are progressive, while bus fees "loom much larger for lower-income households"); HARRY KITCHEN, MELVILLE McMILLAN & ANWAR SHAH, *Charges and User Fees*, in LOCAL PUBLIC FINANCE AND ECONOMICS 363, 397 (2019) (addressing the issue of regressive fees by explaining that the cost is offset by the benefit received and also recommending income-based relief programs).

<sup>88</sup> E.g., Anderson, *supra* note 10, at 958.

<sup>89</sup> Beermann, *supra* note 65, at 1543–44.

<sup>90</sup> *Tennessee Family's Home Burns to the Ground as Firefighters Stand and Watch*, ABC NEWS (Oct. 5, 2010, at 14:56 ET), <https://abcnews.go.com/US/tennessee-family-home-burns-ground-firefighters-stand-watch/story?id=11806407> [<https://perma.cc/JCR3-ATSZ>] (reporting that firefighters stood by and allowed a resident's home to burn to the ground after he failed to pay a \$75 annual subscription fee); *Firefighters Watch Home Burn; Owners Didn't Pay*, CBS NEWS (Dec. 7, 2011, at 12:42 ET), <https://www.cbsnews.com/news/firefighters-watch-home-burn-owners-didnt-pay> [<https://perma.cc/JC4B-H2DS>] (reporting on another resident's home burning in the same town due to nonpayment).

<sup>91</sup> E.g., Morgan Smith, *Fees for Students Redefine "Free" Public School*, TEX. TRIB. (July 29, 2011, at 5:00 CT), <https://www.texastribune.org/2011/07/29/student-fees-redefine-free-public-school> [<https://perma.cc/F9CA-8EM8>] (reporting on increasing use of fees in Texas public schools and explaining that "[c]harging fees can also hurt poor students, especially those whose families just miss qualifying for a waiver"); Martha C. White, *Not Free, After All: Public School Fees Add Up*, NBC NEWS (Aug. 6, 2013, at 08:50 ET), <https://www.nbcnews.com/businessmain/not-free-after-all-public-school-fees-add-6c10851880> [<https://perma.cc/HD5Y-PV9H>] (providing a national overview of school fees, including issues surrounding collections); Sentell, *supra* note 40 (describing concerns about school fees and access to programs in Louisiana); Zahira Torres, *Fees Pile Up for Parents in Colorado Public Schools*, DENV. POST (Apr. 28, 2016, at 6:32 MT), <https://www.denverpost.com/2013/09/28/fees-pile-up-for-parents-in-colorado-public-schools> [<https://perma.cc/FXT5-5429>] (providing an overview of school fees in Colorado and expressing concerns about regressivity).

contravention of the Texas Education Code.<sup>92</sup> Barriers to occupational licensing, including too-high fees, also began to garner attention from policymakers and advocates around the same time.<sup>93</sup> Concerted advocacy efforts continue to target occupational licensing requirements that keep low-income people out of licensed professions.<sup>94</sup>

Yet user fees remain very popular fiscal tools.<sup>95</sup> Some scholars—especially public finance experts<sup>96</sup>—note that user fees can improve allocative efficiency if appropriately priced.<sup>97</sup> Put very simply, allocative efficiency describes a situation where resources are deployed in a way that maximizes social wellbeing.<sup>98</sup> In the user fee context, it means

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<sup>92</sup> E.g., Shelby Webb, *Some KIPP Houston Schools Charged Unallowable Fees*, *Agency Finds*, *HOU. CHRON.* (July 5, 2017), <https://www.houstonchronicle.com/news/houston-texas/education/article/KIPP-schools-collected-millions-in-unallowable-11257006.php> [<https://perma.cc/7Y56-EQ6L>] (finding that certain public charter campuses linked “optional” student fees to registration and collected millions in fees barred by the Texas Education Code); Teri Webster, *In North Texas, High School Bands Don’t Play in Football’s Shadow*, *FT. WOR. STAR-TELEGRAM* (Oct. 17, 2017, at 14:05 CT), <https://www.star-telegram.com/news/local/community/northeasttarrant/article39343416.html?utm> [<https://perma.cc/7F5U-7CCP>] (listing fees up to \$995 to participate in school band programs across North Texas).

<sup>93</sup> See U.S. DEPT. OF TREASURY OFF. OF ECON. POL’Y, WHITE HOUSE COUNCIL OF ECON. ADVISERS & U.S. DEPT. OF LAB., *OCCUPATIONAL LICENSING: A FRAMEWORK FOR POLICYMAKERS* 12–13 (2015) [hereinafter *WHITE HOUSE*], [https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing\\_report\\_final\\_nonembargo.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf) [<https://perma.cc/RT54-AXS6>] (listing barriers to obtaining a license, including fees, as well as negative consequences of restricted access to licenses).

<sup>94</sup> See, e.g., *Occupational Licensing*, *INST. FOR JUST.*, <https://ij.org/issues/economic-liberty/occupational-licensing> [<https://perma.cc/G4KD-PFNB>] (last visited Jan. 1, 2026).

<sup>95</sup> The local government scholarship is clear-eyed about this nuance. See, e.g., Beermann, *supra* note 65 at 1543, 1546 (noting some positive effects of fees); Scharff, *supra* note 87, at 933 (noting that fees alleviate overreliance on property taxes); Anderson, *supra* note 10, at 944–45 (acknowledging that for homeowners, fees for improved services often cost less than analogous private services and are usually more than made up for by the increase in home values); Gillette, *supra* note 73, at 1246–47 (“[W]hen localities act to correct a market failure rather than for redistributive purposes, marginal cost-based fees are a reasonable means of exacting payment.”).

<sup>96</sup> E.g., Donald N. Dewees, *Pricing Municipal Services: The Economics of User Fees*, 50 *CAN. TAX J.* 586, 587 (2002) (arguing that fees for certain goods, such as waste management and water, can be efficient by allowing consumers to choose appropriate quantities); see Bird, *supra* note 26, at 39 (arguing that the reason to introduce pricing in the public sector “is really the same as that underlying Adam Smith’s famous ‘invisible hand’ doctrine, that is, to achieve an efficient allocation of resources by having each individual choose to consume that amount he wants when offered at a price which reflects the value”); KITCHEN, McMILLAN & SHAH, *supra* note 87, at 364–65 (stating that user fees should be adopted “wherever possible”).

<sup>97</sup> See, e.g., Beermann, *supra* note 65, at 1543 (noting that fees can improve allocative efficiency when accurately priced); Gillette, *supra* note 73, at 1246–47 (concluding that fee-based services improve allocative efficiency relative to tax-funded services).

<sup>98</sup> See N. GREGORY MANKIW, *PRINCIPLES OF ECONOMICS* 145 (6th ed. 2012) (explaining that an allocation is efficient where consumer and producer “surplus” are maximized, and describing “surplus” as the way economists understand buyers’ and sellers’ welfare).

that the government is neither overproviding nor underproviding a public service. Importantly, experts agree that fees must be set equal to marginal social cost to achieve efficiency gains, including the direct cost to provide each additional unit of a service plus any indirect social costs (that is, negative externalities).<sup>99</sup> In this way, only those who value a service at least as much as its marginal cost will consume the service.<sup>100</sup> By better targeting public services and by providing willingness-to-pay information to government agencies, fees can reduce government waste.

This review is not exhaustive. There are other strains of scholarship, some critical, some more positive, and some neutral.<sup>101</sup> But the dominant threads in the local government and public finance scholarship over the last several decades are as laid out here: State and local governments' increasing reliance on user fees may improve allocative efficiency, but that reliance also raises concerns about increasing privatization and imposes particular harms on low-income people in the form of restricted access and regressive costs. The next two Parts probe these assertions in the context of fee waivers in an effort to better understand the full range of user fees' possible effects.

## II

### PROGRESSIVE USER FEES IN THEORY

The incidence and consequences of user fees are not as straightforward as they appear in the standard account. I find that policymakers often employ fee waivers to make a regressive revenue

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<sup>99</sup> Richard M. Bird & Enid Slack, *Financing Infrastructure: Who Should Pay?*, 110 PROCS., ANN. CONF. ON TAX'N & MINUTES OF ANN. MEETING NAT'L TAX ASS'N, Dec. 2017, at 2; Clayton P. Gillette & Thomas D. Hopkins, *Federal User Fees: A Legal and Economic Analysis*, 67 B.U. L. REV. 795, 803–04 (1987) (describing how government intervention can ameliorate inefficiencies caused by negative externalities, such as pollution). See generally MANKIW, *supra* note 98, at 198–99 (explaining negative externalities).

<sup>100</sup> Those people who value a service *less* than its marginal cost can keep their money, from which they will derive greater wellbeing. Bird, *supra* note 26, at 33–34.

<sup>101</sup> Many scholars praise user fees as a means to reduce pollution and other environmental degradation. See, e.g., Katrina M. Wyman & Danielle Spiegel-Feld, *The Urban Environmental Renaissance*, 108 CALIF. L. REV. 305, 361–63 (2020); Erin Adele Scharff, *Green Fees: The Challenge of Pricing Externalities Under State Law*, 97 NEB. L. REV. 168 (2018). An older line of writing examines fees for services associated with concerts, gatherings, or other public events, which bear on free speech rights. See generally Eric Neisser, *Charging for Free Speech: User Fees and Insurance in the Marketplace of Ideas*, 74 GEO. L.J. 257 (1985); Henry C. Strickland III, *Money Talks: May Local Governments Require Substantial User Fees as a Condition of Using Traditional Public Forums?*, 1991 PREVIEW U.S. SUP. CT. CASES 342. Yet another investigates the often-blurry line between taxes and fees. See generally Darien Shanske, *Interpreting State Fiscal Constitutions: A Modest Proposal*, 69 RUTGERS L. REV. 1331 (2017).

source more redistributive.<sup>102</sup> I refer to user fees with waivers as “progressive user fees,” as distinct from “traditional user fees,” which are meant to be set equal to their marginal cost per user.<sup>103</sup>

Before reporting my findings,<sup>104</sup> this Part offers a high-level explanation of how fee waivers work. It also explains how, if properly designed, a fee waiver can address many of the concerns raised in the local government literature. Fee waivers can enable local government to reclaim its redistributive role, improve access to fee-funded services, and reduce costs for low-income payors. Waivers can also increase the progressivity of a fiscal system. However, on the negative side, they can subvert the possible allocative efficiency gains that the public finance literature associates with fees.

### A. How Fee Waivers Work

Fee waivers allow a government to provide a free or reduced-price service to certain pre-identified users. Waiver eligibility can be based on low-income status, age, disability, or some other signal of vulnerability or merit. Other people, such as paying service users or taxpayers broadly, necessarily bear the cost of waivers. Fee waivers thus enable classic economic redistribution.

A fee waiver can be funded and structured in a number of different ways. To see one possible way, imagine a very simple city, Feesville, with three types of people—Rich User (R), Poor User (P), and Rich Non-User (N)—and one public service. R and P both use the public service, N does not. R and N have high income; P has low income. The service has a marginal cost of \$500 per user. The Feesville government must therefore raise \$1,000 of revenue to provide the service directly to two users. In Table 1, Feesville collects the full \$1,000 directly from R and offers a fee waiver to P, the low-income user.

TABLE 1: FEE-FUNDED PUBLIC SERVICE, WITH WAIVER

	<b>Fee Paid</b>	<b>Service Received</b>	<b>Net Result</b>
<i>R</i>	(\$1,000)	\$500	(\$500)
<i>N</i>	\$0	\$0	\$0
<i>P</i>	\$0	\$500	\$500

<sup>102</sup> See *supra* note 16 for a description of related literatures on federal fee waivers.

<sup>103</sup> See *supra* notes 99–100 and accompanying text.

<sup>104</sup> *Infra* Section III.B.

In Table 1, R pays a user fee that covers both her service and P's. She receives a service worth \$500 in exchange, which partially offsets the cost.<sup>105</sup> P pays nothing and receives the full service, worth \$500. N pays nothing and receives nothing.

The system in Table 1 results in a \$500 transfer from R to P, but that need not be the case. Others could just as easily bear the cost of fee waivers. For instance, P's use could be funded via progressive tax revenue, as illustrated in Table 2.

TABLE 2: TAX- AND FEE-FUNDED PUBLIC SERVICE, WITH WAIVER

	<b>Tax Paid</b>	<b>Fee Paid</b>	<b>Service Received</b>	<b>Net Result</b>
<i>R</i>	(\$250)	(\$500)	\$500	(\$250)
<i>N</i>	(\$250)	\$0	\$0	(\$250)
<i>P</i>	\$0	\$0	\$500	\$500

The system in Table 2 still results in a \$500 transfer to P, but now the cost is shared between R and N, Feesville's two high-income residents.

There are other distributional possibilities as well. For instance, all system users might bear the cost of waivers via reduced service quality. If the service provider is a private business that contracts with a government agency, the business owner might bear the cost via reduced profit. Either way, the fee-funded service has become redistributive because some people receive a free service that is paid for, at least in part, by others.

## *B. How Fee Waivers Address Harms*

### *1. Redistribution, Access, and Cost*

Fee waivers can address many of the concerns that the local government literature raises about user fees.<sup>106</sup> This Section explains how fee waivers can enable local government to reclaim its redistributive

<sup>105</sup> I equate the value of the service with its cost for the sake of simplicity. However, the personal value that users receive may differ from the marginal cost in systematic ways. For instance, a high-income family might derive greater social benefit from a school program if it allows their child to get into a more exclusive college, relative to a lower-income family. Under such a value differential, charging progressive fees would better reflect the value received. However, the relationship between income and value received could go the other way as well. A low-income family might derive greater value from a school program, relative to a high-income family, if the program is instrumental in enabling their child to get into an exclusive college, and therefore earn significantly more income than they otherwise would; the high-income family's child, by contrast, would have gone to an exclusive college regardless.

<sup>106</sup> See *supra* Part I.

role, improve access to fee-funded services, and reduce costs on low-income payors.

Consider first redistribution. Recall that traditional user fees are meant to be set equal to their marginal cost, which precludes redistribution.<sup>107</sup> As depicted in Tables 1 and 2 above, fee waivers enable redistribution via the provision of a free service funded by other users or taxpayers.

Fee waivers also improve access to fee-funded services. As the literature notes, traditional user fees impede access for those who can't afford to pay the fee,<sup>108</sup> provided that pre-payment of the fee is a prerequisite to accessing the service.<sup>109</sup> Reduced access is not only a problem for those excluded. For public services that implicate fundamental rights or have significant positive externalities—like public school programs or occupational licensing—all of society suffers when people are excluded. Everyone benefits when all children have access to school clubs and sports,<sup>110</sup> or when occupational licenses are not rationed based on income.<sup>111</sup> Other fee-funded programs exhibit similar dynamics.<sup>112</sup> Fee waivers improve access to these services by allowing vulnerable people to receive the service for free.

There are, of course, limits on fee waivers' ability to improve access. As explained above, communities that rely on fee funding might reject low-income residents.<sup>113</sup> Fee waivers won't solve this type of broad-scale

<sup>107</sup> See *supra* notes 99–100 and accompanying text. To many, precluding redistribution is a primary reason to adopt fees. ROBERT NOZICK, *ANARCHY, STATE, AND UTOPIA* 172 (1974) (rejecting redistributive taxation); Duff, *supra* note 51, at 401–03 (noting that libertarian theories of justice reject redistributive taxation and discussing how such “fiscal equivalence” theories support user fees).

<sup>108</sup> E.g., Anderson, *supra* note 10, at 958–59.

<sup>109</sup> Where pre-payment is not required, in the absence of a fee waiver, traditional user fees create debt or deprivation for those who can't afford to pay. See *infra* Section III.C for further discussion of fees' consequences in the absence of waivers.

<sup>110</sup> See Marie F. Martinez et al., *Benefits of Meeting the Healthy People 2030 Youth Sports Participation Target*, 66 AM. J. PREVENTIVE MED. 760, 766–67 (2024) (finding that increasing youth sports participation would save society billions of dollars in healthcare and productivity costs via population-wide improvements in mental and physical health); WILLIAM O. BROWN, STEVEN B. FRATES, IAN S. RUDGE & RICHARD L. TRADEWELL, ROSE INST. OF STATE & LOC. GOV'T, *THE COSTS AND BENEFITS OF AFTER SCHOOL PROGRAMS: THE ESTIMATED EFFECTS OF THE AFTER SCHOOL EDUCATION AND SAFETY PROGRAM ACT OF 2002* 34 (2002) (estimating between \$8.92 and \$12.90 in social returns for every \$1 spent on after-school programs in California).

<sup>111</sup> Cf. Chiara Farronato, Andrey Fradkin, Bradley J. Larsen & Erik Brynjolfsson, *Consumer Protection in an Online World: An Analysis of Occupational Licensing*, 16 AM. ECON. J.: APPLIED ECON. 549, 567 (2024) (finding that stringent licensing, including high fees, for home improvement services is associated with higher prices, lower competition, and no improvement in customer satisfaction).

<sup>112</sup> See *infra* note 266 and accompanying text.

<sup>113</sup> See *supra* notes 85–86 and accompanying text.

exclusion. Waiver or not, a city that expects residents to pay their own way will only admit residents who can afford to. Additionally, access depends greatly on how fee waivers are designed and implemented. Perhaps most importantly, waivers will not appreciably improve access if they are too narrowly targeted or if the rules are difficult to navigate. I address these issues in more detail below.<sup>114</sup>

In addition to improving access to services, fee waivers can lower costs for low-income payors and would-be payors. Traditional fee costs can harm low-income people in two ways: (1) by causing deprivation, as people pay the fee by cutting other basic needs;<sup>115</sup> and (2) by leading to debt, incurred either to the government agency or a private lender.<sup>116</sup> Fee waivers prevent these harms by eliminating the fee or reducing it to an affordable amount. As with access, these fee waiver benefits will be reduced if eligibility rules are too narrow or too complex to easily navigate.

The local government literature raises more abstract concerns about user fees as well. Scholars argue, in particular, that the increased reliance on user fees instantiates a private-market mentality among a city's residents.<sup>117</sup> Fee waivers somewhat address this concern by allowing government to reclaim its traditional redistributive role, at least for waiver recipients. The act of applying for a fee waiver disrupts what might otherwise feel like a transactional experience. In so doing, it reasserts the government's presence in service delivery. However, fee *payors* would likely continue to regard government like a private business. Moreover, fee waivers don't prevent government from viewing residents like customers. While these abstract claims are important, they are difficult to evaluate with specificity.

In the face of such ambiguity, it seems prudent to focus on more concrete consequences. By increasing redistribution, improving access to fee-funded services, and reducing costs for low-income users, fee

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<sup>114</sup> See *infra* Sections III.B.2, IV.B.1 (describing the incidence and consequences of patchwork eligibility rules).

<sup>115</sup> See, e.g., LUNNA LOPES, AUDREY KEARNEY, ALEX MONTERO, LIZ HAMEL & MOLLYANN BRODIE, *HEALTH CARE DEBT IN THE U.S.: THE BROAD CONSEQUENCES OF MEDICAL AND DENTAL BILLS* (2022), <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings> [<https://perma.cc/MG25-7R8M>] (finding that sixty percent of U.S. adults with medical bills cut back on spending for basic needs like food or clothing).

<sup>116</sup> See Yearwood, *supra* note 36 (describing how \$4,000 of ambulance debt “wrought havoc on [the author’s] credit and hampered [her] recovery from homelessness”); Levey, *supra* note 39 (reporting on consequence of medical debt).

<sup>117</sup> Beermann, *supra* note 65, at 1543; Reynolds, *supra* note 7, at 376–77 (“[T]he use of [fees] further exacerbates and cements the dues mentality in the minds of the citizenry, as taxpayers become accustomed to finely tuned tax-like charges that are levied in exchange for a growing number of government services.”).

waivers can appreciably address many of the concerns raised in the user fee literature.

## 2. *Regressivity*

Some commentators criticize fees for being more regressive than taxes.<sup>118</sup> Regressive charges can impose high costs on people who can't afford to pay,<sup>119</sup> as the prior Subsection discussed. A regressive fiscal system can be still more problematic, for instance, because it worsens inequality across the board.<sup>120</sup> The prior Subsection addressed how fee waivers can reduce high costs to low-income individuals.<sup>121</sup> This Subsection addresses system-wide considerations, which are somewhat complex and therefore merit their own separate discussion. It explains how fee waivers can increase the progressivity of a fiscal system writ large relative to traditional user fee financing. However, tax funding is still more progressive than user fee funding, since taxes can fund purely redistributive programs.<sup>122</sup> This Subsection explores both points.

