ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION:

BACKGROUND PAPERS

VOLUME IV
JANUARY 1996

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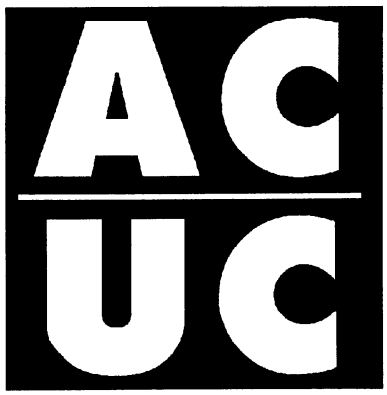

VOLUME IV
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PREFACE

In November 1991, the Congress of the United States passed the Emergency Unemployment Compensation Act (P.L. 102-164). The act included a section that created the Advisory Council on Unemployment Compensation, which was charged with the task of evaluating "the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement."

The Advisory Council is made up of eleven members who represent the interests of business, labor, state governments, and the public. Five of the members are appointed by the President, three members are appointed by the Senate, and three members are appointed by the House of Representatives.

The Advisory Council has generally approached its work by focusing its attention on broad, fundamental elements of the Unemployment Insurance system. During 1993, its first year of operation, the Council examined the need for reform in the Extended Benefits component of the Unemployment Insurance system. Its work during the second year focused primarily on those issues related to benefits, eligibility, financing, and coverage. During its third and final year of operation, the Council is considering issues generally related to program administration, including appeals and federal-state responsibilities, as well as issues such as nonmonetary eligibility and program data.

In carrying out its mandate to evaluate and analyze the Unemployment Insurance system, the Advisory Council has relied on a diverse collection of information sources. The Council receives regular briefing materials from its staff and has also held a series of public hearings across the country in order to allow interested individuals and organizations to present their views to the Council. In addition, the Council has planned a number of academic conferences to facilitate the exchange of ideas and the presentation of works of research on Unemployment Insurance. These forums include two economics research conferences, one held in August 1994, and another in August 1995, and a legal symposium, sponsored jointly with the University of Michigan Journal of Law Reform in March 1995.

These two volumes and two volumes published in July 1995 contain most of the research that has been undertaken on behalf of the Council, both by the Council's staff and outside researchers. The papers presented at the legal symposium will be published separately by the University of Michigan Journal of Law Reform later this year.

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THE EVOLUTION OF UNEMPLOYMENT INSURANCE

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The authors are members of the staff of the Advisory Council on Unemployment Compensation (ACUC). The views expressed herein are those of the authors and do not necessarily reflect the views of the members of the ACUC.

THE EVOLUTION OF UNEMPLOYMENT INSURANCE

OVERVIEW

There are a number of dimensions through which the Unemployment Insurance system's direct capacity to serve workers can be measured. These dimensions are varied, and include the percentage of the workforce that is covered under the system, the percentage of unemployed individuals who are eligible to receive benefits, the percentage of the unemployed who actually receive benefits, the percentage of UI recipients' lost earnings that are replaced by unemployment benefits, and the potential duration of benefits.

Some of these measures have changed dramatically since the inception of the Unemployment Insurance system in the 1930s. Some, such as the percentage of the workforce covered by the program, have increased significantly over time, while others, such as the percentage of the unemployed who actually receive benefits, have exhibited a steady decrease over the long term. Still others, such as the potential duration of benefits, have remained relatively constant decade after decade.

Taken together, the trends exhibited by these measures can be seen as reflecting the course of the UI system: the direction in which it is moving and may be expected to move in the future, the areas in which the system serves the unemployed well, and the areas in which the system has declined in its relevance and responsiveness. In addition, the changes in some of the measures provides clues that help to identify larger forces and dynamics that may directly affect the functioning of the Unemployment Insurance system.

This paper has two objectives. First, it provides information on a variety of the measures of the generosity and relevance of the UI system, and their change over time. Whenever possible, this information is based on aggregate time series data. In cases in which this is not possible, cross-section information is provided from the 1990 Survey of Income and Program Participation (SIPP). The SIPP data are then used as the basis for estimating changes in UI generosity over the course of the 1980s.

Second, the paper explores two possible causes of the system's long-term decline in some of the above dimensions—particularly the decline in UI recipiency. The first factor that may have affected recipiency is "cost-shifting," which refers to state decisions that may be brought

during at least 20 weeks of the year.[2] Among the effects of the initial federal coverage provisions were the exclusion from coverage of workers in small firms, workers in agriculture and the public sector, and seasonal workers.[3]

Since the program's inception, federal law has been amended on a number of occasions, always in the direction of extending coverage to groups that had been excluded under the original law. Coverage was first expanded in 1954, when federal law was changed to extend coverage to all commercial or industrial employers with 4 or more workers.

In 1970, the law was amended again, requiring employers to pay UI taxes if they employ one or more workers during at least 20 weeks of the year, or at a payroll of at least $1,500 in any calendar quarter. The 1970 UI amendments also extended coverage to employees of nonprofit organizations who employ 4 or more workers.[4] Through a combination of the 1970 and 1976 UI amendments, coverage was extended to all employees of state and local governments.[5] In addition, the 1976 amendments also included the extension of coverage to some agricultural workers.[6] A number of other, smaller extensions in coverage have occurred since the creation of the UI program.[7]

Overall, as a result of the extensions of coverage since the beginning of the program, UI coverage today is nearly universal. Figure 1 indicates that coverage has been extended to more than 90 percent of all civilian employment in the United States. Almost 98 percent of wage and salaried employees are now covered.[8] By this measure, the UI system has clearly become relevant to the needs of a larger percentage of workers.

Eligibility

Eligibility among those unemployed workers who are covered under the UI system is based on a combination of factors. *Monetary* eligibility requirements are designed to ensure that those who receive UI benefits had a substantial attachment to the labor force prior to their unemployment.[9] These monetary requirements, which vary from state to state, typically have three components. First, earnings during the "base period," which is defined in most states to be the first four of the most recently completed five calendar quarters, must exceed some minimum level. Second, most states also have some form of a "high earnings" requirement, which specifies a minimum level of earnings that an individual must have within some specified

amount of time (often it must be met during one calendar quarter during the base period).[10] Third, most states require that an individual have earnings in at least 2 of the 4 base period calendar quarters.

Nonmonetary requirements are designed generally to ensure that a UI recipient is (1) involuntarily unemployed (i.e., was laid off from work) or voluntarily left work for good cause, (2) available for work, and (3) actively seeking work. The first of these conditions (along with monetary eligibility requirements) determines whether an unemployed worker initially qualifies for benefits. The second and third of these conditions must be satisfied on a continuing basis throughout an unemployment spell. If they are not satisfied in any given week, the worker is ineligible to receive benefits for that week.

Blank and Card (1991) provide the only information available on what percentage of the unemployed meet their state's eligibility criteria. Using repeated cross-sections from the CPS, they calculate that 43 percent of the unemployed meet eligibility requirements. Further, they conclude that there was little change in eligibility between 1977 and 1987.

One of the disadvantages of using the CPS is that it does not contain sufficient retrospective earnings data to allow UI eligibility to be calculated with a high degree of accuracy. The SIPP provides the best available data for this purpose, since it includes monthly longitudinal earnings records, as well as a number of other variables that could affect eligibility. While neither the CPS nor SIPP contain enough detail to simulate nonmonetary eligibility, both data bases identify whether or not an unemployed individual was laid off from their job. It is possible to approximate nonmonetary eligibility with this information, since the vast majority of those on lay off would meet their state's nonmonetary eligibility requirements (while the majority of those who quit their job would not).

Table 1 summarizes the results from eligibility simulations using the 1990 SIPP.[11] Overall, in 1990, 61.4 percent of the unemployed satisfied their state's monetary eligibility requirements; this ranged from 41.5 percent of black females to 69.7 percent of unemployed white males. The second row of Table 1 reports the percentage of the unemployed who lost (rather than quit) their jobs and met their states' monetary eligibility standards for UI. These figures, which are the most directly comparable to Blank and Card's evidence, suggest that 50.9 percent of the

unemployed are eligible for UI (a slightly larger percentage than was indicated by the analysis of CPS data.)

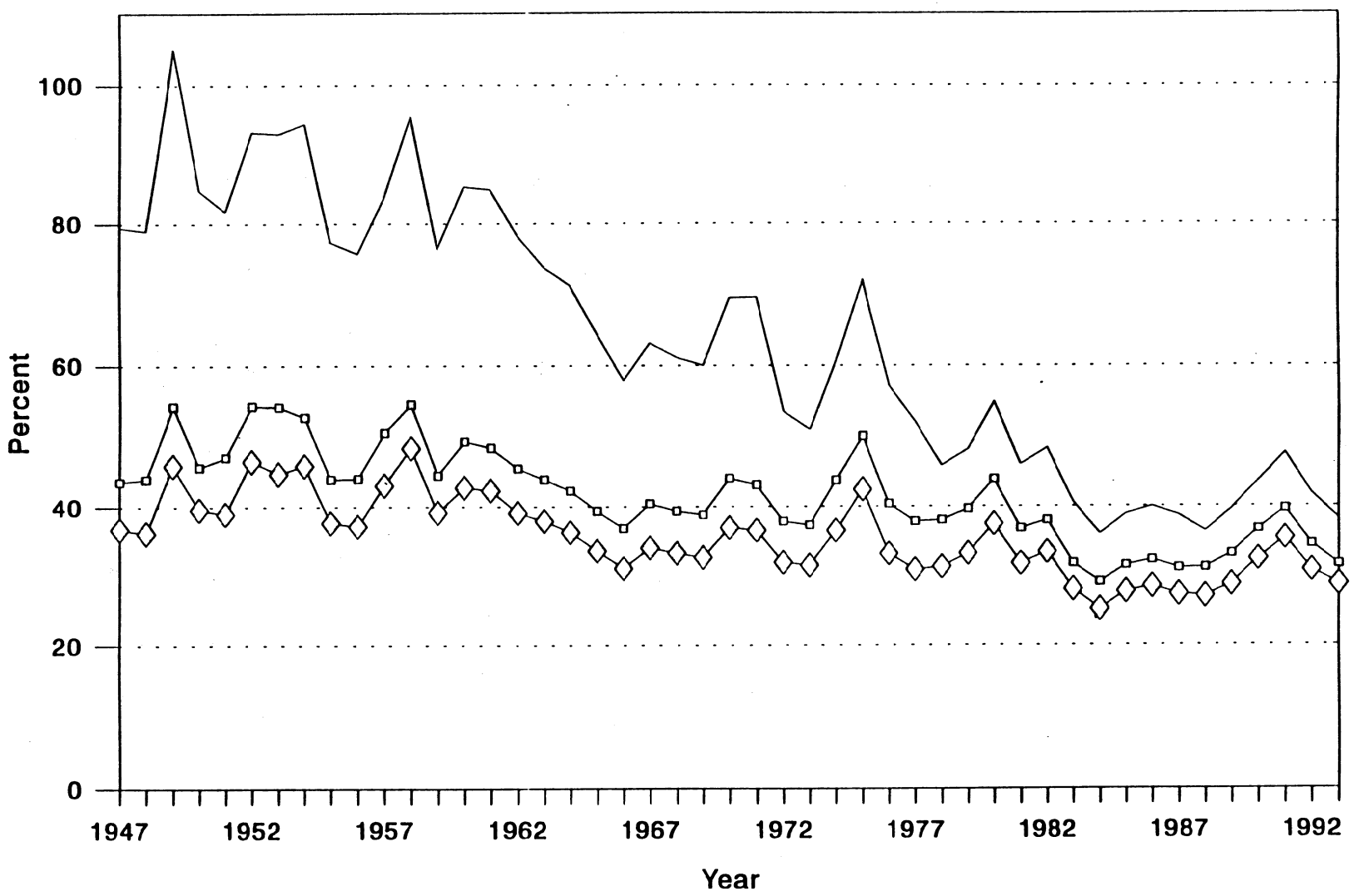
The SIPP simulations were repeated using 1978, rather than 1990, state monetary eligibility rules. The results from the 1978 eligibility simulations, which are reported in the third row of Table 1, indicate that, holding the demographic composition of the labor force constant, the percentage of the unemployed who met their state's monetary eligibility requirements declined by 2.2 percent between 1978 and 1990. Once again, the SIPP simulations produce higher rates of eligibility than those found by Blank and Card, suggesting that the CPS may underestimate UI eligibility.

There were a variety of federal law changes in the 1980s that contributed to the decline in eligibility between 1978 and 1990. First, prompted by the intense borrowing of many states when their trust fund balances were negative, the federal government began to charge interest on loans not repaid within one year. Second, states could defer these interest payments if they adopted and maintained cost-cutting and tax-increasing measures. In addition, states were given other direct incentives, linked to federal Extended Benefits funds, to tighten eligibility requirements (ACUC 1994).

As a result of these federal changes, as well as voluntary responses to their trust fund insolvency, many states raised their monetary eligibility requirements in the 1980s. Between 1981 and 1987, 35 states increased the minimum earnings requirements (in inflation-adjusted terms) needed to qualify for UI benefits. The average increase among these states was 63 percent, whereas the rate of inflation for wages and salaries was less than half of that (31 percent). Evidence suggests that these changes were linked to trust fund levels, as the largest increases in earnings requirements were observed in those states that saw the largest decreases in their trust fund balances.[12] As with most changes in eligibility standards, these changes were most likely to affect low-wage workers, part-time workers, and individuals with sporadic work histories.

There were three changes in the demographics of the unemployed population between 1978 and 1990. First, men were a larger proportion of the unemployed population in 1990 (55 percent) than they were in 1978 (51 percent). Second, the proportion of the unemployed who were white declined slightly (from 76 to 74 percent), and the proportion of minorities increased slightly (from 24 to 26 percent). Third, the unemployed population became older between 1978

FIGURE 2. Recipiency Rates for Regular State UI Programs, 1947-1993



SOURCES: Council of Economic Advisors (1994) and U.S. Department of Labor (1994c).

Table 2. Ratio of Unemployment Insurance Claimants to Total Unemployed, by State, 1993

State	IU/TU	State	IU/TU
Alaska	63.6	Florida	30.1
Hawaii	53.1	North Dakota	30.0
Vermont	53.1	Michigan	29.8
District of Columbia	45.3	Missouri	29.4
Connecticut	45.0	Colorado	28.5
Washington	44.4	Wyoming	28.5
Oregon	43.3	Arizona	28.3
Idaho	40.5	Mississippi	27.7
Pensylvania	39.9	Kentucky	27.5
Wisconsin	39.8	Maryland	27.5
Rhode Island	39.7	North Carolina	27.2
Montana	38.9	Utah	27.0
New Jersey	38.7	Maine	26.2
Arkansas	37.6	South Carolina	25.4
Massachusetts	36.5	Ohio	24.9
Iowa	36.4	West Virginia	23.5
Nebraska	35.8	Alabama	22.5
California	34.6	Louisiana	21.8
New York	34.5	Texas	21.4
Tennessee	33.7	Georgia	21.3
Puerto Rico	33.0	Oklahoma	21.1
Delaware	32.1	New Mexico	20.7
Nevada	32.0	Indiana	20.6
Illinois	31.8	New Hampshire	20.3
Kansas	31.8	Virginia	17.0
Minnesota	31.6	South Dakota	15.3

NOTE: Data for the Virgin Islands are not available.
SOURCE: U.S. Department of Labor (1994b).

Table 3. Summary of Studies Explaining the Short-term Decline in Recipiency

Authors	Time Period Analyzed	Percent of the Decline Explained by:			
		Policy Changes	Population Shifts	Change in Unionization	Change in Manufacturing
Baldwin & McHugh (1992)	1979-1990	54	-	29	16
Blank & Card (1991)	1977-1987	0	50	25	-
Corson & Nicholson (1988)	1980-1982	21-54	16	-	4-18
Vroman (1991)	1967-1989	-	25	-	-

NOTE: The specific measure of recipiency used by researchers in examining this question has varied. While Corson and Nicholson (1988) examined both the IUR/TUR, they focused primarily upon the IU/TU, which they call the UI claims ratio. Blank and Card (1991) also examined this measure, which they call the fraction of insured unemployment. Vroman (1991) also focused upon the IU/TU. Baldwin and McHugh (1992) also examine IU/TU, but include EB recipients in addition to regular state UI recipients. Baldwin's 1993 analysis found much smaller effects from policy changes, but these results could not be readily decomposed into the categories of explanatory variables included in this table.

Regression analysis was used on a state panel data base to test the cost-shifting hypothesis. The panel included data on the 48 contiguous states from 1979 to 1990. The dependent variable was the IU/TU, with the independent variables being those which other researchers have typically used when estimating recipiency regressions. Three additional variables were included—the federal AFDC matching rate, per capita federal AFDC expenditures, and per capita Food Stamps expenditures within each state. These three variables were lagged one year. The model was estimated in first differences to avoid bias caused by unmeasured heterogeneity. Details on the construction of the data base and the regression results are reported in Appendix 2.

Overall, the regression results provide evidence of cost-shifting. They suggest that an increase in either per capita Food Stamp receipts or in the AFDC matching rate is followed by a decline in the IU/TU, although the AFDC effect is only significant in a first differences model.[15] The AFDC matching rate, however, has little capacity to explain *changes* in the IU/TU, since there has been virtually no change in the matching rate over time. Per capita Food Stamps have, however, changed substantially over time.[16]

Figure 4 plots the actual IU/TU rate, as well as an estimate of the IU/TU rate that would have existed if states had not shifted individuals from UI to Food Stamps. The estimates indicate that cost-shifting helps to explain the long-term decline in UI receipt. For example, cost-shifting behavior appears to account for 64 percent of the decline between 1971 and 1993. These findings suggest that much of the decline in the IU/TU that other researchers have attributed to "policy changes" (see Table 3) has taken the form of states shifting costs to the federal government.

It should be noted that, during some of this period, the federal government was encouraging states to improve the solvency of their UI programs, in part by restricting eligibility, during this same period. The growing incentives for states to shift individuals from UI to federally-subsidized programs may have made states may more willing to comply than they would have been in the absence of such incentives.

REPLACEMENT RATES AND POTENTIAL DURATION OF BENEFITS

Among those individuals who actually receive benefits under the UI program, there are two primary measures of the system's generosity—the replacement rate and the potential duration of benefits. The replacement rate measures the percentage of an unemployed individual's lost earnings that are replaced by UI benefits, while the potential duration of benefits provides a measure of how long UI recipients can expect to be able to rely on the system for partial income replacement.

Many of the founders of the system argued that benefits should replace 50 percent of lost earnings; they believed that this percentage was high enough to allow workers to purchase basic necessities, but not so high as to discourage prompt return to work (see Blaustein 1993). A number of presidents, including and following Dwight Eisenhower, have endorsed a goal of 50 percent replacement of lost earnings within the UI system. President Nixon advocated that the UI system should replace 50 percent of lost earnings for four-fifths of all recipients (see O'Leary 1994). Both the National Commission on Unemployment Compensation (1980) and the Advisory Council on Unemployment Compensation (1995) have endorsed "one half for four-fifths" as an appropriate goal.

Unfortunately, virtually no cross-section data are available on replacement rates, and no data whatsoever are available on changes in replacement rates over time. Although the Department of Labor (DOL) does report what it refers to as a replacement rate, it is defined as the ratio of average benefits paid to UI recipients to average wages paid in all of covered employment. Because it compares data for two different populations, this ratio does *not* measure the extent to which UI benefits replace the wages of those individuals who are actually unemployed and actually receive benefits.

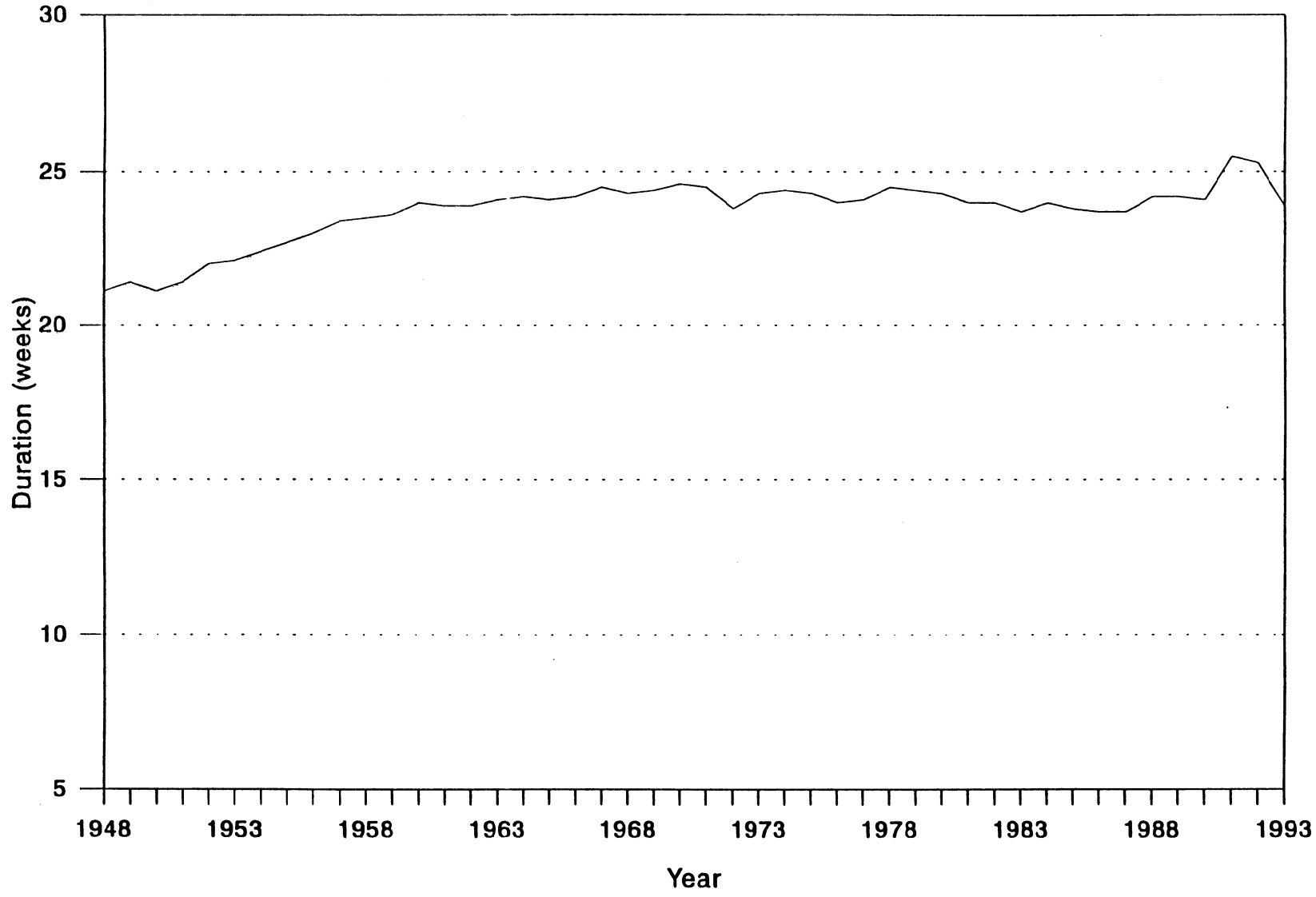
Table 4 summarizes unpublished data on the actual replacement rate in six states. When compared with *reported* replacement rates for comparable time periods, these data indicate that the reported rates significantly *understate* the actual replacement rate in all six states. In five of the six states, the actual rate is understated by between 25 and 30 percentage points. Furthermore, all six states either exceed or come close to meeting the goal of replacing 50 percent of lost earnings for four-fifths of UI recipients.

Table 5. Actual Replacement Rates, Based on SIPP Simulations, 1978 and 1990

Year	DOL-Reported Replacement Rate (percent)	Average Replacement Rate of UI Recipients in SIPP (percent)
1978	36	64
1990	36	63

NOTE: SIPP replacement rates are defined as the average weekly benefit amount divided by (base period earnings/52).
SOURCES: Analysis of unemployment spells between 1989 and 1992 using the 1990 SIPP research file (described in Appendix 1) and U.S. Department of Labor (1994c).

FIGURE 5. Average Potential Duration of UI Benefits (in weeks), 1948-1993



NOTES: Line denotes the average potential duration of benefits calculated for all UI claimants. The 1979 figure for duration of benefits was substituted for erroneous data.
SOURCE: U.S. Department of Labor (1994c).

of involuntarily unemployed workers may deter states from reducing their UI program to the minimum allowed by federal law, competition among the states to attract and retain employers and jobs may put states under considerable pressure to have smaller UI programs than they would choose to have in the absence of competitive pressures. It is even possible that interstate competitive could set off a "race to the bottom," as some states cut UI payroll taxes to gain a competitive edge, other states respond, thereby bringing about another round of tax cutting.

Hoyt (1995) and Weaver (1995) have outlined economic and political science models that can be used to explore the possibility of pernicious interstate competition within the UI system. Principles suggested by these models were examined in an empirical exploration of state interactions in setting tax rates. This analysis was conducted using a state panel data base that contains information from 1977 to 1990.

The basic model for testing the hypothesis used an observed state's UI tax rate (measured as a percent of covered wages) as the dependent variable. Independent variables included various measures of the UI tax rates in other states, lagged by one year, as well as a set of other potentially important explanatory variables (e.g., the state's unemployment rate, measures of state government, percentage of workers who belong to unions). Details of the construction of the data base, along with the results from the regressions, are contained in Appendix 3. Four expected outcomes of a "race to the bottom" were examined empirically, and are described as follows:

1. The tax rates of nearby states should have a larger effect than that of states that are farther away.

2. There should be an asymmetric response to the tax rate of other states. In particular, an observed state's tax rate should respond more to those states that have a lower UI tax rate than to states that have a higher tax rate.

3. The effect of more populous contiguous states should be greater than the effect of less populous contiguous states.

4. Holding all else constant, more populous states should be able to resist the pressures of interstate competition more than less populous states.

The regression results reported in Appendix 3 provide compelling evidence in support of these hypotheses. The results are briefly described below:

generosity on the one dimension of the program that it controls, states' actions have resulted in a decline in generosity in terms of eligibility for and receipt of benefits.

As noted above, however, there does not appear to be a significant deterioration of the benefits (in terms of replacement rates or duration) for the shrinking percentage of the unemployed who are eligible for and receive benefits. This suggests that states have cut back, instead, on their UI programs primarily by limiting access to the program, rather than by reducing the generosity of the benefits that claimants receive.

The evidence presented in this paper suggests that there are two significant forces that have shaped the evolution of the Unemployment Insurance system. One of these forces is inherent in the existing federal-state structure of the program. Although federal law effectively forces the states to have a UI program, the law does not prevent states from choosing to administer only a minimal system, and the law provides no support against competitive pressures that may act upon the states and directly affect their UI programs. While other researchers have attributed the decline in the system to the effects of changes in state policy, as well as demographic and industrial shifts, the evidence presented here indicates that these effects are endogenous to the system.

In essence, the findings suggest that the failure of the system to respond to changes in the nation's demographic and industrial composition is an outcome, rather than a cause, of the system's decline. Similarly, increasingly restrictive state policy is the means by which states respond to the competitive pressures within the system. Finally, the decline in UI receipt that some researchers have attributed to "population shifts" may well be the result of a broader movement of jobs from states with high employer taxes (of which UI taxes are but one component) to states with low taxes.

The second force behind the downward spiral of the system is inherent in the methods by which alternate social insurance programs are financed. Because the federal government provides substantial subsidization of means-tested programs, states face an enormous price differential. From the states' perspectives, it is much less expensive to provide assistance to low-income individuals through means-tested programs than to provide an equal level of assistance through their UI system.

These two forces, no doubt, interact with one another. As states respond to competitive pressures by ratcheting down their UI programs, the easiest way to do so is by shifting low-

APPENDIX 1
SIPP ANALYSIS

This appendix provides a more detailed description of how the eligibility and benefit simulations discussed in the text were performed using the Survey of Income and Program Participation (SIPP). The SIPP analyses were performed by using a matched combination of the 1990 Full Panel Research File, Waves 1 through 8 Core Data Files, and the Wave 2 Personal History Topical Module. The full panel research file provides a window of two and one-half years (between 1989 and 1992) to identify unemployment spells. During that time period, the file provides monthly information on demographic characteristics, employment and earnings history, school attendance, and source and amount of income received (including Unemployment Insurance benefits). The Core Data Files provide historical information on labor force activity, earnings and employment history, reason for separating from employment, and the source and amount of income from other programs. The Wave 2 Personal History Topical Module was used to identify the starting month and year of the most recent job.

Only individuals who experienced unemployment at some point during the full research panel were included in the data base.[1] These individuals could have been unemployed for the entire panel. Individuals who reported that they were not looking for work were not considered to be unemployed; rather, they were considered to be out of the labor force.

Unemployment spells were *included* in the analyses only when there was sufficient information available on base period earnings and employment history to allow the simulation of UI eligibility. Some individuals with partially incomplete information in their base period were still included in the sample if the missing information could be interpolated. In general, rules were employed in order to ensure that adequate information was available for an individual's recent employment history.

Individuals were *excluded* from the analysis on the basis of the base period definition in their state. When their base period was defined as the first four of the last five completed calendar quarters, spells which occurred in the first 15 months of the full panel research file were excluded. When their base period was defined as the last four completed calendar quarters,

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[1] Individuals from the SIPP with more than one spell of unemployment can appear multiple times in the data base.

weeks worked, number of quarters wages were earned, number of hours worked per week, and average hourly wage rate.[3] Based on the state of residence, the simulations calculate UI program eligibility, weekly benefit amounts, and potential duration of benefits. The eligibility determination reflects the individual state laws, including provisions for dependent allowances and deductions for other income received during the period of unemployment (e.g., Worker's Compensation and Social Security).

These simulations were used in the text's discussions of monetary eligibility and replacement rates. The monetary eligibility calculations, which were presented in Table 1 of this paper, include individuals who report receiving UI in a given month, but were simulated as ineligible. These individuals represent approximately three percent of the UI spells in the SIPP. This discrepancy in eligibility may be a result of incorrect under-reporting of earnings in the SIPP.

The weekly benefit amounts that were used to calculate replacement rates were the simulated amounts, rather than the amounts that individuals reported in the SIPP. (These weekly benefit amounts are not reduced when other income was received.) The replacement rates reported in Table 5 of this paper were calculated by dividing the simulated weekly benefit amount by the individuals' average weekly earnings during the base period.

Two problems with the SIPP data should be noted. First, the state law used for determining eligibility was based on the individuals' state of residence, although UI is based on the state in which the individual worked. This information, however, was not available in the SIPP. As a result, calculations were incorrect for individuals who work in a state which was different than their state of residence. Second, the SIPP groups some "small" states together. In these cases, simulations were conducted using the UI laws of the state in the group with the most liberal monetary eligibility laws.[4]

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[3]The base period definition for 1990 was used in the 1978 simulations so that only changes in the earnings requirements would generate differences in eligibility and benefit amounts.

[4] Alaska, Idaho, Montana, and Wyoming were grouped together (Alaska was used); Maine and Vermont were grouped together (Maine was used); and Iowa, North Dakota, and South Dakota were grouped together (South Dakota was used).

Table A2-1. Means and Standard Deviations of Variables from Regression, 1979-1990

Variables	Levels		First Differences	
	Mean	Standard Deviation	Mean	Standard Deviation
IU/TU Ratio	33.69	9.78	-0.16	5.08
Federal AFDC Subsidy Rate lagged	59.90	8.54	0.12	2.16
Food Stamps Expenditures Per Capita lagged	79.57	37.02	1.02	9.97
Federal AFDC Expenditures Per Capita lagged	92.83	55.26	-2.98	8.21
Employer UI Tax Rate	2.45	0.98	-0.06	0.48
State Taxable Wage Base Over Federal Level	1913.72	2717.75	166.41	594.75
Percent of Labor Force Unionized	0.17	0.07	0.00	0.02
Required Base Period Earnings for Minimum Benefits	1584.05	732.37	16.69	320.38
Change in the Total Unemployment Rate	-0.01	1.27	0.10	1.67
Denial Rate Per Initial Claim	0.22	0.14	0.00	0.05
Percent of Employment Covered by UI	0.99	0.08	0.00	0.02
Benefit Amount/Wages	0.37	0.05	0.00	0.02
IUTU of Contiguous States	0.33	0.07	0.00	0.04
IUTU of Nearby States	0.34	0.07	0.00	0.03
IUTU of the Balance of States	0.35	0.04	0.00	0.03
Per Capita Income	22641.67	3754.66	222.99	787.83

SOURCE: ACUC calculations based on data discussed in Appendix 2.

Data Sources

Data were obtained from a variety of sources. AFDC and Food Stamp expenditures was drawn from the Economics and Statistics Administration of the U.S. Department of Commerce. AFDC matching rates are contained in the various editions of *The Green Book* produced by the Ways and Means Committee of the U.S. House of Representatives and the Congressional Research Service. The UI Financial Data Handbook provided data on employer UI tax rates, the state taxable wage base, UI benefit levels, UI coverage and recipiency, and average wages. State taxable wage base information was obtained from the Council of State Governments. Unemployment and population data was derived from the Bureau of Labor Statistics. Unionization rates were drawn from two papers based on Current Population Survey data, Kokkelenberg and Sockell (1985) and Curme et al.(1990).

Data and Model Specifications

The analysis used annual state data from 1978 to 1990. These years were selected based on considerations related to the availability of data. Only data for the 48 contiguous states were included in order to allow the inclusion of the interstate competition variables. The District of Columbia was also excluded because of a lack of data on a number of measures.

The model was estimated using both levels data (using a fixed effects estimator) and first differences. As can be seen in the regression results presented in Table A2-2, some of the regression coefficients vary between the two specifications. The analysis reported in the text is based on the first differences specification. This specification is used because its underlying assumptions are less restrictive then the fixed effects model. If, however, the fixed effects model were used, the estimated effect of Food Stamp spending would only be about 58 percent of the effects reported for the first differences model.

Regression Results

The regression results indicate that decreases in UI recipiency follow increases in the federal AFDC subsidy rate and per capita Food Stamp expenditures. According to the first differences results, a state's IU/TU ratio would be expected to fall by 0.48 percentage points after a $10 increase in per capita Food Stamp expenditures. Similarly, a one percentage point increase in

the federal AFDC matching rate would be followed by a 0.14 decrease in the IU/TU ratio. Per capita federal AFDC benefit expenditures are not significant in explaining variation in UI benefit recipiency.