Traditional user fees are regressive in structure because their amount is either flat or based on the amount of service consumed, rather than on one's ability to pay.<sup>123</sup> A fee's final incidence, however, depends on the value users receive from the funded service.<sup>124</sup> If users receive a value roughly equal to the fee paid, as depicted in Table 3, the distribution of traditional fee burdens is flat. More progressive services, like public school programs perhaps, will offset the regressivity of the fee. Fee-funded services that provide little value to users, like car towing, will remain regressive.

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<sup>118</sup> *E.g.*, Gillette, *supra* note 73, at 1253; Reynolds, *supra* note 7, at 380.

<sup>119</sup> Anderson, *supra* note 10, at 958 (“[S]ervice pricing creates a regressive substitute for taxation by failing to reflect the economic capacity of consumers.”).

<sup>120</sup> See INST. ON TAX’N & ECON. POL’Y, WHO PAYS?: A DISTRIBUTIONAL ANALYSIS OF THE TAX SYSTEMS IN ALL 50 STATES, at 10 (7th ed. 2024) [hereinafter ITEP], <https://sfo2.digitaloceanspaces.com/itep/ITEP-Who-Pays-7th-edition.pdf> [<https://perma.cc/TH6B-QZ63>] (explaining how regressive fiscal systems worsen inequality by asking low-income taxpayers to pay a higher proportion of their income in taxes, widening the gap between the rich and poor).

<sup>121</sup> See *supra* text accompanying notes 115–16.

<sup>122</sup> See *supra* text accompanying notes 46–47.

<sup>123</sup> Gillette, *supra* note 72, at 1246 (“[F]ees and charges can be imposed in the amounts that reflect the cost of the service conferred on the payer or the benefit received by the payer, but no more.”).

<sup>124</sup> An analogous argument is often made about taxes as well. That is, assessing the progressivity or regressivity of a tax standing alone is misleading because taxes are offset by the value of services received from government. If a regressive tax funds a redistributive service, the overall result can be progressive. See LOUIS KAPLOW, THE THEORY OF TAXATION AND PUBLIC ECONOMICS 15–17 (2008) (arguing that tax and spending policies must be considered together).

Table 3 illustrates the point. The facts are the same as above—three residents, two of whom use the service, which costs \$500 per user—except that now the service is funded by a traditional user fee with no waiver.

TABLE 3: TRADITIONAL USER FEE FUNDING, NO WAIVER

	<b>Fee Paid</b>	<b>Service Received</b>	<b>Net Result</b>
<i>R</i>	(\$500)	\$500	\$0
<i>N</i>	\$0	\$0	\$0
<i>P</i>	(\$500)	\$500	\$0

With a traditional user fee, both R (Rich User) and P (Poor User) pay \$500. This fee structure is regressive if considered on its own, since P pays a greater proportion of her income in fees than R. However, R and P also receive the service. The \$500 value received offsets the fee's cost, resulting in a net cost of \$0 to both people. Zero is the same proportion of income for both people: 0%. Thus, assuming that users receive a value at least equal to the fee paid,<sup>125</sup> fee-funded systems are not necessarily regressive.

Fee waivers improve progressivity for the specific fee-funded service to which they apply. Recall the example in Table 1. R paid a fee of \$1,000, which funded both her service and P's service. R and P both received the service, worth \$500. The final result was a net *cost* of \$500 to R, the high-income user, and a net *transfer* of \$500 to P, the low-income user. This is a progressive result within the fee-funded service.

Fee waivers can also improve the progressivity of a fiscal system overall relative to traditional fee financing. However, a tax-funded system has the capacity to be far more progressive than a fee-funded system, even with waivers.

To see both points, consider a slightly more complex city, which we'll call Servicetown. Servicetown offers two services: Service 1 and Service 2. Imagine that Service 1 is a classic fee-funded service, like toll roads. It costs \$100 per year and confers an equivalent value of \$100 on all users. Service 2 is a means-tested transfer program, like TANF,

<sup>125</sup> This assumption is likely true for many fee-funded public services (e.g., school programs, emergency medical services, drivers' licenses), but false for some others (e.g., carceral system services, car towing). See *supra* note 105 for further discussion of the value that people receive from fee-funded services.

which can't be fee-funded.<sup>126</sup> Table 4 shows the result for a system that relies entirely on traditional fee funding.

TABLE 4: TWO SERVICES, TRADITIONAL USER FEE FUNDING

	<b>Service 1 Fee Paid</b>	<b>Service 1 Value Received</b>	<b>Service 2 Value Received</b>	<b>Net Result</b>
<i>R</i>	(\$100)	\$100	-	\$0
<i>N</i>	\$0	\$0	-	\$0
<i>P</i>	(\$100)	\$100	-	\$0

In Table 4, Servicetown has a flat fiscal system. Everyone pays for what they get, and the net cost to everyone is \$0. Because Service 2 cannot be fee-financed, it doesn't exist.

Let's now consider how fee waivers change the outcome. Table 5 shows a system that has introduced a fee waiver for Service 1. The waiver is financed by a higher fee imposed on *R*.

TABLE 5: TWO SERVICES, USER FEE WITH WAIVER

	<b>Service 1 Fee Paid</b>	<b>Service 1 Value Received</b>	<b>Service 2 Value Received</b>	<b>Net Result</b>
<i>R</i>	(\$200)	\$100	-	(\$100)
<i>N</i>	\$0	\$0	-	\$0
<i>P</i>	\$0	\$100	-	\$100

Table 5 shows a system that allows for some downward redistribution from *R* to *P* via Service 1. The system is now progressive, as *R* pays a net cost, and *P* receives a net transfer. Even so, this system cannot accommodate a means-tested transfer program, because the fee does not allow for additional revenue beyond the funding for Service 1.<sup>127</sup>

<sup>126</sup> A means-tested program provides benefits only to people with income below a certain level—that is, it tests their means in order to determine their eligibility. *Means-Tested Programs*, INST. FOR RSCH. ON POVERTY (last visited Jan. 4, 2026), <https://www.irp.wisc.edu/research/economic-support/means-tested-programs> [<https://perma.cc/2UMX-NQ2T>]. Such a program cannot be fee-funded because, by definition, it aims to provide supportive benefits to people with little or no income.

<sup>127</sup> See *Emerson Coll. v. City of Boston*, 462 N.E.2d 1098, 1105 (Mass. 1984) (holding that fees are not intended to raise revenue beyond the fee-funded service).

Let's now introduce taxes. With progressive taxes, Servicetown can raise enough revenue to fund Service 2, in addition to the fee funding for Service 1. Imagine that Service 2 requires \$200 of revenue. Table 6 shows the result.

TABLE 6: TWO SERVICES, PROGRESSIVE TAX, AND USER FEE WITH WAIVER

	<b>Tax Paid</b>	<b>Service 1 Fee Paid</b>	<b>Service 1 Value Received</b>	<b>Service 2 Value Received</b>	<b>Net Result</b>
<i>R</i>	(\$100)	(\$200)	\$100	\$0	(\$200)
<i>N</i>	(\$100)	\$0	\$0	\$0	(\$100)
<i>P</i>	\$0	\$0	\$100	\$200	\$300

Table 6 illustrates that taxes allow for more downward redistribution than fee funding alone, even considering the effect of fee waivers. Here, both *R* and *N*, Servicetown's two high-income residents, face a net cost. *P* receives a larger net transfer compared to Table 5, in the form of two free services.

These examples can also illustrate when fee waivers would fail to appreciably improve progressivity, however. For instance, waivers will not improve progressivity if they are funded by a regressive revenue source. Imagine, for instance, that Servicetown's fee waivers are funded by a regressive tax on *P* rather than a higher fee on *R*. Or imagine that diverting tax funding to these fee waivers results in cuts to other more redistributive programs, like Medicaid. In those cases, introducing a fee waiver may not improve the system's progressivity and could, in fact, make the system more regressive. These concerns are especially salient for states and cities that rely on regressive sales taxes, as many do.<sup>128</sup>

Fee waivers will also fail to broadly improve progressivity if they exclude many low-income people, for instance, because the eligibility rules are narrowly targeted or too complex.<sup>129</sup> Under the stylized facts in Table 6, exclusion would mean that *P* must pay the full \$100 fee for Service 1, despite being low-income. In that case, *P*'s net transfer would fall to \$200, reducing the system's overall progressivity.

Together, Tables 4, 5, and 6 demonstrate two points. First, properly designed fee waivers can make fiscal systems more progressive compared to traditional fee financing. Second, however, fee waivers can't produce

<sup>128</sup> See ITEP, *supra* note 120, at 13 (noting that eight of the top ten most regressive state tax systems rely heavily on sales taxes).

<sup>129</sup> See *infra* Sections III.B.2, IV.B.

the same level of progressivity as tax funding because fees can't be used to fund purely redistributive programs. These observations in turn suggest that fee waivers' progressivity depends heavily on their eligibility rules and source of funding.<sup>130</sup>

### C. *How Fee Waivers Undermine Allocative Efficiency*

So far, I have discussed how fee waivers can alleviate harms. This final Section raises a possible critique of fee waivers<sup>131</sup>: By driving a wedge between the price paid for a service and its marginal cost, fee waivers undermine the allocative efficiency gains associated with user fees.<sup>132</sup> If progressive user fees are set above marginal cost for some, these paying users might underuse the service; meanwhile, non-paying users may overuse it. The extent of this potential overuse and underuse depends on the elasticity of demand for the service—that is, how readily people will opt in or out of using it when the price goes up or down.<sup>133</sup> This Section discusses these possible distortions and suggests design responses to address them.<sup>134</sup> It also considers how to think about fee waivers where these distortions can't be eliminated entirely.

Although there is no comprehensive data on the matter, there's reason to think distortions are already happening, at least for some fees. Ambulance fees, in particular, are often critiqued for being extremely high.<sup>135</sup> One common explanation for the exorbitant charges is that

<sup>130</sup> See *infra* Sections III.B.2 and IV.B (discussing eligibility rules and administrative burdens on applicants).

<sup>131</sup> In addition to this theoretical concern, fee waivers are also complex and challenging to administer. I address this more practical concern in greater detail below. See *infra* Sections III.B.2 (describing empirical findings regarding fee waivers' complexity) and IV.B (discussing waiver complexity and possible reforms to address it).

<sup>132</sup> See *supra* notes 97–100 and accompanying text (describing how user fees are said to result in the optimal public use of a service).

<sup>133</sup> See Mankiw, *supra* note 98, at 90 (defining elasticity as a measure of “how much the quantity demanded responds to a change in price”); Gillette & Hopkins, *supra* note 99, at 811–12 (noting that user fees are more likely to cause underconsumption when demand for a good is elastic).

<sup>134</sup> Similar distortions in the context of tax policy are sometimes referred to as “deadweight losses.” See Alan J. Auerbach & James R. Hines Jr., *Taxation and Economic Efficiency*, in 3 HANDBOOK OF PUBLIC ECONOMICS 1347, 1349–50 (Alan J. Auerbach & Martin Feldstein eds., 2002) (illustrating the reduced consumption and thus reduced welfare from a price increase caused by the imposition of a tax).

<sup>135</sup> See *supra* note 38 and accompanying text (describing excessive ambulance fees); Irina Ivanova, *Need an Ambulance? Depending on the State, It Will Cost You*, CBS NEWS (Dec. 13, 2022, at 16:39 ET), <https://www.cbsnews.com/news/ambulance-surprise-medical-bill-balance-billing-state> [<https://perma.cc/U3LQ-RTCK>] (same); Ali Rogin, Laura Santhanam & Kaisha Young, *Why Unexpectedly High Ambulance Bills Are Still a Problem in the U.S.*, PBS NEWS (Sep. 24, 2023, at 17:35 ET), <https://www.pbs.org/newshour/show/why-unexpectedly-high-ambulance-bills-are-still-a-problem-in-the-u-s> [<https://perma.cc/AHD6-F37D>] (same).

many EMS users can't pay the full fees, which leaves paying users to make up the difference;<sup>136</sup> ambulance fees are thus already somewhat redistributive. There's also evidence that some people avoid calling an ambulance because they fear having to pay the exorbitant fees.<sup>137</sup> In other words, when ambulance fees are set too high in order to fund free services for non-paying users, the wedge between the marginal cost and the actual fee creates deadweight loss to the extent it causes would-be paying users to avoid calling an ambulance.<sup>138</sup> That deadweight loss can translate into serious health consequences, even death.<sup>139</sup> We might also be concerned that non-paying users would overuse ambulances,<sup>140</sup> although there does not seem to be credible data to this effect in the United States.

The situation as described is not ideal. Some of the consequences, however, can be mitigated with thoughtful design. To prevent underuse, fees for paying users should be set low enough that they don't disincentivize use.<sup>141</sup> Doing so may require using tax revenue to offset some or all of the cost of fee waivers. Even in an efficiency-oriented

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<sup>136</sup> NAT'L EMS ADVISORY COUNCIL, FIN. COMM., EMS SYSTEM FUNDING & REIMBURSEMENT 11 (2016), [https://www.ems.gov/assets/NEMSAC\\_Final\\_Advisory\\_EMS\\_System\\_Funding\\_Reimbursement.pdf](https://www.ems.gov/assets/NEMSAC_Final_Advisory_EMS_System_Funding_Reimbursement.pdf) [<https://perma.cc/WSE9-HDBD>] (“[T]he user fee revenues derived from ambulance users with commercial insurance cross-subsidize the below-cost reimbursement from Medicare, Medicaid and uninsured ambulance users.”).

<sup>137</sup> E.g., Comilla Sasson et al., *Barriers to Calling 911 and Learning and Performing Cardiopulmonary Resuscitation for Residents of Primarily Latino, High-Risk Neighborhoods in Denver, Colorado*, 65 ANNALS EMERGENCY MED. 545, 549 (2015); Lesli E. Skolarus et al., *Individual and Community Determinants of Calling 911 for Stroke Among African Americans in an Urban Community*, 6 CIRCULATION: CARDIOVASCULAR QUALITY AND OUTCOMES 278, 280 (2013).

<sup>138</sup> Because the fee-induced behavioral shift has reduced consumer wellbeing without a concomitant increase in fee revenue, this is a classic example of a deadweight loss. See LAURIE L. MALMAN, LINDA F. SUGIN, LEWIS D. SOLOMON & JEROME M. HESCH, *THE INDIVIDUAL TAX BASE: CASES PROBLEMS AND POLICIES IN FEDERAL TAXATION* 11–12 (2d ed. 2002) (describing deadweight loss).

<sup>139</sup> E.g., Skolarus et al., *supra* note 137, at 278 (raising the concern that delayed care leads to worse stroke outcomes).

<sup>140</sup> Interestingly, there seems to be some concern about ambulance overuse in the United Kingdom and Canada, where the cost of ambulance rides is covered by national healthcare systems. See generally Alicia O’Cathain, Janice Connell, Jaqui Long & Joanne Coster, ‘Clinically Unnecessary’ Use of Emergency and Urgent Care: A Realist Review of Patients’ Decision Making, 23 HEALTH EXPECTATIONS 19 (2019) (reviewing articles about overuse of emergency services, including ambulances); Kris Bramwell, *Ambulance Service Being Misused, Paramedics Say*, BBC (Jan. 11, 2023), <https://www.bbc.com/news/health-64136691> [<https://perma.cc/GD7D-PKPH>] (documenting ambulance overuse in the UK); Deirdre Dejean, Mita Giacomini, Michelle Welsford, Lisa Schwartz & Philip Decicca, *Inappropriate Ambulance Use: A Qualitative Study of Paramedics’ Views*, 11 HEALTHCARE POL’Y 67, 69 (2016) (studying paramedic perspectives on ambulance overuse in Ontario).

<sup>141</sup> See Bird & Slack, *supra* note 99, at 2 (explaining how setting fees equal to marginal social cost will lead to the correct amount of consumption).

framework, tax subsidies make good sense if a service generates positive externalities.<sup>142</sup> In that case, all of society benefits when more people use the service because it generates social value beyond the value to the individual user.<sup>143</sup>

Overuse by waiver recipients raises somewhat distinct concerns. For one thing, if a service generates significant positive externalities, we might be less concerned about high levels of use. Public school extracurriculars and car registration might fall into this category of services. Even so, the possible harms of overuse shouldn't be ignored. Overusing public school programs, for example, could strain scarce educational resources and lead to lower quality school programs. One possible response, again, is to provide tax revenue to ensure sufficient quality and quantity of services.

In many cases, there may not be a way to eliminate overuse of free public services. Policymakers must, then, weigh whether countervailing harms justify offering fee waivers. In the context of ambulance services, the countervailing harms include lack of access to EMS for low-income residents, or debt and deprivation where people receive services but can't afford the associated fees.<sup>144</sup> In other contexts, the harms might entail exclusion from enriching public programs, like school extracurriculars, or vital regulated systems, like car registration. Where these countervailing harms are severe<sup>145</sup>—for instance, where fee debt can derail people's lives,<sup>146</sup> or where exclusion implicates fundamental rights or locks people out of full membership in the social or economic community—fee waivers' benefits may outweigh their possible distortions.

Each public service and each community are *sui generis*. State and local policymakers should conduct their own analysis to determine optimal fee levels and waiver design. The allocative efficiency concerns raised here might counsel toward tax subsidies to offset the cost of waivers in some places; in other places, they might counsel against adopting fee waivers entirely.

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<sup>142</sup> MASSIMO FLORIO & CHIARA PANCOTT, *APPLIED WELFARE ECONOMICS: COST-BENEFIT ANALYSIS OF PROJECTS AND POLICIES* 96–97 (2d ed. 2023) (explaining positive externalities and how government subsidies can achieve optimal consumption).

<sup>143</sup> *Id.*

<sup>144</sup> *See infra* notes 214–22 and accompanying text.

<sup>145</sup> *See infra* Section III.C for detailed discussion of these harms.

<sup>146</sup> *E.g.*, Yearwood, *supra* note 36 (detailing the personal consequences of ambulance debt accrued while being unhoused).

Part II has explained how fee waivers can theoretically address many of the concerns raised by both sides of the user fee literature. Waivers' potential positive consequences, however, depend heavily on thoughtful design. To enable redistribution, improve access, reduce costs on low-income payors, and increase progressivity, fee waivers should be made broadly available to vulnerable and low-income people. How waivers are funded matters as well. Improving progressivity requires funding fee waivers from a progressive revenue source. Along similar lines, to reduce inefficient deadweight loss, waivers would ideally be funded from tax revenue rather than higher fees on other users.

Perhaps most importantly, this discussion has shown that the existence of fee waivers complicates any simple understanding of how user fees affect the progressivity and redistributive capacity of local and state government financing, as well as access to public programs. Evaluating the prevalence and design of fee waivers is thus vital to fully understanding fees' effects. Part III undertakes such an inquiry.

### III

#### PROGRESSIVE USER FEES IN REALITY

This Part turns from top-down theory to bottom-up observation. Based on a first-of-its-kind survey, I show that the user fee landscape is more complicated than the prevailing story appreciates. In many places and for many fees, design elements make fees somewhat progressive, improve access, and reduce harms for low-income users.

The first Section describes the survey's methodology. The second Section reports its two primary findings: (1) the majority of localities or states offer a waiver of some kind for every fee surveyed; and (2) eligibility and documentation requirements differ significantly within and between localities and states. This patchwork waiver landscape creates learning costs for applicants and dampens the redistributive potential of waivers.<sup>147</sup> The final Section describes the stakes of these failures.

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<sup>147</sup> See Herd & Moynihan, *supra* note 35, at 130 (defining "[l]earning costs").

## A. Survey Methodology

The user fee landscape across cities and states is mind-boggling. It's impossible to make general statements about fee policies throughout the country due to the number of cities, the number of fees, and the idiosyncrasies that define each. The sample here includes many types of cities and fee structures. It also covers a wide spectrum of fee waiver programs, some of which can serve as model policies and others of which are notable for poor design. It is not intended, however, to serve as a representative sample for the full United States.<sup>148</sup>

### 1. Surveyed Cities

I surveyed fee laws and regulations in thirteen U.S. cities and, where appropriate, their respective counties, school districts, or states, to determine relief options for vulnerable people facing each type of fee.<sup>149</sup> The sample of cities was constructed to ensure diversity of geographic location as well as population size. It is limited to cities with populations of 50,000 or greater to ensure that they were large enough to maintain their own local agencies, as well as offer relatively searchable local policies. For the four contiguous U.S. Census regions<sup>150</sup>—West, Midwest, South, and Northeast—I selected the largest city by population, the median city with a population above 50,000, and the smallest city with a population of 50,000 or greater.<sup>151</sup> The final U.S. Census region, the Pacific region, includes only Alaska and Hawai'i. Two cities in the region have populations exceeding 50,000: Honolulu and Anchorage. Honolulu is included in the sample as the largest city in the region.<sup>152</sup> No other city in the Pacific region met the inclusion criteria.

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<sup>148</sup> The sample may be biased in various ways, most notably for only including cities of 50,000 residents or larger. Smaller cities will differ from mid-sized and large cities in many, nonrandom ways.

<sup>149</sup> This Article does not employ specific definitions of “vulnerable” or “low-income.” Rather, it bases the determination on how municipal codes and statutes determine eligibility for fee relief programs. Income thresholds vary across programs, as I note below. *See infra* Section III.B.2. Other proxies for need might include disability status, military status, age, and so forth.

<sup>150</sup> *Census Regions and Divisions of the United States*, U.S. CENSUS BUREAU, [https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us\\_regdiv.pdf](https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf) [<https://perma.cc/B87N-CX42>] (last visited Dec. 25, 2025).

<sup>151</sup> For population figures, see *City and Town Population Totals: 2020-2024*, U.S. CENSUS BUREAU, <https://www.census.gov/data/tables/time-series/demo/popest/2020s-total-cities-and-towns.html> [<https://perma.cc/J3RV-3JWQ>] (last visited Dec. 25, 2025).

<sup>152</sup> I did not include Anchorage because doing so would have overrepresented large cities from the Pacific region. Anchorage's population, at nearly 290,000 in 2022, is too large

To ensure greater geographic coverage, where a city would result in a duplicate state or county, I picked the next closest city in terms of population size that would allow for analysis of a different state or county. If the median fell between two cities in the same state or in unrepresented states, I selected the smaller city. Table 7 lists the cities. Table 8 provides selected demographic and political affiliation information for each city.

TABLE 7: SURVEYED CITIES

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<b><i>Large Cities</i></b>	Los Angeles, CA; Chicago, IL; Houston, TX; New York, NY; Honolulu, HI
<b><i>Medium Cities</i></b>	Kirkland, WA; Fort Myers, FL; Cranston, RI; Bismarck, ND
<b><i>Small Cities</i></b>	Cuyahoga Falls, OH; Enid, OK; Draper, UT; Harrisburg, PA

By using these pre-defined methods, I sought to reduce the risk that personal preference might bias my findings. While the survey may not be representative, the selection process at least resulted in a sample that covers a broad spectrum of cities in terms of size, income level, poverty rate, and political affiliation, as Table 9 shows. This coverage can assure us that the survey results are not merely reflective of policies unique to large cities, wealthy cities, or progressive cities.

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to be comparable to the other small or even median cities in the sample. *See QuickFacts: Anchorage Municipality, Alaska*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/anchoragemunicipalityalaska/PST045222> [<https://perma.cc/4LC2-GXCM>] (last visited Dec. 25, 2025).

TABLE 8: SURVEYED CITY FEATURES

	City	Population <sup>153</sup>	Median Income	Poverty Rate	Political Party <sup>154</sup>
<i>Large</i>	<i>New York, NY</i>	8,804,190	\$76,577	17.40%	Dem 52% Rep 39%
	<i>Los Angeles, CA</i>	3,820,963	\$79,701	16.50%	Dem 57% Rep 33%
	<i>Chicago, IL</i>	2,664,454	\$74,474	16.80%	Dem 61% Rep 32%
	<i>Houston, TX</i>	2,300,419	\$62,894	19.70%	Dem 44% Rep 48%
	<i>Honolulu, HI</i>	341,753	\$84,907	9.10%	Dem 45% Rep 47%
<i>Medium</i>	<i>Kirkland, WA</i>	91,190	\$144,080	6.00%	Dem 50% Rep 41%
	<i>Fort Myers, FL</i>	86,395	\$61,894	19.90%	Dem 35% Rep 64% <sup>155</sup>
	<i>Cranston, RI</i>	82,934	\$92,795	8.70%	Dem 52% Rep 46% <sup>156</sup>
	<i>Bismarck, ND</i>	75,092	\$77,608	9.70%	Dem 30% Rep 63%
	<i>Cuyahoga Falls, OH</i>	50,864	\$70,645	9.80%	Dem 43% Rep 50%
<i>Small</i>	<i>Enid, OK</i>	50,821	\$63,472	14.10%	Dem 34% Rep 57%
	<i>Draper, UT</i>	50,159	\$130,680	5.60%	Dem 33% Rep 64%
	<i>Harrisburg, PA</i>	50,092	\$47,783	29.10%	Dem 44% Rep 49%

<sup>153</sup> Figures for population, median income, and poverty rate are from *QuickFacts: United States*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts> [<https://perma.cc/9YZK-32CF>] (last visited Dec. 25, 2025) (enter city name in the search bar for a list of pertinent figures).

<sup>154</sup> Figures reflect metro area political affiliation where available, and state political affiliation otherwise. Unless noted, data on metro/state party affiliation is drawn from the 2023–24 iteration of the *Religious Landscape Study*, PEW RSCH. CTR., <https://www.pewresearch.org/religion/religious-landscape-study> [<https://perma.cc/BRZ6-ACC7>] (last visited Dec. 25, 2025) (select the state or metro area on the map, then select “Social & political views,” then “Political party”).

<sup>155</sup> *Summary Results Report: Official General Election*, LEE CNTY. ELECTIONS, <https://fl-leecountyelections.civicplus.com/DocumentCenter/View/229/Official-Election-Results-Summary-for-the-General-Election-Results-November-5-2024-PDF?bidId=> [<https://perma.cc/N99F-YBV3>] (last visited Jan. 9, 2026).

<sup>156</sup> *2024 General Election: Votes by Municipality: Cranston*, R.I. BD. OF ELECTIONS, [https://www.ri.gov/election/results/2024/general\\_election/cranston](https://www.ri.gov/election/results/2024/general_election/cranston) [<https://perma.cc/98E6-N672>] (last visited Dec. 25, 2025).

## 2. *Surveyed User Fees*

I surveyed policies for fees associated with emergency medical services (EMS), public school programs, occupational licensing, and car registration.<sup>157</sup> This list of fee types covers standard user fees that operate like a price for public goods and services,<sup>158</sup> as well as regulatory user fees that offset the government's cost to regulate certain activities (typically related to health and safety).<sup>159</sup>

Because this project examines user fees' harms against low-income and vulnerable users, I had to select fees for services that regular people use in the course of ordinary life. These particular services also implicate fundamental rights or have significant positive externalities. All of society suffers when people are excluded from public school programs or occupational licensing.<sup>160</sup> And, non-payment of the fees surveyed can lead to serious negative consequences, including debt, deprivation, exclusion, and, in extreme cases, loss of a car or imprisonment.<sup>161</sup> Therefore, understanding how low-income and vulnerable people navigate these fees is important. All that said, there are other fee-funded programs that matter a great deal to vulnerable households, such as fees for public transportation or vital records.<sup>162</sup> Time and space constraints meant that I had to make choices about what to include.

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<sup>157</sup> Many other fees could be covered in such a survey. *See supra* Section III.A.2; Appendix, Sections A–B (listing fees that raise important issues for vulnerable users including those for state civil court, car towing, personal identification documents, and public transportation).

<sup>158</sup> *See Bird, supra* note 26, at 12 (describing a system of taxation where individuals pay only for the benefit they receive from a particular government service).

<sup>159</sup> *See Emerson Coll. v. City of Boston*, 462 N.E.2d 1098, 1105 (Mass. 1984) (noting that fees can be intended to compensate the government for the costs of providing services rather than to raise general revenue).

<sup>160</sup> *See infra* Section III.C for further discussion of the negative consequences of expensive fees or exclusion from fee-funded programs.

<sup>161</sup> *See infra* Section III.C.

<sup>162</sup> *See Zlotnick, supra* note 25, at 352 (discussing fees for identification documents); Darling et al., *supra* note 25, at 335 (discussing fees and fee waivers for public transportation); *see also* Scott, *supra* note 25, at 26–27 (discussing state civil court fees); ALVARADO ET AL., *supra* note 25, at 4 (discussing the harms caused by car towing and impound, including fees). My survey does include a *private* transportation fee, which may be more consequential than public transportation in many of the surveyed cities.

Table 9 lays out basic features of each fee type or fee-financed service.<sup>163</sup> More details about each program can be found in the Appendix.<sup>164</sup>

TABLE 9: SURVEYED USER FEE FEATURES<sup>165</sup>

	<b>State or Local Provision</b>	<b>Public or Private Provider<sup>166</sup></b>	<b>User Fee or Regulatory User Fee</b>
<i>EMS</i>	Local	Both	User fee
<i>Public School Programs</i>	Local	Public only	User fee
<i>Occupational Licensing</i>	Mostly state, some local	Public only	Regulatory user fee
<i>Car Registration</i>	Mostly state, some local	Public only	Regulatory user fee

As Table 9 shows, this short list covers a broad array of fee types, including user fees and regulatory user fees, fees charged by public agencies and private contractors, and fees charged by local and state entities. Some of these fees are long-standing (like car registration), while others appeared for the first time or have dramatically expanded in recent decades (like EMS fees). Some have received recent attention from consumer advocates (like EMS<sup>167</sup> and occupational licensing fees<sup>168</sup>), and some have not (like school program fees and car

<sup>163</sup> My research did not include waiver funding sources because such data is not readily available. Moreover, because money is fungible, ascertaining the true economic incidence of waiver costs would entail complex fiscal burden analysis that is beyond the scope of this Article. It’s worth noting, however, that state and local revenue systems are often regressive. See ITEP, *supra* note 120, at 43 (“The vast majority of state and local tax systems are regressive . . .”). If waivers are funded via general revenue, this regressivity would broadly undermine their progressive effect.

<sup>164</sup> *Infra* Appendix Part A.

<sup>165</sup> See *infra* Appendix Part B for sources and details.

<sup>166</sup> All services are public services provided by or under the auspices of a government entity. However, some of those services are provided by private entities that are contracted to provide public services. See *infra* notes 317–18 and accompanying text (explaining the use of private contractors to provide EMS services).

<sup>167</sup> E.g., Patricia Kelmar, *It’s Time to End Ambulance Surprise Billing*, U.S. PIRG EDUC. FUND (Dec. 23, 2025), <https://pirg.org/edfund/articles/its-time-to-end-ambulance-surprise-billing> [<https://perma.cc/W348-4V45>] (discussing ongoing consumer advocacy efforts to address ambulance surprise billing).

<sup>168</sup> E.g., INST. FOR JUST., *supra* note 94 (describing ongoing litigation and advocacy to reform occupational licensing rules that the organization finds are often burdensome and irrational for lower-income Americans).

registration fees). By covering the fee landscape in this way, we can get a sense of the breadth of fee waiver programs provided by state and local governments.

## B. Survey Findings

### 1. Presence of Progressive Features

*Findings.* The survey sample reveals that for every fee examined, the majority of local or state governments offer a waiver or relief program of some kind.<sup>169</sup> Table 10 provides a snapshot of waiver programs across the sample.

TABLE 10: FEE WAIVERS ACROSS THE SAMPLE<sup>170</sup>

	City <sup>171</sup>	EMS	Public School Programs	Occupational Licensing	Car Registration
<i>Large</i>	<i>New York, NY</i>	Yes	No	Yes	Yes
	<i>Los Angeles, CA</i>	Yes	Yes	Yes	Yes
	<i>Chicago, IL</i>	Yes	Yes	No	Yes
	<i>Houston, TX</i>	Yes	Yes	Yes	Yes
	<i>Honolulu, HI</i>	Yes	No	No	Yes
<i>Medium</i>	<i>Kirkland, WA</i>	Yes	Yes	No	Yes
	<i>Fort Myers, FL</i>	No	Yes	Yes	Yes
	<i>Cranston, RI</i>	No	Yes	No	Yes
	<i>Bismarck, ND</i>	No	Yes	No	Yes
	<i>Cuyahoga Falls, OH</i>	Yes	Yes	No	Yes
<i>Small</i>	<i>Enid, OK</i>	No	No	Yes	Yes
	<i>Draper, UT</i>	No	Yes	Yes	Yes
	<i>Harrisburg, PA</i>	No	Yes	Yes	Yes
	<b>Total with waiver</b>	<b>7</b>	<b>10</b>	<b>7</b>	<b>13</b>

<sup>169</sup> Although not all fee relief programs offer full waiver of the fee to all applicants, I call all relief programs “waivers” to be more concise.

<sup>170</sup> See *infra* Appendix Part B for source citations and more detail regarding specific programs; see *infra* Table 11 for eligibility rules. Where no waiver is indicated, it means that no waiver is *required* by a state or local law or regulation. An agency, school, or EMS provider may nonetheless choose to offer fee waivers absent a legal requirement to do so.

<sup>171</sup> The table summarizes policies that *apply* in each city surveyed, though the waiver might come from city, county, school district, or state codes or regulations.

*Observations.* The survey suggests that user fee waivers are a standard progressive tool in policymakers' fiscal toolkits. I offer here a few observations about their distribution.

Waivers are most common for car registration fees, which are primarily administered at the state level throughout the country.<sup>172</sup> Although all states surveyed offer waivers for these fees, the waivers are extremely narrow in scope, as the next Section details.

Waivers are second most common for public-school program fees. The school-fee landscape is significantly more complex than a simple tally can reflect.<sup>173</sup> In ten out of thirteen cities surveyed,<sup>174</sup> waivers are explicitly required by law for at least certain school fees, some of which apply to mandatory activities or instructional materials, while others apply to non-mandatory activities including school extracurriculars.<sup>175</sup> Schools in three cities are not subject to any kind of fee-waiver requirement: New York, New York;<sup>176</sup> Honolulu, Hawai'i; and Enid, Oklahoma. In these three places, state laws and school

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<sup>172</sup> *Car Registration Fees by State 2025*, WORLD POPULATION REV., <https://worldpopulationreview.com/state-rankings/car-registration-fees-by-state> [<https://perma.cc/R7WD-NYUQ>] (last visited Dec. 25, 2025) (noting that vehicle registration and fees are administered by each state's transportation agency or DMV). *But see* HAW. REV. STAT. §§ 249-2, -13 (2024) (providing for county-level administration of certain car registration fees).

<sup>173</sup> This Article sets aside school meal fees, which are a somewhat separate issue from program fees. Public schools provide free or reduced-price meals to certain students, funded in part by the U.S. Department of Agriculture's National School Lunch Program. 42 U.S.C. § 1751. In most states, families that don't qualify for free meals incur fees for school meals. For many, these fees are unaffordable, resulting in unpaid school meal debt, which totaled \$262 million in 2024. Melanie Hanson, *School Lunch Debt Statistics*, EDUC. DATA INITIATIVE (Aug. 21, 2025), <https://educationdata.org/school-lunch-debt> [<https://perma.cc/ZY89-CXCC>]; *see also* Kate Grumke, *Schools Ended Universal Free Lunch. Now Meal Debt is Soaring*, NPR (May 3, 2023, at 5:01 ET), <https://www.npr.org/sections/health-shots/2023/05/03/1173535647/schools-ended-universal-free-lunch-now-meal-debt-is-soaring> [<https://perma.cc/2C4X-U8V5>] (discussing rising school cost of school meals and associated debt); *State Healthy School Meals for All Legislative Chart*, FOOD RSCH. & ACTION CTR. (2025), <https://frac.org/wp-content/uploads/HSMFALegislativeChart2.1.23.pdf> [<https://perma.cc/JU5U-PHHW>] (listing proposed bills and enacted laws to provide free school meals to all students).

<sup>174</sup> School districts were often coterminous with counties in the survey, such that multiple cities were included in a single district. But there were some idiosyncratic administrative structures. For instance, New York City contains thirty-four school districts while Hawai'i has one, statewide district.

<sup>175</sup> *See* *Hartzell v. Connell*, 679 P.2d 35, 39–41 (Cal. 1984) (en banc) (discussing the distinction between mandatory and non-mandatory school activities).

<sup>176</sup> There are thirty-four school districts within New York City, all of which fall under the auspices of the NYC Department of Education. *How is NYC Divided into School Districts?*, NYC PUB. SChs., <https://teachnyc.zendesk.com/hc/en-us/articles/360043956952-How-is-NYC-divided-into-school-districts> [<https://perma.cc/SQ54-K2EQ>] (last visited Jan. 9, 2026). In New York City, I reviewed policies at the city and state levels.

board administrative rules (or, in the case of New York City, the NYC Department of Education policies) are silent on the matter. One district, Cuyahoga Falls, explicitly exempts extracurricular program fees from waiver requirements.<sup>177</sup>

Seven out of thirteen cities in the sample offer waivers for EMS fees. These seven comprise all five large cities, one mid-sized city, and one smaller city. This pattern might reflect the fact that the largest cities in the sample tend to have a more liberal electorate.<sup>178</sup> It might also reflect the fact that larger cities are wealthier. The pattern generally supports an argument made in the local government literature that central cities—that is, the most important or populous cities in larger metropolitan areas—engage in more redistribution compared to suburbs.<sup>179</sup>

Like car registration, occupational licensing occurs mostly at the state level,<sup>180</sup> with localities only occasionally imposing additional licensing requirements.<sup>181</sup> In this sample, six states and one county (Los Angeles) offer some kind of waiver for occupational licensing fees.

## 2. Patchwork Eligibility Rules

*Findings.* The survey's second finding is that fee waiver eligibility rules differ significantly, both between and within localities. Eligibility is typically based on financial vulnerability, some kind of non-financial vulnerability like age or disability status, or some combination of the two. It's interesting to note that fee waivers for EMS and public-school fees focus on financial vulnerability, while waivers for car registration and occupational licensing fees focus mostly on non-financial hardship. For waivers that target financial vulnerability, some require applicants to prove their income with financial documents while others allow applicants to use proxies for income level, like the receipt of means-tested public benefits. Still others consider non-income characteristics that suggest financial vulnerability, like unemployment or a low credit score.

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<sup>177</sup> OHIO REV. CODE ANN. § 3313.642(B)(1) (2023).

<sup>178</sup> See *supra* Table 8.

<sup>179</sup> E.g., Clayton P. Gillette, *Regionalization and Interlocal Bargains*, 76 N.Y.U. L. REV. 190, 191 (2001) (stating that suburbs have “fewer redistributive needs” than central cities).

<sup>180</sup> *The National Occupational Licensing Database*, NAT'L CONF. OF STATE LEGIS. (Aug. 12, 2022), <https://www.ncsl.org/labor-and-employment/the-national-occupational-licensing-database> [<https://perma.cc/F7FN-5389>] (listing state-level occupational licensing requirements).

<sup>181</sup> E.g., L.A. CNTY. CODE § 7.14.010 (2023) (licensing weed eradicators); ENID CITY CODE § 3-16-2 (2004) (licensing arborists).

Table 11 summarizes the eligibility rules for each waiver program surveyed.

TABLE 11: ELIGIBILITY RULES IN WAIVER PROGRAMS<sup>182</sup>

City <sup>183</sup>	EMS	Public School Programs	Occupational Licensing	Car Registration
<i>New York, NY</i>	Uninsured <i>and</i> low-income persons (100% FPL <sup>184</sup> only)	None	Military spouses ( <i>only</i> a reduction)	Disabled veterans; or former prisoners of war
<i>Los Angeles, CA</i>	Uninsured <i>and</i> low-income persons (below threshold set by LA Board of Water and Power; or receipt of means-tested benefits)	“Financial hardship;” “inability to pay”	Blind persons	Disabled veterans; former prisoners of war; or Congressional Medal of Honor recipients
<i>Chicago, IL</i>	Uninsured <i>and</i> low-income persons (300% FPL or various proxies for low-income status, e.g., receipt of means-tested benefits) or vulnerable persons (various proxies for non-financial vulnerability, e.g., senior citizen)	Qualify for free school meals; homeless; “extenuating circumstances” (e.g., injury, illness, or natural disaster); or veteran/active military <i>and</i> low-income (200% FPL)	None	Purple Heart recipients; low-income seniors; or persons with disabilities who qualify under state property tax relief program

<sup>182</sup> Appendix Part B provides sources for the rules described in the table.

<sup>183</sup> The table summarizes policies that apply in each city, which might come from city, county, school district, or state codes or regulations.

<sup>184</sup> FPL, or “federal poverty line,” refers to the Federal Poverty Guidelines published annually in the Federal Register by the U.S. Department of Health and Human Services. 90 C.F.R. § 5917 (2025).