The first differences regression model also suggests that additional variables are significant predictors of UI recipiency. Decreases in recipiency are associated with: increases in the base period earnings requirement; increases in the change in unemployment rate; increases in the benefit denial rate; decreases in the ratio of average weekly UI benefits to average weekly wages; and decreases in the IU/TU of contiguous states.

National Effects

Given that the first differences estimator is likely to control for unmeasured heterogeneity better than a levels estimator, the regression coefficients produced by the first differences analysis were used to simulate the effects of changes in Food Stamps spending and the federal AFDC matching rate on the IU/TU. The lagged changes in the annual national mean for these two variables were multiplied by the corresponding regression coefficients to calculate the predicted change in the IU/TU. The mean values of these variables for 1972-1993 and their effects on the IU/TU are reported in Table A2-3 along with means for the IU/TU.[7] This table indicates that the AFDC matching rate has varied little over time. Consequently it cannot explain variation in the IU/TU.

Figure 4 (in the text) uses these calculations to compare the actual IU/TU to the IU/TU that would have occurred without cost shifting from UI to Food Stamps. According to these calculations, the IU/TU in 1993 would have been 0.042 percentage points higher that the actual IU/TU of 0.32 if cost-shifting from UI to Food Stamps had not occurred. These results suggest that cost-shifting from UI to Food Stamps accounts for almost 64 percent of the 0.117 percentage point decline in the IU/TU between 1971 and 1993.[8]

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[7] The annual means are weighted by states' total unemployment in order to account for changes in the distribution of unemployment over time. However, the state level unemployment data needed to produce the weighted averages were not available for the years 1970-1975. Instead, the weights for 1976 were applied to these years.

[8] Alternatively, calculations based on unweighted means produce a cumulative change in the IU/TU of 0.036 percentage points, which accounts for 69 percent of the decline in the IU/TU.

APPENDIX 3
ANALYSIS OF INTERSTATE COMPETITION IN UI TAXES

The existence and potential impact of interstate competition in the Unemployment Insurance system was examined through regression analysis. In particular, the impact that tax rates in other states have on the tax rate of any given individual state was analyzed while taking into account a number of factors, including the following: the proximity of the other states, whether their prior tax rates were higher or lower than the prior tax rate in the state being considered, the population of the other states, and the years being examined.

Dependent Variable

The dependent variable used in all regressions was the measure of UI taxes as a percentage of total wages in a given state. Tax rate data are routinely reported by the U.S. Department of Labor, and are available by state from 1938 to 1993.

Interstate Tax Variables

The econometric model that was examined in testing for the effects of interstate competition included interstate tax variables, as well as a number of economic and other external variables that might be expected to affect the UI tax rate of a given state.

In calculating interstate tax variables, two geographic categories of states were created for each observed state. Those states that share a border with the observed state were designated "contiguous" states. States have, on average, slightly over 4 contiguous states, with the number ranging from 0 to 8. Those states that do not share a border with the observed state were designated "balance of country" states. States had, on average, 45 balance states, with the number ranging from 41 to 49.

A data base was created in which the tax rates of each state's contiguous and balance states were included for each state-year observation. Various interstate tax measures were then created using these geographic categories (e.g., two unweighted average tax rates, one each for all states contiguous to the observed state and all balance states).[9]

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[9]Regressions using averages weighted by state population were also examined. Both weighted and unweighted averages were found to have similar effects in the regressions.

ratio had the greatest predictive power, and it was this measure of the reserve ratio that was used.

In order to control for the effect of politics at the state level, a measure of the number of state political institutions (i.e., the governorship and the two bodies of the state legislature) controlled by the Democrats was also included. A measure of state tax capacity was included to control for the level of states' general tax bases. Unionization rates were included because they are often found to have an effect on a number of UI-related measures. Preliminary regressions included the ratio of the observed state's population to the average population of all of its contiguous states. This was done in order to test the hypothesis that larger states are more able to resist competitive pressures on tax rates.[10]

These data were derived from a variety of sources. The total unemployment rate variables and population ratios were drawn from Bureau of Labor Statistics data. The reserve ratio was drawn from Unemployment Insurance Service data. The state political variable was derived from Conference of State Legislatures data. Unionization rates were drawn from two papers based on Current Population Survey data, Kokkelenberg and Sockell (1985) and Curme et al. (1990).

Regression Results

Regression analysis was then performed on the data for the years 1977 to 1990 in order to determine the responsiveness of state tax rates to tax rates in other states.[11] Analysis was limited to these years because of data restrictions. In particular, state-level unemployment rates are not available for all states before 1976 (and, as a result, unemployment rate change is not available before 1977), and unionization rates by state are not available after 1990. Because both of these variables are highly significant in predicting tax rates, the decision was made to limit the

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[10]Although the results provided evidence in support of this hypothesis, the variable was ultimately dropped from the analysis. This was done because the Hausman specification test indicated that a fixed effect estimator should be used, rather than a random effects estimator. The state population variable proved to be too highly correlated with the state fixed effects, and as a result, it was necessary to drop the population variable.

[11]The results reported here are based on a fixed effects, generalized least squares model.

analysis to those fourteen years. Observations for Alaska and Hawaii were excluded from the analysis because they have no contiguous states.

The results suggest that, all else being equal, state tax rates are affected by the previous year's tax rate levels in other states, and that the impact is statistically significant. The R^2 of the regression that does not include the interstate tax rate variables is 0.34. When the interstate variables are included, the R^2 increases to 0.57.

Further, the results indicate that an average *individual* contiguous state has a larger impact than an average individual balance of country state. In addition, the evidence suggests that state tax rates respond more to the tax rates in states in which tax rates are lower than they are in the observed state.

For example, the regression results reported in Table A3-1 indicate that, if the lagged average of all contiguous states is *lower* than the lagged tax rate of the observed state, then a 1 percent decline in the lagged average tax rate of all contiguous states would result, on average, in a 0.33 percent decline in the tax rate of the observed state. The comparable result for balance of country states is 0.44. In cases in which the average interstate tax rate is *higher* than in the observed state, the overall response of the observed state to changes in the interstate averages is significantly less (between 54 and 80 percent of the response that occurs when the interstate averages are lower than the observed state).[12]

The results discussed above can also be interpreted to indicate the average effect of a *single* state located in the contiguous or balance of country categories. The discussion in this paragraph refers to situations in which the relevant average tax rate is lower than the tax rate in the observed state. Since there are, on average, 4.2 contiguous states per state, a 1 percent decline in the lagged average tax rate of any one of those contiguous states would result in a 0.08 percent decline in the tax rate of the observed state. With an average of 44.8 balance of country states, a 1 percent decline in the lagged average tax rate of any state located in the balance of country would result in a 0.01 percent decline in the observed state's tax rate. Thus, among categories of states that have a lower tax rate than an observed state, average individual

[12]This was determined by dividing the regression coefficients of average interstate tax rates that are higher than the observed state by the coefficients for the averages when they are lower than the observed state.

ENDNOTES

1. Craig and Palumbo's recent analysis (1994) documents that a tradeoff exists between UI and AFDC benefits, but they do not analyze the implications of this tradeoff for changes in UI receipt over time.

2. Blaustein suggests that decision to limit initial coverage was primarily a practical decision, in that it would allow the administrative burden to be lessened in the first years of the program, while still ensuring that a significant percentage of workers would be covered. He suggests that there was always an expectation that coverage would be extended—ultimately to all workers who could be subject to involuntary unemployment (Blaustein 1985 paper). Others, however, have suggested darker reasons for some of the coverage exclusions; in particular, they argue that the decision to exclude agricultural labor from coverage was rooted in discrimination and racism (see Norton and Linder, forthcoming).

3. Many states, however, chose to employ more liberal coverage standards from the beginning, particularly on requirements regarding the size of firm. The existence of more liberal coverage standards in various states has continued throughout the history of the program.

4. This provision did not apply to employees of churches or other religious organizations. Nonprofit employers were offered the choice of either reimbursing the state for only those benefits chargeable to them or paying the state UI tax in the same manner as other covered employers. Nonprofit employers were also offered the option of forming a group to pool their benefit liabilities through a common reserve fund. All nonprofit organizations remained exempt from the federal unemployment tax.

5. The reimbursement option was made available to all state and local government employers, and such employers remained exempt from the federal unemployment tax.

6. Employers with 10 or more agricultural workers in at least 20 weeks of the year or with a payroll of at least $20,000 in any calendar quarter were required to pay UI taxes. Estimates suggested that at least 50 percent of agricultural workers would be included as a result of this change (Martin 1994).

7. Federal civilian employees were included in the system in 1954, when a separate program was created to cover them. Former members of the military were included under various pieces of legislation in the 1950s, with a separate program also created for them. Puerto Rico was included in the system as a "state" in 1960, and the Virgin Islands was included under the 1976 amendments.

8. Only two significant coverage exceptions remain. First, agricultural workers who are employed on farms that are defined as "small" are not covered in many states. Second, workers who are classified as "self-employed" are also excluded from coverage.

Ambiguities in this definition, however, have caused some workers—who should be covered under some other coverage requirement—to be excluded from coverage because they are

15. The AFDC matching rate was shown to be significant at the 0.05 level under a *first differences* regression model. It was not, however, significant in a *levels* model. The AFDC per capita expenditures variable was also insignificant -- a result that is not entirely unexpected. These results are discussed further in Appendix 2.

16. The annual mean values for these variables and the additional variables used in the regression are contained in Table A2-1 of Appendix 2.

17. Income is known to be under-reported in the SIPP, which would tend to cause the replacement rate to be over-estimated.

18. It should be noted, however, that replacement rate calculations refer to pre-tax income. The subjecting of UI benefits to federal income tax in the 1980s reduced the effective replacement rate for UI recipients.

19. The small variations in potential duration are cyclical. During recessions, those laid off tend to have higher earnings and higher labor force attachment than during non-recessionary periods. Although the average length of benefits has remained fairly constant over time, the length of unemployment spells has increased. Consequently, the percentage of UI recipients who exhaust their benefits (which is highly cyclical) appears to have increased slightly over time. Thus, it would not be unreasonable to conclude that the potential duration of benefits has become somewhat less generous in the sense that it has not responded to increases in the duration of unemployment.

20. The $56 per worker FUTA tax is used to finance the federal government's share of UI expenditures, the bulk of which consists of the expenses of administering the program and the federal share (50 percent) of the Extended Benefits program.

21. For technical reasons, which are discussed in Appendix 3, it is difficult to identify the magnitude of this effect with precision.

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Interstate Competition in the UI Program

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For sixty years, Unemployment Insurance (UI) has operated as a joint federal-state program. For the most part, the federal role has been as a "mandater" of minimum standards that states are required to meet to obtain federal funds or exemptions from federal taxes. However, states always have the opportunity to provide unemployment benefits that exceed the minimum standards set forth by the federal government and almost all states do.

The flexibility offered to states in UI has lead to a great deal of variation in UI across states, though most states follow certain principles when developing UI policies. This variation in policies across states raises some interesting questions about what factors determine the nature of the UI policies within states and, given this variation in policies, what modifications in the role of the federal government in UI should be considered.

The primary focus of this report is to develop an empirical model of the determinants of state UI policies. Specifically, we develop a model in which state UI policies depend on the policies of other states, particularly those which compete for investment and which have a great degree of labor mobility. While the influence of other state policies on a state's UI policy might represent "copycatting" (Case and Rosen, 1993), an alternative explanation may be that a state must set its policy considering the influence of other state's policies on its employment, earnings, and benefits.

As a framework for examining the interdependency of state UI policies we first formulate a simple model following the approach taken in the "tax competition" literature (Wilson 1985, 1986; Zodrow and Mieszkowski, 1986; Wildasin, 1988; Hoyt, 1990). This model introduces the interdependency of state policies by incorporating a mobile supply of capital (business investment) among states. As investment in a state is sensitive to the cost of labor, wages and UI taxes in the state, an increase in the UI tax will decrease both investment

The next section briefly discusses some of the most significant differences in state UI policies. Section 3 presents our base model of UI determination and in section 4 discuss the broad empirical predictions of these models and conclude.

2. *Variation in State UI Policies*

A. *Federal Mandates*

Unemployment Insurance (UI) is an example of a federal-state partnership that has been in operation for sixty years. The division of responsibilities for Unemployment Insurance is outlined in the Social Security Act of 1935 and the Federal Unemployment Tax Act (1939).

As outlined in these acts and later legislation, the federal government has four primary responsibilities. To provide an incentive for state governments to develop and implement their own UI laws, there is a federal UI tax of 6.2% on the first $7,000 of wages per employee. However, employers can receive 5.4% of the federal tax as a credit against state UI taxes paid, making an effective federal tax of 0.8% on the first $7,000 of wages. This revenue is finance federal oversight of the state systems.

Second, the federal government is responsible for control of taxes collected under both federal and state unemployment laws. These funds are deposited in separate state accounts in the Unemployment Trust Fund in the U.S. Treasury.

Third, the federal government is jointly responsible with the states for administration of the UI program, though primary responsibility for administration rests with the state governments.

Finally, the Federal government establishes program minimums that must be met by states to be eligible for the employer tax credit and administrative grants. These include rules about coverage, what is meant by wages, contributions (taxes), benefits, and extended benefits.

states having a minimum in the range of 2%. *Table 1* provides a listing of the minimum, maximum, and taxable wages above $7,000 for all states and territories.[1]

Most states (47) use an experience rating system to determine the UI tax rate paid by an employer. An experience rating system uses, in part, the past taxes and benefits paid by an employer to determine its current tax liability. The two most common experience rating systems are the reserve ratio (32 states) and the benefit ratio (15 states) systems. The reserve ratio for year t (RR_t) based on the past experiences of the employer, often the past three years, used in 32 states, is given by[2]

$$RR_t = \frac{\sum_{j=1}^{3} Taxes\ Paid_{t-j} - \sum_{j=1}^{3} UI\ Benefits\ Charged_{t-j}}{\frac{1}{3}\sum_{j=1}^{3} TaxablePayroll_{t-j}}$$

The tax rate applied to employer will depend on its reserve ratio. The greater the reserve ratio, the lower the tax rate the employer pays.

Since tax rates do increase as the reserve ratio is increased, increases in layoffs by an employer will result in higher future taxes. However, the present value of these tax increases are generally not equal to the cost of providing current UI benefits. One reason is that taxes are in the future and the benefits are paid now. Another reason is that within a tax bracket small changes in unemployment will not have an impact on taxes paid. For example, for those employers with the lowest reserve ratios and already subject to the highest taxes further layoffs will not lead to future tax increases. As the lowest tax brackets also tend to be large, expected taxes also do not change as a consequence of small increases in layoffs for employers with very high reserve ratios. Topel (1983) formalizes by defining the present value of taxes the employer will pay per dollar of benefits as

calendar year in which the recipient received her highest wages. Other states base their weekly benefits on annual wages or average weekly wages.

While there is not a great deal of variation in method of computing weekly benefits among states, there is a signification amount of variation in the extent to which states deviate from basing weekly benefits on pre-unemployment wages. In particular, the minimum and maximum weekly benefits do vary among states. For example, the minimum weekly benefit amount in Hawaii is $5 while it is over $60 in Kansas, Virginia, Oregon, New Jersey, and Ohio. This variation, however, is somewhat misleading as states with low minimum WBA typically have very low qualifying requirements -- in Hawaii, for instance, only $130.00 in wages is required in past year. States with high minimum WBA have much higher requirements -- Virginia requires earnings of $3250 in the past year to be eligible.

A more significant variation in benefits among states may be the maximum amount of weekly benefits allowed and the corresponding minimum wage amount at which this maximum is reached. In most states, these maximum WBA are indexed to the state's average weekly wage (WW) to hedge against inflation with the maximum varying from 50% to 70% of the state's average weekly wage. However, variations in this rate and differences in average weekly wages lead to sizable differences in maximum WBA and the minimum wages at which these maximums are met. For example, in Mississippi the maximum WBA is $165 and this amount applies to anyone with earnings of over $6,600 during the base period (preceding four quarters); Missouri's maximum WBA of $175 applies to wages of over $5833.34 during the base period. Colorado's maximum WBA of $261 applies to wages of less than $27,144 during the base period. Twelve states have a maximum WBA of less than $200 while nine states have maximum WBA greater than $300. *Table 2* summarizes some of the differences in benefits across states and territories.

While a tax increase in a state reduces its capital stock, it does not reduce aggregate capital to the U.S.[3] Reductions in one state's investment mean increases in investments in other states. This increase in the tax base and welfare of residents in other states is a positive externality that is ignored by the state enacting a tax increase. Thus, a state, when setting its UI tax and benefit schedule considers the loss in capital in the state but ignore the positive externality generated by its tax increase; therefore, inefficiently low levels of UI benefits will be provided.

In this section we develop a model that demonstrates how UI policies in one state can influence the UI policies in other states and how the UI policies chosen in a state depend on the size of that state, that is the employment and capital in the state. The normative implications of the independence of states in setting of policies are also briefly addressed.

We begin by specifying a simple decision rule for the worker that treats his spells of unemployment as entirely exogenous and assumes that markets to provide private insurance or loans for these spells of insurance are absent.

A. The Worker's Decision

The utility of a representative worker in state i is given by the function $U_i = U_i(Y_i) + U_{Li}(L_i)$, where Y_i is income and L_i is labor supply with $U_i' > 0$, $U_i'' < 0$, $U_{Li}' < 0$, and $U_{Li}'' < 0$. Let the wage rate be given by w_i and y_i denotes nonlabor income and could represent accumulated savings from past earnings. Each period workers face the probability ρ of being unemployed making expected utility equal to

$$V(w_i,\rho_t,y_i) = (1-\rho_t)U(w_iL_i(w_i)+y_i) + U_{Li}(L_i(w_i)) + \rho_iU_i(y_i) \qquad (3.1)$$

We do not attempt to model the existence of unemployment into our determination of the equilibrium wages and return on investment (price of capital). Instead we determine the wages and the return on capital when full employment exists. Essentially, we could obtain qualitatively similar results by assuming that at any given time ρ percent of labor force is temporarily unemployed and that the wage is determined with the supply of labor being $(1-\rho)$ percent of the entire labor force.

Equilibrium requires that labor markets clear in each state and that the capital market must also clear. Finally, the government budget must balance. These conditions are formally given by

$$L_i^s(w_i) = L_i(w_i+t_i,r), \qquad i=1,\ldots,S \tag{3.5}$$

$$K^s = \Sigma K_i(w_i+t_i,r) \tag{3.6}$$

where L_i^s is the aggregate labor supply for state i and K^s is the total supply of capital in the economy.

E. Comparative Statics

We wish to see the impacts of changes in the UI tax rate in one state on wages in that state and the other states and on the rate of return on investment. Once we have determined the impact of changes in the UI tax rate on wages and the rate of return on capital, we can then consider the impacts of the UI tax rate on employment and investment. Finally, given predictions of these impacts of the UI tax we can contrast a uniform federal tax to a state specific tax.

Then differentiating (3.5) and (3.6) with respect to the tax rate in a state and solving for the change in the price of capital yields[4]

all elasticities are the same in all states and also consider the case in which all states have the same wage and tax rate, we can simplify (3.7) to

$$\frac{dr}{dt_i} = \frac{K_i}{K^s}\left[\frac{\eta^s_{lw}\eta_{kw}}{\eta_{kw}(\eta_{lw}((w+t)/w)) - \eta_{kw}\eta_{lr})} \bullet \frac{(w+t)}{r}\right]. \qquad (3.7')$$

The impact of a tax change in state i has on the rate of return on investments and therefore wages depends on the share of capital (investment) in the state. To understand why the amount of capital in the state will determine the impact of changes in its tax rate on the rest of the states consider a case of two states, one which has 20% of all capital in the economy and another that only has 1% of all capital in it. Also assume that both states have the same UI tax rate and wage rates and consider the impacts of both states instituting tax increases that reduce the demand for capital in both states by 25%. The decrease in demand for capital in the small state leads to a decrease in aggregate demand of (0.01)(25%) = 0.25% while the decrease in aggregate demand for capital due to the decrease in demand for capital in the large state is (0.20)(25%) = 5%. Obviously, the actions of the large state will have a much greater impact on the overall demand for capital and therefore the price of capital.

F. Optimal UI Policies

We have shown that the UI policies in one state affect the wages and profitability of investments in all other states. We now wish to consider how the differential impacts of UI taxes affect the policies chosen by states. In particular, we focus on two considerations: 1) how would UI policies differ if benefits and taxes were uniformly set throughout the country (economy); and 2) how might we expect UI policies to differ in different states. To be able to make some predictions we first need to posit an objective that the state government's attempt to maximize when setting UI policies.

From expressions (3.7') and (3.9) it is apparent that $d[dw_i/dt_i]/dK_i > 0$ and $d[dB_i/dt_i]/dK_i > 0$ since $d[dr/dt_i]/dK_i < 0$. Then expression (3.13) is positive -- for any given tax rate, the increase in worker utility for a tax increase is greater for larger states. The only difference in the change in utility from an increase in the UI tax rate for states of different sizes at a given tax rate arises from differences in impact that a tax increase will have on the wage rate in the state and consequently the benefit levels. For larger states more of the tax is "passed on" to other states in terms of higher wages there and a lower rate of return on capital. This is similar to how tax increases in large cities can be passed on to other cities by increasing their property values (Hoyt, 1993).

We now need to consider the how the size of state affects the impact that an increase in the UI tax has on the profits of firms in the state. From (3.11) the change in profits from an increase in the UI tax is

$$\frac{d\pi}{dt} = -[(1+t\frac{dw_i}{dt_i})L+\frac{dr}{dt_i}K] < 0. \tag{3.14}$$

Then differentiating (3.14) using (3.7') and (3.9) to substitute for $d[dw_i/dt_i]/dK_i$ we obtain

$$\frac{d\left[\frac{d\pi}{dt}\right]}{dKi} = -\frac{\left[\left(\frac{-(w_i+t_i)}{r}\eta_{lw}\right)+\left(\eta_{lw}-\eta_{lw}^{s}\frac{(w_i+t_i)}{w_i}\right)\right]}{\left(\eta_{lw}-\eta_{lw}^{s}\right)}\frac{d\left[\frac{dr}{dt}\right]}{dK_i} \tag{3.15}$$

An increase in the size of a state will lead to a greater reduction in the rate of return on investment when the UI tax increases ($d[dr/dt]dK_i < 0$). Because of the greater reduction in aggregate demand for capital when a large state increases its tax rate and the subsequent greater reduction in the price of capital, there will be a smaller reduction in state-specific profits when the tax rate increases in a large. However, the wage rate will not decrease as much in larger

approach, we can begin by cataloging the impacts of the a tax increase in state j and considering some of the implications of these changes for UI policy in state i.

A tax increase in state j will increase the wage in state i (w_i), increase the amount of capital in state i (K_i), and decrease the rate of return on capital (r). Inspection of (3.11), the rule for determining the UI tax rate, also indicates how changes in the tax rate in state j affect the impact of taxes in state i on wages (dw_i/dt_i), on benefits (dw_i/dt_i), on the rate of return on capital (dr/dt_i), and on the stock of capital (dK_i/dt_i).

As increases in the tax rate in state j increase the amount of capital and the wage rate in state i and decreases in the rate of return on capital, by inspection of (3.7), $\frac{d[dr/dt_i]}{dt_j} < 0$. That is, an increase in the tax rate in district j will make the impact of a tax increase in state i on the rate of return on capital greater. This, in turn, means that the loss in capital in state i will decreases from a tax increase there as the change in after-tax return, $r + t_i$, $d[r+t_i]/dt_i$ is reduced, $\frac{d\left[\frac{d[r+t_i]}{dt_i}\right]}{dt_j} < 0$. More of the tax increase will be passed onto other states through lower returns on capital there.

Inspection of (3.9) suggests that an increase in state j's UI tax likely to increase dw_i/dt_i. Intuitively, the tax increase in state j means that increases in tax rates in state i will not result in as dramatic decreases in investment and capital. Then as the demand for labor depends on the amount of capital in the state, the smaller reduction in capital means a smaller reduction in wages. As labor supply will increase with the higher wages in state i as a result of state j's tax increase, there is an unambiguous increase in dB/dt_i.

All of these impacts are considered when formulating the state UI policy as (3.11) illustrates and when states responded to changes in other state policies following the objective function (3.10). To fully consider changes in a state's optimal UI policies that arise from changes in other states' policies we separately consider the impact on the benefits received by

states when making their investment decisions, it is the UI policies of these states that are relevant. As an empirical matter, while the UI tax policies of all states may have some impact on wages and investment in a state, it is much more likely that the UI policies of adjacent states, closer competitors for investment, are going to have a more dramatic impact on UI policy. The impact of this policy is magnified by the size of the adjacent state's economy -- changes in UI taxes in a large state will have much more dramatic impacts on investment and wages in a state than increases in a small state.

There are three major empirical implications of this simple model of interdependent UI policies:

1) The greater the state's economy, the higher the UI taxes;

2) The higher the UI tax rates in neighboring or "competing" states, the higher the UI taxes in a state; and

3) Larger neighboring or "competing" states will have a greater impact on the UI taxes in state than smaller states will.

Here we have presented a very simple model of the interstate impacts of UI in which we have focused on the movement of capital (business activity) in response to differences in state UI tax and benefit policies. Clearly, there are other aspects of UI policies that are likely to have interstate impacts and merit both further theoretical and empirical examination. One of these is the possible migration among states of workers in response to differences in state UI policies. Thus, for example, it may be the case that workers that have a high probability of unemployment may locate in states with generous plans, "welfare" magnets. This migration would, in all likelihood, reduce the generosity of UI benefits.

Firms might also choose among states based upon differences in experience rating. For example, states that do relatively less experience rating, might be attractive to firms that have

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Notes

[1] These statistics and other statistical information found in this section are from National Foundation for Unemployment Compensation & Workers' Compensation (1994a, 1994b).

[2] This formulation is from Anderson and Meyers (1994).

[3] Implicitly we are assuming a fixed stock of capital to the U.S., that is, the tax on capital does not affect savings rates. We would have qualitatively similar results if we relaxed the assumption of a fixed capital stock.

[4] In formulating (3.7) and the equations that follow based upon it we use an approximation -- the elasticity of supply of labor is based on the net wage, w, while the elasticity of demand is based on the gross wage, w+t. As a simplification we set the term (w+t)/w that arises from using elasticities equal to unity. It in no way changes the qualitative nature of our results.

[5] Formal derivations are available from the author.

Administrative Funding of Unemployment Insurance as a Principal-Agent Problem

by

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1. Introduction

The money used to finance unemployment insurance (UI) in the United States comes from two sources. Individual states must raise the revenue required to finance benefit payments, but they bear no responsibility for the financing of the administration of the system. Administrative expenses are funded by the Federal Government with money appropriated by Congress out of accumulated Federal Unemployment Tax revenues. There is widespread (and justified) dissatisfaction with the procedure used for allocating funds available for administration among states. It is argued that the current system not only fails to promote efficiency but may also encourage waste. The purpose of this paper is to analyze the incentive problems inherent in the problem of administrative funding, evaluate the current system and some alternatives, and propose reforms.

From the standpoint of economic theory, this is an example of the "principal-agent problem." The Federal Government, which is the principal, effectually contracts the various State Governments as its agents to administer the UI system. The Federal Government provides the required funds and expects the States to perform in an efficient manner. This arrangement has certain advantages -- the State Governments are closer to the customers, more informed about individual preferences and needs, and potentially subject to more careful taxpayer scrutiny. The fundamental difficulty is that State Governments inevitably have some leeway to pursue their own interests, which may conflict with those of the Federal government. For example, States may

mechanism. First, we must begin by specifying the goals of the principal and the interests of the agent. In particular, we need to be clear as to the circumstances under which their interests differ. Second, we must determine exactly what information each party has available at each stage of the process. Can the Federal Government observe the various dimensions of quality? Can it determine actual administrative costs? Can it distinguish between justified expenditure and wasteful spending? The third step in solving the problem requires us to determine which strategies are feasible for the principal to use. Can the Federal Government administer fines for poor performance by individual States? Can it credibly threaten to revoke the FUTA tax credit offset? And, finally, there is the issue of timing. For example, is there sufficient time to negotiate differences before funding levels are adjusted?

In the next two sections, we provide an overview of the relevant aspects of the UI system. The purpose of this is neither to give a complete historical account of the system nor a detailed exposition of its rules and regulation. Rather, our purpose is to provide answers to the questions raised in the preceding paragraph -- that is, we want to set up the principal-agent problem with respect to the administration of the UI system. We then turn our attention to mechanism design for the funding of UI administrative expenses in section 4. Throughout that section we restrict attention to the relationship between the Federal and State agencies. In section 5, however, we bring in the taxpayer as a competing principal and investigate whether taxpayer oversight of state performance can be harnessed to promote efficient administration without compromising quality. The current method for financing UI administration and

of these issues explain, in part, why unemployment insurance arose only in response to Federal government initiative. Moreover, they also imply that, in general, states will prefer a more economical system and may even prefer a lower quality of benefit delivery

Consider first the problems created by adverse selection. Insurance is provided successfully by pooling people of similar risks, forecasting the cost of providing insurance, and charging premiums based on those forecasts. If the insurer lacks the necessary information (or if it is constrained by institutional restrictions), it cannot discriminate among its clients and it must charge the same premiums to all demanders of its service. If it bases its premiums on population averages, the insurer will likely find that those who choose to buy insurance are more costly (i.e., face greater risk) than the population. The reason is simple -- insurance is more appealing to those who face greater risk of loss and these relatively risky individuals will be more likely to choose to insure themselves. The insurer will soon find that its costs exceed its forecast. However, raising the premium to cover costs will not help. Such an increase makes insurance less appealing to the lower risk customers, causing them to drop their coverage. This, of course, causes costs to rise even further.

To see the relevance for UI, consider a state that offers more generous unemployment compensation than its neighboring states. In the absence of perfect experience rating, workers and firms that are more likely to make use of the UI system would find that state relatively more attractive. The cross subsidy that is implicit in the system would favor higher cost workers, firms and industries at the expense of

additional incentive to remain unemployed. Moreover, by enhancing the efficiency of the system a state reduces the cost of filing for benefits and may attract workers who would otherwise not bother to claim their benefits (this is not a trivial concern -- Blank and Card (1991) estimate that over 25% of UI-eligible unemployed workers never bother to claim their benefits). Therefore, once again, there are forces present that imply that states may be reluctant to enhance the quality of their UI system.

Finally, even if we ignore these incentive issues, there is an additional reason for Federal oversight and regulation of the UI system. Unemployment insurance acts as an automatic stabilizer by increasing consumption during downturns in the national economy. For example, Hamermesh (1977) finds that for roughly half of the UI recipients benefit payments loosen liquidity constraints and enable them to maintain consumption during recessions to a greater extent than would be possible through dissaving or borrowing. More recently, Gruber (1994) has provided even stronger evidence by showing that consumption of UI recipients falls by roughly 7% during unemployment while he estimates that it would have fallen by roughly 22% in the absence of UI. This additional consumption adds to aggregate demand and may lessen the length and severity of economic downturns.

Presumably, when states consider increasing unemployment benefits they focus on the impact on their own residents and ignore any spill-over effects affecting non-residents. Since non-residents gain from macroeconomic stability and since their gain is ignored by individual states when devising their UI systems, individual states are likely to underprovide benefits. And, as we have emphasized above, this also

variety of programs. The Cost Management System measures the actual time required to produce several types of administrative output. The Quality Control Program focuses on identifying errors in benefit payments and revenue collection. The Benefit Payment Control Programs investigate cases of possible fraud and attempts to recapture money erroneously dispersed.[8] In addition, the Quality Appraisal System measures each state's performance in over twenty categories of timeliness and accuracy and compares them with the Federal standards. Finally, there are the Cash Management Initiative and the Data Validation Program, which promote better cash management and data collection, respectively. At present, however, there is no connection between any Federal measurement of quality and the level of administrative funding received by the states.[9]

C. Administrative Funding and Costs

According to Title III of the Social Security Act, the Federal government is required to provide grants to the states so that they may administer their UI programs:

> To encourage efficient administration, without which unemployment insurance will fail to accomplish its purpose, we believe that the Federal Government should aid the States by granting them sufficient money for proper administration, under conditions designed to insure competence and probity. (Committee on Economic Security, 1935, p.19, 4).

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[8] Although in this case, it is hard to argue that the Federal Government cares more about this type of mismanagement than the States.

[9] See Fu Associates (1994).

encourage efficiency; in fact, it encourages inefficiency -- the longer it takes to perform tasks, the more money the State receives. We will discuss the merits and deficiencies of this approach in section 6 below.

D. Cross Subsidization

As we pointed out in the last section, the Federal grant for administrative funds is based, in part, on the insured unemployment rate. This varies across states over the business cycle since recessions do not affect all states in the same manner. States with low unemployment rates generate more revenue than their counterparts while states with high unemployment rates require larger grants for their larger programs. Over the long run this difference may even out, but in any individual downturn there is considerable cross subsidization.

There are sound economic reasons for cross subsidization. Unemployment increases during recessions and with unemployment insurance in place aggregate demand falls less than it would in its absence. As a result, recessions do not last as long and are not as severe as they would be otherwise. This provides an additional rationale for Federal involvement in the UI system. Unlike the Federal government, States governments must balance their budgets. Recessions reduce state revenues and increase the demand for state programs. Thus, during a recession there is an incentive to divert resources away from the administration of the UI system toward other programs. This is unfortunate, since this is exactly when the need for unemployment insurance funds is the greatest. By allowing the Federal government

the Federal government to maintain some level of minimum quality, the states face competitive pressure not to make the system too attractive. In other words, there is some incentive to scrimp on quality, or, at least, to provide a lower level of quality than the Federal government would desire.

The third player in the game is the taxpayer. There may be some conflict of interest between the state unemployment agency and the taxpayers. We will ignore this issue in this and the next section. We will return to this issue in section 5.