TABLE 11: ELIGIBILITY RULES IN WAIVER PROGRAMS CONTINUED

<b>City<sup>183</sup></b>	<b>EMS</b>	<b>Public School Programs</b>	<b>Occupational Licensing</b>	<b>Car Registration</b>
<i>Houston, TX</i>	Uninsured and low-income persons (250% FPL or various proxies for low-income status, e.g., receipt of means-tested benefits) or vulnerable persons (various proxies for non-financial vulnerability, e.g., incarceration)	“Unable to pay”	Active-duty military and spouses; or veterans	Disabled veterans
<i>Honolulu, HI</i>	Low-income persons (100% FPL for Hawai‘i only)	None	None	Disabled veterans <sup>185</sup>
<i>Kirkland, WA</i>	Low-income persons (100% FPL or hospital granting charity care)	“By reason of their low income, would have difficulty paying the full fee”	None	Disabled veterans; or former prisoners of war
<i>Fort Myers, FL</i>	None	“Unable to afford [fees];” “experiencing homelessness;” or “unaccompanied youth”	Active-duty military and spouses; or low-income persons (130% FPL or receipt of means-tested benefits)	Spouses or dependent children of service members who are “missing-in-action”
<i>Cranston, RI</i>	None	“Financial hardship”	None	Disabled veterans; or Purple Heart recipients

<sup>185</sup> This waiver only applies to the state fee, not the additional county fees. HAW. REV. STAT. § 249-31.5 (2024).

TABLE 11: ELIGIBILITY RULES IN WAIVER PROGRAMS CONTINUED

City <sup>183</sup>	EMS	Public School Programs	Occupational Licensing	Car Registration
<i>Bismarck, ND</i>	None	“Unable to pay”	None	Disabled veterans
<i>Cuyahoga Falls, OH</i>	Uninsured and low-income persons (100% FPL only)	Qualify for free school meals	None	Disabled veterans
<i>Enid, OK</i>	None	None	Low-income persons (140% FPL or receipt of means-tested benefits)	Disabled veterans ( <i>only</i> a reduction, fee not to exceed \$5)
<i>Draper, UT</i>	None	“Inability to pay”	Active-duty military; or low-income persons ( <i>only</i> receipt of TANF or General Assistance)	Purple Heart recipients
<i>Harrisburg, PA</i>	None	“Educational instability” (e.g., unsheltered or foster youth)	Military spouses	Disabled or injured veterans; veterans captured during an armed conflict; or Congressional Medal of Honor or Purple Heart recipients

*Observations.* As Table 11 shows, eligibility rules differ quite a bit in several notable ways. For one, many waivers provide extremely narrow eligibility. Second, some waivers base eligibility on a single criterion that may be burdensome to document, like having household income below a certain level. As explained above,<sup>186</sup> exclusionary and burdensome rules undermine waivers’ redistributive and progressive

<sup>186</sup> See *supra* Section II.B.

potential. Moreover, differences along these dimensions create a patchwork waiver landscape in which rules differ from fee to fee within and between cities. A patchwork landscape leads to high learning costs for applicants,<sup>187</sup> as well as idiosyncratic outcomes depending on where someone happens to live.

Regarding narrowness, several waiver programs require applicants to satisfy some criterion *in addition to* income qualifications. For EMS fees, all but two programs waive fees only for low-income individuals who also lack health insurance.<sup>188</sup> Thus, in many cities, people who can prove low-income status are nevertheless ineligible for EMS fee waivers if they have private health insurance.<sup>189</sup>

Other waivers define eligibility so narrowly that they only help a small slice of the population. For instance, although car registration fee waivers are essentially ubiquitous, they apply only to specific veterans and sometimes their families.<sup>190</sup> Similarly, three out of seven occupational licensing fee waivers apply only to certain people with military affiliations, like military spouses.<sup>191</sup> As explained above, such narrow relief hardly improves progressivity, especially when it fails to closely track ability to pay.<sup>192</sup>

Additionally, some waivers base eligibility on a single criterion that may be burdensome to document, leading to high compliance costs.<sup>193</sup> For instance, some require applicants to establish their household income to qualify for relief.<sup>194</sup> Consider the city of Cuyahoga Falls, which requires applicants for EMS fee waivers to provide a copy of their most recent Federal Income Tax Return as well as two months of pay stubs and/or Social Security stubs.<sup>195</sup> If a household includes multiple working members, applicants have to provide this information for everyone in

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<sup>187</sup> See Herd & Moynihan, *supra* note 35, at 130 (defining “[l]earning costs”).

<sup>188</sup> The exceptions are Honolulu, Hawai‘i and Cuyahoga Falls, Ohio. See HAW. CODE R. § 11-72-32 (LexisNexis 1985); Cuyahoga Falls Ambulance Fee Exemption Application (2023) (on file with author); see also *infra* Appendix Part B.1 (listing sources for all EMS fee waiver programs).

<sup>189</sup> Insured patients often face high ambulance fee bills due to a practice known as “balance billing.” See *infra* notes 218–19 and accompanying text.

<sup>190</sup> See *supra* Table 11 (including disabled veterans, Purple Heart recipients, and former prisoners of war).

<sup>191</sup> *Id.*

<sup>192</sup> See *supra* Sections II.B–C.

<sup>193</sup> See Herd & Moynihan, *supra* note 35, at 130 (defining “compliance costs” as the burdens of providing documentation, incurring financial costs, responding to administrative demands, and time spent navigating these processes); see also *supra* Table 11 (showing that New York, Honolulu, and Cuyahoga Falls require EMS fee waiver applicants to prove household income at 100% FPL, without offering alternative proxies for low-income status such as receipt of means-tested benefits).

<sup>194</sup> E.g., HAW. ADMIN. RULES § 11-72-32 (1985); FDNY, *supra* note 34.

<sup>195</sup> See, e.g., CITY OF CUYAHOGA FALLS, *supra* note 34.

the household. Tracking down and sending all of these documents is burdensome and time-consuming, on top of the time and effort spent researching waiver eligibility. It can be especially challenging for people experiencing sporadic employment, housing insecurity, or other kinds of instability common among low-income households.<sup>196</sup> Receiving and assessing idiosyncratic financial documents is burdensome for administering agencies as well.<sup>197</sup>

In contrast to these burdensome applications, some programs rely on easier-to-establish proxies for low-income status.<sup>198</sup> Most commonly, applicants may qualify for waivers if they receive means-tested public benefits.<sup>199</sup> For instance, Chicago and Houston waive EMS fees if someone receives any of a number of federal, state, or local antipoverty benefits, including Supplemental Security Income, Supplemental Nutrition Assistance Program (SNAP) benefits, Section 8 housing, and so forth.<sup>200</sup> Both EMS waiver programs also include other, more holistic indicia of need, like recent home foreclosure, bankruptcy, incarceration, eviction, and domestic violence, among other criteria.<sup>201</sup> Similarly, schools often waive program fees for families that are eligible for Free and Reduced Priced School Meals.<sup>202</sup>

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<sup>196</sup> See generally Justin Schweitzer, *How to Address the Administrative Burdens of Accessing the Safety Net*, CTR. AM. PROG. (May 5, 2022), <https://www.americanprogress.org/article/how-to-address-the-administrative-burdens-of-accessing-the-safety-net> [https://perma.cc/9PFH-KAKL] (detailing how administrative burdens, including documentation requirements, limit people's access to safety-net programs).

<sup>197</sup> See *infra* text accompanying notes 301–02, 307; see also Lauren Toppenberg, *Exploring Disability and Social Welfare Participation Through the Lens of Food Insecurity* 8 (Univ. of Wisc., Ret. & Disability Rsch. Ctr., Working Paper No. JSIT23–05, 2023), [https://rdrc.wisc.edu/files/working-papers/JSIT23-05\\_WorkingPaper\\_Toppenberg\\_8.24.pdf](https://rdrc.wisc.edu/files/working-papers/JSIT23-05_WorkingPaper_Toppenberg_8.24.pdf) [https://perma.cc/4WP5-WHMX].

<sup>198</sup> See *supra* Table 11 (listing numerous waiver programs that allow applicants to qualify as low-income if they receive certain means-tested benefits, including EMS fee waivers in Los Angeles, Chicago, and Houston; public school fee waivers in Chicago and Cuyahoga Falls; and occupational licensing fee waivers in Enid, Draper, and Fort Myers).

<sup>199</sup> E.g., CITY OF HOUSTON, FIN. & FIRE DEP'TS, CHARITY CARE ASSISTANCE POLICY 3 (Dec. 17, 2019), [https://www.houstontx.gov/finance/CCA\\_Policy.pdf](https://www.houstontx.gov/finance/CCA_Policy.pdf) [https://perma.cc/KFN2-JKC2]; L.A. CITY FIRE DEP'T, REQUEST FOR EMS BILLING LOW INCOME ASSISTANCE (Aug. 23, 2024) [hereinafter LAFD], [https://lafd.org/sites/default/files/pdf\\_files/LAFD%20Low%20Income%20Assistance%20FORM%20rev%20208-23-2024%20fillable.pdf](https://lafd.org/sites/default/files/pdf_files/LAFD%20Low%20Income%20Assistance%20FORM%20rev%20208-23-2024%20fillable.pdf) [https://perma.cc/X3JN-UTLE].

<sup>200</sup> CITY OF HOUSTON, *supra* note 199, at 3; CHI. MUN. CODE § 4-68-130 (2021).

<sup>201</sup> CHI. MUN. CODE § 4-68-130 (2021); CITY OF HOUSTON, *supra* note 199, at 3.

<sup>202</sup> See *supra* Table 11 (showing that Chicago and Cuyahoga Falls tie public school fee waiver eligibility to free school meal qualification). Because schools already know which students receive subsidized meals, they can theoretically automatically waive fees in those cases. See *How to Waive Extracurricular Fees*, LAKE WASH. SCH. DIST., <https://www.lwsd.org/students-families/families/how-to-waive-extra-curricular-fees> [https://perma.cc/746F-AKP5] (last visited Dec. 25, 2025) (noting that fees are automatically waived for families receiving

The resulting patchwork of eligibility rules creates further problems, which fall into two buckets. The first is that applicants facing multiple fees in the same city experience high learning costs.<sup>203</sup> To see how, imagine a low-income family of three living in Los Angeles, the Thompsons. The Thompsons own a car, the daughter plays sports at her public high school, and the mother is planning to obtain a hairdressing license. Imagine further that they called an ambulance recently. The Thompsons would thus be subject to all the fees in the survey.

If the Thompsons searched for waiver programs, they would enter a confusing web of eligibility rules. For EMS fees, the Thompsons would need to show that their income falls below the thresholds set by the L.A. Department of Water and Power, which is \$51,640 for a family of three.<sup>204</sup> For a waiver of fees related to their daughter's school sports—for instance, fees for required accident insurance<sup>205</sup>—they would need to show income less than \$56,738, just slightly above the EMS waiver threshold.<sup>206</sup> The mother, meanwhile, would not be eligible for a waiver of the occupational licensing fees; hairdressers' licenses in California are state administered,<sup>207</sup> but L.A.'s waiver only applies to local licensing, and then only for “blind persons.”<sup>208</sup> She would also not be eligible for a waiver of car registration fees, as she

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free and reduced meals, provided that they consented to share their eligibility); *see also infra* text accompanying notes 296–97 (discussing automatic waivers).

<sup>203</sup> See Herd & Moynihan, *supra* note 35, at 130 (defining “[l]earning costs”).

<sup>204</sup> See LAFD, *supra* note 199 (establishing that this rule changes significantly between family sizes).

<sup>205</sup> Los Angeles public schools can only charge fees in very limited instances, such as for accident insurance related to sports participation or replacement fees for damaged textbooks. See *Pupil Fee Quick Guide*, L.A. UNIFIED SCH. DIST. 3, <https://www.lausd.org/cms/lib/CA01000043/Centricity/domain/171/operations/pd%20materials/Pupil%20Fee%20Quick%20Guide.pdf> [<https://perma.cc/9XFJ-Q35K>] (last visited Dec. 22, 2025). For an example of public school sports accident insurance fees, see *Athletics*, DR. MAYA ANGELOU CMTY. SENIOR HIGH SCH., L.A. UNIFIED SCH. DIST., [https://angelouchs.lausd.org/apps/pages/index.jsp?uREC\\_ID=3754871&type=d&pREC\\_ID=2436792](https://angelouchs.lausd.org/apps/pages/index.jsp?uREC_ID=3754871&type=d&pREC_ID=2436792) [<https://perma.cc/XQT7-2ARR>] (last visited Dec. 22, 2025) (indicating that athletes must “[s]how proof of accident/[m]edical insurance” as a prerequisite for participation in sports).

<sup>206</sup> See *Children's Health Access & MediCal Program (CHAMP)*, L.A. UNIFIED SCH. DIST., <https://www.lausd.org/champ> [<https://perma.cc/8PBURPXW>] (last visited Dec. 22, 2025) (providing income thresholds).

<sup>207</sup> See *Message from the Executive Officer*, THE BARBERCOSMO UPDATE (Cal. Bd. of Barbering & Cosmetology, Sacramento, CA), Fall 2022, at 2, <https://www.barbercosmo.ca.gov> [<https://perma.cc/5A6M-7P3U>] (2022) (“[The] executive officer [of the California Board of Barbering and Cosmetology] oversee[s] all the daily operations of the Board including examinations, licensing, enforcement, and administrative functions.”).

<sup>208</sup> See *supra* Table 11; *infra* Appendix B.3.

is not a disabled veteran.<sup>209</sup> All this research is a lot of work for a busy family.<sup>210</sup>

The second problem with patchwork rules is that outcomes differ depending on where someone happens to live. For instance, a low-income landscaper applying for a pesticide applicator license in Enid, Oklahoma, will qualify for a fee waiver.<sup>211</sup> A landscaper with the same income in the more expensive city of Houston, Texas, will not qualify, as Texas's waiver only applies to people with certain military affiliations.<sup>212</sup> Even though Americans may be accustomed to such divergent outcomes under a federal system, it's difficult to discern a principled policy justification for them.

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The survey reveals that many cities and states offer fee waivers to vulnerable payors and would-be payors, complicating the standard understanding of how user fees operate. These waivers improve access to fee-funded programs, increase progressivity, and reduce the harms that fees impose on vulnerable people. Even so, fee waivers' restrictive, burdensome, and patchwork eligibility rules undermine their own progressive ends by imposing costs on both applicants and administering agencies.

### C. *The Stakes of Gaps*

The stakes here are high. Where there isn't a waiver, where eligibility criteria are too narrow, or where compliance costs turn people away, user fees may impose all the harms that the local government literature predicts. Someone who can't afford to pay a fee faces four

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<sup>209</sup> See *supra* Table 11. While not a fee waiver, the Thompsons might qualify for relief from the California Franchise Tax Board, which collects unpaid car registration fees and offers more time to pay for those experiencing financial hardship. See *Help with Vehicle Registration Collections (VRC)*, CAL. FRANCHISE TAX BD., <https://www.ftb.ca.gov/pay/collections/vehicle-registration-collections/help-with-vcrc.html> [<https://perma.cc/Z7N6-Q53Z>] (last updated Sep. 24, 2025) (providing instructions for those who cannot pay in full); CAL. REV. & TAX. CODE § 10878(a) (West 2024) (providing authority for determination and collection of registration fees to the California Franchise Tax Board). She would need to provide financial documents to prove hardship. See CAL. FRANCHISE TAX BD., *supra* (stating that acceptable documents include bank statements, monthly paystubs, or monthly bills).

<sup>210</sup> We might have similar concerns about learning costs between cities. Such concerns are especially salient for people who live or work in multiple places, like a landscaper who lives near a state border and must get licensed in two different states.

<sup>211</sup> OKLA. STAT. tit. 59, § 4003 (2024) (providing waiver of initial occupational licensing fees for low-income applicants).

<sup>212</sup> TEX. OCC. CODE ANN. §§ 55.0041, 55.009 (West 2025) (providing waiver of occupational licensing fees for military members, spouses, and veterans).

possible outcomes: (1) deprivation if they must cut basic needs to pay the fees; (2) debt, either to the government for nonpayment or to a private lender; (3) exclusion from the fee-funded service; or (4) in extreme cases, imprisonment for nonpayment.<sup>213</sup> This Section briefly explains these consequences for the specific fee types in the survey, setting the stage for the final Part about how to protect and promote fees' progressive potential.

*EMS Fee Harms.* Absent relief, high EMS fees lead to deprivation and debt.<sup>214</sup> Those without Medicaid<sup>215</sup> or private health insurance—approximately 25.7 million people<sup>216</sup>—are responsible for the full cost of ambulance services, which can be several thousand dollars in many places.<sup>217</sup> Even privately insured individuals can face high bills due to a practice called “balance billing,”<sup>218</sup> where healthcare providers charge patients the difference between an in-network and

<sup>213</sup> See *infra* note 235 and accompanying text.

<sup>214</sup> See Levey, *supra* note 39 (reporting on a survey finding that 63% of respondents with medical debt curtailed spending on basic needs, among other consequences).

<sup>215</sup> Medicaid fully covers ambulance services in most states. See *Medicaid Benefits: Ambulance Servs.*, KFF, <https://www.kff.org/medicaid/state-indicator/ambulance-services/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> [<https://perma.cc/2V8K-VN8R>] (last visited Dec. 22, 2025) (providing a 50-state survey of Medicaid ambulance coverage including co-pay requirements).

<sup>216</sup> See U.S. DEP'T OF HEALTH & HUM. SERVS., OFF. OF ASSISTANT SEC'Y PLAN. & EVALUATION, *National Uninsured Rate Reaches an All-Time Low in Early 2023* (Aug. 3, 2023), <https://aspe.hhs.gov/reports/national-uninsured-rate-reaches-all-time-low-early-2023> [<https://perma.cc/4TDS-YMTR>] (providing uninsured rate of 7.7% in early 2023); *U.S. and World Population Clock*, U.S. CENSUS BUREAU, <https://www.census.gov/popclock> [<https://perma.cc/JL94-PQAJ>] (last visited Dec. 12, 2022) (entering date of Jan. 1, 2023 in the date field to reveal U.S. population of just over 334,000,000).

This number is expected to rise dramatically due to federal passage of new Medicaid restrictions and work requirements in summer 2025. See Lauren Irwin, *How Will Trump's Tax Bill Change Medicaid?*, DESERET NEWS (July 2, 2025, at 22:07 MT), <https://www.deseret.com/politics/2025/07/02/medicaid-cuts-senate-big-beautiful-bill> [<https://perma.cc/DQ7S-XA2V>] (“[T]he Congressional Budget Office predicts nearly 12 million Americans could lose access to Medicaid by 2034 under the Senate-passed version of the bill.”).

<sup>217</sup> See, e.g., Kristen Hwang, *Surprise Ambulance Bills Put These Families in Debt. A New California Law Bans the Practice*, CAL MATTERS (Dec. 29, 2023), <https://calmatters.org/health/2023/12/surprise-ambulance-bills-new-california-laws-2024> [<https://perma.cc/7Q8B-PT9F>] (reporting ambulance bills of \$4,000 and \$9,000); Bryn Healy, *One-Quarter of Americans Didn't Call an Ambulance During a Medical Emergency for Fear of Costs*, YouGov (June 13, 2024, at 16:05 ET), <https://today.yougov.com/health/articles/49738-one-quarter-americans-didnt-call-ambulance-medical-emergency-costs-poll> [<https://perma.cc/6GEK-MGJ2>] (reporting an average ambulance cost of \$2,000 for uninsured individuals); L.A. ADMIN. CODE, art. 4, § 22.210.2 (2022) (providing for EMS base fees over \$1,800 for basic life support and \$2,600 for advanced life support).

<sup>218</sup> See George A. Nation III, *Taking Advantage of Patients in an Emergency: Addressing Exorbitant and Unexpected Ambulance Bills*, 62 VILL. L. REV. 747, 761 (2017) (“[T]he majority of the immediate unfairness of [the ambulance] system is experienced by self-pay patients (the uninsured and those subject to balance billing).”).

out-of-network rate.<sup>219</sup> In 2019, the median cost of ambulance balance billing across the country was \$450, but in some states it exceeded \$1,000.<sup>220</sup> Importantly, low-income people who have private health insurance are excluded from nearly all EMS waivers in this sample.<sup>221</sup>

Ambulance debt, whether owed to fire departments or private ambulance companies, is medical debt. When left unpaid, it triggers the same collateral consequences that follow unpaid medical bills, including damage to credit, bankruptcy, and even loss of a home.<sup>222</sup>

*Public School Program Fee Harms.* Public school program fees implicate at least two types of harms. First, because the fees impose a charge on something that is necessary to thrive in society, many low-income families will pay them even if they can't afford them.<sup>223</sup> These families face deprivation, as they must likely sacrifice elsewhere to afford these services. It's worth noting that schools typically can't disenroll students or pursue aggressive debt collection against families that fail to pay fees.<sup>224</sup>

Second, when families make the tough choice not to pay for school programs, kids suffer exclusion from enriching programs that would otherwise increase social belonging, academic success, job outcomes,

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<sup>219</sup> PATRICIA KELMAR, U.S. PIRG EDUC. FUND, EMERGENCY: THE HIGH COST OF AMBULANCE SURPRISE BILLS 1 (2022), <https://publicinterestnetwork.org/wp-content/uploads/2022/12/EMERGENCY-The-high-cost-of-ambulance-surprise-bills-USPIRG-Education-Fund-December-2022-Final.pdf> [<https://perma.cc/MR5S-P2LK>].

<sup>220</sup> *Id.* at 5–6. Although Congress recently outlawed this so-called “surprise billing” in the No Surprises Act, the 2020 law omitted ground ambulances. *Id.* at 7. At the time of writing, twenty states have enacted state laws to protect consumers from ground ambulance balance billing. Madison Harden-Stein, *Expanding the No Surprises Act to Protect Consumers from Surprise Ambulance Bills: Map of State Laws*, COMMONWEALTH FUND (June 16, 2025), <https://www.commonwealthfund.org/publications/maps-and-interactives/expanding-no-surprises-act-protect-consumers-surprise-ambulance> [<https://perma.cc/7QLE-JM7N>]. Some cities have passed similar laws. *See, e.g.*, CHI. MUNI. CODE § 4-68-130(c) (requiring the City to waive the balance of an ambulance bill after an insurance payment).

<sup>221</sup> *See supra* Table 11.

<sup>222</sup> *See, e.g.*, Levey, *supra* note 39 (describing individuals who declared bankruptcy or lost their homes as a result of medical debt); Yearwood, *supra* note 36 (“Medical debt is a leading cause of bankruptcy and an increasingly common cause of homelessness.”).

<sup>223</sup> *E.g.*, Smith, *supra* note 91 (quoting a children’s advocate on the issue of Texas public school fees who said, “[a]nd if they are choosing between the next meal they are going to put on the table, whether they are going to buy fresh fruit and vegetables, and whether they are going to allow their kids to spend time after school at an activity, that’s a tough decision”); *cf.* Webb, *supra* note 92 (quoting a parent saying that paying certain optional public school fees was challenging when she was “struggling to put food on the table or clothes on [her] children’s backs”).

<sup>224</sup> *See, e.g.*, ARIZ. REV. STAT. § 15-116(B) (“The nonpayment of fees charged by a public school may not prevent a pupil from enrolling in, applying to or remaining enrolled in a public school.”); CAL. EDUC. CODE § 49014(d) (2023) (prohibiting debt collectors from reporting school debt to credit agencies); *see also* COLO. REV. STAT. § 22-32-110(1)(jj) (prohibiting schools from withholding school records for fee nonpayment).

and so forth.<sup>225</sup> The non-mandatory school activities to which fees most often apply—like sports, music, field trips, and student clubs—are nevertheless part of a full educational experience. Several courts addressing the issue have opined that extracurricular activities are “a fundamental ingredient of the educational process”<sup>226</sup> and that they serve “the ultimate purpose of our public schools, to wit, the making of good citizens, physically, mentally, and morally.”<sup>227</sup> Long term, excluding children from clubs and sports could lead to worse job prospects and lower income into adulthood.

*Occupational Licensing Fee Harms.* Licensing fees exclude low-income people from the higher earnings and job stability that licensed work commands.<sup>228</sup> By reducing the number of workers, occupational licensing also raises the cost of services for consumers, including low-income households.<sup>229</sup> Additionally, people of color are more likely to be excluded from licensed work as a result of restrictive licensing rules.<sup>230</sup> Occupational

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<sup>225</sup> See, e.g., Katie Niven, *Too Many Kids Can't Afford Pay-to-Play in Ohio School Athletics*, OHIO CAP. J. (Aug. 23, 2024, at 04:30 ET), <https://ohiocapitaljournal.com/2024/08/23/too-many-kids-cant-afford-pay-to-play-in-ohio-school-athletics> [<https://perma.cc/K6UA-YAL4>] (reporting, from the perspective of a high school senior, on school fees excluding low-income children from Ohio school sports); Sentell, *supra* note 40 (describing how Louisiana public-school fees exclude low-income children from educational programs); C.S. Mott Children's Hosp., *supra* note 40 (reporting that sports fees limit low-income children's access to sports programs); Alexia G. Gagliardi et al., *Sports Participation Volume and Psychosocial Outcomes Among Healthy High School Athletes*, 6 J. CLIN. & TRANSLATIONAL RSCH. 54, 56 (2020) (finding that high school sports participation is correlated with reduced depressive symptoms); YOUTH L. CTR., CLOSING THE EXTRACURRICULARS GAP: PRIORITIZING EXTRACURRICULAR ACTIVITIES AS A KEY INTERVENTION FOR CHILDREN AND YOUTH IN FOSTER CARE AND JUVENILE JUSTICE 4–5 (2d ed., 2022), <https://www.ylc.org/wp-content/uploads/2019/01/Closing-the-Extracurriculars-Gap-2022.pdf> [<https://perma.cc/G72T-LQ7S>] (reporting on various short- and long-term benefits of participation in extracurricular activities, including both school-based and community activities).

<sup>226</sup> *Hartzell v. Connell*, 679 P.2d 35, 42 (Cal. 1984) (quoting *Moran v. Sch. Dist. No. 7, Yellowstone Cnty.*, 350 F. Supp. 1180, 1184 (D. Mont. 1972)).

<sup>227</sup> *Alexander v. Phillips*, 254 P. 1056, 1059 (Ariz. 1927).

<sup>228</sup> See, e.g., WHITE HOUSE, *supra* note 93, at 12 (describing how workers “who would otherwise have worked in a more highly paid occupation may enter a less well-paid occupation” due to such fees, and, consequently, how “wages in less well-paid, unlicensed occupations may fall even lower due to the increased number of workers entering them”); Ryan Nunn, *How Occupational Licensing Matters for Wages and Careers*, BROOKINGS INST. (Mar. 15, 2018), <https://www.brookings.edu/articles/how-occupational-licensing-matters-for-wages-and-careers> [<https://perma.cc/9NH4-8H6C>] (discussing findings of higher wages and longer tenure for licensed workers).

<sup>229</sup> See Matthew D. Mitchell, *Occupational Licensing and the Poor and Disadvantaged*, MERCATUS CTR. (Sep. 28, 2017), <https://www.mercatus.org/research/policy-briefs/policy-spotlight-occupational-licensing-and-poor-and-disadvantaged> [<https://perma.cc/7T9N-S26M>].

<sup>230</sup> See Tyler Boesch, Katherine Lim & Ryan Nunn, *How Occupational Licensing Limits Access to Jobs Among Workers of Color*, FED. RSRV. BANK OF MINNEAPOLIS (Mar. 10, 2022), <https://www.minneapolisfed.org/article/2022/how-occupational-licensing-limits-access-to-jobs-among-workers-of-color> [<https://perma.cc/PDJ9-CK3B>] (reporting on the ways in which race and ethnicity are barriers to licensure).

licensing fees thus exacerbate a lopsided professional landscape in which only certain people have access to more lucrative work.

*Car Registration Fee Harms.* Car registration fees may seem innocuous, but the consequences of being unable to pay them can be quite severe. In most places, car ownership is required for full membership in the social and economic community.<sup>231</sup> The growth of the gig economy has magnified this dynamic, as much gig work relies on workers having private cars.<sup>232</sup> Moreover, many unhoused individuals own and live in a car,<sup>233</sup> demonstrating that owning a car is by no means an indication of financial stability.<sup>234</sup>

If a driver is pulled over with expired tags, they might receive a ticket for driving with expired registration.<sup>235</sup> Failure to pay these tickets, or in some cases failing to show up to court, can lead to arrest warrants and eventually jail time.<sup>236</sup> Additionally, a car with expired tags can be towed in most states.<sup>237</sup> Once towed, a car typically remains

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<sup>231</sup> See Marin Cogan, *The Impossible Paradox of Car Ownership*, VOX (July 5, 2023, at 03:00 PT), <https://www.vox.com/23753949/cars-cost-ownership-economy-repossession> [<https://perma.cc/8KQK-Y8SA>] (“[T]he vast majority of American workers—68 percent—still drive to their jobs. Eighty-eight percent of households use cars to shop for food, according to one survey, and having a car or a ride can factor significantly into whether someone is able to get health care.”); Joseph Mengedoth, *Transportation Access as a Barrier to Work*, FED. RESRV. BANK OF RICHMOND (2023), [https://www.richmondfed.org/publications/research/econ\\_focus/2023/q4\\_district\\_digest](https://www.richmondfed.org/publications/research/econ_focus/2023/q4_district_digest) [<https://perma.cc/YTJ3-LVSC>] (last visited Dec. 22, 2025) (“Many studies have shown that ownership of a car (or a truck or motorcycle) increases the probability of work, especially among welfare recipients.”).

<sup>232</sup> See Greg Buchak, *Financing the Gig Economy*, 79 J. FIN. 219, 249–50 (2024) (linking the gig economy with car ownership and financing, finding that those without access to car loan financing miss out on economic gains of gig economy work).

<sup>233</sup> See, e.g., David Wagner, *Over 14,000 Vehicles In LA County Are Used as Homes*, LAIST (July 6, 2023, at 05:00 PT), <https://laist.com/news/housing-homelessness/homeless-count-lahsa-2023-rv-car-vans-tents-shelter-vehicles-los-angeles> [<https://perma.cc/SL2F-3CZ3>] (“The number of cars used as shelters rose 16%, and the number of vans skyrocketed 44%.”).

<sup>234</sup> For a touching personal story of the impact and injustice of car registration fees, see Lionel Rolfe, *Car Fees and Parking Tickets Are a Tax on the Poor*, L.A. TIMES (Apr. 20, 1996, at 00:00 PT), <https://www.latimes.com/archives/la-xpm-1996-04-20-me-60640-story.html> [<https://perma.cc/4GTS-MP34>].

<sup>235</sup> See Foster Kamanga, Virginia Smercina, Barbara G. Brents, Daniel Okamura & Vincent Fuentes, *Costs and Consequences of Traffic Fines and Fees: A Case Study of Open Warrants in Las Vegas, Nevada*, 10 Soc. SCIS., no. 11, 2021, at 6–8 (discussing tickets arising from administrative offenses including expired car registration); Radley Balko, *How Municipalities in St. Louis County, Mo., Profit from Poverty*, WASH. POST (Sep. 3, 2014), <https://www.washingtonpost.com/news/the-watch/wp/2014/09/03/how-st-louis-county-missouri-profits-from-poverty> [<https://perma.cc/4TDS-YMTR>] (sharing the story of Nicole Bolden, whose failure to appear in court for, among other things, unpaid registration, led to her arrest).

<sup>236</sup> See Kamanga et al., *supra* note 235, at 13 (“The most common traffic violations that led to a bench warrant were based on administrative violations such as the inability to pay for insurance, driver’s licenses, or vehicle registration.”).

<sup>237</sup> ALVARADO ET AL., *supra* note 25, at 22. For examples of such rules in the surveyed jurisdictions, see, for example, CHI. MUNI. CODE § 9-76-160(a)(6), (f); HONOLULU TRAFFIC

impounded until the owner can pay all associated fees, including those from the underlying infraction.<sup>238</sup> During that time, the car owner lacks transportation to go to work or school, or to care for family members.<sup>239</sup> Eventually, if the car owner is unable to pay the mounting fee total, the car is sold at auction.<sup>240</sup> The family then loses an important asset as well as a vital means of transportation.<sup>241</sup> Given the dire consequences associated with expired registrations, it's baffling that car registration fees have received so much less attention from advocates than the other fees examined here.<sup>242</sup>

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As these brief descriptions show, the consequences for those who can't afford to pay these four types of user fees can be severe. Absent well-designed waiver programs, fees can deprive, indebted, exclude, and, in extreme cases, imprison low-income payors and would-be payors. The next Part explores how to minimize these harms by protecting and expanding fee waivers' progressive potential.

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CODE § 15-13.9(a)(21); WASH. REV. CODE § 46.55.113(2)(j) (2023); FORT MYERS CODE OF ORDINANCES §§ 54-246 to -248.

<sup>238</sup> CHARLES ALLISON-GODFREY ET AL., SHIFTING GEARS: MOVING COLORADO AWAY FROM CRIMINALIZING VEHICLE RESIDENCY AND TOWARDS SAFE PARKING 6, <https://www.colosafeparking.org/s/shifting-gears.pdf> [<https://perma.cc/Y66A-ABGU>] (last visited Dec. 22, 2025) (describing consequences of a poverty tow, including impoundment until all fees are paid).

<sup>239</sup> See ALVARADO ET AL., *supra* note 25, at 16–18; David Sheff, *If You Want to See Inequality in the U.S. at Its Worst, Visit an Impound Lot*, TIME (Aug. 26, 2014, at 16:33 ET), <https://time.com/3182726/if-you-want-to-see-inequality-in-the-u-s-at-its-worst-visit-an-impound-lot> [<https://perma.cc/W8J3-CHBZ>] (sharing stories from a visit to an impound lot, including people who were unable to work and pick up children due to lack of transportation).

<sup>240</sup> ALVARADO ET AL., *supra* note 25, at 37. According to research in California, cars towed for so-called “poverty tows”—which includes expired car registration, among other things—were two to six times more likely to be auctioned compared to the average towed car. *Id.* at 5.

<sup>241</sup> See, e.g., Lesley Turner, *Opinion: I Can't Afford to Pay Parking Tickets, So My Car Got Towed. It Upended My Life*, L.A. TIMES (Aug. 31, 2023, at 10:33 PT), <https://www.latimes.com/opinion/story/2023-08-31/car-towed-unpaid-parking-tickets-california-los-angeles> [<https://perma.cc/RL9K-YG4W>] (detailing the disastrous consequences of the author's car being towed for unpaid parking tickets).

<sup>242</sup> *But see* Grace Grogan, *Vehicle Registration Increase Will Hit Poor Hard*, TIMES HERALD (Dec. 27, 2016, at 9:32 ET), <https://www.thetimesherald.com/story/opinion/columnists/2016/12/27/vehicle-registration-fee-increase-will-hit-poor-hard/95868952> [<https://perma.cc/H74G-ELVW>] (“The registration fee increase will have a profound impact on low income drivers who are already struggling to get by.”); Catherine Lutz, *The U.S. Car Colossus and the Production of Inequality*, 41 AM. ETHNOLOGIST 232, 238 (2014) (describing the relatively burdensome fees that apply to car ownership, including registration, and how those fees contribute to inequality through regulating access to cars).

## IV PROTECTING PROGRESSIVE USER FEES

This final Part contextualizes progressive user fees in current and future policy initiatives. Federal spending reductions for state-run antipoverty programs, like Medicaid, and IRS tax enforcement, as well as cuts to the federal tax base are shifting more costs onto state governments, which will erode state and local budgets.<sup>243</sup> These regressive revenue losses will likely result in tax cuts for wealthy households and benefit losses for low- and middle-income households.<sup>244</sup> State and local policymakers need to find ways to raise more revenue while also protecting vulnerable people. And, unlike their federal counterpart, state and local governments face strict limits on their ability to raise progressive taxes.<sup>245</sup> User fees are poised to become even more important in this policy environment. It is imperative that experts and advocates fully understand fees' progressive potential as well as the challenges involved in adopting the design features examined herein.

This Part starts by identifying an existential threat to designing progressive user fees—reclassification as a tax—and proposing several possible responses. It finishes by addressing administrative concerns for both applicants and agencies.

### A. *Addressing Existential Threats*

Certain anti-tax and pro-business groups seek to limit the enactment of progressive user fees.<sup>246</sup> These groups often aim to reclassify progressive user fees as unlawful taxes through legal rules

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<sup>243</sup> John Frank, *GOP Megabill May Force Colorado Lawmakers into Special Session*, AXIOS DENVER (July 8, 2025), <https://www.axios.com/local/denver/2025/07/08/colorado-lawmakers-special-session-trump-bill> [<https://perma.cc/AU9W-RQBT>] (estimating that the federal Big Beautiful Bill will lead to a \$500 million revenue loss for Colorado and cost another \$500 million to implement); Telgenhof & Scarboro, *supra* note 17 (describing cuts to federal-state public benefit program funding that will shift more costs to state budgets). See generally Dadayan, *supra* note 17 (describing federal changes that will reduce state tax revenue collections).

<sup>244</sup> See David Gamage & Darien Shanske, *Winter is Coming: What States Should Do Now, Part I*, 116 TAX NOTES ST. 297, 299 (2025) (describing how tax cuts skewed toward high-income taxpayers reduce federal revenue, which increases pressure to cut safety-net programs relied on by low- and middle-income households).

<sup>245</sup> See Jurow Kleiman, *supra* note 55, at 1887.

<sup>246</sup> *About Us*, STOP HIDDEN TAXES: NO ON 25 YES ON 26, <https://web.archive.org/web/20110922111919/http://www.no25yes26.com//about-us-2> [<https://perma.cc/8NL9-VL95>] (last visited Jan. 10, 2025) (listing supporters of Proposition 26, including many business groups and the Howard Jarvis Taxpayers Association); see, e.g., Andrew S. Ross, *Chamber of Commerce Pushes Anti-Tax Initiative*, SFGATE (Apr. 15, 2010), <https://www.sfgate.com/business/bottomline/article/Chamber-of-Commerce-pushes-anti-tax-initiative-3192417.php> [<https://perma.cc/7DZP-HMNT>] (listing supporters of California's Proposition 26, which

and litigation to that effect.<sup>247</sup> These strategies are based on the principle that a user fee should only pay for the service received.<sup>248</sup> Under such a constraint, any portion of a fee that funds something else—like redistribution to non-payors—is a disguised tax. Once reclassified as a disguised tax, a fee is subject to various procedural and substantive restraints, such as supermajority legislative approval and direct voter approval.<sup>249</sup>

The most extreme example of these efforts is California's Proposition 26.<sup>250</sup> Codified in Article XIII C of the California Constitution, the law defines a tax, *inter alia*, as a charge imposed for a specific government service if the service is also provided to those who don't pay the charge.<sup>251</sup> A fee with a waiver would be considered a tax under this definition. Such fees would therefore be subject to voter approval requirements in California, alongside other limitations.<sup>252</sup> Similarly, some state laws expressly prohibit utility companies from offering free services to any individual, regardless of need.<sup>253</sup>

Even where applicable law does not so explicitly define progressive user fees as taxes, policymakers may still hesitate to adopt waivers for fear that their fee programs will face litigation under the complex rules that generally distinguish taxes and fees.<sup>254</sup>

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defined progressive fees as taxes, including the California Chamber of Commerce and the California Taxpayer's Association).

Proponents of Proposition 26 argued that the law would close a loophole that allowed politicians to evade tax limits by labeling them "fees" instead of taxes. *See* CAL. SEC'Y OF STATE, CALIFORNIA GENERAL ELECTION: VOTER INFORMATION GUIDE 60 (2010), [https://repository.uclawsf.edu/ca\\_ballot\\_props/1305](https://repository.uclawsf.edu/ca_ballot_props/1305) [<https://perma.cc/UC7V-8XFR>].

<sup>247</sup> *See* Scharff, *supra* note 101, at 179–85 (discussing why user fees might be litigated as disguised taxes).

<sup>248</sup> *See, e.g.*, Bolt v. City of Lansing, 587 N.W.2d 264, 269 (Mich. 1998) (holding that a user fee must be related to the service or benefit received by the payor).

<sup>249</sup> *See* Jurow Kleiman, *supra* note 55, at 1887 n.5 (describing various tax limit forms).

<sup>250</sup> CAL. CONST. art. XIII C, § 1(e)(2) (enacted Nov. 2, 2010).

<sup>251</sup> *Id.* (defining a tax to be *any* government charge or levy except for a specifically enumerated list that includes "[a] charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged").

<sup>252</sup> *Id.* § 2(b) (stating the requirements for the establishment of taxes, including voter approval, maximum rates, and other electoral requirements). The California fee waivers in this survey were all enacted prior to this constitutional amendment. *See infra* Appendix Part B.

<sup>253</sup> *E.g.*, TEX. GOV'T CODE § 1502.057(b) (2025) (requiring utilities to charge equal fees and prohibiting free services except in limited circumstances); OHIO REV. CODE ANN. § 4905.33(B) (2001) (prohibiting free or reduced-price utility services "for the purpose of destroying competition"); MISS. CODE ANN. § 21-27-27 (2024). Although not an express prohibition, Arkansas's law has been interpreted to have the same legal effect. *See* Ark. Gas Consumers, Inc. v. Ark. Pub. Serv. Comm'n, 118 S.W.3d 109, 124 (Ark. 2003) (prohibiting income-based assistance under state law).