B. Information

There are several pieces of information that the Federal authorities either need or would like to have in order to allocate administrative funds. As we discussed in section 2.A, insurance markets operate more efficiently when the insurer can observe the effort and the individual characteristics of those it wishes to insure. If these features can be observed, moral hazard and adverse selection problems need not arise. Thus, the Federal government would like to be able to observe the level of effort expended by state agencies as well as some key characteristics that vary across states. Some of this information is easily observable while other information may be virtually impossible to collect. Of course, the administrative funding mechanism cannot be based on information that is unavailable to the Federal government. Rather, it must depend only on observable factors.

Consider first the issue of effort. There are several factors that are directly controlled by the states that affect costs or quality that may not be observable by the

claimants. While these two factors, population size and density, are exogenous as far as the UI system is concerned, both are observable. It follows that the differences in technologies that are caused by these factors can be investigated empirically and some estimates can be obtained of the effects of each on the cost of administration.

The second dimension concerns differences in technologies caused by past decisions, and this is where the problem lies. Progressive state agencies that adopted cost savings measures in the past (e.g., training, updated software, office design) will possess better technologies than those state agencies that slid by with minimal thought to improvement. Detecting differences across states in this dimension is much more difficult, although it is still possible to make some distinctions (e.g., the extent of computerization).

Other key characteristics are somewhat easier to observe. Each state's insured unemployment rate can be forecasted reasonably well and it is measured accurately after the fact. In addition, there are the various aspects of quality. While not directly observable, the quality of each UI system can be measured with sampling. In fact, as we noted above, the Quality Appraisal System currently measures the performance of State UI systems in over twenty dimensions of quality including timeliness and accuracy of payments. Thus, administrative funding could be tied to these measures.

In summary, it would be difficult, if not impossible, to allocate administrative funds on the basis of what we refer to as effort. But, some information concerning current differences in technology, business cycle conditions and the quality of service can be used in the allocation procedure.

principal has ample time to verify its estimates or observe the resolved uncertainty, then this might not be a problem. However, if this is not the case, then, if the principal uses the boil in oil approach, it could end up meting out severe punishment to an agent who has put forth every effort to meet the principal's requirements.

As far as the UI system is concerned, it is clear that the Federal Government has ample time to correct any measurement errors and observe uncertain factors such as the insured unemployment rate before meting out such severe punishment. Nevertheless, previous experience indicates that any such threats are not likely to be perceived as credible by the states -- in practice states are not "boiled in oil." The penalty for non-conformity with the FUTA provisions has been assessed only once, and administrative grants have only been withheld twice (see Rubin 1983 p.139). Instead, mutual negotiation between the Department of Labor and the state over proposed legislation is the rule.[14]

Two more radical strategies that are feasible involve either federalizing the administration of the UI system or getting out of the administrative area altogether by transferring the task (and presumably the taxing authority) to the states. Although these two strategies could be thought of as allocation mechanisms, we will not consider them in the next section. We will discuss them in section 6.

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[14] States usually include a "savings clause" in UI legislation that states that the bill's provision will become effective only if approved by the Department of Labor. However, in some cases in which non-conforming legislation has been passed, the Department of Labor has either chosen not pursue the issue or it has actually changed its interpretation to federal law.

Congress and then disbursed to the States by the Secretary of Labor. Second, the Federal Government is able to collect a great deal of information about the States and their UI systems. Although it cannot observe State effort or the true cost of running an efficient system, it can garner a reasonably good set of quality measures, and it can measure several long and short run variables that affect technological differences across states (e.g, population size and density, business cycle conditions, etc.). Finally, the Federal Government does not need to be overly concerned about the quality of its initial estimates -- there is ample time to adjust payments to States if, for example, there are disputes over the quality measurements or if there are unexpected shocks to State economies.

In this section we outline a funding mechanism that takes advantage of these factors and encourages efficient administration of UI. Specifically, the mechanism we propose motivates low cost provision of administrative services, high quality and continual improvement in the system over time. Moreover, our mechanism allows the Federal Government to achieve the level of cross subsidization that it desires. We address each of the issues and the corresponding features of the administrative funding mechanism in turn.

A. Low Cost Administration

The Federal Government seeks to motivate efficient, low cost delivery of unemployment. There is an obvious advantage to allowing the States to make the on-site decisions concerning personnel, equipment, and procedures since State

affects its funding. If it does not, then no strategic considerations as to how the level of funding may be affected will muddy the State's analysis. Second, the States must be allowed to keep any unspent residual. This can be accomplished either by allowing States that do not spend their full allocation to keep the residual, or by allocating somewhat less than the likely administrative expense, requiring the States to finance the difference out of general revenues.

Ideally, any procedural reform, personnel decision or equipment choice should be analyzed on the basis of costs and benefits. If a State can reduce costs through some reform, then under a residual contract it is rewarded dollar for dollar. Furthermore, the incentive carries over to the area of legislative reform. Some critics of the system have pointed out that individual States have different technologies because legislative mandates, regulations and procedures vary across States. With a residual contract, legislators should realize that any change in legislation affecting UI will carry with it revenues equal to the full amount of the cost savings. This is obviously a powerful incentive.

In summary, one feature of an optimal mechanism should leave the States with the residual cost savings of any action that it takes. This feature provides a powerful incentive to keep costs low.

B. High Quality

We have argued that States must be given strong incentives to achieve and maintain high quality administration. If left to pursue their own interests, States will

experts in the field and is beyond the scope of this paper.

The second piece of information that the principal needs is the technology. In our setting, this is equivalent to asking how effective financial incentives will be in promoting quality service. Since this type of funding mechanism has never been tried in this area, one cannot confidently predict how readily State UI administration will respond to the prospect of financial rewards. Over time, as the Department of Labor gained experience observing State innovations, it would learn something about this relationship.

Finally, the principal needs to know its budget constraint. This, of course, is given by the annual Congressional appropriation.

With these three pieces of knowledge, the Federal Government has a well defined optimization problem, the solution to which carries with it the shadow prices for each of the quality measures. Each of these magnitudes is the marginal willingness to pay for an increase in the corresponding quality measure. In addition, if the Federal Government's estimates of State responsiveness to the incentives are correct, payments will exactly equal the appropriation.

While the shadow price is the ideal amount to pay for quality, estimates will only be approximations, at least for some time. It is not, however, terribly important to determine these values precisely. If the Federal Government chooses the wrong values, then the resulting disbursement may not exactly balance the budget. For example, if the Federal Government predicts higher measures of quality than ultimately result, States will collect less than the available funds. Federal projections that are

spot to use their local, specialized knowledge to innovate, resulting in lower costs and higher quality service. But the principal must provide them with incentives to do so.

The combination of a residual contact and pay for performance provides these incentives. If a State chooses not to adopt some cost reducing innovation, it forgoes revenue. By the same token, any State that chooses to overlook some quality enhancing opportunity will receive a lower allocation of administrative funds than it would have received had it pursued the opportunity. Thus, the incentives that motivate efficiency in the short run also encourage continual improvement of the system.

Finally, it should be emphasized that the policy of pay for performance must be credible. The Federal Government must commit to this policy for a substantial period of time. This is vital, since the most efficient method of administration may involve a large current investment (e.g., computerization) that brings about cost savings in the future. No State will proceed with an expensive overhaul unless it is convinced that the promised funds will arrive when the enhanced performance is realized.

D. Cross Subsidization

If all States were identical in their ability to administer UI efficiently and if they all met the same experience with each recession, then the issue of cross subsidization would not arise. Since each State would always face the same prospects, there would be no justifiable reason for extracting more revenue from one State to finance additional expenses in another. But, States are not identical and there are both equity

E. The Mechanism

In summary, an optimal mechanism must possess three characteristics. First, States must be given an incentive to minimize the cost of providing whatever level of service they choose to provide. This can be accomplished by allowing them to keep any unspent funds. Alternatively, this could also be achieved by funding less than the requisite amount at the Federal level, requiring the States to raise the remaining funds through taxation. Second, in order to motivate high quality service, the Federal Government must audit quality and allocate funds according to the results. Finally, lump sum payments may be used to compensate States for higher costs due to either short or long run factors that are beyond their control. This cross subsidization could be achieved by allocating a base amount equal to some percentage of projected costs and a subsequent contingency amount which adjusts the allocation as new information about the States' unemployment rates are collected (this could be done on a quarterly basis). This simple mechanism provides the States with powerful incentives to minimize cost, maintain high quality service, and continually improve their performance. It also allows the Federal Government to provide States that have a relatively high costs structure with additional funds, if the additional costs are due to factors that the State cannot control.

In section 6 we discuss how this mechanism differs from the current method of allocating administrative funds. We also compare it to some other alternative methods. However, before turning to that topic, we extend our analysis by adding a new dimension to the problem -- we bring in the taxpayer as a competing principal.

incentives to monitor and evaluate the performance of their State's UI administrators.

This is only a problem if the interests of administrators differ from those of taxpayers. While it is possible that taxpayers and administrators may agree on many matters, it is also possible that State bureaucrats may desire to reduce their own effort, foster additional complexity of the system, enhance their own job security and/or act in a manner that promotes their own career without regard to the cost. Thus, administrators may incur higher costs than necessary in order to achieve the agreed upon level of quality. Furthermore, in some instances, State taxpayers, unable to distinguish between justifiable complexity and additional provisions that serve only to enhance the career of the bureaucrat, may exert an inefficient level of control. For example, they may place restrictions on the administrators that result in higher costs. In either case, the cost of running the system may be unnecessarily high.

If unspent administrative funds must be refunded to the Federal Government (the current case), then the taxpayers will not care that costs are too high -- that is, they will only be interested in the quality of service. This follows from the fact that the revenue returned to the Federal Government is unlikely to be spent on services that they consume (it could be spent on projects in the other forty-nine states). On the other hand, with a residual contract that allows the States to keep the unspent portion of their allocation, taxpayers will care about both quality and costs since any cost reduction will accrue to their own State treasury. Thus, the residual contract gives the taxpayer an incentive to monitor the behavior of administrators.

Unfortunately, this incentive may not be strong enough. After all, information

an agency of the United States Government in a manner similar to the Social Security system. Another option is to eliminate the Federal role in administrative financing and turn over the responsibility for raising the funds to the individual States. Alternatively, we could continue with the current method for allocating funds through the Cost Model Management System (in which the cost estimates have been frozen for the past decade). Finally, we could simply allocate fixed amounts to the States. In this section, we examine each of these proposals in the principal-agent framework and point out the problems inherent in each one.

A. Federalization

One drastic reform proposal assigns all the responsibility for administration to the Federal Government. This sidesteps the principal-agent conflict in a straight-forward way -- it gets rid of the agent. On the other hand, it does nothing to solve the fundamental informational problems that are inherent in the problem of administration. In fact, such an enormous centralization of decision making can be expected to exacerbate these problems.

The usual arguments in favor of decentralization of decision making focus on issues related to information, motivation and innovation. As far as the administration of UI is concerned, States certainly possess better knowledge of their laws and regulations, their employees and their clients. The original design of the UI system allowed for (and, perhaps encouraged) different individual State systems, each with its own level of benefits, tax system, procedures and regulations. Federalization of

this case, the primary difficulty lies in motivating high quality administration. The ability to cross subsidize also disappears.

As we have emphasized above, States inherently prefer a lower quality of service than does the Federal Government. Leaving administration entirely to the States creates incentives for delayed payments, inaccuracies, slow handling of appeals, and many other symptoms of low-quality administration. To deal with this problem, devolution would have to be coupled with programs to monitor and evaluate administrative quality in the States. This would allow the Federal Government to observe any decline in quality, although with devolution, it would have no powerful tool that could be used to influence the States.[17] Rather than suffering financial consequences due to diminished quality, States could expect some administrative procedure (perhaps including threats of disqualification). The experience with Federal oversight of benefit and tax provisions of State UI laws provides little reason to be optimistic that the Federal Government could be effective in such a role.

Next, consider cross subsidization, an issue that is especially important during recessions in the unemployment rates vary across states. States that are hit the hardest during such recessions would be left on their own at a time when tax revenues reach their nadir. There can be no doubt that such States would find ways to reduce the quality of service offered in order to save on costs, which contradicts

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[17] Since taxpayers also care about the quality of service, it would be possible to leave it the taxpayers to exercise oversight. In such a case, the Federal Government would play a role by providing the information that the taxpayers need to pressure States to improve their performance.

D. Administrative Financing Initiative

Recently, the Department of Labor has proposed a reform of the administrative financing system that has been referred to as the administrative financing initiative (AFI). The AFI is similar to the method currently in use in that it bases funding on projected costs and uses estimates of State workloads to determine those costs. It differs in that it uses national measures of the time it takes to perform administrative tasks (what have been referred to as "National Unit Costs" or NCUs). Adjustments would be made for States that have high costs for reasons beyond their control (e.g., population size and density). This is an improvement over the current system in that it removes the incentive to slow down -- States with high costs due to inefficiency would no longer receive an increase in funds. Nonetheless, this reform has some flaws. Most importantly, there is no attempt to link performance to funding. Thus, there are no built in incentives to offer high quality service. Since it is unclear whether or not States would have to return unused appropriations, it is unclear whether or not there are incentives to lower costs and innovate.

7. <u>How Much is Enough</u>

There is one other issue that we must consider -- how can the Federal Government determine the level of funding that is sufficient to achieve their objectives? Specifically, if the States are paid on the basis of measured attributes of quality, can we be certain that each State will ultimately receive sufficient funds from

sense this proposal transfers responsibility to the States.

Finally, by measuring quality on a regular basis, the Federal Government will be able to assess just how successfully their funding mechanism is in promoting quality. If it determines that achieved quality levels are too low, it can increase the reward to quality and reduce the fixed portion of the allocation. On the other hand, the overall funding budget can be reduced if it is observed that quality levels are satisfactory and that States are recapturing sizeable revenues.

8. Conclusion

The issue of Federal funding of UI administration is best understood as a principal-agent problem. The Federal Government, acting as the principal, charges States (its agents) with the responsibility of administering a high-quality UI program, and it provides the States with the means to do so. The precise relationship between funding levels and State performance gives States incentives to provide high or low quality service, efficient or wasteful administration, and/or continuous improvement or stagnation. Whether by design or by accident, the incentives are always inherent in the funding mechanism. We have argued that these incentives should be acknowledged and that the system should be designed with an explicit intention to structure incentives in accordance with the goals of efficient, low-cost administration, high quality service, and continuous improvement through innovation.

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DESIRED LEVELS OF ACHIEVEMENT				
#	ITEM	MEASURE	MIN/<MAX>	LIMIT *
	Initial Claims			
1.	Performance	Confirmed issues	<3/100>	
2.	**Intrastate**	**First payments**	**87%**	**14/21 days**
3.	**Intrastate**	**First payments**	**93%**	**35 days**
4.	**Interstate**	**First payments**	**70%**	**14/21 days**
5.	**Interstate**	**First payments**	**78%**	**35 days**
6.	UCFE	First payments	70%	14/21 days
7.	UCFE	First payments	78%	35 days
8.	Weeks Claimed	CWC affects	<7%>	
	Nonmons (Intrastate)			
9.	Performance-sep.	Acceptable cases	75%	
10.	Performance-nonsep.	Acceptable cases	80%	
11.	Promptness	Determinations	80%	Timely
12.	Comb Wage Clms.	Wage transfers	75%	Timely
	Appeals			
13.	Performance	Cases/score	80%/80	
14.	**Lower Auth. prompt**	**Decisions**	**60%**	**30 days**
15.	**Lower Auth. prompt**	**Decisions**	**80%**	**45 days**
16.	Higher Auth. prompt	Decisions	40%	45 days
17.	Higher Auth. prompt	Decisions	80%	75 days
	Tax			
18.	Status Determination	Employer liability	80%	180 days
19.	Field Audits	Penetration	4%	
20.	Report Delinquency	Employer filings	95%	End of Qtr
21.	Collections	Accounts collected	75%	150 days
	Fund Mngmnt			
22.	Deposit Promptness	Collected taxes	90%	3 days
23.	Clearing Acct Timing	Funds on deposit	<2 days>	
24.	Withdrawal Timing	Fr withdrawal to paymnt	<1 day>	

* Waiting Week States/Non-Waiting Week States
Secretary's Standards indicated by **boldface type**

Table 1 reprinted from Fu Associates (1994)

RETHINKING FEDERAL AND STATE ROLES IN UNEMPLOYMENT INSURANCE

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RETHINKING FEDERAL AND STATE ROLES IN UNEMPLOYMENT INSURANCE

The Unemployment Compensation system in the United States has since its creation in 1935 combined federal and state roles in complex, and not always coherent, ways. For example, the federal government sets a minimum payroll tax and wage base, but most revenues in fact flow into state accounts that pay for the regular UI program and half of the Extended Benefits program. The three components of UI (regular benefits, extended benefits and the more ad hoc supplemental benefits or emergency unemployment compensation) each have different federal and state roles in financing. All UI programs are administered by state employment services, but under a variety of federal rules, some of which require uniformity across the states and others of which set minimum standards that the states may exceed if they so choose. The roles of the federal and state governments have, moreover, shifted significantly over time. The U.S. Employment Service, for example, was federalized during World War II, but returned to state control after the war.[1]

This paper addresses issues central to a reconsideration of current federal and state roles in Unemployment Insurance. Its primary purpose is to help policymakers think about how policymaking responsibilities *should* be allocated between the federal government and the states rather than to explain how they have in fact been allocated in the past. Given that the polar cases-- a completely nationalized system with no state role and a completely devolved system in which the federal government plays no role-- are not on the agenda, this discussion will focus on variations on the current

advantage cited for giving states policymaking discretion is that it may give rise to more rapid policy innovation, and eventually to better policies. States can serve as effective "laboratories for democracy" for policy experimentation because (1) the barriers to adopting and implementing any given innovation are likely to be lower for at least some state governments than they would be at the national level, and (2) federalism provides many more units at which policy entrepreneurs can work.[2] The founders of the Social Security system, for example, saw state-level diversity in Unemployment Insurance as a way to continue ongoing state experiments in which some states attempted to experience-rate employer premiums and other states did not.[3]

Just as important as stimulating worthwhile innovations is the fact that federalism lowers the costs of testing ideas that ultimately turn out *not* to be very good and not worthy of copying, without the high costs of nation-wide implementation. Once initiation has occurred in a few "pathbreaker" states, there may be emulation by other states (and perhaps eventually a takeover and/or standardization of policy by the federal government) if the policies appear successful and officials in other governments within the country see it as being advantageous in policy and/or political terms to copy those policy innovations.[4]

The current Unemployment Insurance system could do a better job of facilitating state innovations in several ways. One of its most serious shortcomings is the way that administrative costs are reimbursed by the federal government. The current system fosters inefficiency and stifles innovation by "providing more funds to states that require more time to perform administrative tasks."[5]

programs where eligibility for benefits is heavily influenced by economic conditions. Such cross-subsidies may in turn create perverse incentives for recipients and potential recipients of program benefits. This is particularly true in Unemployment Insurance, where a uniform system of benefits may lead to subsidies from areas of low persistent unemployment to those of high unemployment. (Experience-rating of employers could be used to lessen such subsidies, however.)[8] Canada's system of nationally-financed Unemployment Insurance, for example, has resulted in huge subsidies to regions of persistently high unemployment, notably the Atlantic province of Newfoundland. While this system has undoubtedly eased suffering in Newfoundland, it has also had serious perverse effects. It has lessened pressures for outmigration that would ease the persistent labor oversupply in the province. It has fostered a culture of dependence on Unemployment Insurance, exacerbated by provincial job-creation and job-sharing schemes intended to qualify as many people as possible for as much federally-financed Unemployment Insurance as possible (a form of cost-shifting by a sub-national government, to be discussed further below). And it has turned federal program provisions into a regional political football, with politicians from regions of persistently high unemployment trying to win special program provisions that benefit their region.[9]

Disadvantages of Federalism

Although the potential benefits of diversity, experimentation, and competition among governments are quite real, state discretion in policymaking may also lead to effects that are far from benign.

RACE TO THE BOTTOM: Perhaps the most serious risk associated with

occur where program standards are set in nominal dollar terms (the UI tax base, for example). Rather than openly reducing program standards-- an action that is likely to provoke opposition from the clientele that fought for their adoption in the first place, the race to the bottom is more likely to take the form of the less visible failure to adjust those standards for inflation. A good example of this dynamic can be seen in the failure of most states to adjust AFDC benefits fully for inflation after the early 1970s. Food Stamp and federal Supplemental Security Income benefits, on the other hand, which are both indexed and standardized, did not undergo a similar erosion.[14] A competitive "race to the bottom" dynamic has been implicated by some analysts in the decline of UI coverage of unemployed workers in the 1980s and declines in the real value of the UI taxable wage base as many states failed to adjust it for inflation.

The most important vehicle facilitating a race to the bottom in Unemployment Insurance, however, is the flawed experience rating system employed in the UI system. The Social Security Act of 1935 required that states have a basic UI tax rate of 5.4 percent in order to qualify for a federal tax credit. The idea was that a minimum tax rate would prevent a race to the bottom in state tax rates. But the Social Security Act also allowed states to use experience rating to modify that rate upward or downward. An analogy can be helpful in understanding the effects of this system. Imagine a federal law that required the states to have a basic speed limit of 55 miles per hour in their state in order to receive their full complement of federal highway funds. (Such a law in fact exists, although it has been modified to allow speeds of up to 65 miles per hour in rural areas.) Now let's assume that this speed limit law allowed the states to vary the basic speed limit for drivers with safety records that were better or worse

who threaten to move out, as an inducement for them to come in (or not leave). In fact, however, this does not appear to have occurred, in part because the U.S. Department of Labor monitors state actions and requires that employer experience ratings in fact be based on their experience.

A more plausible scenario for the race to the bottom, however, concerns state responses to economic downturns. When recessions cause state trust funds to dwindle, they can (1) raise taxes, (2) borrow from the federal government, or (3) trim eligibility and benefits. Raising taxes is never politically easy, and it is likely to be especially difficult during a recession. Some combination of borrowing from the federal government and cutting benefits and eligibility is the most likely response. If benefits and eligibility are trimmed, however, the fund is likely to be overfinanced once the recession is over. Now there are again three options: (1) increase benefits and eligibility, (2) let trust funds accumulate funds, or (3) reduce taxes. The last of these three options is the most likely one. Over time, economic cycles and the lack of an effective minimum state tax rate can interact to produce a decline in effective tax rates and in benefits and eligibility.

INEQUALITY OF OUTCOMES: Another potential disadvantage of a federal system is that poorer states may not be able to provide equivalent levels of service to their citizens to those in richer states, or they may have to use much higher tax rates to do so than richer states.[17] In the Unemployment Insurance setting, for example, states with persistently higher rates of unemployment and low wages would be unable to afford the same level and duration of UI benefits as states with more resources and a lower unemployment rate (and thus a lower draw on unemployment insurance

other level of government. This can occur in several ways. Perhaps the most obvious is through "unfunded mandates," in which the federal government requires states to meet federally set requirements (e.g., providing specified packages of benefits in the AFDC program) in shared cost programs or have their federal matching funds reduced (or cut off altogether). Unfunded mandates allow federal policymakers to promote their policy objectives without having to pay their full cost in federal dollars.

States can also play the cost-shifting game, however. States may try to transfer individuals from programs which are entirely a state funding responsibility (e.g., regular UI, General Assistance, and Workmen's Compensation) to those in which the federal government shares costs (e.g., Aid to Families with Dependent Children) or bears all of the costs (e.g., Supplemental Security Income, Social Security Disability Insurance). A variation on this phenomenon can be seen in the gradual erosion of real benefits in the Aid to Families with Dependent Children program in most states after the early 1970s; because beneficiaries' loss of these cash benefits is partially compensated by increased Food Stamp benefits in most cases, the drop in real benefits was in effect partially cushioned by federal dollars that did not have to be matched by the states.[19] Similar potentials for cost-shifting occur with the Unemployment Insurance system: to the extent that Food Stamps and Aid to Families with Dependent Children benefits, for example, can be used in place of regular (i.e., state-financed) UI benefits, federally-raised dollars are taking the place of locally-raised dollars. Similarly, there may be incentives to cut the duration of regular UI benefits during periods when extended UI benefits have been triggered, because this allows federal funding to trigger in earlier than would otherwise be the case.

Multiple Impacts

First, in any particular policy area, allowing state discretion is likely to have both advantages and disadvantages. Allowing state discretion in setting UI "replacement rates" (the percentage of a worker's former weekly wage replaced by UI benefits), for example, may facilitate state experimentation to discover what level of replacement rates offers the most appropriate combination of benefit adequacy and incentives to seek reemployment quickly. State discretion on replacement rates also allows states to be responsive to local conditions and preferences. But state discretion in this policy area may also have negative consequences, notably the potential to set off a race to the bottom and the likelihood that unequal state resources will lead to unequal benefits across jurisdictions.

Moreover, different aspects of a program may not be equally prone to particular advantages and disadvantages, or to particular trade-offs among them. It might be desirable to allow states substantial discretion on experience rating, for example, but much less discretion on minimum qualifying periods for benefits. Thus even within individual programs, it is likely that the amount of discretion that should be provided to states will vary. Unfortunately, allowing discretion in some policy decisions may create "spillover" effects in other areas of the same program.

The ubiquity of multiple impacts, and the resulting need for trade-offs, suggests the following general principles for allocating responsibilities between the national government and the states (see Table 1): where the potential costs (disadvantages) of state discretion are low, and the advantages are also low, states should be given wide latitude in policymaking. Where costs are low and benefits are high, the federal

after which neither cash benefits nor a job guarantee would be granted-- would increase employment among welfare recipients. But it is also likely that they would increase hardship and homelessness. The relative magnitude of the two effects is not clear, because time limits of this type have never been tested. In cases like these, where the consequences of policy choices may be severe, but the exact dimensions of the trade-off are not well understood, it may be wise to test the policy in some states or localities before adopting a policy innovation nationwide.

The desirability of state-levels policy tests does not necessarily mean that states should have unlimited policymaking discretion to test alternatives, however. One problem with unlimited state discretion, as noted earlier, is that it may risk setting off a race to the bottom. Another risk is that the results may not be carefully evaluated, and variations in policy that may be important to its success or failure may not be tested. Tests of a reemployment bonus that are conducted only in states with tight labor markets, for example, might lead to bad programmatic choices if the results were applied to regions with high persistent unemployment. Similarly, important variations in policy-- on the amount of reemployment bonuses, for example, or on how long they applied and whether they declined over time-- might also need to be tested.

In such situations, it may be better to require that significant deviations from federal standards be approved by the federal government (e.g., through waivers). This strategy allows the federal government to ensure that careful evaluations are done, that a variety of approaches are tried, and that approaches that seem likely to have important perverse consequences (e.g., setting of a race to the bottom) are avoided. Indeed, where specific changes from current policy appear to offer the possibility (but

specific advantages and disadvantages of state discretion are summarized in the second column of Table 2.

INTERSTATE DISTRIBUTION OF COSTS AND BENEFITS: One of the most important environmental factors influencing the impact of state policymaking discretion is clearly the anticipated distribution of costs and benefits across states from state policy activity that deviates from the pattern of other states. Competitive pressures among the states provide an incentive to take the lead in innovating if policymakers in those states believe that doing so will give them an edge with their neighbors in competing for investment. There may be an incentive to innovate even if those innovations are later duplicated by neighboring states, if that temporary edge results in a long-term comparative advantage for the state. It is thus not surprising that workmen's compensation laws were among the earliest innovations of the American welfare state. Businesses had always been liable for industrial injuries in the courts, but workmen's compensation laws made the costs to business of industrial accidents more predictable than a court-based system. It probably lowered those costs in the aggregate as well, since horribly injured laborers were now less likely to be able to win large settlements from their employers.[21] It thus made locating in states with workmen's compensation laws relatively attractive to businesses.

Competitive pressures among the states can also stifle innovation and contribute to a race to the bottom, however. As noted above, states seek to avoid major deviations from their neighbors or competitors that are likely to make them unattractive to businesses (job and revenue providers) and consumers, or to make them too attractive to individuals who are high demanders for public services (welfare

when government action is likely to impose concentrated costs.[22]

However, some scholars have argued that state-level policies that attempt to redistribute income from "haves" to have nots" are inevitably doomed to fall victim to state pressures to avoid attracting residents who are likely to be "high demanders" for such benefits, push out current residents who are high demanders, and avoid an exodus of taxpayers (corporate and individual) who wish to avoid paying for such redistribution out of their own pockets. In essence, this argument suggests that the theoretical advantage that federalism offers of allowing states and localities to compete in offering differing packages of services to their residents is likely to be illusory when it comes to significant redistribution of income: states are likely to shy away from such policies.[23]

ISSUE SALIENCE: Issue salience is another point which may mediate the importance of cost-benefit distributions. Increases in the salience of an issue can be important after policy initiation has taken place. Once one or more states has adopted an idea, politicians in other states (and perhaps in the federal government) may be willing to proceed even over the continued opposition of concentrated interests if an idea has proven popular with voters and they believe that it will allow them to win or hold onto office. In short, heightened issue salience may encourage emulation of policy initiatives that have sparked strong opposition if they also have strong support among the general public. A good example of this phenomenon is the lead taken by the Canadian province of Saskatchewan in developing hospitalization, and later health, insurance in Canada. The social democratic Saskatchewan government persevered in spite of strong opposition from the medical community. Their action proved to be

the direct approval of all the federal government and all states, or a super-majority of those governments, are especially likely to result in programmatic inertia.[24] Because this type of jurisdiction creates "joint decision traps" in which the actions of a recalcitrant minority can prevent any action, the default situation-- the policy status quo-- will usually win out, unless there are concentrated benefits that can be captured by all states as a result of collusion.[25]

Jurisdictional divisions between levels of government may also be unclear. This is especially likely to occur in policy sectors which appear to straddle the border between federal and state jurisdiction, and (a) there has been little intervention in the past, such as environmental protection, or (b) technology is changing rapidly, breaking down previously clear boundaries between federal and state jurisdiction, as may occur, for example, in telecommunications.

Perhaps the most common jurisdictional arrangement in U.S. social policy involves shared-cost and responsibility programs, in which the federal government and the states act as partners. The federal government sets the broad parameters of programs, but the states retain significant discretion in program design and implementation. This is, of course, the system used for Unemployment Insurance as well as a number of other social programs. In most of these programs, the state governments do the actual implementation, sometimes with federal reimbursement for all or a part of administrative costs. There are exceptions, however, notably as the Supplemental Security Income program, where the federal government administers state supplementary payments in most states that have them.

As the above discussion makes clear, there are a wide variety of jurisdictional

risks associated with state discretion in shared-jurisdiction programs obviously comes if all states are required to meet uniform federal standards. Such requirements are likely to be particularly useful in avoiding a race to the bottom, unequal outcomes across states, and mutual evasion of responsibility by state and federal governments.

Uniform federal standards also have costs, of course. In particular, they are likely to be resented by state governments, especially if they are imposed without any federal compensation-- what is currently referred to as "unfunded mandates." Uncompensated federal standards may also impose a differentially severe burden on states with fewer resources. Finally, uniform federal standards have the disadvantage of making impossible the advantages associated with state discretion. In particular, uniform federal standards make it more difficult to achieve innovation through state competition, and raise the costs of innovations that turn out to be bad ideas by forcing their nationwide implementation. And of course, they also lower the ability of states to respond to local preferences.

WAIVER AUTHORITY: Some programs allow state governments to apply to the federal government for waivers in federal program provisions. In the current Unemployment Insurance program, for example, states have used waivers to test reemployment bonuses to encourage early returns to employment by workers who have lost their jobs. In the Aid to Families with Dependent Children program, states have applied for waivers to test ideas such as "family caps" (no additional benefits for children conceived or born while a mother is receiving AFDC), and "learnfare" (penalties for teen AFDC mothers who do not meet school attendance objectives, and rewards for those that do). Indeed, more than half of the states currently have been

broader community-- e.g., expectations about the duration of the Unemployment Insurance system, or expectations about the availability of AFDC benefits for teens who become pregnant. The first problem suggests that some innovations be tested individually rather than in groups; the second suggests that some careful evaluations of entire states--using states that are as similar as possible except for the treated policy change as the control group-- may be a more appropriate evaluative technique for some policy experiments.

MINIMUM AND MAXIMUM STANDARDS: Rather than requiring a state to get approval for any deviation from federal standards, the federal government can set a range of acceptable values within which the states can choose: minimum and/or maximum values. The Unemployment Insurance program, for example, sets both a minimum tax base and tax rate. This has the advantage of giving greater scope for state innovation and for expression of local preferences, while setting a floor on any potential "race to the bottom."

One problem with minimum standards, however, is that they may become effective maximums. This is particularly likely to be the case where states see competitive disadvantages with deviation from the norm set by other states. In Unemployment Insurance, for example, twelve states set their UI tax base at the federal minimum, and another 19 states set their maximum at no more than two thousand dollars above that base.[28]

Setting minima and maxima is especially likely to create race to the bottom problems where dollar figures are imbedded in legislation without any provision for automatic adjustment for inflation (e.g., the UI wage base, the minimum wage). In

minimal for the foreseeable future, and where the risk of perverse consequences of state autonomy-- notably of a race to the bottom-- are minimal.

NO FEDERAL STANDARDS: The flip side of requiring uniform federal standards is obviously to have no federal standards, and the risks and opportunities affording by this approach are also largely the flip side of those associated with uniform federal standards: no federal standards are particularly likely to promote diversity and experimentation, but they are also particularly prone to lead to a race to the bottom, unequal outcomes across states, and mutual evasion of responsibility where environmental risk factors make those outcomes likely in the absence of a stronger federal role.

Table 4 follows the format of Table 1 in suggesting specific standard-setting mechanisms that may be appropriate given different expectations about the consequences of allowing states policymaking discretion. Mechanisms that allow greatest discretion (opt out authority for the states or no federal standards at all) are most appropriate when the costs of presumed discretion are presumed to be low and the potential benefits high; uniform national standards are most appropriate when potential costs of discretion are high and benefits are low.