<sup>254</sup> Scharff, *supra* note 101, at 179–85 (discussing these rules).

For instance, many state laws require that user fees be based on the value of the service provided to the payor.<sup>255</sup> In an excess of caution, local governments have interpreted such rules to prohibit fee waivers.<sup>256</sup> For example, the Headlee Amendment to the Michigan Constitution is often interpreted to require that services be priced according to marginal cost *only*, rather than user characteristics like income or ability-to-pay.<sup>257</sup> Professor Sharmila Murthy has described how the City of Detroit initially declined to adopt income-based water rates for fear that the program would be struck down under the Headlee Amendment.<sup>258</sup> Utilities in other states often interpret similar laws to prohibit affordability programs.<sup>259</sup>

There is much wrong with the impulse to characterize progressive user fees as taxes. To start, the reasoning rests on the assumption that a fee pays only for the service rendered—and thus is never redistributive—while a tax raises general revenue—and thus is redistributive.<sup>260</sup> This characterization presumes too much about the ever-elusive tax-fee distinction. In reality, many legal user fees *are* redistributive, while not all taxes are redistributive. Consider benefit taxes. A benefit tax is imposed on a proxy for the taxpayer’s use of a public good or service, and the revenue from the tax is used to finance that specific good or service.<sup>261</sup> For instance, gasoline taxes fund highway repair.<sup>262</sup> The tax is not exactly a highway-usage fee, but it’s close. Moreover, it’s a tax that doesn’t fund general revenue or seek to redistribute based on income. It’s a tax that operates like a fee.

Conversely, many user fees are redistributive, even without waivers. Any flat-fee structure operates as a cross-subsidy between

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<sup>255</sup> *E.g.*, *Bolt v. City of Lansing*, 587 N.W.2d 264, 269 (Mich. 1998) (holding, in part, that “some reasonable relationship exists between the amount of the fee and the value of the service or benefit”) (quoting *Cnty. of Saginaw Co. v. John Sexton Corp.*, 591 N.W.2d 52, 56 (Mich. Ct. App. 1998)); *Emerson Coll. v. City of Boston*, 462 N.E.2d 1098, 1105 (Mass. 1984) (“[C]harges are collected not to raise revenues but to compensate the governmental entity providing the services for its expenses.”).

<sup>256</sup> Murthy, *supra* note 42, at 644–45 (identifying a “general presumption against cross-subsidies” in the context of water rates).

<sup>257</sup> *E.g.*, JANICE BEECHER ET AL., CITY OF DETROIT BLUE RIBBON PANEL ON AFFORDABILITY: FINAL REPORT 12 (2016), <https://detroitmi.gov/sites/detroitmi.localhost/files/2018-03/BRPA%20Final%20Report%20%28incl%20Transmittal%20and%20App%29.pdf> [https://perma.cc/24N9-S7NK] (noting that this issue remains an “open question”).

<sup>258</sup> *See* Murthy, *supra* note 42, at 646.

<sup>259</sup> *See id.* at 644–45 (discussing efforts by utilities to seek “charitable donations from other customers” through “‘round-up’ programs” as a workaround for concerns about prohibitions on the use of water revenues to fund water affordability programs).

<sup>260</sup> *E.g.*, *Bolt*, 587 N.W.2d at 269 (“[S]ome reasonable relationship [must] exist[] between the amount of the fee and the value of the service or benefit.”).

<sup>261</sup> *See* Bird, *supra* note 26, at 18.

<sup>262</sup> *Id.*

high-cost and low-cost users.<sup>263</sup> For instance, water utilities typically charge a flat rate to all customers in a certain class, even though those who live further from the water plant generate higher service costs.<sup>264</sup> In this way, nearby payors cross-subsidize far away users' water fees. Thus, taxes don't always redistribute, and fees often do.

Characterizing progressive user fees as disguised taxes also incorrectly assumes that the cost of waivers is borne entirely by other fee payors. This assumption is often baseless. In reality, the cost of redistribution might be borne in part by all taxpayers (where the service is tax-subsidized), by a private business (where the service is provided by a private business), broadly by all users of the service (where revenue loss leads to overall service quality degradation), or some mix of these sources. Because money is fungible, even a detailed cost assessment would be based on assumptions and value judgments. The waters here are muddy indeed.

Moving from the technical to the normative, if the impulse to restrict progressive user fees is based in part on a desire to promote allocative efficiency,<sup>265</sup> even that is wrongheaded. Many fee-funded services are "merit goods" that users would under-consume without government subsidies.<sup>266</sup> Efficiency-based reasoning counsels toward subsidizing merit goods to ensure that people consume them in high enough quantities that society benefits. In other words, we want people to call ambulances when they're sick or injured, to participate in school programs, to register their cars, and to obtain licenses for their work. Subsidizing these programs to improve access thus makes good sense from an efficiency perspective.

Finally, governments may have a duty to offer fee waivers. Governments are obligated to provide certain services for the public's wellbeing—of which education, emergency services, and health and safety regulation are prime examples.<sup>267</sup> Sources as wide ranging as the

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<sup>263</sup> Cf. Richard A. Posner, *Taxation by Regulation*, 2 BELL J. ECON. & MGMT. SCI. 22, 23–24 (1971) (making this point in the context of regulations requiring flat rate structures); Murthy, *supra* note 42, at 645–46 (noting examples of cross-subsidies in the utility context).

<sup>264</sup> Murthy, *supra* note 42, at 645–46.

<sup>265</sup> See *supra* Section II.C (discussing how progressive user fees can undermine allocative efficiency).

<sup>266</sup> *Merit Goods*, OXFORD REFERENCE, <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100151458> [<https://perma.cc/4TWJ-RH4H>] (last visited Dec. 22, 2025) (defining merit goods as "[g]oods or services whose consumption is believed to confer benefits on society as a whole greater than those reflected in consumers' own preferences for them").

<sup>267</sup> E.g., *Americans See Broad Responsibilities for Government; Little Change Since 2019*, PEW RSCH. CTR. (May 17, 2021), <https://www.pewresearch.org/politics/2021/05/17/americans-see-broad-responsibilities-for-government-little-change-since-2019> [<https://perma.cc/WCA9-UZPT>] (listing various public services people expect the government to provide,

U.S. Constitution and modern public opinion surveys support these expectations.<sup>268</sup> Governments also bear an obligation to impose charges in a way that does not cause undue harm.<sup>269</sup> This obligation could derive, at least in part, from the government's broader duty to promote "the good" for its residents or to protect its residents from harm.<sup>270</sup> Putting these responsibilities together, governments must provide necessary public services in a way that spares people undue harm. Restricting fee waivers undermines this duty.

For the forgoing reasons, advocates can push back against efforts to restrict fee waivers. Where existing laws prohibit progressive user fees, legislators and regulators should roll them back. Where tax limits are ambiguous, policymakers should clarify that they don't apply to fee waivers. In states without express prohibitions, courts adjudicating fee litigation should reject these claims for the reasons highlighted herein. Such responses are even more important given recent federal cuts to state and local revenue sources.<sup>271</sup>

There's room for federal intervention as well. The federal government can encourage fee waivers or require them as a precondition of federal funding. A few scattered examples of such federal encouragement already exist. For instance, to receive federal grant funding, local agencies must assure the Federal Transit Authority that fees charged to elderly and handicapped individuals during non-peak hours are capped at one-half the standard rates.<sup>272</sup> Another

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including education, health insurance, and so forth); *see also* U.S. CONST. pmbl. ("We the People of the United States, in Order to form a more perfect Union . . . provide for the common defense, promote the general Welfare . . .").

<sup>268</sup> *See id.*

<sup>269</sup> *See* Ariel Jurow Kleiman, *Impoverishment by Taxation*, 170 U. PA. L. REV. 1451, 1473–75 (2022) (making this argument).

<sup>270</sup> *See* THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776) ("[I]t is the Right of the People to . . . institute new Government, . . . organizing its powers in such form . . . most likely to effect their Safety and Happiness."); ARISTOTLE, POLITICS: BOOK I, pt. I, at 1 (Benjamin Jowett trans., 1999) (350 B.C.E.) (asserting that government seeks the "highest good"); THOMAS HOBBS, LEVIATHAN, pt. 2, at 109 (Rod Hay ed., 1999) (1651) (declaring that government must protect citizens from those harms that arise in the absence of restraint); Steven J. Heyman, *The First Duty of Government: Protection, Liberty and the Fourteenth Amendment*, 41 DUKE L.J. 507, 512–16 (1991) (discussing the fundamental right to government protection).

<sup>271</sup> Dadayan, *supra* note 17 (outlining ways that state policymakers can clarify their level of conformity with federal tax codes, including rolling, static, and selective conformity); Telgenhof & Scarboro, *supra* note 17 (noting the recent federal cuts to state and local revenues as a result of the One Big Beautiful Bill Act's (OBBBA) changes to Medicaid); Gamage & Shanske, *supra* note 244, at 299 (arguing that recent federal reforms will be regressive, causing the wealthy to receive tax cuts while the middle and lower classes bear the costs).

<sup>272</sup> 49 C.F.R. § 609.23.

federal grant program for state and local community programs on aging requires that any charge to users be provided on a sliding scale based in part on users' income.<sup>273</sup> Such nudges might encourage state lawmakers to ensure that fee waivers remain broadly permissible under their states' rules.

### *B. Addressing Internal Flaws*

The survey in Section III.B reveals that fee waiver eligibility rules can be complex and burdensome.<sup>274</sup> Complex rules and burdensome processes impose costs on both applicants and administering agencies. As explained above, these costs can undermine fees' progressive potential.<sup>275</sup> This final Section proposes design responses based on best practices gleaned from the survey, including: requiring and enforcing publicity; using simple proxies for low-income status; automating waiver approval when possible; codifying eligibility rules in state or local laws; centralizing and coordinating best practices guidance; and leveraging recent advances in civic technology.

#### *1. Administrative Costs for Applicants*

Fee waivers can impose learning costs and compliance costs on applicants. Potential applicants may have to undertake significant research to find out if they qualify for a waiver and to understand how to apply.<sup>276</sup> Because the rules differ from program to program, people have to conduct this research anew for each fee. In the case of narrow eligibility rules, people might spend substantial time researching a program only to find out they don't qualify. Additionally, applicants must often provide proof of income, for instance, with a recent paystub or W-2.<sup>277</sup> For people with sporadic employment, those experiencing housing instability, or other factors common among low-income households, producing such documents can be prohibitively onerous.<sup>278</sup>

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<sup>273</sup> See 42 U.S.C. § 3030c-2(a)(4) ("If a State permits . . . cost sharing . . . , such State shall establish a sliding scale, based solely on individual income and the cost of delivering services.").

<sup>274</sup> See Section III.B.2.

<sup>275</sup> See *supra* Section II.B (describing how fee waivers can address concerns about high costs, lack of access, and regressivity, but that waivers will be less effective if they are not broadly available, for instance, due to complex or overly narrow eligibility rules).

<sup>276</sup> See *supra* text accompanying notes 204–10.

<sup>277</sup> *E.g.*, FDNY, *supra* note 34 (requiring paystubs or tax returns in support of application for financial assistance with ambulance transport costs).

<sup>278</sup> See *generally* Schweitzer, *supra* note 196 (detailing how administrative burdens, including documentation requirements, limit people's access to safety-net programs).

Administrative costs are more than just unpleasant. By obfuscating who is eligible and making the application process more difficult, these costs reduce program take-up.<sup>279</sup> This can reinforce existing inequalities by funneling benefits to those vulnerable people who are better at navigating complex systems.<sup>280</sup>

Better publicity could help to increase waiver take-up. School fees are helpful to illustrate the nature of the problem. In several of the school districts surveyed, waiver policies are clearly communicated and easy to find online.<sup>281</sup> In other districts, policies are difficult or impossible to find, in some cases even contrary to legal requirements.<sup>282</sup> In Houston, for instance, although the district requires schools to provide fee-waiver policies in student handbooks,<sup>283</sup> I reviewed several handbooks that made no mention of fee waivers.<sup>284</sup> Outside my sample, an investigation of Kentucky school fees uncovered widespread noncompliance with fee waiver requirements.<sup>285</sup> Fee waivers won't work if people don't know about them.

Improving publicity thus requires a two-step solution: Mandate publicity and enforce the mandate. Waiver statutes and ordinances should require that waivers be clearly advertised on all fee notices, including their eligibility requirements.<sup>286</sup> The City of Kirkland's

<sup>279</sup> *Id.*

<sup>280</sup> For instance, people with small children may be especially time constrained. Non-native English speakers might also face particular challenges understanding complex rule language.

<sup>281</sup> *E.g.*, CAL. EDUC. CODE §§ 49010–14 (2025) (noting that guidance as to pupil fee waivers should be posted on the state Department of Education website); *Waiver of School Fees*, CHICAGO PUB. SCHS. (Dec. 7, 2022), <https://www.cps.edu/sites/cps-policy-rules/policies/400/408/408-1> [<https://perma.cc/J63N-F2WH>].

<sup>282</sup> *E.g.*, *School Information: The Westside Way*, WESTSIDE HIGH SCH. <https://westside.houstonisd.org/about-us/about-us> [<https://perma.cc/X42K-8PW8>] (last visited Dec. 28, 2025) (making no mention of fee relief); *see also* Shelley Buchanan, *Is it Time for Nevada to Limit School Fees?*, SIERRA NEV. ALLY (Sep. 20, 2022), <https://sierranevadaally.org/2022/09/20/is-it-time-for-nevada-to-limit-school-fees> [<https://perma.cc/C7H9-NUN5>] (highlighting in Nevada a “lack of consistent and clearly stated waiver policies [that] leave families unsure if assistance is available”).

<sup>283</sup> TEX. EDUC. CODE ANN., § 11.158(f) (2019).

<sup>284</sup> *E.g.*, WESTSIDE HIGH SCH., *supra* note 282 (making no mention of fee relief); *Student Handbook 2024–2025*, CARNEGIE VANGUARD HIGH SCH., <https://resources.finalseite.net/images/v1750190004/houstonisdorg/xm9e8ls0zdrb7vjlluvg/Studenthandbook-2024-2025-versionAug92024.pdf> [<https://perma.cc/7FT4-EBAZ>] (last visited Dec. 28, 2025) (same).

<sup>285</sup> *See* MARCIA FORD SEILER ET AL., KY. LEGIS. RSCH. COMM'N, RSCH. REP. NO. 361: FEES, DUES, AND SUPPLIES IN KENTUCKY SCHOOLS 24 (2009) (finding that only two of fifteen surveyed public schools in Kentucky were abiding by state law requirements to provide parents with fee waiver forms).

<sup>286</sup> *E.g.*, TEX. EDUC. CODE ANN., § 11.158(f) (requiring that the school fee waiver policy be “posted in a central location in each school facility, in the school policy manual, and in the student handbook”); CITY OF HOUSTON, *supra* note 199, at 2 (requiring EMS billing vendors to notify EMS recipients who are deemed likely eligible for a fee waiver); 105 ILL. COMP. STAT.

Lake Washington School District Administrative Policies, for instance, provide that schools must “establish a procedure for annually notifying parents of the availability of fee waivers and reductions, including eligibility information for free or reduce-price meals [on which waiver eligibility is based].”<sup>287</sup> Although none of the surveyed policies does so, a stronger policy would include regular monitoring and enforcement to ensure compliance. Legislators could incentivize private enforcement as well, for instance, by authorizing excess damages, attorney fee shifting, or whistleblower awards for families who don’t receive proper notice about fee waivers. Especially in an environment of widespread noncompliance,<sup>288</sup> policymakers shouldn’t be afraid to micromanage.

To reduce the compliance costs associated with documenting income, waivers should allow people to prove income by a proxy that’s easier to establish, like receipt of means-tested public benefits.<sup>289</sup> Proving current household income without a simple proxy can be complicated. Applicants often have multiple sources of income—including jobs, public benefits, pensions, and so forth—from multiple household members.<sup>290</sup> To reduce documentation requirements, many, but not all, of the fee waivers surveyed allow administering entities to

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ANN. 5/34-21.6 (2025) (“Notice of waiver availability shall be given to parents or guardians with every bill for fees or fines.”); *3520 Student Fees, Fines or Charges*, LAKE WASH. SCH. DIST. (Nov. 16, 2021) [hereinafter LAKE WASH. SCH. DIST.], <https://lwsd.community.highbond.com/home/policies/policydoc/2cb14c48-6d21-4c6e-8e5d-5225cc562f34> [<https://perma.cc/9NBS-4NAS>] (“The superintendent or designee will establish a procedure for annually notifying parents of the availability of fee waivers and reductions . . .”).

<sup>287</sup> LAKE WASH. SCH. DIST., *supra* note 286.

<sup>288</sup> See SEILER ET AL., *supra* note 285, at 24 (finding significant noncompliance with state law requirements to provide parents with fee waiver forms); see also UTAH OFF. LEGIS. AUDITOR GEN., A PERFORMANCE AUDIT OF SECONDARY SCHOOL FEES, at i (2018), [https://le.utah.gov/audit/18\\_09rpt.pdf](https://le.utah.gov/audit/18_09rpt.pdf) [<https://perma.cc/46K7-ZYJE>] (finding “widespread noncompliance” with Utah’s fee waiver laws, including many schools assessing fees on students who qualified for waivers).

<sup>289</sup> Cuts to federal SNAP and Medicaid programs in OBBBA will reduce the number of people that would benefit from using such a proxy. See CONG. BUDGET OFF., ESTIMATED EFFECTS OF PUBLIC LAW 119-21 ON PARTICIPATION AND BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM 2 (2025) (estimating that cuts to SNAP funding and eligibility rules will reduce SNAP enrollment by about 2.4 million people in an average month); Edwin Park, *New CBO Health Coverage Estimates of Budget Reconciliation Law*, GEO. UNIV. MCCOURT SCH. PUB. POL’Y, CTR. FOR CHILD. & FAMILIES: BLOG (Aug. 14, 2025), <https://ccf.georgetown.edu/2025/08/14/new-cbo-health-coverage-estimates-of-budget-reconciliation-law> [<https://perma.cc/E5T6-WVDH>] (estimating that Medicaid and CHIP coverage losses pursuant to OBBBA will result in an additional 7.5 million uninsured people by 2034).

<sup>290</sup> E.g., FDNY, *supra* note 34 (requiring applicants to provide proof of income documents including but not limited to pay stubs, tax returns, and unemployment compensation); CITY OF CUYAHOGA FALLS, *supra* note 34, at 1 (requiring applicants to provide a copy of their most recent Federal Income Tax Return as well as paystubs, Social Security statements, and welfare income statements for the past two months).

look to receipt of means-tested benefits as proof of low-income status.<sup>291</sup> The Florida law that creates a fee waiver for occupational licenses, for example, allows low-income applicants to prove their income status “through enrollment in a state or federal public assistance program that requires participants to be at or below 130 percent of the federal poverty guidelines to qualify.”<sup>292</sup> Under this type of rule, applicants can simply provide one document—like a public benefit award letter—rather than many different income documents.<sup>293</sup> Moreover, allowing such documentation essentially offloads the burden of adjudicating low-income status to a public-benefits agency, which is arguably better suited to undertake such an inquiry.

Relatedly, a few waiver programs surveyed also allow people to establish financial vulnerability without having to prove a specific income level.<sup>294</sup> Chicago’s and Houston’s EMS fee waiver programs, for instance, render eligible people who are unhoused, unemployed, have recently declared bankruptcy, or have been evicted, among other indicia of need.<sup>295</sup> In such situations of acute vulnerability, proving income might be prohibitively onerous. Moreover, people in such situations may have income slightly above the threshold but still be struggling financially. Allowing people to establish need in diverse ways ensures broad access to waivers and reduces compliance costs.

Programs should automatically provide waivers where administrators already have sufficient information to determine eligibility.<sup>296</sup> As one example of how this could work, consider waivers available to people experiencing homelessness.<sup>297</sup> An EMS provider or

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<sup>291</sup> See *supra* Table 11 (showing five of thirteen cities surveyed using receipt of means-tested benefits as proof of low-income status for one or more services).

<sup>292</sup> FLA. STAT. ANN. § 455.219(7)(a) (2025).

<sup>293</sup> See LAFD, *supra* note 199, at 1–2 (allowing applicants to provide their “current award letter” for one of a list of various public benefits, rather than a longer list of documents required for those not using the proxy).

<sup>294</sup> E.g., CHI. MUN. CODE § 4-68-130 (2021) (providing a long list of categories eligible for ambulance fee waivers); CITY OF HOUSTON, *supra* note 199, at 3 (same).

<sup>295</sup> CHI. MUN. CODE § 4-68-130 (2021); CITY OF HOUSTON, *supra* note 199, at 3.

<sup>296</sup> This suggestion is similar to “automatic enrollment” for public benefits, which has been shown to increase take-up and reduce compliance costs. See generally Gopi Shah Goda, Matthew R. Levy, Colleen Flaherty Manchester, Aaron Sojourner & Joshua Tasoff, *Who Is a Passive Saver Under Opt-In and Auto-Enrollment?*, 173 J. ECON. BEHAV. & ORG. 301 (2020) (finding that auto-enrollment in retirement accounts for U.S. Army service members nearly doubled participation rates); ROBERT GREENSTEIN, HAMILTON PROJECT, TARGETING VS. UNIVERSALISM, AND OTHER FACTORS THAT AFFECT SOCIAL PROGRAMS’ POLITICAL STRENGTH AND DURABILITY 27 (2022), [https://www.brookings.edu/wp-content/uploads/2022/08/20220806\\_ES\\_THP\\_SocialPrograms\\_ExpandedEdition.pdf](https://www.brookings.edu/wp-content/uploads/2022/08/20220806_ES_THP_SocialPrograms_ExpandedEdition.pdf) [<https://perma.cc/P87H-ZKJC>] (advocating for auto-enrollment in public benefits).

<sup>297</sup> E.g., CITY OF HOUSTON, *supra* note 199, at 2; *Code 6152V1: Student Fees, Fines, and Charges*, SCH. DIST. LEE CNTY. (June 27, 2023), <https://go.boarddocs.com/fl/lee/Board.nsf/>

a school administrator or teacher might readily know if a patient or a student is unhoused. In those cases, they can automatically waive fees without requiring an application. A few waiver programs already do this.<sup>298</sup> For instance, the City of Houston requires its EMS billing vendors to automatically screen uninsured patients for eligibility if they fail to apply for fee waivers.<sup>299</sup> Some school districts automatically provide program fee waivers to students who receive free school lunch.<sup>300</sup> Other jurisdictions should follow the lead set by these models in granting fee waivers automatically where need is obvious.

## 2. *Administrative Costs for Agencies*

Means-testing is complex and costly for the administering agency (or, in some cases, private company) as well.<sup>301</sup> Costs might include designing the waiver, publicizing it, gathering documents from applicants, assessing eligibility, and so forth. To some extent, fee waivers can also offset certain administrative costs, especially for hard-to-collect fees. By identifying low-income people *ex ante*, waivers can prevent costly efforts to collect fees from those who can't pay.<sup>302</sup> Even so, waivers will almost certainly cost more to implement than they will save. Policymakers should take steps to reduce these administrative costs as much as possible by codifying clear rules in state or local laws, using simple proxies for need, and drawing on recent advances in civic technology.

To start, waiver eligibility rules should be clearly codified in state or local codes or regulations. Currently, eligibility rules are often

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goto?open&id=policies# [https://perma.cc/7RLB-5F5L] (choose "6000 Finances" from menu bar; then choose "po6152 Student Fees, Fines, and Charges"); 24 PA. CONS. STAT. § 13-1331.1 (2022); *Code 251: Students Experiencing Homelessness, Foster Care and Other Educational Instability*, HARRISBURG SCH. DIST. (Sep. 26, 2023), <https://go.boarddocs.com/pa/harr/Board.nsf/goto?open&id=C55QFU68D6C3#> [https://perma.cc/SQ5Y-C2WU] (choose "200 Pupils" from menu bar; then choose "251 Students Experiencing Homelessness, Foster Care and Other Educational Instability").

<sup>298</sup> *E.g.*, CITY OF HOUSTON, *supra* note 199, at 2; LAKE WASH. SCH. DIST., *supra* note 202.

<sup>299</sup> CITY OF HOUSTON, *supra* note 199, at 2.

<sup>300</sup> *E.g.*, LAKE WASH. SCH. DIST., *supra* note 202.

<sup>301</sup> *Cf.* Rema Hanna & Benjamin A. Olken, *Universal Basic Incomes vs. Targeted Transfers: Anti-Poverty Programs in Developing Countries 2* (Nat'l Bureau of Econ. Rsch., Working Paper No. 24939, 2018), <https://www.nber.org/papers/w24939> [https://perma.cc/7FGQ-RLR6] (noting that universal benefits have low administrative costs because they don't have to verify income).

<sup>302</sup> *E.g.*, MATTHEW MENENDEZ, LAUREN BROOKE-EISEN, NOAH ATCHISON & MICHAEL CROWLEY, BRENNAN CTR. FOR JUST., *THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES 9* (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines> [https://perma.cc/E9K5-HU3E] (finding that many states and counties spend more than \$0.41 to collect each dollar of revenue from criminal legal fines and fees).

buried in local agency guidance, or worse, left to the discretion of individual entities like neighborhood schools or private companies.<sup>303</sup> Consider school fee waiver rules. Most of the school fee waiver policies I surveyed use vague language about eligibility. Several school districts require fee waivers when parents are “unable to pay” or experiencing “financial hardship.”<sup>304</sup> Such vague requirements punt waiver design decisions to individual schools. In doing so, they make waiver design less transparent and create a system where specific rules can differ from school to school. As explained above, patchwork waiver eligibility rules increase learning costs for families as children move to different schools within a district, and lead to unequal outcomes depending on which school someone happens to attend.<sup>305</sup>

The City of Chicago School District, in contrast, has clear waiver eligibility rules codified in its school district policies. The eligibility rules include children who qualify for free school lunch; those who fall under certain “extenuating circumstances,” defined to include injury, illness, or natural disaster; and the children of a veteran or active military personnel with income below 200% of the Federal Poverty Line.<sup>306</sup> These rules are clear and fairly broad. They create certainty for many families navigating the waiver process. Yet, by including a category for “extenuating circumstances,” they still allow school administrators to grant waivers in novel or exceptional situations that fall outside of the standard guidelines.

Next, generally speaking, more centralization and coordination can help reduce costs and improve administration. Just as with eligibility rules, there’s no reason for individual agencies, schools, or fee billing vendors to reinvent the wheel with regard to waiver implementation. To improve centralization, state (or even federal) policymakers can commission a committee to determine best practices, recommend waiver policies to local agencies, offer model ordinances, and so forth. Moreover, coordinating waiver designs across different jurisdictions and different fees would enable agencies to learn best practices from each other.

As recommended in the prior Section, allowing applicants to use proxies for low-income status—like receipt of means-tested benefits—would also reduce administrative costs on agency personnel. Verifying that someone receives SNAP benefits is simpler than calculating total

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<sup>303</sup> See, e.g., R.I. GEN. LAWS § 16-23-2 (2020) (requiring waiver of fees due to “financial hardship,” but not defining the term).

<sup>304</sup> See *supra* Table 11.

<sup>305</sup> *Supra* text accompanying notes 203–12.

<sup>306</sup> *Waiver of School Fees*, CHI. PUB. SCHS., *supra* note 281.

household income based on idiosyncratic financial documents from all household members. Using proxies for need allows agency personnel to rely on a determination already made by another government agency, one likely more familiar with determining low-income status. By offering a diverse list of proxies that capture different types of vulnerability, policymakers can divert more people away from the other more convoluted ways of proving income.<sup>307</sup>

Finally, there's an opportunity here to build on recent advances in civic technology to facilitate policy coordination as well as streamline how agencies receive and review eligibility documentation.<sup>308</sup> Organizations like Code for America regularly partner with local governments to create simple application portals to help people access government benefits.<sup>309</sup> As one example, in 2014, Code for America created a mobile application portal for California's SNAP benefit, GetCalFresh.org.<sup>310</sup> The effort streamlined the application process, was flexible enough to be adapted for use across different counties, and ultimately helped to increase program enrollment from 66% in 2014 to 81% in 2022.<sup>311</sup> This example and others show that good technology design can help ease application hurdles, automate outreach efforts, improve access to data, connect siloed government offices, and more.<sup>312</sup> Fee waiver programs are a prime opportunity for civic technology pioneers to offer thoughtful solutions to seemingly intractable problems.

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<sup>307</sup> See, e.g., CHI. MUN. CODE § 4-68-130 (2021) (providing a long list of categorical statuses and programs eligible for ambulance fee waivers); CITY OF HOUSTON, *supra* note 199, at 3 (same).

<sup>308</sup> Civic technology is a field of technological innovation that aims to improve the functioning of government. For a detailed account of the recent history of the field of civic tech, see JENNIFER PAHLKA, *RECODING AMERICA: WHY GOVERNMENT IS FAILING IN THE DIGITAL AGE AND HOW WE CAN DO BETTER* (2023).

<sup>309</sup> *Success Stories: How We Work to Transform Government Service Delivery*, CODE FOR AM. [hereinafter *Success Stories*], <https://codeforamerica.org/success-stories> [<https://perma.cc/8G73-UGXJ>] (last visited Dec. 29, 2025) (highlighting the organization's recent projects that help to reduce barriers to communities' access to benefits).

<sup>310</sup> *Your Guide to Food Benefits*, GETCALFRESH, <https://www.getcalfresh.org> [<https://perma.cc/DQS7-5GPY>] (last visited Dec. 29, 2025); *Simplifying California's Online Application for Food Benefits*, CODE FOR AM., <https://codeforamerica.org/success-stories/simplifying-californias-online-application-for-food-benefits> [<https://perma.cc/GQ6N-43P9>] (last visited Dec. 29, 2025) (explaining the GetCalFresh project).

<sup>311</sup> *Simplifying California's Online Application for Food Benefits*, *supra* note 310.

<sup>312</sup> *Success Stories*, *supra* note 309 (listing various civic tech success stories); Pamela Herd, Eric R. Giannella, Jeremy Barofsky, Luke Farrell & Donald Moynihan, *Interventions to Automate Medicaid Renewals Reduce Procedural Denials and Increase Coverage*, 44 HEALTH AFFS. 1336, 1337 (2025) (finding that certain technological interventions in four states reduced Medicaid disenrollment that occurred at the expiration of certain Covid-era Medicaid expansions).

Offering relief is necessarily more complex than not doing so. But the costs of complexity for policymakers and administrators must be weighed against the benefits of waivers for recipients—relieving deprivation, debt, and exclusion.<sup>313</sup> In most cases, it's likely worth some added complexity to reduce these harms.

## CONCLUSION

This Article has offered a first-of-its-kind study of user fee waivers in a sample of American cities. In doing so, it has revealed a landscape that is more redistributive, but also more complex, than the standard understanding of user fees has allowed. The Article has sought to reframe the prevailing story: User fees form a multifaceted tapestry of exclusion and protection, deprivation and generosity. Their progressive features reveal promise. But without adequate protection, progressive user fees risk succumbing to external attack from those who would outlaw them. Without adequate scrutiny, they risk falling victim to their own internal design flaws.

The Article has also sought to show a way forward for state and local policymakers who wish to protect vulnerable Americans. User fees are a vital revenue source for state and local governments. They are poised to become even more important due to major changes to the federal budget that will have an outsize effect on state and local finances. As fiscal systems across the country shift more regressive, state and local policymakers who care about protecting vulnerable people must have access to every progressive tool in the fiscal toolbox. User fee waivers are one such tool. We should therefore understand them fully, engage with them honestly, and work to make them better.

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<sup>313</sup> See *supra* Section III.C.

## APPENDIX

A. *Details for Surveyed Fees*

This Section provides additional details about each type of user fee in the survey. For each fee type, I briefly describe the service or program to which each fee applies. I identify whether state or local governments provide the service, as well as whether public entities or private companies (or sometimes both) provide it. I also very briefly describe the common fee levels, whether they are foreseeable to payors, and whether they are standard user fees or regulatory fees. With these details I aim to provide helpful background as well as illustrate the broad spectrum of services and corresponding user fees that the survey covers.

1. *Emergency Medical Services*

*Brief description of service.* Local governments typically provide EMS—prehospital medical care and transport<sup>314</sup>—to people experiencing a health emergency, including those injured in car accidents, fires, or other public safety events.<sup>315</sup> This Article only considers EMS for emergencies, not pre-scheduled ambulance transport, because the latter is a purely private service.

*State or local provision.* Local governments provide EMS, typically through the fire department or a separate local emergency response agency.<sup>316</sup>

*Purely public or contracted with private companies.* For decades beginning around the 1970s, local governments provided EMS directly and for free, funded by general tax revenue.<sup>317</sup> Today, many local

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<sup>314</sup> *About EMS*, NAEMT, <https://www.naemt.org/about-ems/EMS-overview> [<https://perma.cc/384M-2JG5>] (last visited Dec. 29, 2025).

<sup>315</sup> Lisa Zamosky, *Who Pays for the Ambulance?*, L.A. TIMES (Aug. 23, 2023, at 15:54 PT), <https://www.latimes.com/business/la-xpm-2013-aug-23-la-fi-healthcare-watch-20130825-story.html> [<https://perma.cc/N3EB-DPWK>].

<sup>316</sup> *Emergency Medical Services (EMS): Local Authority, Funding, Organization, and Management*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION (Oct. 9, 2024), <https://www.cdc.gov/ems-community-paramedicine/php/us/local-authority.html> [<https://perma.cc/TC5F-E3G2>]; HONOLULU EMERGENCY SERVS. DEP'T, <https://emergencyservices.honolulu.gov> [<https://perma.cc/6AD7-PMU6>] (last visited Dec. 30, 2025) (providing example of such a separate local emergency response agency).

<sup>317</sup> U.S. FIRE ADMIN., FEMA, FA-331, FUNDING ALTERNATIVES FOR EMERGENCY MEDICAL AND FIRE SERVICES 32 (2012). See Elisabeth Rosenthal, *Think the E.R. Is Expensive? Look at How Much It Costs to Get There*, N.Y. TIMES (Dec. 4, 2013), <https://www.nytimes.com/2013/12/05/health/think-the-er-was-expensive-look-at-the-ambulance-bill.html> [<https://perma.cc/VZ56-D3GZ>] (“Thirty years ago ambulance rides were generally provided free of charge, underwritten by taxpayers as a municipal service or provided by volunteers.”); cf. Emergency Medical Services Systems Act of 1973, Pub. L. No. 93-154, 87 Stat. 594, 602

governments provide emergency services by contracting with private companies.<sup>318</sup>

*Level.* EMS fees are quite high, often exceeding \$1,000.<sup>319</sup> Ambulance services are also more likely to be out-of-network than any other medical service, and thus not covered by private insurance.<sup>320</sup>

*Foreseeability.* Emergency services are, by definition, unexpected.

*Standard user fee or regulatory user fee.* EMS fees are a price for medical services. They are therefore standard user fees, not regulatory user fees.

## 2. Public School Programs

*Brief description of service.* Although most state constitutions mandate “free” public schooling, nearly all states allow public schools to charge fees for certain things.<sup>321</sup> As a general rule, items or activities that are considered “necessary” or “integral” to public education must typically be provided for free.<sup>322</sup> For instance, most schools can’t charge registration fees.<sup>323</sup> Some states, however, do allow schools to charge fees for textbooks,<sup>324</sup> and nearly all states allow fees for extracurricular,

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(providing funding for state and local governments to develop regional EMS systems); NAT’L ACAD. OF SCI. & NAT’L RSCH. COUNCIL COMM. ON TRAUMA, ACCIDENTAL DEATH AND DISABILITY: THE NEGLECTED DISEASE OF MODERN SOCIETY (1966), <https://www.ncbi.nlm.nih.gov/books/NBK222964> [<https://perma.cc/Y2HM-XJM6>] (describing ambulance services as a “municipal responsibility”).

<sup>318</sup> Nation, *supra* note 218, at 754–57 (describing the ambulance funding landscape and describing EMS systems as “big business”); *id.* at 747–48.

<sup>319</sup> KELMAR, *supra* note 219, at 6 (providing that average fees exceed \$1,000 in many states); Hwang, *supra* note 217 (same); L.A. ADMIN. CODE, art. 4, § 22.210.2 (2022) (providing base EMS fee amounts).

<sup>320</sup> Sarah Kliff & Margot Sanger-Katz, *Why Ambulances Are Exempt from the Surprise Billing Ban*, N.Y. TIMES: UPSHOT (Dec. 22, 2020), <https://www.nytimes.com/2020/12/22/upshot/ground-ambulances-left-off-surprise-medical-bill-law.html> [<https://perma.cc/Y8J4-Q7GR>] (“Ambulances have the highest out-of-network billing rate of any medical specialty, meaning most rides can result in a surprise bill.”).

<sup>321</sup> Christine Kiracofe, *Isn’t School Supposed to Be Free?: An Analysis of State Constitutional Language and School Fees*, 253 WEST’S EDUC. L. REP. 1, 2 (2010); John Martinez, *School Financing—Tuition is Prohibited, But Most Fees are Allowed*, in 2 LOCAL GOVERNMENT LAW § 20:19 (2023); *cf.* Holly J. Foster, *School Fees in Public Education*, 1993 BYU EDUC. & L.J. 149, 156–62 (1993) (discussing differing state court interpretations of state constitutional language mandating “free” public education).

<sup>322</sup> *See, e.g.*, Paulson v. Minidoka Cnty. Sch. Dist. No. 331, 463 P.2d 935, 938 (Idaho 1970) (holding that fees imposed generally, regardless of student participation in a given activity, violate the state constitutional mandate that school be free); Bond v. Pub. Schs. of Ann Arbor Sch. Dist., 178 N.W.2d 484, 487 (Mich. 1970) (applying the Idaho Supreme Court’s test in *Paulson*).

<sup>323</sup> *E.g.*, Dowell v. Sch. Dist. No. 1, Boone Cnty., 250 S.W.2d 127, 129–30 (Ark. 1952).

<sup>324</sup> *E.g.*, Hamer v. Bd. of Ed. of Sch. Dist. No. 109, 265 N.E.2d 616, 622 (Ill. 1970); Chandler v. S. Bend Cmty. Sch. Corp., 312 N.E.2d 915, 922 (Ind. Ct. App. 1974); Carpio v. Tucson High Sch. Dist. No. 1, 524 P.2d 948, 951 (1974) (en banc) (allowing Arizona school

social, and other non-mandatory activities.<sup>325</sup> A smaller subset of states allow fees for sports programs—so-called “pay-to-play” fees.<sup>326</sup>

*State or local provision.* School programs are typically run through local school districts, which are municipal entities.<sup>327</sup>

*Purely public or contracted with private companies.* The public school programs considered here are generally provided by schools directly, rather than private contractors.<sup>328</sup>

*Level.* Some public school fees are relatively low, like the \$25 laptop fee charged in Houston public schools.<sup>329</sup> Even so, school fees in some states are reported into the hundreds or even thousands of dollars per year.<sup>330</sup> In contrast to a one-time or annual fee, like car registration fees, school program fees are numerous and compound throughout the year. A family might have to pay textbook fees for five classes each semester, plus club and sports fees.<sup>331</sup>

*Foreseeability.* Aside from a few limited examples, students and their families can decide beforehand whether or not to participate in a club or sport. Textbook fees, however, are less foreseeable and have a more mandatory feel.

*Standard user fee or regulatory user fee.* School fees are a price for an educational or enriching service. They are therefore standard user fees, not regulatory user fees.

districts to charge textbook fees without requiring a waiver for those unable to pay); VINCENT SCUDELLA, EDUCATION COMMISSION OF THE STATES, STATE TEXTBOOK ADOPTION (2013), <https://www.ecs.org/clearinghouse/01/09/23/10923.pdf> [<https://perma.cc/2ZYM-XZRF>] (listing school textbook fee rules across states).

<sup>325</sup> Kiracofe, *supra* note 321, at 9 (noting that, “[t]o date, only California has indicated that fees for extracurricular athletics must be offered entirely fee-free”).

<sup>326</sup> *Id.* at 12; Amy A. Eyler, Cheryl A. Valko, Katherine Curoe & Ramya Ramadas, *Sports Participation Fee Policies in US High Schools: A National Survey of Athletic Directors*, 5 TRANSLATIONAL J. AM. COLL. SPORTS MED. 69, 73 (2020) (reporting from survey results that nearly 40% of surveyed athletic directors worked in programs that charged participation fees for interscholastic sports, and another 26% reported that such fees would be implemented within five years).

<sup>327</sup> *School District*, K12 ACADS., <https://www.k12academics.com/school-types/school-district> [<https://perma.cc/N9RG-5JSG>] (last visited Dec. 30, 2025).

<sup>328</sup> Eyler et al., *supra* note 326, at 69 (connecting school funding cuts to the reduction or elimination of extracurricular programs).