Financial Arrangements Under Shared Jurisdiction

The range of financial arrangements in programs where responsibility is shared between the federal and state governments varies just as widely as financial arrangements.[30] Some programs, such as Old Age Survivors Insurance and Social Security Disability Insurance, are financed entirely by a federal payroll tax. Others,

attached, ranging from those in which the states have very wide discretion in setting eligibility and benefit levels to those in which the states are essentially serving as federal administrative agents with very little discretion. The proposal made in earlier briefing papers for this Commission to encourage forward funding of the Unemployment Insurance system by linking the interest rate paid on state Unemployment Insurance trust fund balances to the size of those balances-- with interest rate bonuses for balances over one year of anticipated needs and penalties for balances under that amount-- is an example of such a federal stimulus. I will focus here on two aspects of federal grants that have implications for the likelihood that particular advantages of state discretion will occur and disadvantages will be mitigated, viz., the extent to which those grants provide incentives or sanctions to promote uniformity, and the extent to which they are redistributive.

Grant programs vary in whether the incentives they apply to the states in achieving federal objectives are positive (e.g., providing a higher matching rate for new services that the federal government wants provided) or negative (e.g., threats to reduce highway funds that did not adopt a 55 m.p.h. speed limit). Obviously, the severity of sanctions for deviation from or the incentives for conformity to federal standards can have an important effect on compliance: for example, if sanctions involve a loss of all federal funds for a program with a greater than fifty percent federal cost share, state compliance is likely to be very strict: if, on the other hand, the penalties are minimal, non-compliance is more likely.

Grant programs also vary widely in the extent to which they are redistributive to "have-not" states. Grant formulae are often complex and contain multiple elements.

V. FEDERALISM AND THE FUTURE OF UNEMPLOYMENT INSURANCE

The previous sections of this paper have attempted to make a series of general arguments about the advantages and disadvantages of giving states policymaking discretion, with a particular focus on Unemployment Insurance. In this section, I turn to applying this discussion to Unemployment Insurance in a more focused way. I will begin by stating a few basic principles that I think should be used to guide the Unemployment Insurance system, and then examine several areas in which the current system appears to miss potential advantages from allowing state discretion or seems to allow too much state discretion.

In suggesting potential alternatives, I will focus on modest changes to the status quo rather than a massive readjustment of current responsibilities. This is done in recognition of the serious political barriers to massive shifts in jurisdiction. Jurisdictional alignments are sometimes altered through negotiation between governments, through constitutional amendments, and through court decisions, to name just the most obvious paths. Moreover, jurisdictional alignments within particular programs are often altered or refined in the legislative process as particular programs are created and revised. Initial choices made in establishing programs about how to structure relationships between central and state or provincial governments tend to narrow the range of options considered later on, however.[32] Once a program, a bureaucratic apparatus, and a set of expectations are in place, they are likely to be difficult to change. While some analysts have argued that there has been a "creeping federalization" of social policy in the United States,[33] a cursory examination of the programs listed in Table 3 shows that in only one case-- the creation of Supplemental

A final principle draws less on the preceding discussion, and therefore requires somewhat more elaboration and explication than the others. It is this: to the extent that the federal government does attempt to provide incentives to alter states' behavior in ways that promote innovation, blunt instruments are likely to be more effective than a surgeon's scalpel. Efforts to influence state behavior through the use of complex combinations of performance indicators, for example, are likely to be counterproductive.

One area in which such problems are likely to be encountered is in efforts to revise the current system of federal reimbursement for state UI administrative costs. The current system is designed to avoid creating incentives to reduce states' administrative services (and ultimately benefits) to unemployed persons. As a result, however, it also fails to create incentives for increased efficiency on the part of already-efficient states. One possible response is to reward states that meet or surpass performance benchmarks established by the federal government. But research on previous efforts to use performance indicators, notably in the AFDC quality control program, suggests that they can have serious perverse consequences, notably the diversion of resources to meed mandated performance indicators to the detriment of other important aspects of agency performance-- and to the detriment of the agency's clienteles.[34] The more complex the federal mechanisms to influence state behavior, the greater the prospects for "gaming" responses by the states and unforeseen consequences for policy. While I am sympathetic in theory to the notion of a performance-based system of administrative reimbursement, it is important to have a healthy skepticism about how such a system would work and think through in detail

some of those choices and the trade-offs inherent in those mechanisms. First, I have argued that there are often trade-offs between specific advantages and disadvantages of giving states discretion. Second, the size and scope of individual advantages and disadvantages is often difficult to ascertain in advance. Third, the prospects that any particular advantage or disadvantage will occur in practice is heavily influenced by environmental "risk factors" such as whether it concentrates costs or benefits. Fourth, jurisdictional arrangements, such as the strength of federal standard-setting power and the nature of federal transfers to the states (if any) can and should be used by the federal government to enhance the prospects that the advantages of state discretion are achieved while its risks are minimized. Finally, in considering changes to federal and state roles in the UI system, the Council needs to consider both the likely effects of those changes on the program and the political feasibility of their getting adopted. Incremental change to the status quo have been adopted in the past and can be made in the future; given the veto-ridden process of policymaking in the U.S., however, comprehensive changes to Unemployment Insurance have never been achieved and are rarely even debated.

TABLE 2

ENVIRONMENTAL AND JURISDICTIONAL INFLUENCES ON THE IMPACT OF STATE DISCRETION

ADVANTAGES AND DISADVANTAGES OF STATE DISCRETION	ENVIRONMENTAL RISK FACTORS AFFECTING PROBABILITY OF SPECIFIC ADVANTAGES AND DISADVANTAGES	JURISDICTIONAL RISK FACTORS	
		Standard-setting	Financial
ADVANTAGES OF STATE DISCRETION			
Policy innovation and improvement through state experimentation and competition	Increased opportunity if states that are innovate first can reap long-term competitive advantage vis-a-vis other states Increased opportunity if benefits from innovation are concentrated while costs are diffused Decreased opportunity if cost to state government is high	Increased opportunity if there are minimal federal standards or no standards Limited opportunity, with high probability of delay, if there is a waiver process	Increased opportunity if automatic federal matching grants or challenge grants are in place Decreased opportunity if central government does not share costs/ risks of experimentation
Responsiveness to local conditions and preferences	Decreased opportunity if state innovations would place that state at a competitive disadvantage against other states--especially unlikely when it involves a redistribution to "have nots" Decreased opportunity if resources of states are unequal	Opportunity maximized if state government can opt out or faces minimal federal standards	Opportunity maximized if state government receives federal funds in block grant with minimal strings
Avoiding perverse incentives in labor markets	Increased opportunity if states are highly unequal in resources and economic conditions.		Decreased opportunity if federal government uses matching grants tied to equalizing state fiscal capacity

TABLE 3
FEDERAL AND STATE RESPONSIBILITIES IN U.S. SOCIAL PROGRAMS

PROGRAM	PRIMARY CLIENTELE	RESPONSIBILITY FOR STANDARD-SETTING	RESPONSIBILITY FOR FINANCING	RESPONSIBILITY FOR ADMINISTRATION
Social Insurance Programs				
Old Age Survivors Insurance	Retirees and dependents of deceased workers	Federal government sets eligibility and benefit standards	Federal payroll tax	Federal (Social Security Administration)
Social Security Disability Insurance	Disabled workers and their dependents	Federal government sets eligibility and benefit standards	Federal payroll tax	Shared between federal (Social Security Administration) and state agencies
Unemployment Compensation	Unemployed workers and their dependents	States set eligibility and benefit standards	Combination of federal and state payroll taxes and federal general revenues	States administer
Workmen's Compensation	Persons injured in industrial accidents	States set eligibility and benefit standards	States finance through payroll tax	States administer
Medicare Parts A and B	Retirees, disabled workers, and those suffering from end-stage kidney disease	Federal government sets eligibility and benefit standards	Federal payroll tax (Part A); Premiums and federal general revenues (Part B)	Federal government administers through intermediaries

TABLE 4

Costs of state discretion are:	Benefits of state discretion are: High	Benefits of state discretion are: Low
High	Waivers	Uniform federal standards and pre-emption of existing state authority
Low	Opt out authority for the states or no federal standards	Opt out authority for the states or minimal federal standards

16. Advisory Council on Unemployment Compensation (1995b) pp. 75-76.

17. Ladd and Doolittle, 1982.

18. Davis and Lucke (1982).

19. Another mechanism is to try to try to use federal funds intended to stimulate enhanced state initiatives to fund programs already in existence. Recategorizing programs to get funds from federal programs with higher federal matching rates, or with an open-ended federal funding entitlement rather than a capped one, is yet another common cost-shifting technique used by the states.

20. For an example of this political dynamic in the area of Canadian environmental policy, see Harrison (1993).

21. See Lubove (1986).

22. See the discussion in Harrison (1991).

23. See in particular Peterson (1981), Peterson and Rom (1990), Peterson (1995).

24. See the discussion in Scharpf (1988).

25. There are, however, program structures that can be used to avoid joint decision traps, such as allowing the federal government and individual state governments to engage in bilateral agreements, or allowing reluctant state governments to opt out of national programs. The "two-track" strategy pursued by the European Union with respect to a social charter is an example of such a structural relationship.

26. See Mashaw and Rose-Ackerman (1984) for a categorization of jurisdictional arrangements in rough ascending order of the authority to state governments. Their categories focus on the actual structural relationships that develop, mine on underlying jurisdictional arrangements.

27. See Ladd and Doolittle, 1982.

28. Advisory Council on Unemployment Compensation (1995b) p. 222.

29. See Weaver, 1988: Chapter 7.

30. See for example Eyestone (1977), Welch and Thompson (1980).

31. House of Representatives (1994) pp. 383-385, 391-392.

32. See for example Pierson, (1993).

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"The Employment, Unemployment and Unemployment Compensation Benefits of Immigrants "

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is lower and unemployment is higher among the foreign born in the agricultural sector, who are primarily employees, rather than self-employed farmers.

Among the foreign born, employment is greater and unemployment is lower among naturalized citizens and those fluent in English. A non-linear pattern emerges for duration of residence. Employment is significantly lower, and unemployment is significantly higher, among the foreign born in the U.S. for three or fewer years, but then reaches a plateau with little variation by duration of residence. Among refugees from the former USSR, employment is particularly low and unemployment is particularly high in the initial three year period, reflecting their more difficult initial adjustment.

An algorithm is developed for a proxy measure of unemployment compensation benefits. The foreign born receive less unemployment compensation benefits in a year because of a much lower probability of receiving any benefits. Among recipients of benefits the foreign born receive more dollars annually and a higher weekly benefit, other things being the same.

Unemployment problems associated with immigrants appear to be short-term transitional adjustments, not unlike those experienced by native-born new entrants and re-entrants to the labor market.

(375 words)

immigrants, and their impact in the labor market, as well as for societal interests in unemployment per se.

During the Depression of the 1930's and in the early post-war years when there was a fear of the return of the Great Depression, there was interest in the unemployment of immigrants. Even then there were few studies, with Fields (1935) and Rubin (1947) being two notable exceptions. The more recent resurgence in immigration and the implications for unemployment have resulted in little additional research on the topic. There have, however, been two studies analyzing the unemployment of the foreign born, using data from the 1970 Census of Population and the 1976 Survey of Income and Education (SIE) in Chiswick (1982) and from the Current Population Survey in Chiswick, Cohen and Zach (1995).

As it is likely that immigration will continue at the current levels, the share of immigrants in the labor market, currently at over 10 percent, will continue to grow. Moreover, immigrants are not uniformly distributed across the population, but rather tend to be concentrated in a few states, most notably California, Texas, Florida, New York, New Jersey and Illinois. This can, in principle, place a disproportionate impact of immigrants on the unemployment compensation programs of selected states.

This paper analyzes the employment and unemployment experiences of adult male immigrants using micro-data from the 1990 Census of Population. It also develops an algorithm for analyzing the receipt of unemployment compensation benefits by the foreign born. Section II develops the model or conceptual framework used for the analysis. The data to be analyzed are presented in section III. Section IV analyzes in turn the three dependent variables, weeks worked in 1989 (employment), unemployment in the reference week in 1990 (the last week in March

A. Immigrants and Job Search

Immigrants entering a labor market have similarities to native-born persons who are new entrants or reentrants to the labor market. In general, immigrants do not have a specific job waiting for them. Engaging in job search when ones does not have a job constitutes unemployment. It has been shown that much of the excess unemployment of youths and adult women in the United States in comparison with adult men can be attributed to their being recent entrants or reentrants to the labor market. The same is likely to be true for new immigrants.

Because skills and knowledge do not transfer perfectly from country to country, immigrants at first are less productive than the native born in the U.S. labor market. This implies a lower distribution of wage offers. Because immigrants have less information about the labor market, they have greater uncertainty about high-paying jobs that are available. This results in a greater incentive to invest resources in the job search process and in training to increase the transferability of their skills. If the wealth to finance investments in job search were the same for the native born and the foreign born, there would be a greater actual investment of resources by the foreign born. One such resource is "own-time," which is often more profitably employed when a person is not working. It is the use of own-time in the job search process that generates unemployment or less than full-year employment.

Immigrants initially have an incentive to make greater investments in skill and information relating to the U.S. labor market but not in training that is useful only for the current employer (firm-specific training). Part of the early investment is learning about the labor market, which is often done best by experiencing a variety of jobs. Investing in firm-specific training, however, raises the cost of an experimental job change. Yet the smaller the investment in firm-specific

prophecy, since greater job turnover discourages firm-specific training, thereby encouraging turnover.

Greater job turnover among recent immigrants would not result in greater unemployment if the immigrants immediately take other jobs or permanently drop out of the labor force. Although these outcomes do occur, there is often a period of job search without employment.

Recent immigrants may have greater difficulty financing their job search than native-born men, partly offsetting the factors considered above. Unemployment compensation is available for workers who lose a job in covered employment as a result of a layoff, but the benefits are less likely and the waiting period is longer if the separation is a discharge or if it is voluntary (a quit). All state programs have a work history requirement that typically links benefits to employment in a covered job in the first four of the five calendar quarters before the onset of unemployment. Since work credits are not earned for preimmigration employment, recent immigrants are generally not eligible for unemployment compensation benefits unless they have been employed in a job (or jobs) covered by the program for at least a year after entering the country.

This discussion implies that recent immigrants would tend to experience more spells of unemployment, both voluntary and involuntary, than would native-born workers, other things being the same. It also implies that unemployment among immigrants, particularly recent immigrants, will be more sensitive to seasonal, cyclical, and random fluctuations in business conditions than unemployment among the native born. As their skills and labor market information relevant to the U.S. improve, they will learn more efficient job search methods, and can be expected to approximate the job search behavior and unemployment experience of native-born workers. The speed at which this occurs and the number of years until there is employment

In the microeconomic model of employment the person's skills and demographic characteristics are key explanatory variables. The extent of employment tends to be greater among those who have a larger stock of skills relevant to the labor market. Not only do higher wages mean a higher cost of not working, but also there is an apparent positive association between investments in formal training (schooling) and informal or postschool training, including firm-specific training. Greater investments in firm-specific training are associated with lower turnover because the training is not productive in alternative employments and the investment is shared by the worker and employer.

These effects imply a greater number of weeks worked in a year for those with more years of formal schooling. Years of labor market experience or on-the-job training are also associated with lower quit and layoff rates. Thus employment increases with labor market experience, although the initial sharp rise in employment with years of labor market experience tapers off. The maximum potential labor market experience is estimated as age minus schooling minus five years. This is a close approximation of actual labor market experience for adult men, and it is entered as a quadratic variable.

Since the extent of employment varies systematically by certain demographic characteristics, it is important to control statistically for these effects. Employment tends to be greater among married men, apparently because marriage is associated with increased specialization in labor market activities by men. Marital status is held constant by a dichotomous variable that takes the value of zero for men who are married (spouse present) and unity for men in other marital statuses.

Fluency in the destination language is a form of human capital that has been shown to be productive in the labor market through enhancing earnings (Chiswick and Miller, 1995). There has been less research on the effect of language skills on employment. The more fluent are likely to be more efficient in finding a better job match, thereby reducing the extend of job turnover (spells of unemployment) and shortening the duration of job search. Then English language fluency among the foreign born would be associated with a greater number of weeks worked in the year.

Labor market adjustments are likely to be easier for immigrants from countries that are similar to the United States in language, occupational requirements, and labor market structure. Since refugees are less likely to have planned for the move, their skills are not as transferable. They would be expected to have greater difficulty in finding a job and to be more likely to invest in training programs to increase the transferability of their skills. The effects will be greatest during the first few years in the United States. Refugees may also be less favorably selected for adjusting to the destination labor market and may therefore have higher quit and layoff rates and fewer weeks worked.

Dichotomous variables for country of origin are included in the analysis to test for these effects. With the British Isles as the benchmark, it is hypothesized that the partial effects on weeks worked of the variables for non-English-speaking countries are negative, and that the negative effects are most pronounced for the country categories with the largest proportion of refugees.

There are various legal barriers to the employment of aliens--foreign-born persons who are not naturalized citizens. Owing to a presidential executive order, the employment of aliens is

attention centers on the unemployment of immigrants, the empirical analysis in this study also focuses on employment, as measured by the number of weeks worked in a year, rather than relying on unemployment status in the reference week. Among adult noninstitutionalized men (ages twenty-five to sixty-four), labor force participation rates in any week are very high, about 95 percent. It is even higher among those who are labor force participants at any time during the year. For adult men, more than for any other group, employment and unemployment are virtual complements. An important advantage of using the weeks worked data rather than the unemployment data in the 1990 Census as the dependent variable is that weeks worked is based on 52 weekly experiences for each observation, while unemployment is based on a one-week experience. The difference in the dependent variable is not expected to result in any substantive difference in findings, but because it is based on 52 one-week observations the power of the analysis is expected to be greater in the weeks-worked analysis. Moreover, the data on unemployment in the census reference week are subject to patterns of seasonality that may vary in a systematic manner across the groups or explanatory variables under study. A disadvantage of the weeks worked data, however, is that they are subject to greater recall error.

There are no direct data on unemployment compensation benefits in the 1990 Census of Population. The last question on the person's income asks the respondent "32. Income in 1989... h. Any other sources of income received regularly such as Veterans (VA) payments, unemployment compensation, child support or alimony. Do Not include lump-sum payments, such as money from an inheritance or the sale of a home." It provides for the respondent to indicate the dollar amount (Census, 1993, p. E-15). The more detailed instructions indicate: "All other Income--Includes unemployment compensation, Veterans Administration payments,

level of schooling, 12.0 years in contrast to 13.5 years. It may also be due to their recency of arrival, 40 percent have been in the U.S. for 10 or fewer years at the time of the Census. Among the foreign born, only 41 percent were naturalized citizens, while only 52 percent spoke only English at home or, if they spoke another language, spoke English very well. The largest single source country was Mexico (23 percent of the foreign born), with nearly another quarter of the immigrants coming from each of the other three major regions, Europe/Canada, Asia, and other parts of Latin America.

A) Weeks Worked

Table 2 reports the OLS regression analysis for weeks worked in 1989 for the native born (column 1) and the pooled sample of the native and foreign born (columns 2 to 5). Regressions limited to the foreign born are reported in Table 3.

Although the simple difference in employment was 1.6 fewer weeks worked by the foreign born, after controlling for schooling, experience, marital status, region of residence, and whether employed in agriculture, this declines by 60 percent to 1.0 fewer weeks worked (Table 2, column (2)). The pattern of fewer weeks worked among the foreign born is not invariant with duration in the United States. Other things the same, the foreign born in the United States for 3 or fewer years worked 5.8 fewer weeks, but this drops rapidly with duration to 1.3 fewer weeks for those in the U.S. 4 to 8 years, 1.0 fewer weeks for 9 to 10 years, 0.6 fewer weeks for 11 to 15 years, and only 0.25 fewer weeks for the 16 to 20 year group (Table 2, column 2). For longer durations there is no significant effect until the oldest age groups were the foreign born work more weeks.

Could this steep increase in weeks worked with duration of residence be merely a cohort effect, with recent cohorts being less adept at finding and retaining employment? Analyses

2). Among the foreign born an extra year of schooling increases weeks worked by about 0.25 weeks per year, while an extra year of (pre-immigration) labor market experiences raises it by about 0.1 weeks per year when evaluated at 10 years. Marriage has a large effect; although the exact causal relationship may be ambiguous, married foreign-born men work 2.5 weeks more than otherwise similar men who are not married.

It should be noted that years of schooling and years of labor market experience (when duration in the U.S. is held constant) have smaller partial effects for the foreign born than the native born. Similar patterns were found in analyses of immigrant earnings (Chiswick, 1978, 1979) and were attributable to the less-than-perfect transferability of the skills acquired in the origin rather than in the U.S. A similar interpretation could apply here as well.

There are sharp differences in the effects of place of residence and industry. Rural and southern residence and the agricultural sector have highly significant effects on immigrant employment (Table 3, column 2). Living in the South lowers weeks worked by 0.3 weeks, while working in a non-agricultural sector in a rural area raises employment by 0.3 weeks compared to an urban area. Employment in the agricultural sector (industry and occupation) lowers the number of weeks worked by 4.1. This is in contrast with the native born for whom there is no employment difference between the rural nonfarm sector and urban areas and a trivial one between the South and the rest of the country (Table 2, column 1, coefficient 0.06 weeks, $t = -1.9$). And among the native born the agricultural sector effect on employment is only 1.6 fewer weeks, much smaller than the 4.1 fewer weeks among the foreign born. Thus, agricultural employment is associated with many fewer weeks worked in the year among the foreign born,

(-2.1 weeks), and Mexico (-2.1), as well as for two small heterogenous groups, Other Africa (-2.2 weeks), and Other Countries (-2.3 weeks). The explanations for these patterns by country of origin may well differ, such as, refugee effects for those from the USSR, and seasonal employment and sojourner job turnover among those from Mexico.[4]

B. Unemployment

The statistical analysis of unemployment among those in the labor force in the reference week in March 1990 is reported in Table 4. Among both the foreign born and native born, those with more schooling, more labor market experience, and who are married have lower rates of unemployment. Those living in the South and those in rural areas who are not in the agricultural sector also have lower rates of unemployment among both the native born and foreign born. A divergence by nativity appears in the data for the effect on unemployment of being in an agricultural occupation and industry. The unemployment rate among the native born is lower in agriculture than in the urban non-South by 0.7 percentage points (t = -3.54), while among the foreign born it is higher by 3.0 percentage points (t = 12.25). The nature of agricultural employment is very different among the native born, where self-employment and family employment dominate, than among the predominantly hired farm labor among the foreign born, and this has its effects on the patterns of unemployment.

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[4]Soviet immigrants have a much steeper slope of employment with respect to duration of residence. Those who arrived between 1987 and 1990 worked 13.5 fewer weeks (t = -15.5) than the benchmark, Soviet immigrants who arrived between 1975 and 1979; those who arrived in 1985-86 worked a marginally significant (t = 1.5) 2.4 more weeks than the benchmark cohort, with no significant differences from the benchmark for any earlier cohort.

The unemployment rate of immigrants from Mexico is only 1.7 percentage points higher than that of British Isles immigrants. Their disadvantage in terms of weeks worked is much greater than their disadvantage in terms of unemployment rates. This may arise from a greater propensity for seasonal employment and sojourner migration, that is, alternating periods of employment in the U.S. with spells in Mexico.

In Table 5 the unemployment regressions are recomputed using logistic regression analysis. The observed patterns are the same as in the OLS analysis. Unemployment rates decrease with education and are lower among those who are married and are living in the south. The agricultural sector is associated with lower unemployment among the native born, but higher unemployment among the foreign born.

Overall, the foreign born have a lower unemployment rate than the native born (Tables 4 or 5, column 2). Unemployment rates are lower for naturalized citizens and those more fluent in English (Tables 4 or 5, columns 3 or 5). Unemployment rates are particularly high among immigrants in the U.S. for three or fewer years. Immigrants from the USSR show particularly high unemployment rates, while those from Japan have the lowest rates. Mexican immigrants also exhibit higher unemployment rates, other things being the same, than British immigrants. This may be due to differences in seasonal patterns of employment and unemployment, and may be related to a higher propensity for returning to and from the origin among Mexican immigrants (sojourner migration).

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significantly different from the benchmark, except for a 6.7 point ($t = 2.5$) higher rate for the 1982-84 cohort.

foreign born once duration of residence in the U.S. is taken into account, although it has a positive effect among the native born. Among recipients, however, benefits increase with experience again reflecting their higher wage rate. Whereas those who are in agriculture receive higher total benefits and have a higher probability of receiving a benefit among the foreign born, the opposite is found among the native born, again reflecting the lower rate of eligibility due to a higher rate of self-employment.

Other things the same, the foreign born received significantly lower unemployment compensation benefits than the native born. The most recent cohort, 1987-90, received particularly low benefits and the difference is highly statistically significant. The low benefits in spite of the lower level of weeks worked and higher unemployment rate may well be due, in part, to the prior work requirements to qualify for benefits, and the ineligibility for benefits or fear of applying among illegal aliens. There is a tendency for the benefit gap to diminish with duration of residence, that is, benefits increase with duration of residence.

The analysis in Table 7 and Appendix B indicate that although the foreign born receive significantly less in the measure of unemployment benefits analyzed here, this is due to a lower probability of receiving any benefits. Among recipients, the foreign born receive either the same or larger total benefits and a higher weekly benefit.

The analysis of the effects of duration of residence on unemployment compensation benefits indicates that the foreign born receive lower total benefits because of a lower probability of receiving any benefits. This period of significantly lower total benefits than the native born extends for about 20 years, although the magnitude of the effect diminishes with duration.

destination labor market of their pre-immigration skills and labor market information, as well as the more limited information employers have regarding their skills. Investment in skills and labor market information specific to the destination often entails job turnover and periods of job search. These activities are most intense during the initial period in the destination, and diminish with a longer duration of residence. As a result, the employment and unemployment experience of immigrants would be expected to approach that of the native born, other variables being the same.

Among the foreign born, weeks worked are greater and unemployment rates are lower for those with more schooling and greater total labor market experience. The effects of schooling and total experience are weaker among the foreign born than among the native born. Those who are married have greater employment and lower unemployment. Employment in the agricultural sector has a different effect on the foreign born and native born, largely due to differences by nativity in the extent of self-employment (and family employment) versus hired farm labor. Agricultural employment is associated with lower employment and greater unemployment among the foreign born. The foreign born have significantly lower rates of employment (weeks worked) and higher unemployment during their first few years in the United States.

Overall, the foreign born worked 1.6 fewer weeks than the native born, but other variables the same they worked only 1.0 fewer weeks. The pattern of fewer weeks of employment varies by duration of residence--5.8 fewer weeks for those in the U.S. 3 or fewer years, with the difference diminishing with duration of residence. Among the foreign born, those who are naturalized citizens and those who are fluent in English work more weeks, by 0.9 weeks and 0.9 weeks, respectively

born those who are citizens and fluent in English work more weeks and have lower unemployment rates. The foreign born in the agricultural sector work fewer weeks and have higher unemployment rates than the foreign born in the rest of the economy and the native born in agriculture. Refugees from the USSR experience very low employment and very high unemployment rates during their first three years, but there are no significant differences thereafter. The foreign born have a lower probability of receiving unemployment compensation benefits and receive less income from this source, other variables the same, although foreign-born benefit recipients do receive more in a year than their native-born counterparts.

The unemployment problems associated with immigrants appear therefore to be largely short-term, transitional adjustments not unlike those experienced by naive-born new entrants and re-entrants to the labor market.

Figure 1 Continued

[a]Hypothesized partial effect of the explanatory variable on weeks worked (employment) is positive (+), negative (-), or ambiguous (?). Hypothesized signs are reversed for unemployment status. Analysis limited to males age 25 to 64.

[b]"All other income" (INCOME 8), with the population limited to adult males who were not veterans, are not disabled, and are not currently in the military or enrolled in school. See Appendix A.

[c]Hypothesis is a positive sign for the native born and a negative sign for the foreign born.

[d]Hypothesis is that employment increases with duration of residence.

[e]Hypothesis is that employment is lower for immigrants from non-English speaking countries, and lower for recent refugees than for economic migrants.

Note: The sample is limited to native-born and foreign-born males age 25 to 64 years in 1990, who worked in at least one week and had non-zero earnings (wage, salary and self-employment income) in 1989. Persons born abroad of America parents and persons born in a territory of the United States are excluded from the analysis.

TABLE 1 Continued

Variable	Native Born Mean	Native Born Standard Deviation	Foreign Born Mean	Foreign Born Standard Deviation	Total Mean	Total Standard Deviaiton
Mexico			0.23	0.42	0.02	0.15
Cuba			0.04	0.20	0.00	0.06
Brit. W. Indies			0.03	0.17	0.00	0.06
Other Lat. America			0.14	0.35	0.01	0.12
North Africa			0.05	0.21	0.00	0.07
Other Africa			0.02	0.13	0.00	0.04
Southwest Asia			0.04	0.20	0.00	0.06
Indochina			0.03	0.18	0.00	0.06
China			0.05	0.22	0.00	0.07
Japan			0.01	0.11	0.00	0.04
Philippines			0.04	0.21	0.00	0.07
Korea			0.03	0.16	0.00	0.05
Other Asia			0.01	0.11	0.00	0.04
Other Countries[a]			0.04	0.19	0.00	0.06
Observations	502,467		251,739		552,630	

[a]Other countries includes other countries not listed, at sea and, the largest category, country of birth not reported.

Source: 1990 Census of Population, Public Use Microdata Sample, 1 percent sample of the native born, 5 percent sample of the foreign born.

TABLE 2 continued

	Native Born	Pooled Native and Foreign Born			
Variable	(1)	(2)	(3)	(4)	(5)
1987-1990	(a)	(a)	-5.82853 (-42.96)	-6.01331 (-43.01)	-5.45242 (-23.32)
Naturalized Citizen	(a)	(a)	(a)	0.59929 (-6.13)	0.63201 (-6.12)
Speaks English	(a)	(a)	(a)	0.37721 (-4.19)	0.35905 (-3.63)
Countries of Birth					
British Isles	(a)	(a)	(a)	(a)	0.05982 (-0.20)
Western Europe	(a)	(a)	(a)	(a)	0.436759 (-1.68)
Eastern Europe	(a)	(a)	(a)	(a)	0.08852 (-0.26)
Southern Europe	(a)	(a)	(a)	(a)	1.11393 (-4.19)
Balkans	(a)	(a)	(a)	(a)	-0.05524 (-0.13)
USSR	(a)	(a)	(a)	(a)	-2.98657 (-6.43)
Canada/Aust/NZ	(a)	(a)	(a)	(a)	-0.19727 (-0.65)
Mexico	(a)	(a)	(a)	(a)	-0.91636 (-4.26)
Cuba	(a)	(a)	(a)	(a)	0.39878 (-1.34)
Brit. W. Indies	(a)	(a)	(a)	(a)	-0.52563 (-1.60)
Other Lat. America	(a)	(a)	(a)	(a)	-0.03681 (-0.16)
North Africa	(a)	(a)	(a)	(a)	-0.71269 (-2.42)
Other Africa	(a)	(a)	(a)	(a)	-1.69731 (-4.40)
Southwest Asia	(a)	(a)	(a)	(a)	-1.01015 (-3.34)
Indochina	(a)	(a)	(a)	(a)	-0.25617 (-0.80)
China	(a)	(a)	(a)	(a)	-0.66817 (-2.37)
Japan	(a)	(a)	(a)	(a)	0.37364 (-0.98)

TABLE 3
Regression Analysis of Weeks Worked, for Foreign-Born Adult Men, 1990

Variable	(1)	(2)	(3)	(4)
Education	0.27578	0.24964	0.20315	0.16711
	(50.63)	(44.34)	(34.11)	(24.65)
Experience	0.22701	0.15156	0.15792	0.15646
	(27.39)	(18.21)	(18.96)	(18.73)
Experience Squared	-0.00371	-0.00291	-0.00296	-0.00309
	(-24.30)	(-19.12)	(-19.42)	(-20.21)
Not Married	-2.84253	-2.48372	-2.46224	-2.40577
	(-56.96)	(-49.95)	(-49.53)	(-47.97)
Rural	0.56311	0.28051	0.18160	0.07708
	(5.78)	(2.89)	(1.87)	(0.79)
South	-0.29749	-0.30289	-0.32177	-0.29836
	(-5.59)	(-5.74)	(-6.10)	(-5.45)
Agriculture	-4.24603	-4.08308	-3.96360	-3.66187
	(-37.01)	(-35.93)	(-34.89)	(-31.82)
Year of Immigration				
Pre-1950	(a)	-0.13306	-0.86041	-1.21229
		(-0.84)	(-5.32)	(-7.31)
1950-1959	(a)	0.51351	-0.06881	-0.49664
		(5.24)	(-0.68)	(-4.70)
1960-1964	(a)	0.53186	0.12371	-0.19538
		(5.41)	(1.24)	(-1.90)
1965-1969	(a)	0.39561	0.10726	-0.11752
		(4.46)	(1.20)	(-1.29)
1970-1974	(a)	0.03375	-0.10922	-0.15525
		(0.42)	(-1.34)	(-1.89)
1980-1981	(a)	-0.27534	-0.10199	-0.21375
		(-3.25)	(-1.20)	(-2.50)
1982-1984	(a)	-0.78247	-0.53766	-0.64869
		(-8.71)	(-5.94)	(-7.13)
1985-1986	(a)	-1.47232	-1.09868	-1.23659
		(-15.37)	(-11.29)	(-12.64)
1987-1990	(a)	-5.44074	-5.00649	-5.24526
		(-60.71)	(-54.60)	(-56.56)
Naturalized Citizen	(a)	(a)	0.85707	0.82475
			(16.24)	(15.21)
Speaks English	(a)	(a)	0.91098	0.74619
			(17.67)	(13.45)
Countries of Birth				
Western Europe	(a)	(a	(a)	-0.44968
				(-2.87)
Eastern Europe	(a)	(a)	(a)	-0.33332
				(-1.80)
Southern Europe	(a)	(a)	(a)	-0.46906
				(-3.03)

TABLE 3 continued
Regression Analysis of Weeks Worked, for Foreign-Born Adult Men, 1990

Notes: (a) Variable not entered
t-ratios in parentheses
Source: 1990 Census of Population, Public Use Microdata Sample, 5 percent sample.