<sup>329</sup> *E.g.*, *PowerUp Fees*, THOMAS MIDDLE SCH., <https://tx01001591.schoolwires.net/Page/194893> [<https://perma.cc/YZ9X-ZC3F>].

<sup>330</sup> Alex Vejar, *High School Sports in Utah Can Cost Thousands of Dollars. Here's How Much Some Parents Are Paying*, SALT LAKE TRIB. (June 17, 2024, at 08:00 ET), <https://www.sltrib.com/sports/high-school-sports/2024/06/17/high-school-sports-utah-can-cost> [<https://perma.cc/3GMY-WTS7>] (describing family who was forced to pay \$1,500 for one season of high school softball participation).

<sup>331</sup> *E.g.*, *2026-2027 Fee Schedule*, CORNER CANYON HIGH SCH., <https://feeschedules.canyonsdistrict.org/#/Home?schoolId=711> [<https://perma.cc/X5HK-QHRF>] (listing fee amounts for the 2026–27 school year for a high school in Draper, Utah).

### 3. Occupational Licensing

*Brief description of service.* Occupational licensing is generally intended to protect the public's health and safety, particularly in professions that might put consumers at risk, raise hygiene concerns, or require minimum training or expertise. Doctors and lawyers are classic examples of licensed professions, but cosmetologists, contractors, and mortgage brokers must be licensed as well.<sup>332</sup> The share of licensed workers in the workforce has risen dramatically over the past seven decades, from 5% in the 1950s to nearly 22% today.<sup>333</sup> For many professions, licensure entails specific training, exams, initial and ongoing fees, and satisfying other eligibility rules like minimum age or grade completed.<sup>334</sup>

*State or local provision.* State governments typically administer occupational licenses.<sup>335</sup> Cities or counties occasionally require municipal licensing on top of state licensing requirements.<sup>336</sup>

*Purely public or contracted with private companies.* Occupational licensing is a public regulatory system.

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<sup>332</sup> See, e.g., *Guide to Permits, Licensing, and Regulations: Professional Licensure Guide*, CAL. OFF. SMALL BUS. ADVOC., <https://calosba.ca.gov/permits-licenses-regulation/professional-licensure-guide> [<https://perma.cc/W7MC-ZT25>] (last visited Dec. 30, 2025) (listing professions licensed by the State of California).

<sup>333</sup> See *Labor Force Statistics from the Current Population Survey: 52. Certification and Licensing Status of the Employed By Industry and Class of Worker, 2024 Annual Averages*, U.S. BUREAU LAB. STATS. (Jan. 29, 2025), <https://www.bls.gov/cps/cpsaat52.htm> [<https://perma.cc/F9C9-MFFR>] (providing the current percentage of workers “[w]ith a license”); Jason Furman & Laura Giuliano, *New Data Show that Roughly One-Quarter of U.S. Workers Hold an Occupational License*, WHITE HOUSE: BLOG (June 17, 2016, at 10:30 ET), <https://obamawhitehouse.archives.gov/blog/2016/06/17/new-data-show-roughly-one-quarter-us-workers-hold-occupational-license> [<https://perma.cc/T8E6-8P92>] (describing BLS statistics as “consistent with research . . . which estimates that licensing has risen from about 5 percent of workers in the 1950s to about one-quarter of workers today”).

<sup>334</sup> LISA KNEPPER, DARWYN DEYO, KYLE SWEETLAND, JASON TIEZZI & ALEC MENA, INST. FOR JUST., *LICENSE TO WORK: A NATIONAL STUDY OF BURDENS FROM OCCUPATIONAL LICENSING* 9 (3d ed. 2022), <https://ij-org-re.s3.amazonaws.com/ijdevsitestage/wp-content/uploads/2022/09/LTW3-11-22-2022.pdf> [<https://perma.cc/KEY7-L92L>] (measuring licensing burdens “by looking at five common types of licensing requirements: fees, education and experience, exams, minimum grade completed in school, and minimum age”).

<sup>335</sup> C. Jarrett Dieterle, *Local Governments and Occupational Licensing Absurdity*, GOVERNING (May 24, 2018), <https://www.governing.com/gov-institute/voices/col-local-government-occupational-licensing-absurdity.html> [<https://perma.cc/84X8-DCJK>] (describing examples of state-level licensing regimes in several states).

<sup>336</sup> *Id.* (“[I]f a plumber moves from Ann Arbor to Detroit—a mere 40 miles down the road—he would have to obtain a Detroit plumbing license . . .”). See, e.g., ENID, OKLA., CODE OF ORDINANCES §§ 2-6B-8, -10, -15, [https://codelibrary.amlegal.com/codes/enidok/latest/enid\\_ok/0-0-0-1523](https://codelibrary.amlegal.com/codes/enidok/latest/enid_ok/0-0-0-1523) [<https://perma.cc/7HE9-WWZP>] (applicable licensing fees for food service establishments, pawnbrokers, and arborists).

*Level.* Initial licensing fees range from \$0 to nearly \$3,000.<sup>337</sup> Applicants will also pay fees to apply for a license, take exams, and renew their license, among other costs.<sup>338</sup>

*Foreseeability.* Licensing fees are foreseeable.

*Standard user fee or regulatory user fee.* Licensing fees are classic regulatory user fees that pay for access to a regulated system.

#### 4. Car Registration

*Brief description of service.* All vehicle owners must register their vehicles with their state motor vehicle department. By requiring registration, states are better able to enforce laws against car owners, identify stolen vehicles, and enforce safety and environmental regulations.<sup>339</sup>

*State or local provision.* State motor vehicle departments most often levy car registration fees on state residents who own a car.<sup>340</sup> In some states, like Hawai'i, localities collect registration fees and impose additional fees on car ownership.<sup>341</sup>

*Purely public or contracted with private companies.* Car registration is a public regulatory system.

*Level.* Fees vary in amount and in how they are calculated. They range from low double digits to hundreds of dollars, and often include additional fees like title fees and electric vehicle fees.<sup>342</sup> Some states charge a flat amount,<sup>343</sup> while others base fees on car characteristics such as value, age, or weight.<sup>344</sup> Many states also require that cars pass a

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<sup>337</sup> Nat'l Conf. of State Legis., *supra* note 180 (providing a \$2,870 initial licensure fee for landscape architects in California).

<sup>338</sup> *Id.*

<sup>339</sup> See Rick Brown, *Crime Prevention Design in a Vehicle Registration System: A Case Study from Australia*, 4 CRIME SCI., 1–2 (2015); CAL. AIR RES. BD., ENFORCEMENT POLICY 8, 15 (2017), [https://ww2.arb.ca.gov/sites/default/files/2019-07/final\\_enforcement\\_policy\\_october2017.pdf](https://ww2.arb.ca.gov/sites/default/files/2019-07/final_enforcement_policy_october2017.pdf) [<https://perma.cc/8HMN-924X>] (noting how car registration information is used to enforce environment regulations).

<sup>340</sup> *Car Registration Fees by State 2025*, *supra* note 172.

<sup>341</sup> HAW. REV. STAT. §§ 249-2, -13 (2024).

<sup>342</sup> *Car Registration Fees by State 2025*, *supra* note 172.

<sup>343</sup> *Motor Vehicle Fees, Fines, and Penalties*, GA. DEP'T OF REVENUE, <https://dor.georgia.gov/motor-vehicles/motor-vehicle-titles-and-registration/motor-vehicles-fees-fines-and-penalties> [<https://perma.cc/VW6V-448M>] (last visited Jan. 2, 2026) (listing a fee of \$20); CHASE WALKER, MONT. LEGIS. FISCAL DIV., MONTANA MOTOR VEHICLE FEES 2 (2021), <https://leg.mt.gov/content/publications/fiscal/2023-Interim/Aug-2021/Vehicle-Fee-Brochure.pdf> [<https://perma.cc/ZDN3-H5WN>] (listing a fee of \$217 for cars between zero and four years old).

<sup>344</sup> *Car Registration Fees by State 2026*, WORLD POPULATION REV., <https://worldpopulationreview.com/state-rankings/car-registration-fees-by-state> [<https://perma.cc/F2X5-QYXU>] (last visited Jan. 18, 2026) (noting that vehicle registration and fees are administered by each state's transportation agency or DMV).

safety inspection or emissions test periodically, which owners must pay for (and remediate problems identified).<sup>345</sup>

*Foreseeability.* Car registration fees occur annually. They are foreseeable in the sense that users know they will have to pay them. However, users can't avoid them if they need to drive a car for work or personal reasons.<sup>346</sup>

*Standard user fee or regulatory user fee.* Car registration fees are classic regulatory user fees.

### B. *Fee Waiver Rule Research Methods and Source Tables*

In addition to providing sources for each fee waiver rule, this Section elaborates on my research methods, which necessarily differed somewhat from fee to fee. Broadly speaking, I reviewed state and local laws and regulations that govern the specific fee type or service to which the fee applies. For instance, I reviewed Motor Vehicle Codes for car registration fee rules and Education Codes for school program fee rules.<sup>347</sup> These methods mean I might have missed waiver rules codified in non-obvious sections of the law and waivers offered by local agencies or service providers but not required by law.

I did not research waiver funding sources because those data are not readily available. Because money is fungible, ascertaining the true economic incidence of waiver costs would entail complex fiscal burden analyses beyond the scope of this Article.

#### 1. *EMS Fee Waiver Sources*

To determine whether state or local laws require a waiver of EMS fees, I read city and county ordinances and regulations relating to emergency medical services, fire departments, ambulances, medical transport services, and other related areas. If I did not find a local law mandating a waiver, I also read state code and regulation sections relating to emergency medical services, ambulances, and fire response.

Fire departments and emergency response agencies can sometimes issue local rules that are not easily searchable online. For this reason,

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<sup>345</sup> See Chris Hardesty, *Car Emissions Testing and Inspections: Vehicle Inspections by State*, KELLEY BLUE BOOK (July 8, 2025, at 08:00 ET), <https://www.kbb.com/car-advice/vehicle-inspections-by-state> [<https://perma.cc/667T-R9Z7>] (listing testing requirements by state).

<sup>346</sup> See *supra* notes 231–34 and accompanying text (discussing why car ownership is necessary for many in the United States).

<sup>347</sup> These are just examples. Different jurisdictions organize and title their laws differently.

where I did not find a state or local law on the matter, I submitted an open records request to the relevant local fire department or emergency response agency requesting all information about emergency medical service waiver programs. Two fire departments—those in Cranston, Rhode Island and Draper, Utah—did not respond to my request. All other departments responded with the requested information.

City	Additional Description	Source(s)
<i>New York, NY</i>	New York offers “fee scaling.”	FDNY, <i>supra</i> note 34.
<i>Los Angeles, CA</i>	No additional comments. <sup>348</sup>	L.A., CAL., ADMIN. CODE, div. 22, ch. 10, art. 4, § 22.210.2 (2015).
<i>Chicago, IL</i>	Additional proxies for need include recent foreclosure, unhoused status, student, senior citizen, and more.	CHICAGO, ILL., MUNICIPAL CODE § 4-68-130 (2021).
<i>Houston, TX</i>	Additional proxies for need include unhoused status, incarceration, bankruptcy, credit score at or below 500, and more.	HOUSTON, TEX., MUNICIPAL ORDINANCE § 2019-1014 (2019); CITY OF HOUSTON, <i>supra</i> note 199.
<i>Honolulu, HI</i>	No additional comments.	HAW. CODE R. § 11-72-32 (LexisNexis 1985).
<i>Kirkland, WA</i>	Kirkland offers sliding scale fee relief, up to full waiver.	KIRKLAND, WASH., MUNICIPAL CODE § 5.75.030 (2025); KIRKLAND FIRE DEP’T, BASIC LIFE SUPPORT (BLS) TRANSPORT USER FEES, PATIENT FREQUENTLY ASKED QUESTIONS, <a href="https://www.kirklandwa.gov/files/sharedassets/public/v1/fire/fire-pdfs/transport-user-fees-faqs.pdf">https://www.kirklandwa.gov/files/sharedassets/public/v1/fire/fire-pdfs/transport-user-fees-faqs.pdf</a> [https://perma.cc/L3MZ-XHBK] (last visited Jan. 31, 2026).
<i>Fort Myers, FL</i>	No waiver found.	-
<i>Cranston, RI</i>	No waiver found.	-

<sup>348</sup> See *infra* Table 11.

<b>City</b>	<b>Additional Description</b>	<b>Source(s)</b>
<i>Bismarck, ND</i>	No waiver found.	-
<i>Cuyahoga Falls, OH</i>	No additional comments.	CUYAHOGA FALLS, OHIO, CODIFIED ORDINANCES § 947.03 (2025); CITY OF CUYAHOGA FALLS, <i>supra</i> note 34.
<i>Enid, OK</i>	No waiver found.	-
<i>Draper, UT</i>	No waiver found.	-
<i>Harrisburg, PA</i>	No waiver found.	-

## 2. *Public School Program Fee Waiver Sources*

To determine whether state or local laws require a waiver of public-school program fees, I reviewed school district and school board administrative rules on the topics of pupil fees, student fees, finances, and the like. I also searched school policies for the terms “user fee” and “waiver,” in case waiver policies were present in other, non-obvious sections. If I did not find school district rules mandating a waiver, I also reviewed state education codes for relevant sections covering student fees.

<b>City</b>	<b>Additional Description</b>	<b>Source(s)</b>
<i>New York, NY</i>	No waiver found.	-
<i>Los Angeles, CA</i>	No additional comments.	<i>Pupil Fee Quick Guide, supra</i> note 206; CAL. EDUC. CODE §§ 38118, 49010–49014, 60070 (West 2026); CAL. CODE REGS., tit. 5, § 350 (2026).
<i>Chicago, IL</i>	No additional comments.	105 ILL. COMP. STAT. 5/10-20.13, 5/34-21.6 (2025); CHI., ILL., PUBLIC SCHOOLS POLICY, § 401.8 (2022) <a href="https://www.cps.edu/sites/cps-policy-rules/policies/400/408/408-1">https://www.cps.edu/sites/cps-policy-rules/policies/400/408/408-1</a> [ <a href="https://perma.cc/5MJQ-HWNR">https://perma.cc/5MJQ-HWNR</a> ].
<i>Houston, TX</i>	No additional comments.	TEX. EDUC. CODE ANN. § 11.158(f) (West 2024).

<b>City</b>	<b>Additional Description</b>	<b>Source(s)</b>
<i>Honolulu, HI</i>	No waiver found.	-
<i>Kirkland, WA</i>	No additional comments.	LAKE WASH., WASH., SCHOOL DISTRICT POLICY 3520 (2019); WASH. REV. CODE § 28A.325.010 (2025).
<i>Fort Myers, FL</i>	No additional comments.	SCHOOL DISTRICT OF LEE COUNTY, FLA., SCHOOL BOARD POLICIES CODE §§ 6152V1, 6152.01 (2023).
<i>Cranston, RI</i>	Waiver applies specifically to security deposits for textbooks.	R.I. GEN. LAWS § 16-23-2 (2024).
<i>Bismarck, ND</i>	No additional comments.	BISMARCK, N.D., PUBLIC SCHOOL DISTRICT ADMINISTRATIVE RULE FBA-AR (2025).
<i>Cuyahoga Falls, OH</i>	Waiver rules do not apply to extracurricular program fees.	OHIO REV. CODE ANN. § 3313.642(B) (West 2023).
<i>Enid, OK</i>	No waiver found.	-
<i>Draper, UT</i>	Waiver rules do not apply to certain “non-waivable charges,” which includes fees for non-required insurance and fees charged for damage to school materials.	CANYONS SCHOOL DISTRICT, UTAH, DISTRICT POLICY MANUAL § 500.22 (2025); <i>id.</i> §§ 500.22-1, -9.
<i>Harrisburg, PA</i>	No additional comments.	24 PA. STAT. AND CONS. STAT. § 13-1331.1 (West 2022); HARRISBURG SCHOOL DISTRICT, <i>supra</i> note 297, § 251.

### 3. Occupational Licensing Fee Waiver Sources

To determine whether state or local laws require a waiver of occupational licensing fees, I read city, county, and state code sections covering professional licensing rules. At the state level, these rules are often contained in state code sections pertaining to business and professions, occupations, or other similar topics. For city and county rules, I reviewed analogous local ordinance sections governing professional licensing.

<b>City</b>	<b>Additional Description</b>	<b>Source(s)</b>
<i>New York, NY</i>	Waiver applies to teaching licenses only.	N.Y. EDUC. LAW § 6501 (2)(d) (McKinney 2024).
<i>Los Angeles, CA</i>	Waiver only applies to Los Angeles County licensing.	L.A., CAL., COUNTY CODE § 714.020 (1954).
<i>Chicago, IL</i>	No waiver found.	-
<i>Houston, TX</i>	Waiver only applies where the applicant meets certain other licensing requirement (e.g., licensure in another state). In certain cases, the waiver also applies to examination fees.	TEX. OCC. CODE ANN. §§ 55.0041, 55.009 (West 2023).
<i>Honolulu, HI</i>	No waiver found.	-
<i>Kirkland, WA</i>	No waiver found.	-
<i>Fort Myers, FL</i>	If seeking to qualify as low-income via receipt of means-tested benefits, the benefit program must use a threshold no greater than 130% of FPL.	FLA. STAT. § 455.219(7)(a) (2025).
<i>Cranston, RI</i>	No waiver found.	-
<i>Bismarck, ND</i>	No waiver found.	-
<i>Cuyahoga Falls, OH</i>	No waiver found.	-
<i>Enid, OK</i>	The low-income threshold can be adjusted upward by the executive branch department that oversees business regulation.	OKLA. STAT. ANN. tit. 59, § 4003 (West 2018).
<i>Draper, UT</i>	No additional comments.	UTAH CODE ANN. § 58-1-301.3 (West 2020).
<i>Harrisburg, PA</i>	Waiver only applies to spouses who relocate pursuant to military orders.	63 PA. STAT. AND CONS. STAT. § 3006 (West 2022).

#### 4. Car Registration Fee Waiver Sources

To determine whether state law requires a waiver of car registration fees, I read all surveyed states' laws governing car registration. These rules were typically contained in state code sections covering motor vehicles, traffic, transportation, license plates, and other related areas.

<b>City</b>	<b>Additional Description</b>	<b>Source(s)</b>
<i>New York, NY</i>	No additional comments.	N.Y. VEH. & TRAF. LAW § 401(6)(c) (McKinney 2022), § 404-c(5) (McKinney 2018).
<i>Los Angeles, CA</i>	No additional comments. <sup>349</sup>	CAL. VEH. CODE § 9105 (West 2023).
<i>Chicago, IL</i>	No additional comments.	625 ILL. COMP. STAT. §§ 5/3-806.3, 5/3-806.7, 5/3-623 (2015).
<i>Houston, TX</i>	No additional comments.	TEX. TRANSP. CODE ANN. § 504.202(a)–(b) (West 2025).
<i>Honolulu, HI</i>	No additional comments. <sup>350</sup>	HAW. REV. STAT. § 249-31.5 (2024).
<i>Kirkland, WA</i>	No additional comments.	WASH. REV. CODE § 46.18.235(2)(b) (2025).
<i>Fort Myers, FL</i>	No additional comments.	FLA. STAT. § 320.072(2)(d) (2025).
<i>Cranston, RI</i>	No additional comments.	R.I. GEN. LAWS § 31-3-48; § 31-6-8 (2024).
<i>Bismarck, ND</i>	No additional comments.	N.D. CENT. CODE 39-04-18(2)(j) (2025).
<i>Cuyahoga Falls, OH</i>	No additional comments.	OHIO REV. CODE ANN. § 4503.41(A)–(C) (West 2025).
<i>Enid, OK</i>	No additional comments.	OKLA. STAT. ANN. tit. 47, § 1135.2(B)(31) (West 2024).
<i>Draper, UT</i>	No additional comments.	UTAH CODE ANN. § 41-1a-1206(4)(c) (West 2026).
<i>Harrisburg, PA</i>	No additional comments.	75 PA. STAT. AND CONS. STAT. § 1901(b) (West 2024).

<sup>349</sup> While not a waiver, the California Franchise Tax Board allows low-income people more time to pay their car registration fee if they can demonstrate financial hardship. See *Help with Vehicle Registration Collections (VRC)*, *supra* note 209.

<sup>350</sup> In response to the COVID-19 pandemic, in 2021 the Hawai'i State Legislature passed a House Resolution requesting that counties offer low-income people more time to pay county car registration fees. See H.R. 156, 31st Legis., Reg. Sess. (Haw. 2021). I did not find any corresponding county-level rules that were responsive to this request.