TABLE 4 continued

	Native Born	Pooled Native and Foreign Born		Foreign Born	
	(1)	(2)	(3)	(4)	(5)
1985-1986	(a)	(a)	0.02373	(a)	0.00091
			(4.70)		(0.44)
1987-1990	(a)	(a)	0.04034	(a)	0.03048
			(8.43)		(15.79)
Naturalized Citizen	(a)	(a)	-0.00960	(a)	-0.01186
			(-4.51)		(-10.29)
Speaks English	(a)	(a)	-0.00028	(a)	-0.00915
			(-0.14)		(-7.77)
Countries of Birth					
British Isles	(a)	(a)	-0.03053	(a)	(a)
			(-4.96)		
Western Europe	(a)	(a)	-0.03256	(a)	0.00200
			(-6.06)		(0.60)
Eastern Europe	(a)	(a)	-0.02924	(a)	0.00909
			(-4.16)		(2.30)
Southern Europe	(a)	(a)	-0.03915	(a)	0.00689
			(-7.12)		(2.08)
Balkans	(a)	(a)	-0.03113	(a)	0.01197
			(-3.48)		(2.45)
USSR	(a)	(a)	0.05890	(a)	0.08110
			(6.19)		(15.85)
Canada/Aust/NZ	(a)	(a)	-0.02826	(a)	0.00551
			(-4.48)		(1.52)
Mexico	(a)	(a)	-0.03799	(a)	0.01681
			(-8.58)		(5.72)
Cuba	(a)	(a)	-0.02011	(a)	0.01455
			(-3.28)		(4.06)
Brit. W. Indies	(a)	(a)	0.00358	(a)	0.04250
			(0.53)		(11.23)
Other Lat. America	(a)	(a)	-0.02235	(a)	0.02251
			(-4.75)		(7.69)
North Africa	(a)	(a)	-0.00203	(a)	0.02306
			(-0.34)		(6.77)
Other Africa	(a)	(a)	-0.02078	(a)	0.02616
			(-2.60)		(6.00)
Southwest Asia	(a)	(a)	-0.01258	(a)	0.01174
			(-2.01)		(3.38)

TABLE 5
Logistic Regression Analysis of Unemployment, for Native Born and Foreign-Born Adult Men, 1990

	Native Born	Pooled Native and Foreign Born		Foreign Born	
	(1)	(2)	(3)	(4)	(5)
Education	-0.17850	-0.14440	-0.14960	-0.06730	-0.04550
	(-70.83)	(-68.76)	(-56.03)	(-16.74)	(-20.13)
Experience	0.03440	0.02360	0.02620	-0.00310	0.00079
	(12.84)	(9.63)	(8.88)	(-0.48)	(0.27)
Experience Squared	-0.00084	-0.00058	-0.00064	0.00008	0.00008
	(-16.19)	(-12.40)	(-11.25)	(0.71)	(1.57)
Not Married	1.04860	0.98480	0.97580	0.53310	0.45460
	(74.37)	(74.61)	(61.37)	(14.25)	(26.43)
Rural	-0.02460	-0.01370	-0.01420	-0.15480	-0.05600
	(-1.55)	(-0.88)	(-0.76)	(-1.94)	(-1.53)
South	-0.18400	-0.16260	-0.15920	-0.12930	-0.15500
	(-12.52)	(-11.70)	(-9.53)	(-2.98)	(-7.67)
Agriculture	-0.16200	-0.11870	-0.06490	0.35090	0.31240
	(-3.77)	(-3.24)	(-1.48)	(5.01)	(9.70)
Foreign born	(a)	-0.19980	(a)	(a)	(a)
		(-9.34)			
Year of Immigration					
Pre-1950	(a)	(a)	0.38310	(a)	0.01880
			(2.52)		(0.27)
1950-1959	(a)	(a)	0.39280	(a)	0.07610
			(4.11)		(1.82)
1960-1964	(a)	(a)	0.16420	(a)	0.11280
			(1.53)		(2.87)
1965-1969		(a)	0.44410	(a)	0.14040
			(4.72)		(4.15)
1970-1974	(a)	(a)	0.24990	(a)	0.10660
			(2.63)		(3.58)
1975-1979	(a)	(a)	0.29700	(a)	(a)
			(3.22)		
1980-1981	(a)	(a)	0.00792	(a)	0.04970
			(0.08)		(1.65)
1982-1984	(a)	(a)	0.03490	(a)	-0.06990
			(0.33)		(-2.07)
1985-1986	(a)	(a)	0.07510	(a)	0.00917
			(0.70)		(0.27)

TABLE 5 continued

	Native Born	Pooled Native and Foreign Born		Foreign Born	
	(1)	(2)	(3)	(4)	(5)
Indochina	(a)	(a)	0.07380	(a)	0.54430
			(0.55)		(7.50)
China	(a)	(a)	-0.57790	(a)	0.03880
			(-3.77)		(0.53)
Japan	(a)	(a)	-1.06540	(a)	-1.40950
			(-3.77)		(-7.69)
Philippines	(a)	(a)	-0.41600	(a)	0.08420
			(-2.63)		(1.12)
Korea	(a)	(a)	-0.42210	(a)	-0.19370
			(-2.06)		(-2.11)
Other Asia	(a)	(a)	-0.47400	(a)	0.19540
			(-1.91)		(1.94)
Other Countries	(a)	(a)	0.44340	(a)	0.60410
			(-3.49)		(8.91)
Constant	-1.28880	-1.61150	-1.56990	-2.15650	-2.75390
	(-26.57)	(-36.79)	(-29.23)	(-19.82)	(-32.71)
AIC	179,053	204,447	142,437	24,856	122,642
Observations	491,374	541,859	379,393	253,378	253,378

Notes: (a) Variable not entered
t-ratios in parentheses

Source: 1990 Census of Population, Public Use Microdata Sample, 1 percent sample for the native born and pooled analysis (except column 3, which is a 0.7 percent sample), and 5 percent sample for the foreign-born analysis.

TABLE 6 continued

	Native Born	Pooled Native Born and Foreign Born			
Variable	(1)	(2)	(3)	(4)	(5)
1987-1990	(a)	(a)	-2623.79	-2542.07	-2031.84
			(-7.12)	(-6.77)	(-3.61)
Naturalized Citizen	(a)	(a)	(a)	-247.94	-183.56
				(-1.10)	(-0.77)
Speaks English	(a)	(a)	(a)	-176.78	-286.14
				(-0.83)	(-1.21)
Countries of Birth					
British Isles	(a)	(a)	(a)	(a)	-89.95
					(-0.13)
Western Europe	(a)	(a)	(a)	(a)	-241.88
					(-0.39)
Eastern Europe	(a)	(a)	(a)	(a)	271.71
					(0.35)
Southern Europe	(a)	(a)	(a)	(a)	-18.31
					(-0.03)
Balkans	(a)	(a)	(a)	(a)	-232.45
					(-0.24)
USSR	(a)	(a)	(a)	(a)	1194.31
					(1.15)
Canada/Aust/NZ	(a)	(a)	(a)	(a)	-493.31
					(-0.66)
Mexico	(a)	(a)	(a)	(a)	-273.38
					(-0.58)
Cuba	(a)	(a)	(a)	(a)	-39.50
					(-0.06)
Brit. W. Indies	(a)	(a)	(a)	(a)	912.18
					(1.27)
Other Lat. America	(a)	(a)	(a)	(a)	-1220.81
					(-2.30)
North Africa	(a)	(a)	(a)	(a)	-805.62
					(-1.12)
Other Africa	(a)	(a)	(a)	(a)	1039.76
					(1.12)
Southwest Asia	(a)	(a)	(a)	(a)	-1386.96
					(-1.76)
Indochina	(a)	(a)	(a)	(a)	-429.32
					(-0.57)

TABLE 7

Signs of Partial Effects of Variables on Four Measures of Unemployment Compensation Benefits, For Adult Men, Pooled Native and Foreign Born, and Foreign Born Only, 1990

Variables	Total Benefits All		Claim Probability All		Total Benefits Recipients		Weekly Benefits Recipients	
	Pooled	Foreign Born	Pooled	Foreign Born	Pooled	Foreign Born	Pooled	Foreign Born
Education	--	--	--	--	+	+	+	+
Experience	+	0	+	0	+	+	0	+
Not Married	+	0	+	0	0	0	0	0
Rural	+	+	+	+	--	0	0	0
South	--	--	--	--	0	0	0	0
Agriculture	--	+	--	+	0	--	0	0
Foreign born	--	(a)	--	(a)	+	(a)	+	(a)
Year of Immigration								
Pre-1950	0	0	0	0	0	0	0	0
1950-1959	0	+	0	+	0	0	0	0
1960-1964	0	+	0	+	+	0	+	+
1965-1969	0	+	0	+	0	0	0	0
1970-1974	--	+	--	+	0	0	0	0
1975-1979	--	(a)	--	(a)	0	(a)	0	(a)
1980-1981	--	--	--	--	0	0	0	0
1982-1984	--	--	--	--	+	0	0	0
1985-1986	--	--	--	--	0	0	0	+
1987-1990	--	--	--	--	+	0	0	0
Naturalized Citizen	0	--	0	--	0	0	0	0
Speaks English	0	--	0	--	0	+	0	0
Constant	--	--	--	--	--	--	--	--

Appendix A

Construction of the Proxy Variable for Unemployment Compensation Benefits

The analysis of unemployment compensation benefits in Section III C is performed for the native-born and foreign-born adult (age 25 to 64) men, and is reported in Tables 6 and 7 and Appendix Tables B-1 to B-5.

There is no direct measure of income from unemployment compensation in the 1990 Census. The 1990 Census questionnaire did ask respondents to report income in 1989 from this source in a category that included certain other sources of public and private income transfers and net gambling winnings. In particular, the variable INCOME8 includes income from "unemployment compensation, Veterans Administration (VA) payments, alimony and child support, contributions received from persons not living in the household, military family allotments, net gambling winnings, and other kinds of periodic income other than earnings" (Census 1993, B-17). The respondents were asked to exclude from this category lump sum payments, such as from an inheritance or sale of a house. Since the first seven variables for income in 1989 included wage and salary income, farm and non-farm self-employment income, interest, dividends, net rental income, and public assistance, social security and certain disability benefits, these items are not in INCOME8.

INCOME8 can be used as the proxy measure of unemployment compensation income in 1989. Purely random measurement error in the dependent variable does not bias the regression coefficients, although it does increase the standard errors of the estimates and thereby lowers the t-statistics. More serious, however, are biases that would result from the errors in the measure of the dependent variable being correlated with an explanatory variable.

INCOME8 cannot be decomposed into its constituent parts. It can, however, be used if groups likely to be important recipients of other components of INCOME8 are deleted from the sample. It can be

average INCOME8 (among recipients) by about 8 percent for the foreign born and 11 percent for the native born.

The average weekly benefit from unemployment compensation in the U.S. in 1989 was $152, while the average duration was 13.2 weeks (Statistical Abstract of the United States, 1992, Table 582. Thus, the average benefit was about $2000. The average INCOME8 in the restricted sample was about 30 percent larger. This may be due to the under-reporting of unemployment compensation benefits among those who received only a few weeks of benefits, or the inclusion of other sources of income, such as net gambling winnings.

It appears that this procedure for identifying unemployment compensation benefits in the 1990 Census data on income is, to a first approximation, robust. Further refinement in future research may clarify this procedure even further.

The analysis of unemployment compensation benefits is performed using the restricted sample for all observations. These benefits are then decomposed into its parts. A dichotomous variable is created for the claim probability, where unity is assigned to recipients and zero assigned to non-recipients. Finally, a weekly benefit amount is computed for recipients by dividing their total benefits by the estimate of the number of weeks unemployed (52 minus number of weeks worked). The determinants of the claim probability, the total benefits among those with positive benefits, and the weekly benefits among recipients are all analyzed.

Appendix B

Additional Tables for Analysis of Unemployment Compensation Benefits

TABLE B-1 continued

Variable	(1)	(2)	(3)	(4)
Western Europe	(a)	(a)	(a)	344.01
				(0.89)
Eastern Europe	(a)	(a)	(a)	749.71
				(1.75)
Southern Europe	(a)	(a)	(a)	623.45
				(1.74)
Balkans	(a)	(a)	(a)	380.69
				(0.73)
USSR	(a)	(a)	(a)	72.47
				(0.12)
Canada/Aust/NZ	(a)	(a)	(a)	566.49
				(1.40)
Mexico	(a)	(a)	(a)	235.79
				(0.71)
Cuba	(a)	(a)	(a)	-593.64
				(-1.44)
Brit. W. Indies	(a)	(a)	(a)	-402.82
				(-0.91)
Other Lat. America	(a)	(a)	(a)	-883.05
				(-2.59)
North Africa	(a)	(a)	(a)	-566.25
				(-1.41)
Other Africa	(a)	(a)	(a)	-886.81
				(-1.52)
Southwest Asia	(a)	(a)	(a)	-582.29
				(-1.43)
Indochina	(a)	(a)	(a)	-590.15
				(-1.33)
China	(a)	(a)	(a)	-1363.59
				(-3.32)
Japan	(a)	(a)	(a)	-1332.77
				(-2.05)
Philippines	(a)	(a)	(a)	-2030.11
				(-4.49)
Korea	(a)	(a)	(a)	-3914.03
				(-6.34)
Other Asia	(a)	(a)	(a)	-2624.10
				(-3.77)

TABLE B-2

Regression Analysis of Unemployment Insurance Benefits, for Pooled Native and Foreign-Born Adult Men, Recipients Only, 1990

	Native Born	Pooled Native and Foreign Born			
Variable	(1)	(2)	(3)	(4)	(5)
Education	237.92	218.43	216.82	214.51	215.21
	(14.84)	(15.93)	(15.73)	(15.26)	(14.70)
Experience	55.90	59.51	59.42	59.51	62.42
	(3.47)	(3.99)	(3.97)	(3.97)	(4.17)
Experience Squared	0.01	-0.13	-0.11	-0.11	-0.18
	(0.04)	(-0.43)	(-0.36)	(-0.37)	(-0.61)
Not Married	-102.23	-132.66	-133.84	-135.52	-140.67
	(-1.30)	(-1.72)	(-1.73)	(-1.75)	(-1.82)
Rural	-236.41	-279.72	-273.09	-276.00	-270.15
	(-2.97)	(-3.49)	(-3.40)	(-3.44)	(-3.37)
South	-142.63	-150.50	-141.27	-142.51	-165.47
	(-1.65)	(-1.77)	(-1.66)	(-1.67)	(-1.94)
Agriculture	-30.08	-183.05	-160.09	-144.57	-117.65
	(-0.12)	(-0.91)	(-0.79)	(-0.71)	(-0.56)
Foreign born	(a)	368.48	(a)	(a)	(a)
		(2.91)			
Year of Immigration					
Pre-1950	(a)	(a)	-1002.52	-1129.80	148.48
			(-1.37)	(-1.49)	(0.17)
1950-1959	(a)	(a)	330.11	245.20	1164.68
			(0.99)	(0.66)	(2.22)
1960-1964	(a)	(a)	1228.23	1150.67	1785.87
			(3.74)	(3.25)	(3.47)
1965-1969	(a)	(a)	-94.81	-159.22	486.31
			(-0.32)	(-0.50)	(0.97)
1970-1974	(a)	(a)	328.94	256.93	1057.42
			(1.25)	(0.88)	(2.10)
1975-1979	(a)	(a)	26.95	-31.39	878.45
			(0.11)	(-0.12)	(1.81)
1980-198	(a)	(a)	-396.84	-432.58	233.32
			(-1.08)	(-1.15)	(0.42)
1982-1984	(a)	(a)	1359.22	1287.01	2193.04
			(3.70)	(3.42)	(3.99)

TABLE B-2 continued

Variable	Native Born (1)	Pooled Native and Foreign Born (2)	(3)	(4)	(5)
Indochina	(a)	(a)	(a)	(a)	-1251.11 (-1.60)
China	(a)	(a)	(a)	(a)	-1158.91 (-1.51)
Japan	(a)	(a)	(a)	(a)	406.74 (0.36)
Philippines	(a)	(a)	(a)	(a)	-794.97 (-1.09)
Korea	(a)	(a)	(a)	(a)	-2006.94 (-1.58)
Other Asia	(a)	(a)	(a)	(a)	-1395.14 (-1.29)
Other Countries	(a)	(a)	(a)	(a)	-1736.46 (-2.45)
Constant	-1247.44 (-4.36)	-972.78 (-3.75)	-967.87 (-3.72)	-937.97 (-3.57)	-963.96 (-3.59)
Adjusted R2	0.0378	0.038	0.0405	0.0404	0.0446
Standard Error	3292.93	3405.71	3401.44	3401.60	3394.07
Observations	8,426	9,329	9,329	9,329	9,329

Notes: [a]Variable not entered
t-ratios in parentheses

Source: 1990 Census of Population, Public Use Microdata Sample, 1 percent sample

TABLE B-3 continued

	Native Born	Pooled Native and Foreign Born			
Variable	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**
1985-1986	(a)	(a)	-0.5188	-0.4844	-0.3963
			(-4.66)	(-4.27)	(-2.29)
1987-1990	(a)	(a)	-0.9587	-0.9255	-0.8480
			(-7.66)	(-7.29)	(-4.66)
Naturalized Citizen	(a)	(a)	(a)	-0.0752	-0.0594
				(-1.06)	(-0.79)
Speaks English	(a)	(a)	(a)	-0.0805	-0.1218
				(-1.20)	(-1.63)
Countries of Birth					
British Isles	(a)	(a)	(a)	(a)	-0.0203
					(-0.09)
Western Europe	(a)	(a)	(a)	(a)	0.0426
					(0.22)
Eastern Europe	(a)	(a)	(a)	(a)	0.1681
					(0.70)
Southern Europe	(a)	(a)	(a)	(a)	0.0758
					(0.43)
Balkans	(a)	(a)	(a)	(a)	-0.0080
					(-0.03)
USSR	(a)	(a)	(a)	(a)	0.5062
					(1.58)
Canada/Aust/NZ	(a)	(a)	(a)	(a)	-0.0196
					(-0.08)
Mexico	(a)	(a)	(a)	(a)	0.0185
					(0.13)
Cuba	(a)	(a)	(a)	(a)	-0.1333
					(-0.57)
Brit. W. Indies	(a)	(a)	(a)	(a)	0.4013
					(1.82)
Other Lat. America	(a)	(a)	(a)	(a)	-0.3072
					(-1.84)
North Africa	(a)	(a)	(a)	(a)	-0.1963
					(-0.83)
Other Africa	(a)	(a)	(a)	(a)	0.5060
					(1.77)
Southwest Asia	(a)	(a)	(a)	(a)	-0.3881
					(-1.45)

TABLE B-4

Regression Analysis of Weekly Unemployment Insurance Benefits, for Pooled Native and Foreign-Born Adult Men, Recipients Only, 1990

	Native Born	Pooled Native and Foreign Born			
Variable	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**
Education	28.43118	30.51705	30.32002	28.80426	28.54532
	(7.05)	(8.86)	(8.78)	(8.21)	(7.78)
Experience	8.85707	5.98952	5.57593	5.45138	5.58094
	(2.27)	(1.64)	(1.52)	(1.49)	(1.52)
Experience Squared	-0.08019	0.00434	0.01430	0.01571	0.01072
	(-1.00)	(0.06)	(0.20)	(0.21)	(0.15)
Not Married	-20.35644	-21.43935	-21.13636	-20.38478	-15.27540
	(-1.07)	(-1.14)	(-1.12)	(-1.08)	(-0.81)
Rural	-21.09980	-17.35966	-18.37136	-19.73549	-18.29536
	(-1.09)	(-0.89)	(-0.94)	(-1.01)	(-0.93)
South	-16.18305	-21.15102	-18.85770	-20.00540	-25.17282
	(-0.76)	(-0.99)	(-0.89)	(-0.94)	(-1.18)
Agriculture	-31.63902	-51.80433	-46.60194	-32.24439	-21.85781
	(-0.50)	(-1.06)	(-0.95)	(-0.65)	(-0.43)
Foreign born	(a)	67.61681	(a)	(a)	(a)
		(2.19)			
Year of Immigration					
Pre-1950	(a)	(a)	-136.58878	-268.80319	-194.45744
			(-0.80)	(-1.50)	(-0.95)
1950-1959	(a)	(a)	-2.11161	-104.66007	-152.46921
			(-0.03)	(-1.16)	(-1.19)
1960-1964	(a)	(a)	282.88959	200.24835	125.52810
			(3.55)	(2.33)	(0.99)
1965-1969	(a)	(a)	-65.18957	-138.79896	-175.49802
			(-0.96)	(-1.89)	(-1.46)
1970-1974	(a)	(a)	163.57406	86.31798	100.46104
			(2.62)	(1.25)	(0.82)
1975-1979	(a)	(a)	-3.14068	-65.50141	-52.45252
			(-0.05)	(-1.01)	(-0.45)
1980-1981	(a)	(a)	-75.40158	-127.18734	-99.16778
			(-0.87)	(-1.43)	(-0.72)
1982-1984	(a)	(a)	98.85726	55.16770	69.56659
			(1.08)	(0.59)	(0.52)
1985-1986	(a)	(a)	-36.88750	-62.56728	-75.89066
			(-0.41)	(-0.69)	(-0.54)

TABLE B-4 continued

	Native Born	Pooled Native and Foreign Born			
Variable	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**
China	(a)	(a)	(a)	(a)	-82.99275
					(-0.43)
Japan	(a)	(a)	(a)	(a)	878.87105
					(3.34)
Philippines	(a)	(a)	(a)	(a)	26.82657
					(0.15)
Korea	(a)	(a)	(a)	(a)	283.69080
					(0.94)
Other Asia	(a)	(a)	(a)	(a)	-202.99258
					(-0.84)
Other Countries	(a)	(a)	(a)	(a)	-167.98702
					(-0.95)
Constant	-222.71	-231.66	-225.47	-204.38	-202.80
	(-3.13)	(-3.59)	(-3.49)	(-3.14)	(-3.04)
Adjusted R2	0.0091	0.0128	0.0146	0.0152	0.0226
Standard Error	708.26	741.15	740.51	740.27	737.48
Observations	6,625	7,375	7,375	7,375	7,375

Notes: [a]Variable not entered
t-ratios in parentheses

Source: 1990 Census of Population, Public Use Microdata Sample, 1 percent sample

TABLE B-5 continued

Variables	Total Benefits, All	Claim Probability, All	Total Benefits, Recipients	Weekly Benefits, Recipients
SCALE	8637.75			
Log Likelihood	-63454			
Noncensored Values	4379			
Left Censored Values	194807			
AIC		44644		
Adjusted R2			0.0482	0.0103
Standard Err			4005.233	926.30997
Observations	199186	199186	4378	3598

Notes: Benchmark, immigrated 1975-79. Column (1) is a Tobit analysis, column (2) is a Logit analysis and columns (3) and (4) are ordinary least squares. Numbers in parentheses are asymptotic t-ratios (columns (1) and (2)) and t-ratios (columns (3) and (4)).

Source: 1990 Census of Poulaton, Pubic Use Microdata Sample, 5 percent sample.

UNEMPLOYMENT INSURANCE APPEALS IN THE STATE OF WISCONSIN: WHO FIGHTS AND WHO WINS?

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INTRODUCTION

This paper contains an empirical analysis of disputes between employers and employees over eligibility for the receipt of unemployment insurance (UI) benefits. Unlike the system in some countries, in the United States the unemployment insurance system does not operate under no-fault principles. Since employees sometimes lose valuable benefits, and employers sometimes face higher taxes, both groups have incentives to appeal adverse decisions made by UI administrators. In this paper we study the incentives the parties have to appeal UI decisions and the factors that influence which party prevails.

Our goal in studying the UI appeals process is twofold. First, the extent to which the parties dispute UI administrative decisions has increased steadily over the last three decades. (See Vroman, 1995, for example.) The result is that the administrative costs of making UI system transfers have increased and become a substantial component of total costs. In the long run this must result in either higher taxes on employers or lower benefits for employees than would otherwise exist. It is important to understand the role of the UI system incentive structure if increased costs or decreased benefits are to be avoided.

Second, the UI appeals system offers a remarkable controlled environment in which to study the incentives to use valuable resources to further by advocacy the interests of the parties. Although the administrative process is financed independently of the financial interests of the parties, the parties themselves bear part of the advocacy costs. It follows that the parties may be expected to engage in advocacy to the extent that their benefits are greater than their costs. One way in which the parties may incur advocacy costs is measured by the extent to which the parties appeal administrative decisions. Of course, only part of these advocacy costs are borne by the parties. The other primary advocacy cost open to the parties is the use of attorneys to prepare and argue their cases. Because the UI tax system is incompletely experience rated, and because the benefits employees receive vary with their prior experience, the parties have

different incentives to engage in both types of advocacy. We use the natural variation within the UI system to test whether the parties respond to these incentives.

Our empirical analysis is based on detailed administrative records from a sample of the benefit determinations and appeals of these determinations in the state of Wisconsin. From these data we can determine who appeals administrative decisions, who engaged attorneys as advocates, and whether the use of attorneys increases the probability of prevailing in a judgment over the other party. The results of the analysis indicate that employers who face no additional tax cost from a layoff rarely appeal an administrative decision, which is consistent with the hypothesis that the incentives for disputation built into the UI system do influence dispute rates. The results also indicate that the use of lawyer advocates by workers tends to increase the probability that they prevail in an administrative hearing. However, we find no similarly favorable effect for employers when they use lawyers as advocates. This finding is inconsistent with the hypothesis that the use of lawyers results in wasteful "prisoners dilemma" incentives. However, the evidence does suggest that it may be useful to consider with care the incentives for disputation built into any reforms proposed for the UI system.

INSTITUTIONAL FEATURES OF THE UI SYSTEM

This section of the paper contains a brief description of the structure of the UI system. The discussion is designed to highlight the nature of the incentives the UI system creates for the parties to a dispute.[1] The tax, benefit, and appeals systems are discussed in turn. Although each state administers its own UI system, the federal government sets broad guidelines within which the states must operate. The discussion provided here is largely representative of all state systems while the particular characteristics of the Wisconsin system will be highlighted.

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[1]See Blaustein, et al. (1993) for a complete description of the UI system.

The UI system is financed by a payroll tax levied on firms that is said to be imperfectly experience rated. A firm's tax rate generally depends upon its own layoff history so that firms that layoff an additional worker will be exposed to a higher tax burden. A maximum and minimum tax does exist, however, so that firms with very good or very bad layoff histories pay set amounts. For these firms, laying off an additional worker imposes no marginal cost.[2] In addition, taxes are only levied on workers' wages that fall below a set limit (the "taxable wage base") that varies by state, but is relatively low in almost all states. In Wisconsin, the taxable wage base was $10,500 in 1994.

Certain eligibility rules and benefit levels also vary across states but share many common characteristics. Workers are said to be "monetarily eligible" for benefits if they have worked a certain number of weeks and earned a certain level of wages during their "base period" (defined as the first four of the last five calendar quarters prior to job loss). Benefits are typically determined as a function of base period wages and are payable until the worker returns to work or until a maximum duration of benefit receipt is reached. In Wisconsin, the maximum duration of benefits was 26 weeks for most claimants in 1994 and the maximum benefit increased from $243 to $266 from the beginning to the end of that year.

In addition to monetary eligibility, other eligibility conditions exist. For the purposes of this analysis, the most important of these conditions is that the unemployment spell be employer-initiated.[3] Workers who are unemployed because they were laid off or because their working conditions became unacceptable (i.e. the worker was "forced" to quit) are eligible to receive UI

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[2]A large literature exists arguing that this feature of the system provides an incentive for firms to layoff additional workers. Examples of this research include Bailey (1976), Feldstein (1978), Card and Levine (1994), and Anderson and Meyer (1994).

[3]Workers must also be able and available for work and must not have refused suitable work. In addition, some states have provisions that allow workers who quit their jobs to be eligible after satisfying a disqualification period. See Chasanov (1995) and Vroman (1995) for a further discussion of nonmonetary
eligibility conditions.

benefits. Workers who are dismissed because they quit voluntarily or were incompetent in their jobs are typically not eligible. In most cases, determining whether a worker is eligible on this basis is straightforward. In a minority of cases, however, the circumstances surrounding a worker's separation from the firm is unclear and the state must make a decision regarding his/her eligibility for benefits. If the firm or worker is unhappy with this decision, an appeals process is available to either party involved in the dispute.[4]

The UI appeals process in most states, including Wisconsin, is hierarchical in nature.[5] A lower level appeal is heard before an administrative law judge (ALJ) and either party may appeal that ruling to a higher level. Federal law requires that 60% of lower level appeals be heard within 30 days after the appeal is filed and 80% within 45 days. Given these requirements, a format that can process a large number of cases quickly is clearly desirable. The standard, adversarial model of legal proceedings where appellants present and dispute evidence to a court that remains silent before rendering a verdict has been deemed inappropriate in this context.[6] In its place is a system where the proceedings are far more informal. The ALJ directs questions at each party designed to elucidate the information necessary for him/her to make a decision. Because knowledge of the law by the appellants in these hearings is not necessary, legal representation for either party involved in the dispute is far from universal. Some parties, however, do choose to retain legal counsel for these hearings.

BACKGROUND AND LITERATURE REVIEW

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[4]Appeals can also be filed if the worker feels s/he has been unfairly denied benefits on the basis of monetary eligibility or other issues (such as refusal of suitable work). The two parties in these disputes is the worker and the state. For the purposes of this analysis we largely focus on disputes over separation issues because the two parties involved in these disputes are the worker and the firm.

[5]See Rubin (1980) for a detailed description of the UI appeals system.

[6]See Kritzer (1995) for a more detailed discussion of the format of these hearings.

The disputes we study in this paper result from an appeal by one party or another of a decision made by a third party administrator. Although there is a considerable literature addressing the cause of legal disputes, there has been little or no discussion of the appeals process. In effect, the opportunity to appeal reduces the extent to which a third party decision is binding. The result is that the variability possible in the outcomes the parties face if they cannot agree amongst themselves is increased. However, an appeal is made by a party only when that party encounters an adverse decision. Although this increases the uncertainty in the overall process, at the point of appeal it can only result in an increase in the likelihood of a favorable outcome for the party that appeals. Thus, the likelihood that either party appeals a decision should be determined by the extent to which the benefits of appeal outweigh the costs. As we shall see, there is enough natural variability in the benefits and costs to the parties that it is, in principle, possible to test this hypothesis.

Relatively little empirical research exists examining the specific features of the UI appeals system. Most research conducted to date either uses aggregate, state level data or micro data that presents cross-tabulations of program outcomes and do not control for potentially omitted factors. In the latter category, both Rubin (1995) and Kritzer (1995) show that legal representation is positively correlated with claimant success. These papers also found employer representation to be unrelated or negatively related to a firm's success in the appeals process. The negative relationship is typically attributed to the possibility that firms with weak cases are more likely to hire a lawyer. Using aggregated state-level data Vroman (1995) provides a thorough descriptive analysis regarding trends in appeals and claimant success rates, but does not formally model the decision to appeal or their outcomes. Chasanov and Cubanski (1995) model denial rates, appeal rates and appeal outcomes using aggregate state level data from 1979-90. They find that several state characteristics are correlated with outcomes. They proceed to conduct an examination of micro data on appeals cases from the States of Texas and Wisconsin. The set of control variables they employ, however, is considerably limited by data availability.

EMPIRICAL SPECIFICATION

This section of the paper will set forth the statistical methodology employed to examine the decision to file an appeal and the outcome of the appeal proceedings. We model the decision to appeal as a function of each party's preference for litigation and their subjective assessment of the strength of their case. More formally, this decision may be modelled as:

$$\text{Prob}(A_k = 1) = f(\beta_0 + \beta_1 P_k + \beta_2 S_k) \quad (1)$$

where A represents an "appeal" indicator variable, P represents preferences, S represents strength of case, and k indexes firms and workers. Although preferences and strength of case are unobservable variables, we use available claimant and employer characteristics as proxies for these concepts. Probit specifications are used to estimate these models.

Modelling the outcome of the appeal process is more complicated because of the presence of unobservable characteristics that may bias parameter estimates. Here, the outcome of the appeal is defined as whether or not the initial ruling by the UI agency is reversed at the first level of the appeals procedure, where the case is heard by an administrative law judge. These outcomes may be modelled as a function of the strength of each party's case (S), whether each party is represented by legal counsel (R) and the judge's preferences (P), which may favor parties of a particular type (for instance, men over women or claimants over employers). More formally,

$$\text{Prob}(REV_{ij} = 1) = f(\beta_0 + \beta_1 P_{ij} + \beta_2 R_{ij} + \beta_3 S_i) \quad (2)$$

where REV indicates whether the initial ruling was reversed, i indexes cases, and j indexes ALJs. In this model, note that the strength of each party's case is an objective measure that may

differ from that modelled in equation (1), that indicates a subjective assessment on the part of each party.

This model can be broken down further by modelling the components of the ALJs decision. For instance, an ALJ's preferences may be idiosyncratic to an individual judge (i.e. consistently favoring claimants) or all judge's may favor claimants/firms with certain characteristics (i.e. men over women, small firms over big firms, etc.). This behavior may be modelled (in linear form for simplicity) as:

$$P_{ij} = \alpha_j + \alpha_1 X_i^1 + U_{ij} \tag{3}$$

where α_j is an ALJ "fixed effect," X_i^1 represents a vector claimant/employer characteristics involved in case i and U_{ij} is a random error term. Appellants may be assumed to choose representation as a function of their own characteristics (the size of the potential benefit/cost of a reversal or access to legal counsel, for example) and the strength of their case:

$$R_i = \gamma_0 + \gamma_1 X_i^2 + \gamma_2 S_i + e_i \tag{4}$$

where X_i^2 is a vector of claimant/employer characteristics that may overlap with X_i^1. Finally, the strength of a claimant's/worker's case may be modelled as a function of worker/firm characteristics, X_i^3, and an unobservable component ϕ_i:

$$S_i = \delta_0 + \delta_1 X_i^3 + \phi_i \tag{5}$$

The problem with estimating the model specified in equation (2) directly is that strength of case is unobservable. Estimating this model omitting strength of case would likely introduce bias because the decision to obtain representation is a function of strength of case, as specified

in equation (4). If parties with a stronger (weaker) case are more likely to hire legal counsel, then estimates of the benefit of obtaining representation would be upward (downward) biased.

Empirically, there are two potential solutions to this problem. First, we can directly enter proxy variables representing characteristics of the parties that may control for strength of case (X_i^3 in equation 5). This solution is sufficient as long as the residual components of strength of case (ϕ_i in equation 5) are unrelated to other included variables. Second, we can use an instrumental variables procedure (where the instruments are represented by X_i^2 in equation 4) to provide predicted probabilities of obtaining representation that is uncorrelated with strength of case. This model is identified if there are variables that are correlated with the decision to hire legal counsel but uncorrelated with the outcome of the case (i.e. elements of X_i^2 that are not elements of X_i^1 or X_i^3.

Parameter estimates from equation (2) can be used to test the Prisoner's Dilemma Hypothesis regarding the hiring of legal counsel. In the present context, define the elements of the β_2 vector in equation 2 to be β_2^c and β_2^f, the effect of legal representation on the probability of reversal for the claimant and firm, respectively. A prisoner's dilemma is empirically supported if $\beta_2^c = -\beta_2^f$.

DESCRIPTION OF THE DATA

The data employed in this project represents administrative data from the UI system in the State of Wisconsin. We have obtained data on all claims resulting in an appeal arising from nonmonetary issues (12,728) and a 20% sample of all initial claims filed (41,771) in 1994 by workers eligible to receive benefits. One significant shortcoming of these data is that we have no information on claims that were denied but not appealed by the worker because of the difficulty in obtaining some of the data for these workers.[7] As a result, we are unable to

[7]Another shortcoming of these data is that it omits all "additional claims" filed that do not lead to an appeal. When a worker files a valid new claim, a benefit year begins that defines the

estimate models of the worker's decision to appeal a denied claim in this analysis. Only the employer's decision to appeal an awarded claim will be estimated here. This shortcoming does not affect the analysis of the outcome of an appeal because all information for workers who appeal a denied claim is available.

Records for individual claimants from three separate databases (benefits, taxes, and appeals) were merged, providing a significant amount of information related to an individual claim. From the benefits database, some characteristics of the claimant can be identified, including demographic characteristics (age, race, and gender), base period wages, weekly benefit amount, and the maximum duration of benefits. In addition, the benefits database contains some information regarding the claimant's base period employer, including the size of the firm and its payroll along with its industry (SIC code). From the tax database, the firm's tax rate can be identified. Applying the appropriate tax schedule for 1994, we can determine whether the firm is at the minimum or maximum tax rate and whether the firm is "standard rated."[8] Finally, the appeals database provides information regarding cases that were appealed including the reason for the appeal, whether each party to the appeal obtained legal representation, and the outcome of the hearing. There were 12,728 lower level appeals based on nonmonetary issues in 1994 in Wisconsin; 8,290 were based upon the circumstances surrounding the separation of the worker from the firm.

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worker's eligibility for benefits throughout the following year. An additional claim is another claim filed within the same benefit year. In 1994 in Wisconsin, 418,122 total claims were filed of which 215,201 were new claims and 202,921 were additional claims. To the extent that workers filing additional claims are different in some ways than workers filing new claims, the results of the analysis regarding the decision to appeal may be biased. For the purposes of this analysis, we are forced to assume that this decision is uncorrelated with whether or not the claim was an initial or additional claim.

[8]New firms that have no layoff history are charged a fixed tax rate for three years at which point taxes are applied according to the firm's layoff history. These firms are said to be standard rated.

Descriptive statistics for the sample are reported in Tables 1-4. Data on all awarded claims overall and distinguished by whether or not the awarded claim was appealed by an employer are reported in Table 1. Average characteristics of firms and workers for all awarded claims (column 1) are weighted by the probability of being in the sample.[9] Among claimants that are awarded benefits, the average age is about 38, less than half are women and the vast majority are white, reflecting general workforce characteristics in the state. Workers earned about $18,500 during their base period and were eligible for $197 per week in benefits for just over 24 weeks, on average. Among the firms at which these workers were employed, a significant number, 13.6%, were employed at firms paying the maximum tax rate while a very small number worked at firms paying the minimum or standard tax rate. These firms employed just under 600 workers on average and had payrolls that averaged $16 million. Only a little over half of all wages were taxable at these firms, reflecting the fact that the taxable wage base ($10,500) is well-below the annual wage of the average worker. Overall, about 1% of all awarded claims are appealed by an employer.

Differences between firms and workers in cases appealed by an employer can be observed from columns 2 and 3 in Table 1. Among firm characteristics, of significant interest is the huge differential in the fraction of firms at the maximum tax rate between employers that appeal and those that do not. Only 2.7% of firms that appeal are paying the maximum tax rate compared to 13.7% of firms that do not. On the other hand, firms that appeal are much more likely to be standard rated compared to firms that do not (4.9% versus 1.5%). Firms that appeal tend to be somewhat larger in number of employees, but pay less compared to firms that do not. Consistent with these findings, the average worker awarded benefits whose employer has

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[9]Initial claims that were not appealed were sampled at a 1 in 5 rate and all appeals were sampled. In addition, appeals may be filed on the basis of an initial claim as well as an additional claim. Therefore, the appropriate sample weights for unappealed claims is 5*(418,222/215,201) = 9.72.

appealed the decision tends to be lower paid and is eligible for lower benefits for a shorter duration of time compared to workers whose employers do not appeal a benefit award.

Table 2 reports average firm and worker characteristics among all cases appealed on the basis of a separation issue separately by the party filing the appeal. Significant differences between the two groups are apparent. Workers who appeal had higher earnings prior to displacement compared to workers whose employer appealed, although the demographic characteristics between the two groups are similar. This result is consistent with differences in total payrolls between the two types of firms that had similar numbers of employees. It is also apparent that party who initiates an appeal is roughly twice as likely to obtain legal counsel compared to their opponent. Another interesting finding in this table is that attendance of the parties at an appeals hearing is far from universal, particularly by the party that did not file the appeal. Even among the appellant that initiated the appeal, only 80-85% appear at their own hearing.

Table 3 presents characteristics of appellants broken down by their legal representation status. Regardless of who filed the appeal, it appears that workers and firms will greater access to legal counsel take advantage of this resource. Claimants who earn more and can more easily afford the expense (but also have more at stake in the appeal through higher benefits) and larger firms with bigger payrolls, that are more likely to have their own legal staff or legal services provided on retainer, obtain representation in these hearings regardless of the party that filed the appeal. In addition, older workers and women are more likely to appeal. Interestingly, differences in the fraction of firms at the maximum tax rate are only evident in claimant-initiated appeals. An explanation for this finding may be the fact that firms at the maximum tax rate appear to be so unlikely to file an appeal in the first place that the decision to obtain legal counsel may be somewhat moot.

Characteristics of "winners" and "losers" in appeals proceedings are presented in Table 4 where cases are differentiated by the party filing the appeal. Columns 1 and 2 report means

for claimant-initiated appeals. As might be expected, claimants that failed to appear at a hearing that they precipitated were very unlikely to win the case (although a few did). Similarly, a firm's failure to appear at the hearing (either directly or through legal counsel) is positively correlated with a reversal among claimant-initiated appeals. Among cases in which the claimant "won" (i.e. decision reversed), more than twice as many claimants had obtained legal counsel relative to claimants that "lost" (i.e. decision not reversed). Winning claimants are also more likely to be higher paid and, therefore, eligible for higher benefits. Firms that were successful in preventing the claimant from receiving benefits tended to be larger (in number and payroll), but their tax status and degree of legal representation were roughly comparable.

Similar findings are observed regarding employer-initiated appeals, reported in columns 3 and 4. Workers and firms that appeared at the hearing were considerably more likely to win their case. ALJ's were more likely to rule in favor of workers who earn higher wages and are eligible for higher benefits. Appeals were less likely to be reversed when the claimant was white or female. Bigger firms with a higher payroll were more likely to have a decision reversed. The major difference in the context of employer-initiated appeals is that firms that obtain legal counsel have a greater probability of reversal.

RESULTS

Before presenting the results of estimating equations (1) and (2), we first report estimates of a prisoner's dilemma payoff matrix for the claimant's and firm's decision to hire legal counsel or not. The results of this analysis are reported in Table 5A and 5B for claimant-initiated and employer-initiated appeals, respectively. With claimant-initiated appeals, the estimating effect of obtaining representation is quite strong for claimants, regardless of the firm's representation status. For claimants fighting against firms that have hired counsel, obtaining representation for themselves increases the probability of a reversal (winning) from 33% to 57%. A similar increase is observed for claimants facing unrepresented firms. Employers, on the other hand,

apparently receive no advantage by obtaining representation regardless of the representation status of workers.

Similar findings are observed for employer-initiated appeals. The probability that an ALJ rules in favor of the claimant (i.e. not reversed) rises in the presence of legal counsel from 21% to 28% and 20% to 35% compared to firms that are not represented and firms that are represented, respectively. Findings regarding the advantage of hiring legal representation for firms are inconsistent, depending upon the representation status of claimants. Of course, one shortcoming of this analysis is that it neglects to hold constant other characteristics of firms and workers that may be related to both the decision to hire a lawyer and the outcome of the case.

The estimated effects of claimant and firm characteristics on the decision of an employer to appeal a UI award (equation 1) are reported in Table 6. Three different specifications are estimated that vary according to whether claimant characteristics and industry-specific fixed effects are included as regressors. The main finding in this table is that firms at the maximum tax rate are very unlikely to appeal an awarded claim, even after controlling for other firm and worker characteristics including industry fixed effects. In column 3, which reports results controlling for all of these factors, firms at the maximum tax rate are estimated to be over half a percent less likely to appeal an awarded claim. Since just under one-percent of awarded claims are appealed by employers, this represent over a 50% reduction in the likelihood of an employer-initiated appeal. On the other hand, standard-rated firms are about two-thirds of a percent more likely to file an appeal, indicating they are roughly two-thirds more likely to appeal compared to the average firm. This finding may be explained by new firms who have not yet started paying taxes based on their own experience trying to establish lower tax rates when they become experience-rated.

Other firm and worker characteristics appear to influence the firm's decision to appeal as well. Larger firms apparently are more likely to appeal (although this finding is only statistically significant at the 10% level in models that control for worker characteristics and

industry fixed effects), perhaps because they have more resources to devote to such an activity. Firms with a larger fraction of taxable payroll are also more likely to appeal. Holding constant firm size and total payroll, this variable is identified from firms that vary according to their turnover within the year (higher turnover firms have a higher percentage of taxable wages). High turnover firms may be trying to avoid the increase in tax rates that are imposed by experience rating. Firms are also less likely to appeal when the claimant is older, female, and white. Those firms employing workers eligible for a longer duration of benefits also appear to be less likely to appeal. Since the cost of paying a claim is inversely related to the maximum duration of benefits, this finding is counterintuitive and may represent unobservable characteristics of firms that are correlated with employing workers eligible for payments of longer duration.[10]

Among firms/workers that decide to appeal, parameter estimates of a model of the decision to obtain legal representation, modelled in equation 4 above, are reported in Table 7. These models represent first stage regressions in the subsequently reported two-stage least squares models of appeal outcomes. Among claimants, those eligible for greater benefits with larger earnings are more likely to hire legal counsel regardless of the party filing the appeal. These findings make sense since higher weekly benefits increase the stakes in fighting an appeal and those with higher incomes may have sufficient resources to retain counsel. In addition older workers and women appear more likely to hire a lawyer.

Among firms, bigger firms are more likely to use the services of a legal representative, perhaps because they have lawyers on staff or on a retainer. Firms with larger payrolls are less likely to obtain legal counsel. After controlling for firm size, the effect of differences in total payroll is identified by the average worker's wage. Therefore, high wage firms are less likely

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[10]Of course, the presence of unobservable characteristics may be influencing the remainder of the findings in this analysis as well. Unfortunately, no instrumental variables that could be used to control for unobservables is obvious or readily available in this part of the analysis.

to use legal services. The percent of payroll that is taxable is negatively associated with hiring a lawyer. Similar to the earlier discussion regarding this variable, this finding may be interpreted as indicating that high turnover firms are less likely to use legal services. We also find that firms paying the maximum tax rate are significantly less likely to use a lawyer in cases that are initiated by a claimant. Again, this finding is consistent with the notion that the marginal cost of the claimant receiving benefits is zero for these firms. No such finding is observed in employer-initiated appeals, perhaps because so few maximum tax rate firms bother to appeal a benefit award in the first place.

Table 8 presents the results of several alternative specifications of models of the appeal outcome, represented in equation 2 above, where the appeal was initiated by the claimant. Two sets of models are estimated. In the first set, OLS estimates are provided where alternative firm and worker characteristics are entered directly and their coefficients may be interpreted in this context as indicating the preferences of ALJ's or as potential proxies for strength of case. In addition, an indicator variable representing whether or not each party appeared at the hearing is always included as a proxy measure for strength of case. The effect of legal representation is consistent across all of these specifications; claimants that hire lawyers are 15-17% more likely to win their appeal relative to claimants without lawyers. Employer representation is not shown to significantly alter the outcome of the proceedings in any specification. As suggested above, whether or not either party appears at the hearing has a very large effect on the outcome. The party that fails to show up is 25 to 45% less likely to win. The only difference in worker or firm characteristics that is consistently and significantly associated with the outcome of an appeal hearing is the weekly benefit amount. Claimants eligible for higher benefits are more likely to successfully have a denied claim reversed.

Two additional specifications are reported in Columns 5 and 6 of Table 8 that employ two-stage least squares estimates of the effect of legal representation. These models provide an alternative mechanism for correcting the potential bias that may be present if legal representation

is correlated with strength of case. The two specifications differ by the exclusion restrictions employed to identify the model: the first excludes all worker and firm characteristics from the second stage regression and the second excludes UI system parameters (i.e. benefit and tax measures) only. The latter specification allows ALJ preferences over some worker/firm characteristics to influence an appeal's outcome. Results from this analysis are quite comparable to those obtained from OLS. Claimants appear to benefit dramatically by utilizing legal counsel, but employers appear to gain little.

Table 9 provides an analogous exercise for appeals filed by employers. In the OLS models, neither claimant nor employer representation significantly affects outcomes. In two stage least squares (TSLS) models, however, claimant representation is shown to reduce the odds of the ALJ ruling in favor of the firm by about 15%, an effect comparable to that observed in cases where the claimant filed the appeal. Employer representation is not found to significantly affect outcomes.[11] Again, regardless of specification, showing up at the hearing is strongly related to the probability of winning the case.

CONCLUSION

This paper has explored the determinants of appealing an awarded claim and the outcome of appeals hearings in the Unemployment Insurance system using administrative data from the State of Wisconsin. We find evidence indicating that firms paying the maximum UI tax rate are substantially less likely to file an appeal regarding an awarded claim. These firms are also unlikely to obtain legal representation in appeals cases that are initiated by claimants. In addition, legal representation seems to enhance a claimant's probability of winning an appeals

[11]Although estimates from Column 6 show a large and negative effect of employer representation, this estimate is quite imprecisely estimated. Identification in this model is obtained from the relationship between an employer's tax status and the decision to obtain representation. The imprecision is related to the first stage parameter estimates that show no significant relationship between tax status and representation.

case, but has no significant effect on the chances that a firm will win its case. Claimants who hire lawyers are roughly 15% more likely to win relative to claimants who appear at hearings unrepresented.

Results regarding the impact of a firm's tax status are consistent with other research examining the effects of imperfect experience rating on temporary layoffs. In that research, employers that face a zero marginal tax cost if they layoff a worker are predicted to layoff more workers; a proposition which is largely supported by the empirical evidence. If firms are responsive to tax incentives in the context of layoffs, it seems they should similarly be responsive to the different cost implications regarding filing an appeal and hiring a lawyer. The results presented here suggest that they do respond in the predicted manner.

These findings also provide some implications for public policy regarding the role of representation in the UI appeals process. To the extent that claimants go unrepresented in an appeals hearing because they lack the resources to obtain legal counsel, they appear to be placed at a significant disadvantage regarding the outcome. Unrepresented employers do not appear to face similar obstacles. Our results provide some support for proposals to provide low cost legal alternatives to claimants.[12]

[12]See Morris (1980) and Emsellem (1995) for examples of this sort of proposal.

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Table 1: Characteristics of Claimants Awarded Benefits and their Base Period Firms

	All Claimants Awarded Benefits[1]	Awarded Claims Uncontested by Employer	Employer-Appealed Awarded Claims
Claimant Characteristics			
% Appealed by Employers	0.95%		
Weekly Benefit Amount	197.4	197.7	171.0
Maximum Duration of Benefits	24.1	24.1	22.1
Base Period Wages	18,497	18,538	14,178
Age	37.8	37.8	34.3
% Female	37.1	37.1	38.3
% White	92.5	92.6	82.3
Employer Characteristics			
% at Minimum Tax Rate	0.5	0.5	1.2
% at Maximum Tax Rate	13.6	13.7	2.7
Standard Rated Firm	1.5	1.5	4.9
Firmsize	583	583	642
Total Payroll (in $100,000)	166.2	166.6	133.8
Percent of Payroll that is Taxable	54.2	54.1	64.6
Sample Size[2]	45,659	41,771	3,888

Notes:

[1]All statistics are weighted by the probability of being in the sample.

[2]Some variables have fewer observations due to missing data.

Table 2: Characteristics of Appelants in Separation Cases

	Claimant-Initiated Appeal	Employer-Initiated Appeal
Claimant Characteristics		
% Represented by Counsel	9.2	5.9
% Appeared at Hearing	79.7	71.0
Weekly Benefit Amount	183.2	164.3
Maximum Duration of Benefits	24.3	23.9
Base Period Wages	16,071	13,437
Age	36.0	32.9
% Female	38.1	38.8
% White	80.3	79.3
Employer Characteristics		
Represented by Counsel	8.2	15.7
% Appeared at Hearing	73.8	86.9
% at Minimum Tax Rate	0.6	1.0
% at Maximum Tax Rate	1.6	0.6
Standard Rated Firm	3.9	4.5
Firmsize	716.5	716.3
Total Payroll (in $100,000)	183.8	139.1
Percent of Payroll that is Taxable	60.1	64.9
Sample Size*	5,756	2,534

Notes:

*Some variables have fewer observations due to missing data.

Table 3: Characteristics of Appelants by Representation Status

Appelant:	Claimant-Initiated Appeal		Employer-Initiated Appeal	
Representation:	Yes	No	Yes	No
Claimant Characteristics				
Weekly Benefit Amount	204.3	181.0	195.7	162.3
Maximum Duration of Benefits	24.9	24.2	25.0	23.8
Base Period Wages	19,677	15,705	18,887	13,094
Age	38.4	35.7	36.3	32.7
% Female	49.2	37.0	50.0	38.1
% White	83.5	80.0	88.9	78.7
Sample Size	530	5,226	150	2,384
Employer Characteristics				
% at Minimum Tax Rate	0.8	0.6	0.5	1.1
% at Maximum Tax Rate	0.2	1.7	0.5	0.6
Standard Rated Firm	2.1	4.1	4.3	4.5
Firmsize	1,256	668.1	1,001	663.4
Total Payroll (in $100,000)	314.9	172.0	178.4	131.9
Percent of Payroll that is Taxable	56.7	60.4	62.6	65.3
Sample Size*	473	5,283	397	2,137

Notes:

*Some variables have fewer observations due to missing data.

Table 4: Characteristics of Appelants by Outcome of Appeal

Appelant:	Claimant-Initiated Appeal		Employer-Initiated Appeal	
Decision:	Not Reversed	Reversed	Not Reversed	Reversed
Claimant Characteristics				
% Represented by Counsel	6.3	14.2	6.5	4.3
% Appeared at Hearing	68.2	99.3	78.9	50.6
Weekly Benefit Amount	176.8	194.0	169.6	150.9
Maximum Duration of Benefits	24.1	24.7	24.0	23.6
Base Period Wages	15,194	17,569	14,164	11,586
Age	35.5	36.8	33.6	31.3
% Female	37.8	38.7	41.1	32.9
% White	78.3	83.7	81.2	74.4
Employer Characteristics				
Represented by Counsel	7.9	8.8	14.5	18.6
% Appeared at Hearing	81.6	60.5	81.9	99.4
% at Minimum Tax Rate	0.7	0.6	1.2	0.6
% at Maximum Tax Rate	1.7	1.5	0.5	0.7
Standard Rated Firm	3.7	4.2	5.3	2.4
Firmsize	752.7	654.5	685.5	794.8
Total Payroll (in $100,000)	191.3	171.1	136.3	146.5
Percent of Payroll that is Taxable	60.8	58.9	64.9	64.8
Sample Size*	3,632	2,124	1,819	715

Notes:

*Some variables have fewer observations due to missing data.

Table 5A: Probability of Reversal in Claimant-Initiated Appeals
by Representation Status
(number of observations in parentheses)

		Claimant	
		Not Represented	Represented
Employer	Not Represented	35.0 (4,882)	56.9 (401)
	Represented	32.8 (344)	56.7 (129)

Table 5B: Probability of Reversal in Employer-Initiated Appeals
by Representation Status
(number of observations in parentheses)

		Claimant	
		Not Represented	Represented
Employer	Not Represented	27.5 (2,033)	21.2 (104)
	Represented	35.3 (351)	19.6 (46)

Table 6: Effect of Claimant and Employer Characteristics on the Probability of an Employer-Appealed Claim[1] (Standard Errors in Parentheses)

	(1)	(2)	(3)
Employer Characteristics			
Firmsize (x 1,000)	0.174 (0.056)	0.138 (0.053)	0.090 (0.052)
Total Payroll (x 1,000,000)	-0.006 (0.002)	-0.005 (0.002)	-0.003 (0.002)
Percent of Payroll that is Taxable	1.628 (0.199)	1.175 (0.213)	0.717 (0.211)
Minimum Tax Rate	0.431 (0.471)	0.554 (0.466)	0.450 (0.420)
Maximum Tax Rate	-0.772 (0.128)	-0.670 (0.121)	-0.530 (0.124)
Standard-Rated Firm	0.610 (0.284)	0.601 (0.268)	0.701 (0.265)
Industry Fixed Effects	No	No	Yes
Claimant Characteristics			
Age (x 10)		-0.135 (0.034)	-0.137 (0.032)
Female		-0.113 (0.078)	-0.221 (0.074)
White		-0.782 (0.145)	-0.606 (0.133)
Weekly Benefit Amount (x 100)		-0.022 (0.092)	0.076 (0.086)
Maximum Duration of Benefits (x 10)		-0.295 (0.064)	-0.272 (0.059)
Base Period Wages (x 10,000)		-0.015 (0.059)	-0.045 (0.056)

Notes:

[1]All derivatives multiplied by 100 (in addition to multiplications noted in table) to reflect changes in probabilities.

Table 7: Effect of Claimant and Employer Characteristics on the Probability of Obtaining Legal Representation in an Appeals Case (Standard Errors in Parentheses)

	Claimant-Initiated Appeal		Employer-Initiated Appeal	
Claimant Characteristics				
Age (x 10)	0.013 (0.004)		0.009 (0.004)	
Female	0.052 (0.008)		0.038 (0.009)	
White	0.001 (0.010)		0.023 (0.011)	
Weekly Benefit Amount (x 100)	0.042 (0.008)		0.025 (0.010)	
Maximum Duration of Benefits (x 10)	0.006 (0.013)		0.019 (0.015)	
Base Period Wages (x 100,000)	0.066 (0.043)		0.112 (0.057)	
Employer Characteristics				
Firmsize (x 1,000)		0.024 (0.005)		0.033 (0.008)
Total Payroll (x 1,000,000)		-0.056 (0.017)		-0.112 (0.041)
Percent of Payroll that is Taxable		-0.062 (0.019)		-0.119 (0.041)
Minimum Tax Rate		0.053 (0.050)		-0.061 (0.074)
Maximum Tax Rate		-0.070 (0.030)		-0.011 (0.096)
Standard-Rated Firm		-0.018 (0.022)		0.031 (0.041)

Table 8: Effect of Appelant Characteristics on Probability of Reversal: Claimant-Initiated Appeal (Standard Errors in Parentheses)

	OLS (1)	OLS (2)	OLS (3)	OLS (4)	TSLS[1] (5)	TSLS[1] (6)
Claimant Represented	0.167 (0.023)	0.163 (0.023)	0.156 (0.023)	0.151 (0.024)	0.092 (0.024)	0.170 (0.035)
Employer Represented	0.021 (0.023)	0.025 (0.024)	0.021 (0.024)	0.010 (0.024)	-0.006 (0.034)	0.080 (0.057)
Claimant Appeared at Hearing	0.440 (0.022)	0.440 (0.022)	0.437 (0.022)	0.419 (0.023)	0.441 (0.022)	0.440 (0.022)
Employer Appeared at Hearing	-0.258 (0.015)	-0.256 (0.016)	-0.256 (0.016)	-0.282 (0.016)	-0.245 (0.015)	-0.246 (0.015)
Claimant Characteristics						
Age (x 10)		0.002 (0.007)	-0.001 (0.007)	-0.001 (0.007)		-0.015 (0.008)
Female		-0.024 (0.013)	-0.016 (0.014)	-0.028 (0.014)		-0.060 (0.016)
White		0.022 (0.017)	0.010 (0.017)	0.041 (0.019)		0.009 (0.017)
Weekly Benefit Amount (x 100)			0.051 (0.016)	0.046 (0.016)		
Maximum Duration of Benefits (x 10)			0.038 (0.023)	0.043 (0.023)		
Base Period Wages (x 10,000)			-0.066 (0.094)	-0.098 (0.096)		
Employer Characteristics						
Firmsize (x 1,000)		-0.006 (0.010)	-0.004 (0.010)	-0.001 (0.010)		-0.017 (0.014)
Total Payroll (x 1,000,000)		-0.0002 (0.004)	-0.0002 (0.004)	-0.001 (0.004)		0.0001 (0.004)
Percent of Payroll that is Taxable		-0.075 (0.033)	-0.037 (0.037)	-0.053 (0.041)		0.001 (0.043)
Minimum Tax Rate			-0.031 (0.082)	-0.043 (0.081)		
Maximum Tax Rate			-0.076 (0.049)	-0.012 (0.054)		

Standard-Rated Firm			0.046 (0.038)	0.063 (0.039)		
Fixed Effects						
Industry				x		
Hearing Office				x		
Admin. Law Judge				x		

Notes

[1]First stage regressions for the decision to obtain legal representation are reported in Table 7, columns 1 and 2. Standard errors have not been corrected for the fact that the values of employer and claimant representation are predicted values.

Table 9: Effect of Appelant Characteristics on Probability of Reversal: Employer-Initiated Appeal (Standard Errors in Parentheses)

	OLS (1)	OLS (2)	OLS (3)	OLS (4)	TSLS[1] (5)	TSLS[1] (6)
Claimant Represented	-0.016 (0.037)	0.008 (0.038)	0.025 (0.039)	0.066 (0.041)	-0.153 (0.025)	-0.156 (0.036)
Employer Represented	0.036 (0.023)	0.038 (0.024)	0.040 (0.024)	0.029 (0.031)	0.056 (0.060)	-0.260 (0.228)
Claimant Appeared at Hearing	-0.307 (0.021)	-0.290 (0.021)	-0.272 (0.022)	-0.296 (0.022)	-0.272 (0.021)	-0.273 (0.021)
Employer Appeared at Hearing	0.310 (0.031)	0.307 (0.031)	0.304 (0.031)	0.293 (0.031)	0.307 (0.031)	0.306 (0.031)
Claimant Characteristics						
Age		-0.003 (0.001)	-0.002 (0.001)	-0.002 (0.001)		-0.0003 (0.001)
Female		-0.059 (0.018)	-0.074 (0.018)	-0.061 (0.019)		-0.018 (0.021)
White		-0.033 (0.022)	-0.017 (0.022)	-0.022 (0.025)		0.018 (0.025)
Weekly Benefit Amount (x 100)			-0.037 (0.025)	-0.044 (0.025)		
Maximum Duration of Benefits			-0.001 (0.003)	-0.003 (0.003)		
Base Period Wages (x 10,000)			-0.025 (0.019)	-0.017 (0.020)		
Employer Characteristics						
Firmsize (x 1,000)		0.007 (0.011)	-0.001 (0.011)	-0.001 (0.011)		0.040 (0.033)
Total Payroll (x 1,000,000)		-0.0003 (0.001)	0.0001 (0.001)	0.0001 (0.001)		-0.001 (0.001)
Percent of Payroll that is Taxable		0.004 (0.046)	-0.027 (0.051)	0.016 (0.057)		-0.195 (0.119)
Minimum Tax Rate			-0.089 (0.085)	-0.087 (0.084)		
Maximum Tax Rate			0.085 (0.122)	0.181 (0.143)		

Standard-Rated Firm			-0.127 (0.043)	-0.118 (0.043)		
Fixed Effects						
Industry				x		
Hearing Office				x		
Admin. Law Judge				x		

Notes:

[1]First stage regressions for the decision to obtain legal representation are reported in Table 7, columns 3 and 4. Standard errors have not been corrected for the fact that the values of employer and claimant representation are predicted values.

UNDERSTANDING DENIALS AND APPEALS IN THE UNITED STATES

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There are a number of nonmonetary eligibility requirements that are applied when deciding whether an individual claimant will be awarded UI benefits. In general, these require that the individual demonstrate an ability and willingness to seek and accept suitable employment, and that there are no disqualifications related to the individual's most recent job separation. States *disqualify* individuals from receiving benefits for a number of reasons, including the following: voluntary separation from work without "good cause;" discharge from employment due to misconduct connected with the job; refusal of suitable employment without "good cause;" unemployment as a result of a labor dispute; or fraudulent misrepresentation to obtain or increase UI benefits. These restrictions are designed to limit payment to only those workers who are unemployed primarily as a result of economic causes.[4] Because almost all eligibility requirements for receiving Unemployment Insurance are determined by the states, the definitions vary significantly across states.

The actual impact of these requirements on claimants is determined most directly by the extent to which nonmonetary eligibility violations in specific cases are actually discovered. Just as there is significant variation across states in the definitions of nonmonetary eligibility that are applied in determining eligibility, there is also variation across states in the processes that are used to *detect* determination issues (i.e., the initial decisions to pursue additional information on a separation issue or a claimant's continuing availability for work). Consequently, the process of identifying and evaluating individual cases is an important step which ultimately determines the extent to which benefits are denied on the basis of nonmonetary eligibility provisions. While a complete description of the methods used in each state to detect and decide separation and nonseparation issues is not available, some general information is known. The process varies depending on whether the issue involves the initial separation from employment or a claimant's ongoing eligibility for UI benefits (i.e., a nonseparation issue). Each of these processes are described below.

Determination Process for Separation Issues

The number of determinations for *separation* issues (i.e., issues related to an individual's separation from employment, such as voluntary separation from work without "good cause" and misconduct) depends primarily on the claimant intake process and information obtained from employers.

The nature of the intake procedures that are followed may have a direct effect on the number of determinations. Variations in the intake procedures that could have such an effect include the following: when information on nonmonetary eligibility requirements is provided to claimants (either before or after the intake process); whether the filing of additional forms is required at intake if a separation issue arises; and how questions are posed to claimants (e.g., whether a request is made for a claimant's submission of fact or a claimant's judgement call on the matter of whether the separation action was with "good cause").[5]

The procedures in place to solicit employer information may significantly affect both the level and the type of employer participation. Variations in the processes for obtaining employer information include the following: when and how information is gathered from employers (e.g., whether a form is sent out automatically with every application for UI benefits or whether all responsibility for contesting a claim originates with the employer); how the questions are posed to employers; and what types of follow-up measures are taken to ensure a response. In addition, the decision of individual employers to protest the eligibility of UI claims dictates the extent to which they participate in the UI system's eligibility determination process.

Determination Process for Nonseparation Issues

The number of determinations for *nonseparation* issues (i.e., issues related to an individual's ongoing eligibility, such as ability to work, availability for work, and earning disqualifying income) depends largely on four types of information: the intake form; ongoing claims forms, which include information on the claimant's job search; Eligibility Review Process (ERP) interviews, which focus on detecting potential eligibility issues surrounding the claimant's job search efforts and availability for work; and the claimant's responses to referrals and job offers generated by the Employment Service. States vary in how frequently ongoing claims forms are required to be submitted, as well as in their interpretation and review of the information submitted on the forms. For example, states that randomly audit some portion of employer contacts required to prove job search activity or that review the ongoing claims forms in detail are more likely to detect an issue than states that lack review procedures or that enforce them poorly. Similarly, states vary in their responses to ERP interviews and office appointments. In some states, missing one appointment with UI staff is considered to be evidence of

unavailability for work, whereas other states are concerned only with repeated broken appointments, and still other states never consider this to be a reason to initiate a determination.

OVERVIEW OF THE DENIAL PROCESS

After a determination issue has been identified, a fact-finding process is undertaken to gather information from both claimants and employers. The state's laws and regulations are then applied to those facts, and a decision is made whether or not to award UI benefits to a claimant. Research indicates that the number of times a state denies benefits to UI claimants (on the basis of nonmonetary ineligibility) is more dependent on the *number* of determinations than on the percentage of determinations that lead to denials (Corson *et al.* 1986). Stated somewhat differently, there is significantly more variation across states in determinations per initial claim than in the ratio of denials to determinations.

Corson *et al.* (1986) identified the following three factors which also influence the denial rate: the extent to which all fact-finding is part of a recognized determination process; the extent to which states use in-person interviews; and the extent to which a single staff person conducts both fact-finding and adjudication.

OVERVIEW OF THE APPEAL PROCESS

In cases in which the determination process results in a denial of UI benefits, the Social Security Act requires that each state provide an "opportunity for a fair hearing before an impartial tribunal" (Section 303(a)(3)). Every state also allows employers to appeal UI benefit awards to claimants.[6] As a result of the 1971 U.S. Supreme Court decision in *California Department of Human Resources v. Java* (402 U.S. 121, 91 S.Ct. 1347, 28 L.Ed.2d 666), claimants who have been found eligible for benefits are allowed to continue receiving benefits unless and until a decision is made that reverses that determination. Thus, the act of filing an appeal by an employer does not stop payment of benefits.

All states allow a claimant or employer at least one administrative appeal, usually called a lower authority or lower level appeal. The amount of time the claimant or employer has to file this appeal varies by state, ranging from 7 to 30 calendar days after a benefit determination has been made.[7] In over one-half of the states, a single hearing officer, generally referred to as a referee or examiner, decides the appeal at this stage. In the remaining states, a panel

comprised of a referee and two associates may also be used to decide the lower authority appeal. The referee is typically an administrative law judge, while the associates are representatives of the interests of employers and claimants. During the appeal, the officer(s) hears evidence from both the claimant and employer, conducts a cross examination, and issues a written ruling, called a decision. This decision is final, pending further appeal, in all states except four, in which referees are permitted to reconsider their decisions within a certain time limit.[8]

Although not required by the Social Security Act, all but three states also provide claimants and employers the opportunity to file a second administrative appeal, usually called a higher authority or higher level appeal.[9] Again, filing time requirements vary across states, ranging from 8 to 30 calendar days after a lower authority appeal decision has been made. In about half of the states, a board of review or board of appeals is specifically formed to decide UI higher authority appeals. These boards are appointed by the Governor and consist of between three and seven members, who represent labor, employers, and the public.[10] In the other states, an existing commission or agency head serves as the higher appeal authority. All states allow these decisions to be appealed to the state courts for judicial review.

TRENDS IN DETERMINATIONS AND DENIALS

Determination Rates

In 1994, 37 percent of all new claimant spells in the United States resulted in some form of a nonmonetary determination.[11] The total number of nonseparation determinations (3.4 million) was slightly higher than the number of separation determinations (3.2 million). Nonseparation determinations, however, have generally been decreasing and separation determinations have been increasing as a share of total determinations since 1978.

Determination Rates for Separation Issues

In 1994, approximately 18 percent of new claimant spells resulted in a *separation* determination. The ratio of separation determinations to new claimant spells has fluctuated over time, but has been increasing since its low of 11 percent in 1982 (column 1 in Table 1). Approximately half of the separation determinations in 1994 were for issues related to voluntary leaving and the other half were for misconduct.

TABLE 1. Determination Rates and Denials Rates, 1971-1994

Year	Separation Issues			Nonseparation Issues		
	Determination Rate per Initial Claim (percent)	Denials per Determination (percent)	Denial Rate per Initial Claim (percent)	Determination Rate per 10 Claimant Contacts (percent)	Denials per Determination (percent)	Denial Rate per 10 Claimant Contacts (percent)
1971	15	51	8	34	39	13
1972	17	53	9	39	38	15
1973	18	54	10	43	37	16
1974	15	55	8	35	38	13
1975	15	54	8	29	38	11
1976	18	54	10	41	37	15
1977	19	53	10	43	37	16
1978	20	53	11	49	36	18
1979	18	55	10	42	37	15
1980	14	57	8	31	41	13
1981	14	56	8	31	43	13
1982	11	55	6	23	46	11
1983	13	53	7	24	45	11
1984	14	53	7	27	46	13
1985	14	52	7	25	51	13
1986	15	53	8	25	56	14
1987	16	53	9	26	57	15
1988	17	54	9	27	57	15
1989	17	54	9	25	60	15
1990	16	55	9	23	62	14
1991	15	56	8	20	61	13
1992	16	56	9	20	61	12
1993	18	56	10	21	61	13
1994	18	56	10	21	60	13

SOURCE: Unemployment Insurance Required Reports.

Given the wide range of states' procedures for detecting nonmonetary eligibility issues, it is to be expected that determination rates vary significantly by state. The variation across states in determination rates for separation issues is shown in Table 2. (The first column of Table 2 displays the number of separation determinations per new UI spell and the second column displays the state rank, with the state with the highest determination rate, Nebraska, receiving a rank of 1.) The 1994 ratio of separation determinations to new claimant spells ranged from a low of 8 percent in the Virgin Islands and Kentucky to a high of 89 percent in Nebraska.[12] As mentioned previously, significant differences in determination rates across states are likely to arise due to different detection procedures, as well as varying definitions of what constitutes a determination.

Determination Rates for Nonseparation Issues

Because claimants may become ineligible at any time while receiving UI, nonseparation issues are usually expressed as a percentage of weekly claimant contacts (i.e., all weeks that UI benefits are claimed by active UI claimants). In this paper, nonseparation determinations are expressed per 10 weekly claimant contacts. In 1994, of every 10 claimant contacts, 2.1 (or 21 percent) resulted in a *nonseparation* determination (see column 4 of Table 1).

In 1994, 38 percent of nonseparation determinations were due to "able and available" issues, 25 percent were due to claimants' earning potentially disqualifying income, 21 percent were due to reporting requirements, and 5 percent were due to refusal of suitable work.[13] Over time, the determination rate for able and available issues has decreased, becoming a much smaller proportion of total nonseparation determinations.

By state, the 1994 rate of nonseparation determinations per 10 claimant contacts ranged from a low of 2 percent in Tennessee to a high of 84 percent in Utah (see column 1 in Table 3).

Denial Rates

The following two measures can be used to describe the frequency with which denials occur: the ratio of denials to determinations and the ratio of denials to either new claimant spells (for separation issues) or weekly claimant contacts (for nonseparation issues). Table 1 displays both of these measures. Thus, the denial rate per new claimant spell (column 3 in Table 1) depends on both the determination rate per new claimant spell (column 1) and the denial rate per

TABLE 2. Determination Rates and Denials Rates for Separation Issues, By State, 1994

State	Determination Rate per Initial Claim (Rate)	(Rank)	Denials per Determination (Rate)	(Rank)	Denial Rate per Initial Claim (Rate)	(Rank)
Alabama	12%	48	78%	2	9%	28
Alaska	16	30	73	8	12	18
Arizona	30	7	57	30	17	8
Arkansas	18	26	75	5	13	13
California	15	34	47	41	7	42
Colorado	43	2	70	9	30	2
Connecticut	21	16	26	53	5	49
Delaware	19	25	74	6	14	12
District of Columbia	14	41	64	16	9	31
Florida	25	13	64	15	16	11
Georgia	21	18	63	18	13	15
Hawaii	17	28	50	37	8	34
Idaho	15	33	60	24	9	29
Illinois	20	20	57	29	11	21
Indiana	35	4	57	27	20	3
Iowa	19	22	57	28	11	23
Kansas	25	12	43	47	11	25
Kentucky	8	52	65	14	5	50
Louisiana	35	3	55	33	20	4
Maine	15	37	40	49	6	48
Maryland	27	9	70	10	19	5
Massachusetts	14	39	56	31	8	36
Michigan	21	17	60	23	13	16
Minnesota	16	29	45	46	7	41
Mississippi	23	14	75	4	17	7
Missouri	27	10	60	22	16	9
Montana	16	32	62	20	10	27
Nebraska	89	1	83	1	74	1
Nevada	33	5	56	32	18	6
New Hampshire	26	11	48	40	12	17
New Jersey	12	49	68	13	8	37
New Mexico	20	19	59	25	12	20
New York	15	36	51	36	8	40
North Carolina	12	45	69	12	9	32
North Dakota	14	40	47	43	7	46
Ohio	13	43	62	19	8	38
Oklahoma	23	15	59	26	13	14
Oregon	19	21	42	48	8	35
Pennsylvania	11	50	47	42	5	51
Puerto Rico	12	47	35	52	4	52
Rhode Island	12	46	49	39	6	47
South Carolina	14	42	77	3	11	26
South Dakota	19	23	63	17	12	19
Tennessee	10	51	69	11	7	43
Texas	32	6	50	38	16	10
Utah	28	8	40	50	11	22
Virgin Islands	8	53	46	45	4	53
Virginia	16	31	53	35	8	33
Vermont	15	35	73	7	11	24
Washington	17	27	53	34	9	30
West Virginia	13	44	61	21	8	39
Wisconsin	15	38	46	44	7	45
Wyoming	19	24	36	51	7	44

SOURCE: U.S. Department of Labor (1995b).

TABLE 3. Determination Rates and Denials Rates for Nonseparation Issues, By State, 1994

State	Determination Rate per 10 Claimant Contacts (Rate)	(Rank)	Denials per Determination (Rate)	(Rank)	Denial Rate per 10 Claimant Contacts (Rate)	(Rank)
Alabama	53%	3	84%	10	45%	2
Alaska	30	13	70	25	21	13
Arizona	44	7	70	26	30	8
Arkansas	20	24	85	7	17	16
California	21	23	63	32	13	26
Colorado	38	10	90	4	34	6
Connecticut	22	22	48	49	10	34
Delaware	10	46	88	5	8	40
District of Columbia	7	52	75	20	5	50
Florida	8	48	78	16	6	45
Georgia	13	43	94	2	12	31
Hawaii	17	35	75	19	13	27
Idaho	35	11	99	1	35	5
Illinois	18	30	51	48	9	38
Indiana	18	31	85	8	15	19
Iowa	17	34	58	37	10	36
Kansas	26	18	65	30	17	17
Kentucky	8	49	68	27	5	49
Louisiana	30	14	86	6	26	11
Maine	50	5	59	36	30	9
Maryland	24	20	58	38	14	24
Massachusetts	15	39	55	41	9	39
Michigan	19	27	54	44	10	35
Minnesota	19	26	82	13	16	18
Mississippi	23	21	53	45	12	30
Missouri	38	9	84	12	32	7
Montana	12	44	56	39	6	44
Nebraska	76	2	79	15	60	1
Nevada	18	29	84	11	15	20
New Hampshire	52	4	55	43	28	10
New Jersey	13	41	55	42	7	42
New Mexico	16	38	39	52	6	46
New York	25	19	47	50	12	32
North Carolina	17	36	74	21	12	28
North Dakota	20	25	75	17	15	21
Ohio	13	42	61	33	8	41
Oklahoma	11	45	60	35	7	43
Oregon	18	32	79	14	14	23
Pennsylvania	27	17	18	53	5	51
Puerto Rico	16	37	72	22	12	33
Rhode Island	17	33	70	24	12	29
South Carolina	9	47	63	31	6	48
South Dakota	49	6	75	18	37	4
Tennessee	2	53	67	29	1	53
Texas	27	15	53	46	14	22
Utah	84	1	53	47	44	3
Virgin Islands	7	50	84	9	6	47
Virginia	27	16	92	3	25	12
Vermont	14	40	68	28	10	37
Washington	19	28	71	23	13	25
West Virginia	7	51	56	40	4	52
Wisconsin	30	12	61	34	18	15
Wyoming	41	8	45	51	18	14

SOURCE: U.S. Department of Labor (1995b).

determination (column 2).[14] Table 1 shows that in 1994, 56 percent of all *separation* determinations resulted in denials and 60 percent of all *nonseparation* determinations resulted in denials.

Denial Rates for Separation Issues

In 1994, approximately 10 percent of all new claimant spells resulted in a *separation* denial (see column 3 in Table 1). The ratio of separation denials to new claims has fluctuated over time, but has been increasing since a low of 6 percent in 1982.

In 1994, the percentage of determinations that resulted in denial was 72 percent for voluntary leaving issues and 41 percent for misconduct issues. Thus, voluntary leaving determinations are more likely to result in a denial of benefits than are misconduct determinations. In the majority of states, these denials resulted in a disqualification of benefits for the duration of the individual's unemployment spell.

By state, the 1994 percentage of new claimant spells that resulted in a separation denial ranged from a low of 4 percent in Puerto Rico and the Virgin Islands to a high of 74 percent in Nebraska.[15] The fifth column of Table 2 displays the number of separation denials per new claimant spell and the sixth column displays the state rank.

Denial Rates for Nonseparation Issues

In 1994, of every 10 claimant contacts, 1.3 (or 13 percent) resulted in a *nonseparation* denial. Although the nationwide rate of nonseparation denials per determination has increased significantly over time, the rate of nonseparation determinations per claimant contact has decreased (see columns 4 and 5 in Table 1). Over time, this has resulted in a fairly steady rate of nonseparation denials per claimant contact. In 1994, 37 percent of denials were for able and available issues, 25 percent were due to disqualifying income, 22 percent were due to reporting requirements, and 2 percent were due to refusal of suitable work.[16]

In 1994, nonseparation denials were most likely to occur in determinations involving violations of reporting requirements (66 percent of such determinations were denied), earning disqualifying income (61 percent denied), or being unable or unavailable for work (59 percent denied). Denials for these issues resulted in a temporary denial of benefits; as soon as the claimant's condition changed, he or she regained UI benefits. Only 28 percent of determinations

related to refusing suitable work resulted in a denial of benefits. (In most states, an individual disqualified for this issue would subsequently be ineligible for benefits for the remainder of his or her unemployment spell). Over time, the rate at which denials are made per determination has increased significantly for able and available issues and for reporting requirements. The rate has remained fairly stable with regard to other issues.

Table 3 shows that the 1994 rate of nonseparation denials per 10 claimant contacts ranged from a low of 1 percent in Tennessee to a high of 60 percent in Nebraska.

Summary

Overall, the number of times a state denies benefits to UI claimants on the basis of nonmonetary eligibility issues is more dependent on the number of determinations than on the percentage of determinations that lead to denials. Currently, 10 percent of all new claimant spells result in a separation denial and 1.3 percent of all claimant contacts result in a nonseparation denial. There have not been large shifts in the nationwide denial rates, however, the rate of determinations and the percentage of determinations resulting in denials differ for separation and nonseparation issues. In cases involving separation issues, both rates have been increasing slightly, while in cases involving nonseparation issues, the determination rate has been increasing but the percentage of determinations resulting in a denial has been decreasing. In addition, some nonmonetary issues are more likely to result in denials than others. Most notably, voluntary leaving issues and violations of reporting requirements are most likely to result in denials, and issues related to misconduct and refusal of suitable work are least likely to result in denials. There is large variation across states in their reported determination and denial rates.

TRENDS IN APPEALS

Because of data limitations, all trends in appeals are examined using data on lower and higher authority *appeals decisions*, rather than data on *appeals filed*. Consequently, the terms "appeals" and "decisions" are used interchangeably throughout this section and refer to appeal decisions.[17]

Lower and Higher Authority Appeals

Total appeals have increased substantially between 1971 and 1994, with 1.2 million total appeals decisions in 1994, more than 3 times the total in 1971. Lower authority appeals constitute the

majority of all appeals and have also been responsible for most of the increase in the number of total appeals. The number of lower authority appeals decisions in 1994 was almost one million, also more than 3 times the number in 1971.

The number of lower authority appeals has increased during recessionary periods, in large part because of the increased number of initial claims for UI benefits filed during recessions. However, recession-induced increases in lower authority appeals have not entirely accounted for the overall increase. Lower authority appeals as a percentage of initial claims have increased steadily, from 1.8 percent in 1971 to 5.6 percent in 1994 (see Figure 1).[18] Similarly, lower authority appeals expressed as a percentage of total denials have increased sharply, from 11 percent in 1971 to 26 percent in 1994.[19]

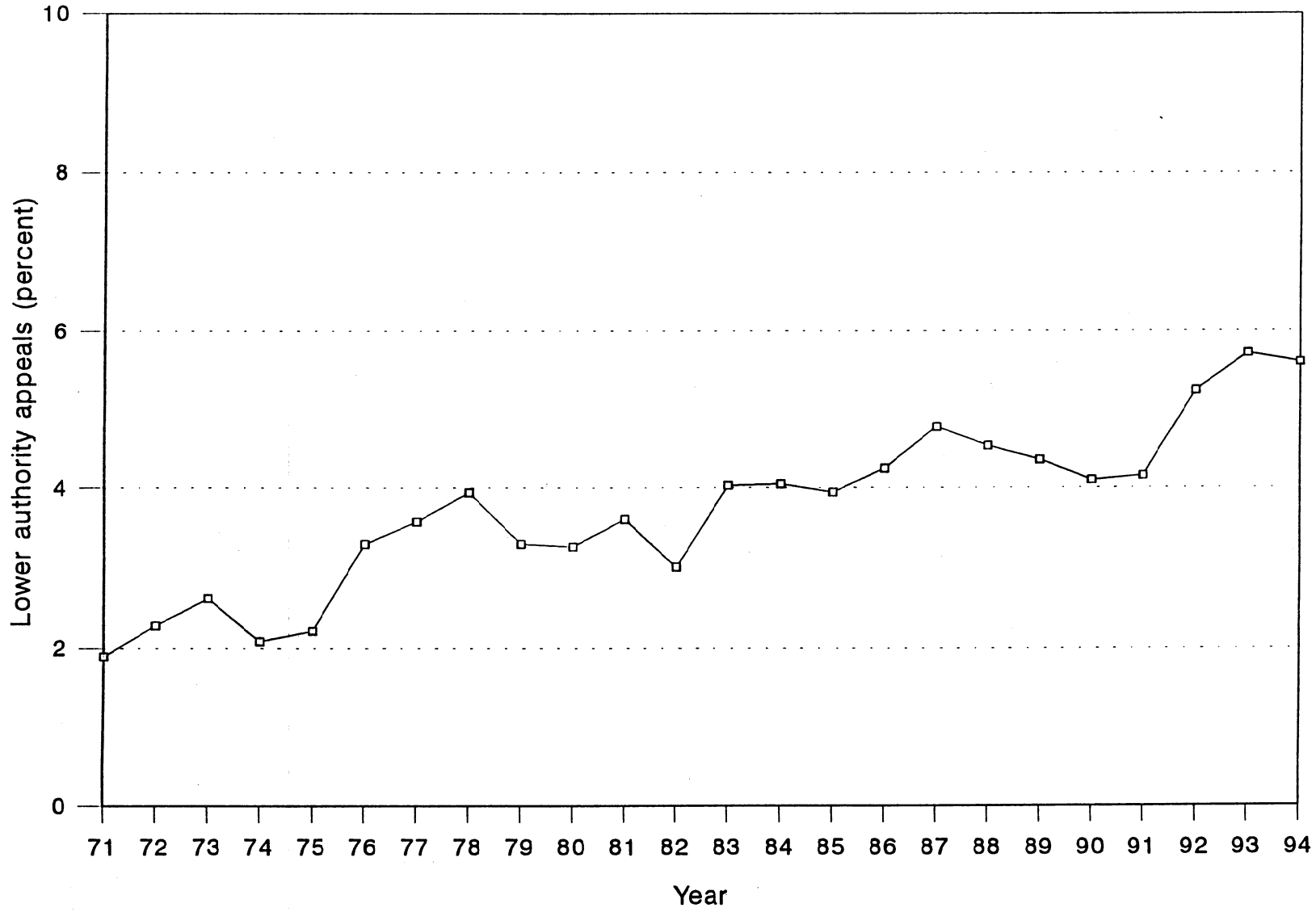
Higher authority appeals comprise a much smaller proportion of total appeals than lower authority appeals, but have also displayed a steady upward trend between 1971 and 1994. The number of higher authority appeals in 1994 was 180,000, almost 4 times greater than in 1971. However, as a proportion of lower authority appeals decisions, higher authority appeals have remained relatively constant, fluctuating between about 15 percent and 20 percent over the past 23 years.

By state, these numbers vary greatly. Table 4 displays the percentage of initial claims that were denied and appealed in each state in 1994. Tennessee had the lowest percentage of denials per initial claim at 7.8 percent, while Nebraska had the highest at 122.5 percent.[20] Total lower authority appeals as a percentage of initial claims ranged from 1.7 percent in Idaho to 14.4 percent in Colorado. Appeals as a percentage of denials ranged from 4.2 in Nebraska to 72.7 in the District of Columbia.[21]

Lower Authority Appeals Decisions By Issue

Between 1971 and 1994, appeals of separation determinations accounted for, on average, about 60 percent of all lower authority appeals, while appeals of nonseparation determinations accounted for about 40 percent of the total. The share of separation appeals has increased slightly throughout the 1980s and early 1990s, equalling 67 percent of total decisions in 1994. Separation appeals as a percentage of separation denials have increased from about 15 percent in 1971 to about 38 percent in 1994, while nonseparation appeals as a percentage of nonseparation denials have increased from 8 percent to 16 percent.

FIGURE 1. Total Lower Authority Appeals as a Percentage of Total Initial Claims, 1971-1994



SOURCE: U.S. Department of Labor (1995b).

TABLE 4. Denials and Appeals as a Percentage of Initial Claims, By State, 1994

State	Denials as a Percentage of Initial Claims (Rate)	(Rank)	Appeals as a Percentage of Denials (Rate)	(Rank)	Appeals as a Percentage of Initial Claims (Rate)	(Rank)
Alabama	37%	8	13%	47	5%	32
Alaska	30	16	10	49	3	48
Arizona	49	3	24	29	12	2
Arkansas	26	19	21	36	5	27
California	18	36	25	26	5	35
Colorado	62	2	23	30	14	1
Connecticut	17	41	38	10	6	21
Delaware	22	26	34	14	7	17
District of Columbia	16	44	73	1	11	3
Florida	23	22	43	7	10	10
Georgia	20	30	28	20	6	25
Hawaii	20	31	22	32	4	36
Idaho	34	11	5	50	2	51
Illinois	21	29	40	8	8	15
Indiana	32	12	27	24	9	12
Iowa	19	33	54	3	11	4
Kansas	26	17	40	9	10	6
Kentucky	8	50	37	12	3	47
Lousiana	43	5	24	28	10	5
Maine	31	14	16	44	5	30
Maryland	34	10	29	19	10	8
Massachusetts	18	39	32	16	6	26
Michigan	21	28	16	45	3	46
Minnesota	24	20	25	27	6	22
Mississippi	26	18	31	18	8	16
Missouri	41	6	18	42	7	18
Montana	16	42	11	48	2	50
Nebraska	123	1	4	51	5	28
Nevada	31	13	27	23	9	13
New Hampshire	35	9	17	43	6	24
New Jersey	16	43	38	11	6	23
New Mexico	18	38	56	2	10	7
New York	22	25	23	31	5	31
North Carolina	14	46	26	25	4	43
North Dakota	18	37	28	22	5	29
Ohio	15	45	14	46	2	49
Oklahoma	19	34	43	6	8	14
Oregon	19	35	21	34	4	41
Pennsylvania	9	49	46	4	4	39
Rhode Island	17	40	19	40	3	45
South Carolina	14	47	28	21	4	42
South Dakota	37	7	18	41	7	20
Tennessee	8	51	46	5	4	44
Texas	30	15	32	15	10	9
Utah	48	4	20	39	10	11
Vermont	21	27	21	37	4	37
Virginia	23	21	20	38	5	34
Washington	22	24	21	35	5	33
West Virginia	12	48	37	13	4	38
Wisconsin	20	32	22	33	4	40
Wyoming	22	23	32	17	7	19

SOURCE: U.S. Department of Labor (1995b).

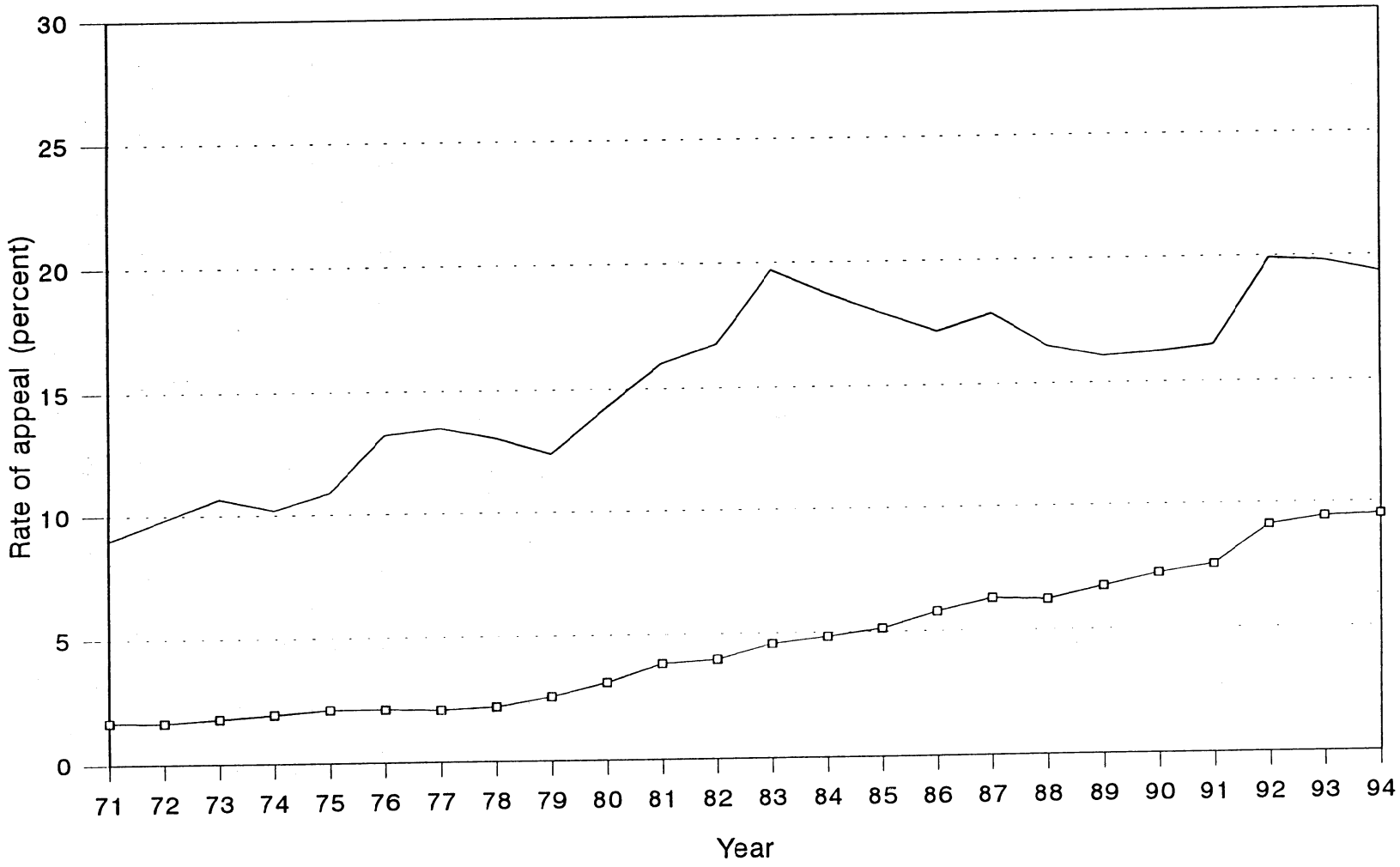
Furthermore, there have been substantial changes in the issues involved in lower authority appeals. Appeals of misconduct disputes have almost doubled since 1971. By 1994, misconduct appeals made up the largest proportion of total lower authority appeals, at 38 percent. Appeals of voluntary quit disputes, on the other hand, decreased from 40 percent of total lower authority appeals in 1971 to 30 percent in 1994. As a percentage of total lower authority appeals, appeals of refusal of suitable work, able and available for work, and labor dispute issues were significantly lower in 1994 than in 1971 (equalling 2 percent, 6 percent, and less than 1 percent, respectively, of total lower appeals in 1994). Other nonseparation appeals, which include issues of receiving disqualifying income and failing to comply with reporting requirements, were almost 2 times greater in 1994 than in 1971, equalling 24 percent of total lower authority appeals in 1994.[22]

Lower and Higher Authority Appeals by Claimants and Employers

Overall, claimants file a greater *number* of lower and higher authority appeals than do employers.[23] Claimant appeals made up about 74 percent and 68 percent of lower and higher authority appeals, respectively, in 1994. However, employers' lower authority appeal *rates* have increased more than claimants' in the past 10 years.[24] The employer rate of lower authority appeal has doubled over this period, from 5 percent in 1983, to 10 percent in 1994, while the claimant rate has levelled off (see Figure 2). The trend in the ratio of higher authority appeals to unfavorable lower authority appeals has been similar for claimants and employers between 1971 and 1994.

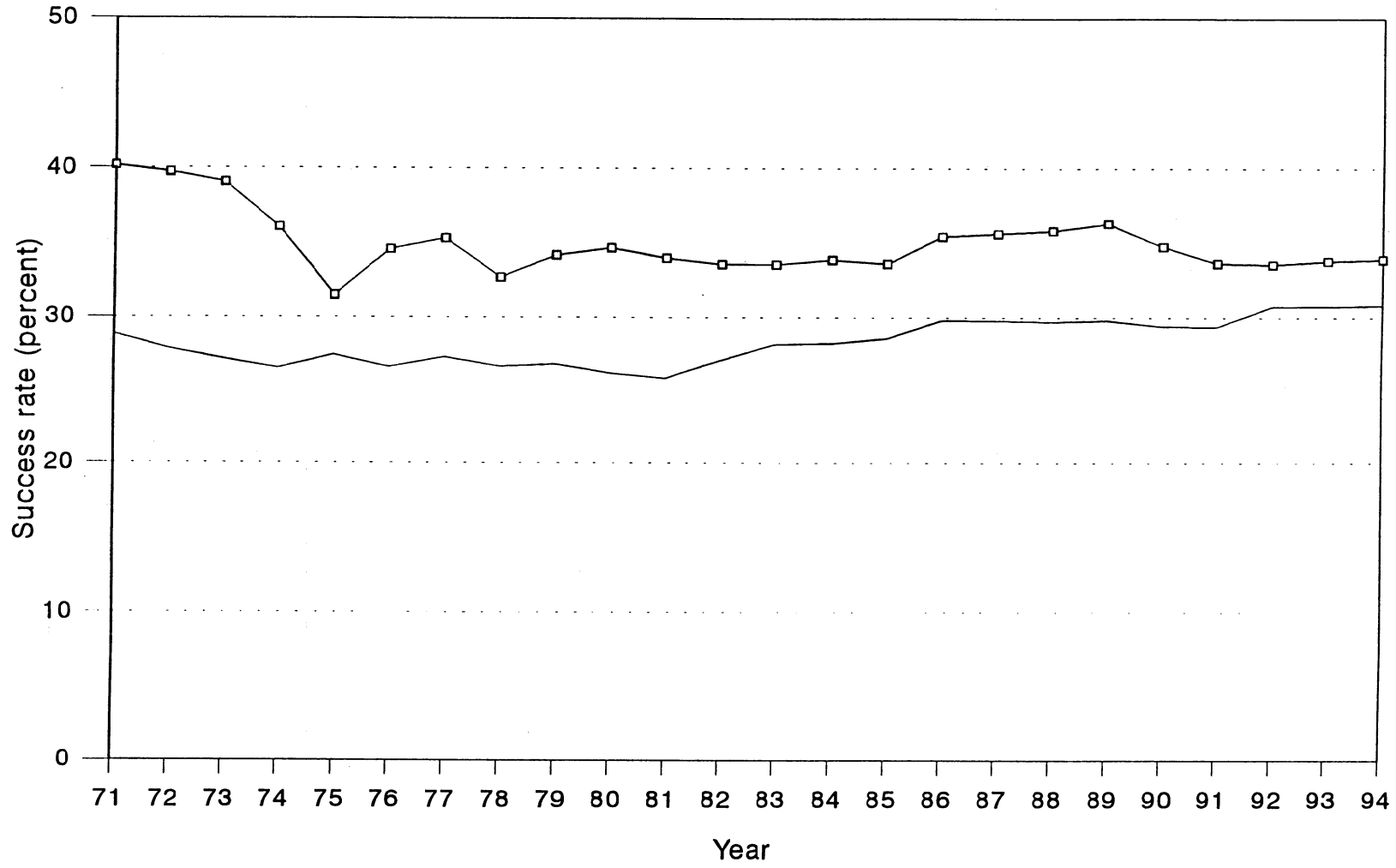
In addition, the difference in the success rates of employers and claimants has changed over time.[25] Currently, employers win a slightly higher percentage of the lower and higher authority appeals that they file than do claimants. Employer appellants, however, have won a smaller percentage of decisions at both the lower and higher appeals authorities between 1971 and 1994, while claimant appellants have won a larger percentage (see Figure 3). The gap between appellant success rates for employers and claimants at both appeal authorities declined substantially, with success rates converging around 32 percent for appellants in lower authority appeals and 18 percent in higher authority appeals. Thus, the success rate of employer appellants is falling at both the lower and higher appeals levels, while at the lower level, their appeal rate is increasing.

FIGURE 2. Claimant and Employer Rates of Lower Authority Appeal, 1971-1994



NOTE: Lower authority appeal rate is the percentage of unfavorable decisions received by the claimant (employer) that the claimant (employer) appealed.
SOURCE: U.S. Department of Labor (1995b).

FIGURE 3. Claimant and Employer Lower Authority Appeal Success Rates, 1971-1994



NOTE: Success rate is the percentage of lower authority appeals filed by the claimant (employer) that the claimant (employer) won.
SOURCE: U.S. Department of Labor (1995b).

Summary

Between 1971 and 1994, the number of both lower and higher authority appeals has increased. Lower authority appeals as a percentage of both initial claims and denials have also increased. Furthermore, within lower authority appeals, separation appeals as a percentage of separation denials and nonseparation appeals as a percentage of nonseparation denials have both increased. In particular, appeals of misconduct issues have increased substantially, while appeals of voluntary quit, refusal of suitable work, and able and available for work issues have decreased.

The number of appeals filed by claimants is higher than the number filed by employers. Employers, however, have been appealing at an increasing rate over time. The success rate of employers in winning the appeals that they file has decreased at both lower and higher authorities, while the success rate of claimant appellants has increased. Both employers and claimants who file appeals are now winning about 32 percent of the lower authority appeals and about 18 percent of the higher authority appeals.

EXPLAINING DENIAL RATES, APPEAL RATES, AND APPEAL OUTCOMES

The first half of this paper discussed trends in denial rates and appeal rates. As noted, there are significant differences in the denial and appeal rates both across states and over time. These trends are important because recent increases in the number of appeals require additional financial resources and time. While claimants clearly have a right to appeal their UI decisions, the increase in the number of appeals could signal problems elsewhere in the overall UI program, problems which may be related to changes in state administration and eligibility criteria. Because the denial and appeal rates are directly linked to UI eligibility and recipiency, understanding the denial and appeal rates may improve understanding of the process of eligibility determination and how it affects UI claimants.

In order to understand the trends in denial rates, lower authority appeal rates, and lower authority appeal outcomes over time and across states, the authors conducted regression analysis on these issues. This section discusses the empirical analysis using annual, state-level, panel data from 1978 to 1990. The next section presents the empirical research of appeal rates and success rates for both employers and claimants using micro-level data on appeals in Wisconsin and Texas.

Factors Influencing Denial Rates, Appeal Rates, and Appeal Outcomes

A number of factors which may influence the denial and appeal rates was considered in the statistical analysis.[26] These factors are grouped into four categories: policy variables, benefit variables, labor force characteristics, and state dummy variables. Each of these is discussed below.

Policy Variables

A number of policy variables were considered in the analysis, including those in the following general categories: solvency, nonmonetary eligibility rules, and state administration.

Solvency Variables. Three variables were used to measure the impact of state solvency on denial and appeal rates. Two of these variables measure a state's current ability to raise taxes—the effective employer tax rate as a percentage of taxable wages and the state taxable wage base (as measured by the difference between the state taxable wage base and the required federal taxable wage base). A third factor, the reserve ratio (net reserves as a share of total covered wages), was used to measure the health of the state UI trust fund.[27]

Lower state tax collections (as described by the combined effect of the tax rate and tax base) would be expected to result in a higher rate of denial (and consequently appeal). Similarly, the lower the reserve ratio, the higher the anticipated rates of denial and appeal. The denial rate and claimant appeal rate would be expected to be higher when states are facing solvency problems, presumably because fiscal factors can create pressures to deny benefits and to establish (legislatively or administratively) more restrictive eligibility rules. The employer appeal rate, however, may be lower when states are facing financial problems. This result is anticipated because when states deny benefits at higher rates, there are a smaller number of claims that employers can consider appealing.

Nonmonetary Eligibility Rules. Three variables were used to measure the severity of the penalty imposed for a nonmonetary eligibility disqualification. State law regarding the length of time an eligibility disqualification is imposed (either for the entire spell of unemployment or for a shorter period of weeks) was used for the issues of voluntary leaving, discharge due to misconduct, and refusal of suitable work.[28] As noted in Advisory Council on Unemployment

Compensation (1995), a number of states have increased the severity of their penalties in these areas between 1978 and the present.[29] For each issue, a more severe penalty (i.e., a durational disqualification) could result in increased denials (provided that states are able to detect the eligibility problems which may result in a determination of ineligibility).[30] On the other hand, a more severe penalty may discourage potential claimants from filing for benefits, thereby reducing the denial rate. Similarly, the relationship between these nonmonetary eligibility measures and appeal rates is difficult to predict *a priori*.

Measures of State Administration. Four variables were used to measure state administration: the quality of a state's nonmonetary determinations; the timeliness with which a state makes nonmonetary determinations; the extent to which Democrats control a state's legislature; and the denial rate of UI claims of a state. The quality and timeliness with which nonmonetary determinations are decided should affect the rates at which employers and claimants appeal decisions. If employers or claimants perceive that the state is doing a poor job in administering UI claims, then they may be more likely to appeal eligibility decisions made by the state. The extent to which Democrats are in control of the state legislature and the governor's office was also included in the model. This variable might serve as a proxy for measuring the state UI administration's attitude toward individuals applying for UI benefits. Presumably, a more Democratic state government could bring a more claimant-oriented perspective to the administration of the program, and a more Republican state government could bring a more employer-oriented perspective. Finally, when predicting appeal rates, the denial rate was also included to control for differences in the percentage of claimants for whom an appeal is an option; and when predicting appeal outcomes, information on the denial rate and the rate at which employers file appeals were used to control for these program differences across states.

Benefit Variables

Two measures of benefit generosity—actual duration of benefits and the ratio of average weekly benefit amount to state average weekly wage—were included in the analysis.[31] The more generous that benefits are perceived to be, the more attractive the UI program appears to potential claimants. Thus, more generous benefits would be expected to result in a higher denial rate, since more claimants are enticed to apply. Similarly, claimant and employer appeal rates

would be expected to be higher when benefits are more generous because of an increased application rate for UI benefits and an increased desire on the part of claimants to receive benefits.

Labor Force Characteristics

Three variables were used to control for differences in the labor force across states and over time: the total unemployment rate, the percentage of the unemployed who are job losers, and the unionization rate. Higher unemployment rates and higher percentages of job losers occur during times of recession, when individuals are more likely to be laid-off, less likely to quit their jobs, and more likely to accept work. As a result, during periods of higher unemployment (and when a higher portion of the unemployed are job losers), there are likely to be fewer separation denials and fewer appeals. Higher rates of unionization are likely to be associated with fewer separation denials and appeals, since unions are often concentrated in industries which rely on temporary layoffs (e.g., construction, manufacturing), and unionized employees are more likely to be eligible for UI benefits than non-union employees.[32]

State Dummy Variables

In addition to the policy variables, benefit variables, and labor force characteristics already discussed, dummy variables for each state were included in the model to determine the fixed effect of each state with respect to the denial rate, appeal rates, and appeal outcomes. Pennsylvania was omitted as the reference state because it has average denial and appeal rates. In general, a state coefficient that is statistically significant and positive (or negative) indicates that the state has a higher (or lower) denial, appeal, or success rate relative to the reference state (Pennsylvania), holding all other factors constant.

Discussion of Empirical Results

Data and Model Specification

The model was estimated using annual, state-level data from 1978 to 1990.[33] Data were excluded for the state of Nebraska, because its denial rates are extremely high and knowledgeable individuals in the Unemployment Insurance Service indicated that data submitted by Nebraska may not be consistent with data from other states. Similarly, Puerto Rico and the

Virgin Islands were excluded from the analysis because of issues regarding data reliability. Given the panel nature of the data (i.e., multiple observations for each state over a given number of years), the model was estimated using generalized least squares regression (GLS).[34] Table 5 displays the means for all the variables used.

The remainder of this section presents the results from the regressions, as well as geographic maps related to denial rates. Only those results which are statistically significant are discussed below.

Results for Separation and Nonseparation Denial Rates

Different equations were estimated for separation issues (raised by an employer regarding a claimant's separation from work) and nonseparation issues (raised by a state agency regarding a claimant's ongoing eligibility for UI benefits). In these equations, the separation denial rate is expressed as a percentage of initial claims and the nonseparation denial rate is expressed as a percentage of claimant contacts. The denial rate results from the GLS regressions are presented in Table 6.

The model had greater explanatory power for differences across states and time for separation issues (29 percent of variation was explained when the state dummy variables were excluded) than for nonseparation issues (only 7 percent of variation was explained when state dummies were excluded). These results indicate that high separation denial rates are associated with the following: (1) nonmonetary eligibility penalties for separation issues which disqualify individuals for less than the full duration of unemployment (i.e., more lenient penalties on issues of voluntary quits and misconduct);[35] (2) lower weekly benefit amounts; (3) lower percentages of job losers; and (4) lower rates of unemployment. High nonseparation denial rates are associated with the following: (1) lower reserve ratios; (2) shorter duration of UI benefits;[36] (3) lower rates of unemployment; and (4) lower rates of unionization.

There is a large amount of state variation in denial rates that was not be explained by the policy variables in the models discussed above.[37] An examination of the patterns of denial rates across the United States reveals geographic clusters of high and low denial rates. Figure 4 maps the average separation denial rate between 1978 and 1990, and Figure 5 maps the nonseparation denial rate between 1978 and 1990. These maps indicate that states' denial rates display distinct geographical patterns. For example, Figure 5 displays a group of contiguous states in the east

Table 5. Means and Standard Deviations of Variables from Regressions, All States, 1978-1990

Variables:	Means	Standard Deviations
Dependent Variables:		
Separation Denial Rate	0.093	0.046
Nonseparation Denial Rate	0.153	0.098
Employer Appeal Rate	0.010	0.008
Claimant Appeal Rate	0.036	0.018
Employer Success Rate	0.360	0.147
Claimaint Success Rate	0.280	0.071
Explanatory Variables:		
Denial Rate	0.211	0.099
Effective Tax Rate	0.012	0.010
State Tax Base Over Federal Level	2,269	3,474
Reserve Ratio (lagged 3 years)	1.09	1.04
Disqualification for Voluntary Quit	0.90	0.30
Disqualification for Refusing Work	0.69	0.46
Disqualification for Misconduct	0.71	0.45
State Government	2.02	0.97
Performance of Nonmonetary Determination	0.82	0.19
Timeliness of Nonmonetary Determinations	0.75	0.17
Actual Benefit Duration	13.6	2.7
Benefit Amount/Wages	0.37	0.05
Total Unemployment Rate	0.068	0.023
Percent Labor Force Unionized	0.17	0.07
Job Losers as Percent of Unemployed	0.48	0.08
Percent Appeals Filed by Employers	0.199	0.097

NOTE: Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994), U.S. Department of Labor (1995a,b,c,d), and U.S. General Accounting Office (1993).

Table 6. Regression Results for Separation and Nonseparation Denials, All States, 1978-1990

Explanatory Variables	Separation Denial Rate/Initial Claim		Nonseparation Denial Rate/Claimant Contact	
Effective Tax Rate	0.051	(0.88)	-0.600	(0.49)
State Tax Base Over Federal Level	-0.0000002	(0.83)	-0.000001	(0.57)
Reserve Ratio (lagged 3 years)	0.002	(0.22)	-0.010	(0.01)
Disqualification for Voluntary Quit	-0.022	(0.00)	-----	
Disqualification for Refusing Work	-----		0.007	(0.50)
Disqualification for Misconduct	-0.020	(0.00)	-----	
State Government	-0.002	(0.22)	-0.001	(0.77)
Actual Benefit Duration	0.0008	(0.36)	-0.007	(0.00)
Benefit Amount/Wages	-0.106	(0.01)	0.004	(0.97)
Total Unemployment Rate	-0.349	(0.00)	-0.468	(0.05)
Percent Labor Force Unionized	0.023	(0.48)	-0.257	(0.00)
Job Losers as Percent Of Unemployed	-0.148	(0.00)	-0.043	(0.40)
State Dummy Variables:				
Alabama	0.007	(0.58)	0.171	(0.00)
Alaska	0.000	(1.00)	0.149	(0.00)
Arizona	0.045	(0.00)	0.144	(0.00)
Arkansas	0.045	(0.00)	0.032	(0.32)
California	0.014	(0.18)	0.082	(0.00)
Colorado	0.119	(0.00)	0.221	(0.00)
Connecticut	0.005	(0.57)	0.045	(0.07)
Delaware	0.011	(0.21)	-0.033	(0.17)
District Of Columbia	0.072	(0.00)	0.013	(0.66)
Florida	0.086	(0.00)	0.052	(0.08)
Georgia	0.039	(0.00)	-0.056	(0.07)
Hawaii	0.029	(0.01)	0.103	(0.00)
Idaho	0.025	(0.03)	0.231	(0.00)
Illinois	0.038	(0.00)	0.046	(0.05)
Indiana	0.038	(0.00)	0.022	(0.48)
Iowa	0.050	(0.00)	0.031	(0.20)
Kansas	0.025	(0.02)	0.071	(0.01)
Kentucky	0.017	(0.09)	-0.033	(0.20)
Louisiana	0.089	(0.00)	0.047	(0.09)
Maine	0.005	(0.56)	0.108	(0.00)
Maryland	0.069	(0.00)	0.030	(0.25)

(continued)

Table 6. (continued)

Explanatory Variables	Separation Denial Rate/Initial Claim		Nonseparation Denial Rate/Claimant Contact	
Massachusetts	0.001	(0.93)	-0.028	(0.28)
Michigan	0.024	(0.01)	0.051	(0.05)
Minnesota	0.031	(0.00)	0.063	(0.01)
Mississippi	0.027	(0.04)	0.038	(0.26)
Missouri	0.050	(0.00)	0.118	(0.00)
Montana	0.039	(0.00)	-0.016	(0.51)
Nevada	0.110	(0.00)	0.100	(0.00)
New Hampshire	0.011	(0.33)	0.110	(0.00)
New Jersey	0.010	(0.34)	0.041	(0.11)
New Mexico	0.074	(0.00)	-0.008	(0.79)
New York	-0.002	(0.86)	0.131	(0.00)
North Carolina	-0.010	(0.43)	-0.103	(0.00)
North Dakota	0.016	(0.09)	0.029	(0.24)
Ohio	0.025	(0.00)	0.047	(0.04)
Oklahoma	0.073	(0.00)	-0.071	(0.01)
Oregon	0.023	(0.02)	0.135	(0.00)
Pennsylvania		-----		-----
Rhode Island	0.009	(0.30)	0.022	(0.34)
South Carolina	0.000	(0.98)	-0.065	(0.04)
South Dakota	-0.003	(0.75)	0.154	(0.00)
Tennessee	-0.017	(0.11)	-0.093	(0.00)
Texas	0.126	(0.00)	0.042	(0.15)
Utah	0.023	(0.03)	0.255	(0.00)
Vermont	0.019	(0.07)	-0.076	(0.00)
Virginia	-0.010	(0.39)	0.002	(0.94)
Washington	0.013	(0.21)	0.103	(0.00)
West Virginia	0.027	(0.01)	0.008	(0.77)
Wisconsin	0.019	(0.03)	0.019	(0.40)
Wyoming	-0.003	(0.78)	0.090	(0.00)
Constant	0.217	(0.00)	0.306	(0.00)
R^2 Statistic	0.82		0.72	

NOTES: Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.
A GLS fixed effects model was used to estimate the equations.
Pennsylvania was omitted as the reference state.
Significance levels are noted in parentheses.
The R^2 statistics for these equations are inflated because of the inclusion of the 49 state dummy variables. When the state dummy variables were excluded from the models, the R^2 of the separation denial rate equation was 0.29 and of the nonseparation denial rate equation was 0.07.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994), U.S. Department of Labor (1995a,b,c,d), and the U.S. General Accounting Office (1993).

Figure 4. Separation Denial Rate, 1978–1990

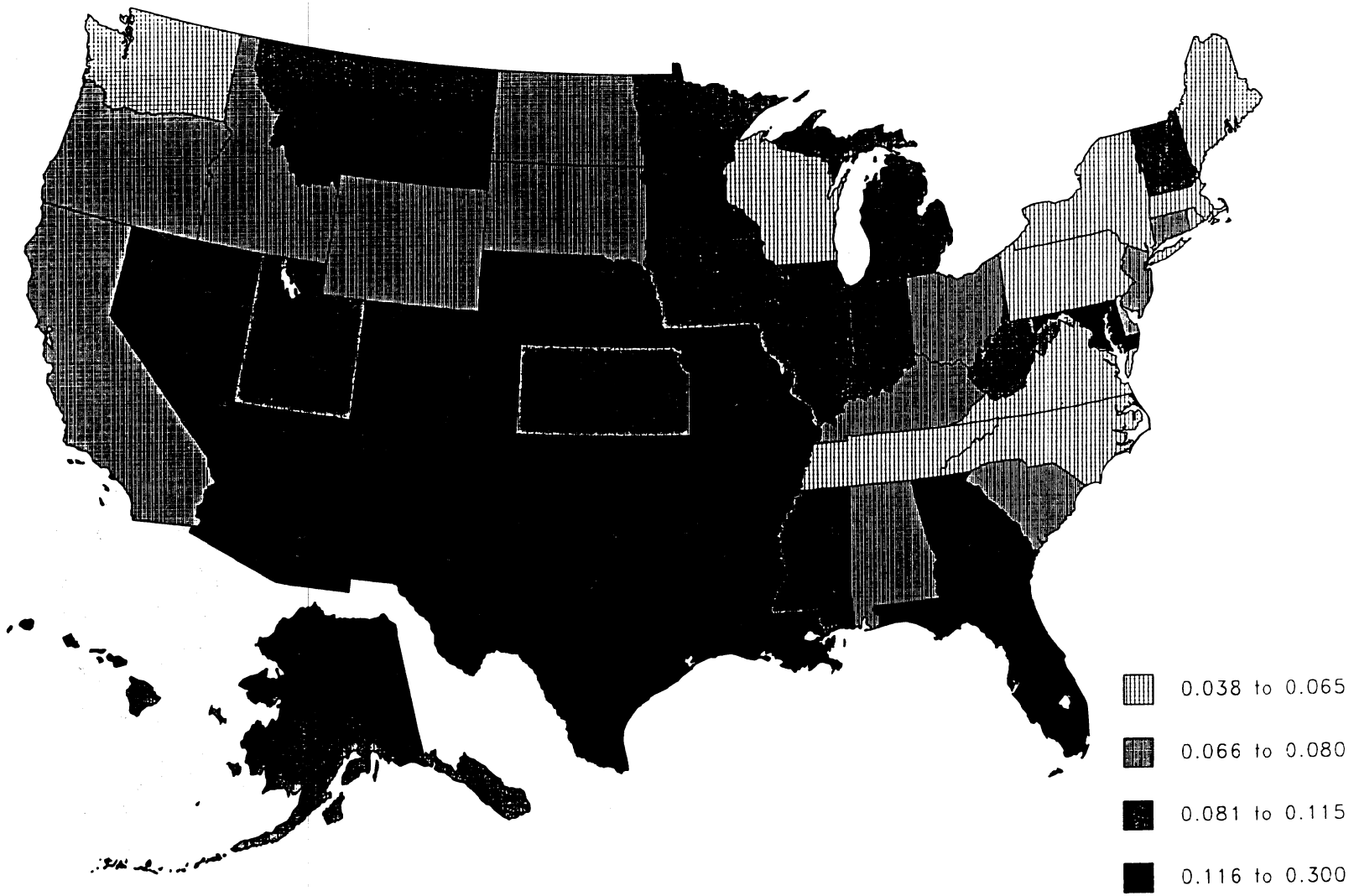
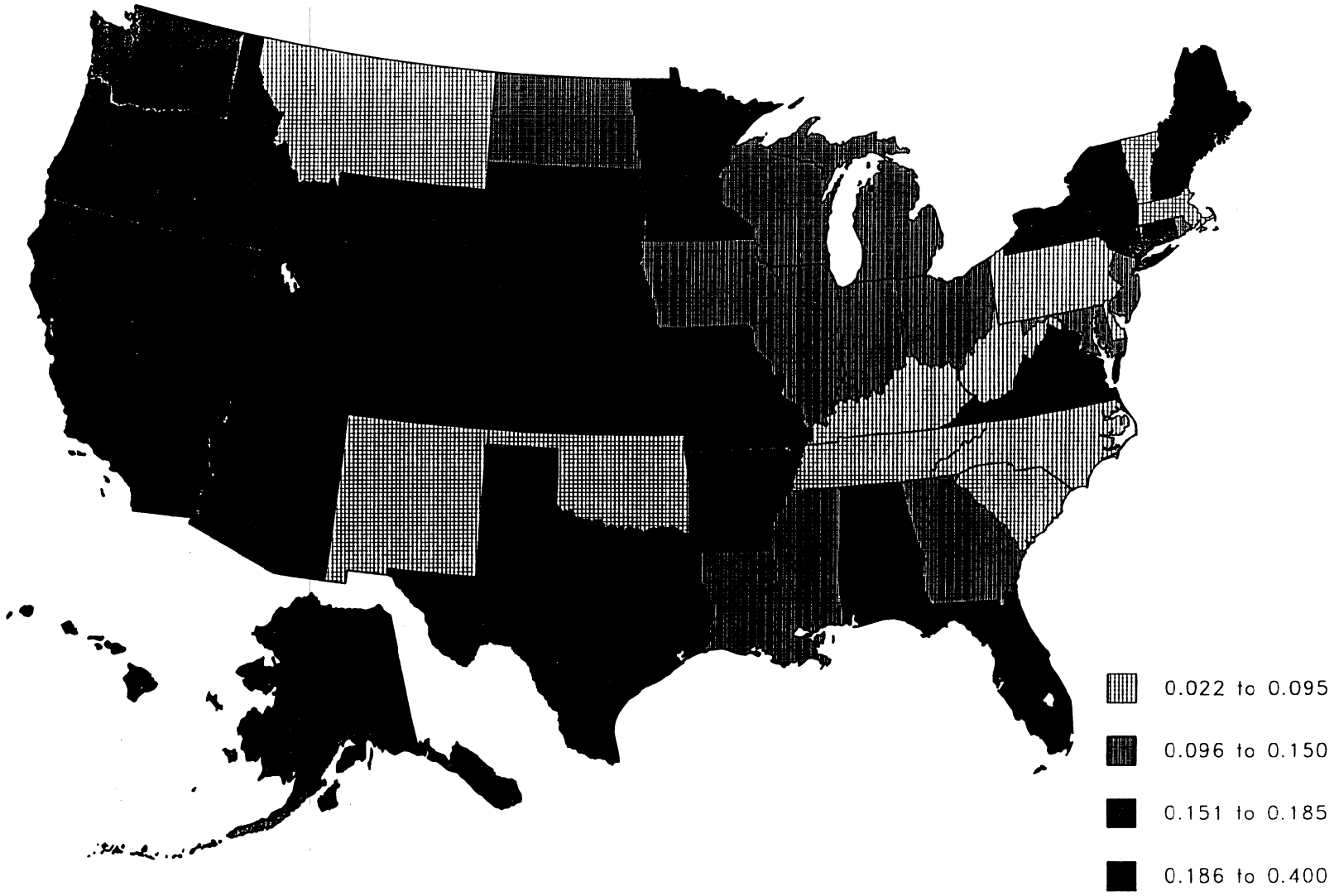


Figure 3. Nonseparation Denial Rate, 1978–1990



that have particularly low nonseparation denial rates, and a large group of states in the west which have high nonseparation denial rates. These patterns could be the result of a number of different factors, including cooperation among states or competition among states, either of which could have the effect of neighboring states adopting similar state laws or similar state administrative procedures, particularly in the area of eligibility.

The statistical significance of many of the coefficients of the state dummy variables in the GLS regressions presented in Table 6 demonstrates that the state variation that remains unexplained has an impact on denial rates. An examination of the geographic patterns of the significant state coefficients displayed in Figure 6 and Figure 7 finds clusters similar to those of denial rates illustrated in Figure 4 and Figure 5. For example, Figure 7 shows that the group of states in the west that have high nonseparation denial rates (from Figure 5), also have state coefficients that are positive and statistically significant. This indicates that their denial rates are higher than would be expected, given the effects of the other independent variables included in the analysis (all effects of state dummy variables are relative to Pennsylvania).

Results for Employer and Claimant Appeal Rates

Separate regression equations were estimated for employer and claimant appeal rates. In these equations, the employer (claimant) appeal rate is defined as the number of appeals brought by employers (claimants) as a percentage of all initial claims. The employer and claimant appeal rate results from the GLS regressions are presented in Table 7. The model had greater explanatory power for differences across states and time for the claimant appeal rate (34 percent of variation was explained when the state dummy variables were excluded) than for the employer appeal rate (17 percent of variation was explained when the state dummy variables were excluded). These results indicate that high employer appeal rates are associated with the following: (1) higher state taxable wage bases; (2) more stringent penalties for misconduct discharges; (3) higher denial rates; (4) longer durations of UI benefits; (5) lower weekly benefit amounts;[38] (6) lower rates of unemployment; (7) lower rates of unionization; and (8) higher percentages of job losers.[39] High claimant appeal rates are associated with the following: (1) higher effective tax rates; (2) more lenient penalties for refusal of suitable work; (3) more stringent penalties for misconduct; (4) higher denial rates; (5) longer durations of UI benefits; (6) lower weekly benefit amounts;[40] and (7) lower rates of unionization.

FIGURE 6. Separation Denial Rate State Coefficients

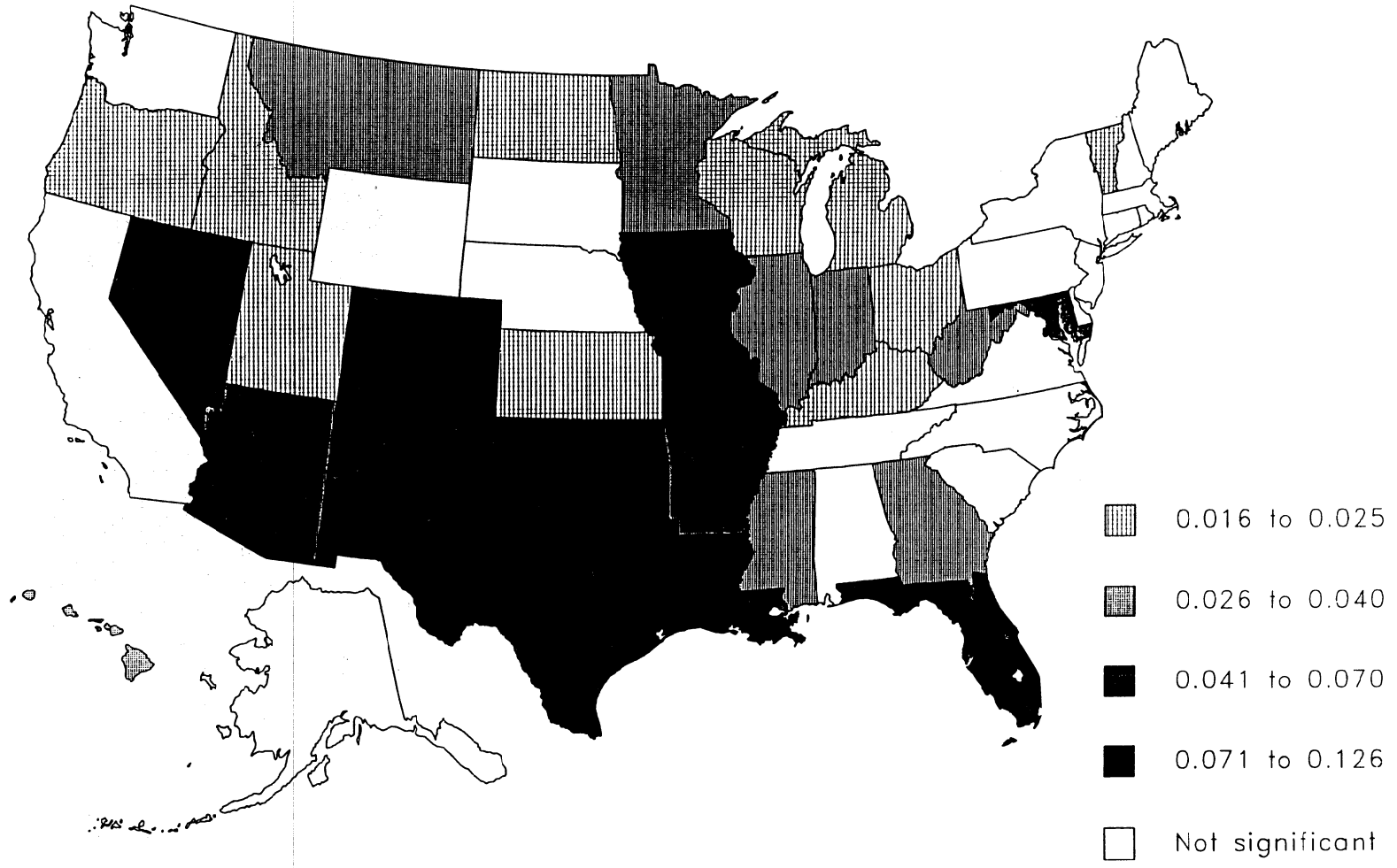


FIGURE 7. Nonseparation Denial Rate State Coefficients

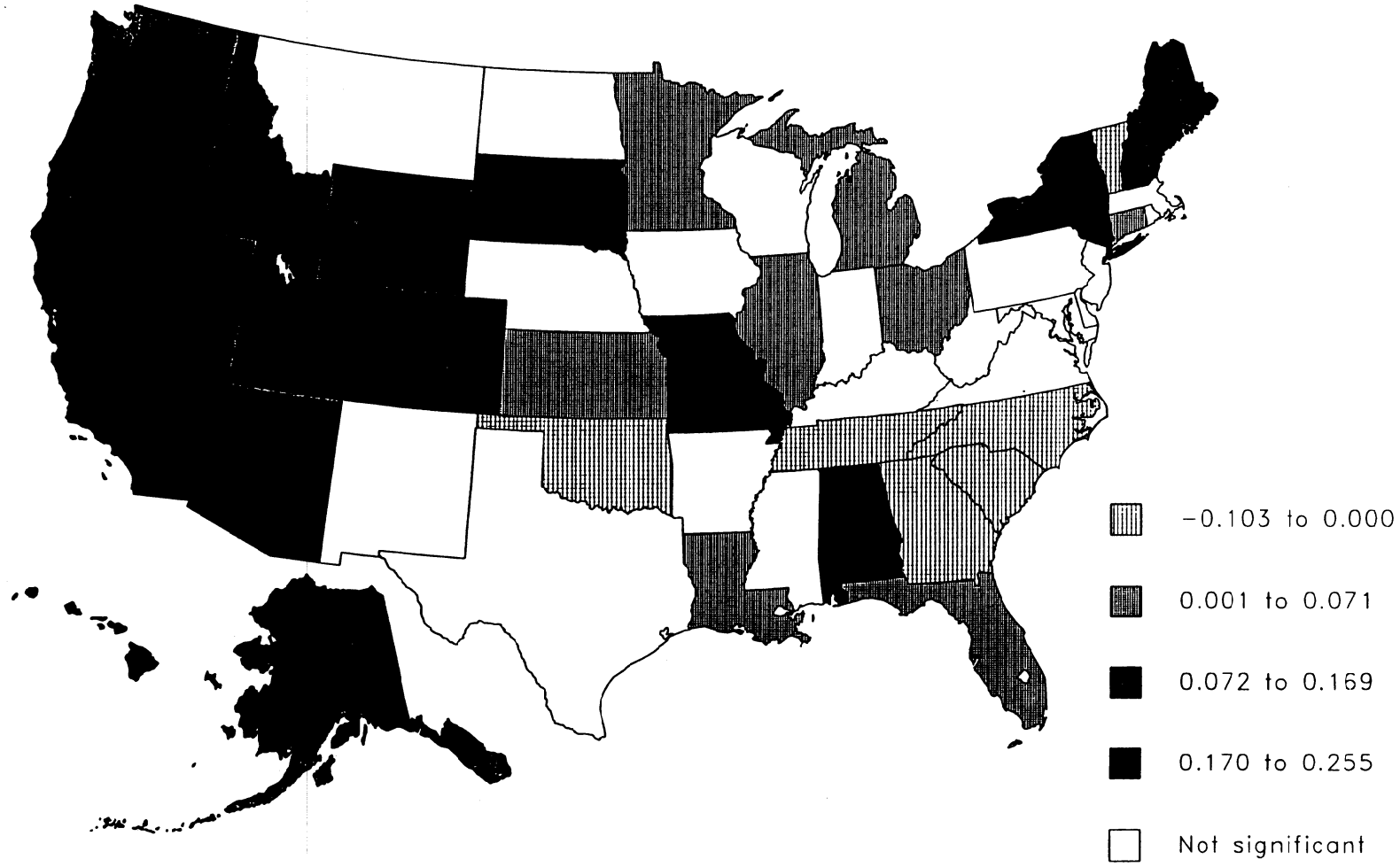


Table 7. Regression Results for Employer and Claimant Appeals, All States, 1978-1990

Explanatory Variables:	Employer Appeal Rate/Initial Claim		Claimant Appeal Rate/ Initial Claim	
Effective Tax Rate	-0.018	(0.73)	0.178	(0.06)
State Tax Base Over Federal Level	0.0000003	(0.01)	0.000000002	(0.99)
Reserve Ratio (lagged 3 years)	-0.0002	(0.22)	0.0003	(0.50)
Disqualification for Voluntary Quit	-0.0002	(0.80)	0.002	(0.24)
Disqualification for Refusing Work	-----		-0.003	(0.04)
Disqualification for Misconduct	0.005	(0.00)	0.010	(0.00)
State Government	-0.0004	(0.13)	-0.0004	(0.44)
Performance of Nonmonetary Determination	-0.0006	(0.47)	-0.002	(0.15)
Timeliness of Nonmonetary Determinations	-0.001	(0.21)	0.0004	(0.83)
Denial Rate per Initial Claim	0.017	(0.00)	0.052	(0.00)
Actual Benefit Duration	0.0003	(0.06)	0.0006	(0.02)
Benefit Amount/Wages	-0.017	(0.01)	-0.019	(0.09)
Total Unemployment Rate	-0.049	(0.00)	-0.040	(0.12)
Percent Labor Force Unionized	-0.030	(0.00)	-0.023	(0.02)
Job Losers as Percent of Unemployed	0.007	(0.04)	-0.004	(0.46)
State Dummy Variables:				
Alabama	0.006	(0.00)	0.001	(0.70)
Alaska	-0.006	(0.04)	-0.003	(0.53)
Arizona	0.001	(0.79)	0.020	(0.00)
Arkansas	-0.001	(0.79)	0.014	(0.00)
California	-0.001	(0.45)	-0.010	(0.00)
Colorado	0.020	(0.00)	0.044	(0.00)
Connecticut	0.024	(0.00)	0.006	(0.03)
Delaware	-0.004	(0.01)	0.006	(0.02)
District of Columbia	0.013	(0.00)	0.030	(0.00)
Florida	0.004	(0.03)	0.019	(0.00)
Georgia	0.012	(0.00)	-0.007	(0.05)
Hawaii	0.000	(0.90)	0.002	(0.51)
Idaho	-0.010	(0.00)	-0.025	(0.00)
Illinois	0.010	(0.00)	0.007	(0.01)
Indiana	-0.001	(0.54)	0.003	(0.40)
Iowa	0.019	(0.00)	0.018	(0.00)
Kansas	0.010	(0.00)	0.023	(0.00)

(continued)

Table 7. (continued)

Explanatory Variables	Employer Appeal Rate/Initial Claim		Claimant Appeal Rate/ Initial Claim	
Kentucky	0.001	(0.42)	0.006	(0.04)
Louisiana	0.016	(0.00)	0.034	(0.00)
Maine	-0.002	(0.22)	-0.006	(0.02)
Maryland	0.007	(0.00)	0.024	(0.00)
Massachusetts	0.001	(0.45)	-0.003	(0.25)
Michigan	0.002	(0.15)	-0.011	(0.00)
Minnesota	0.003	(0.03)	0.004	(0.15)
Mississippi	-0.001	(0.72)	0.008	(0.06)
Missouri	0.004	(0.04)	0.011	(0.00)
Montana	-0.003	(0.04)	-0.014	(0.00)
Nevada	0.006	(0.00)	0.028	(0.00)
New Hampshire	-0.007	(0.00)	0.010	(0.00)
New Jersey	0.002	(0.27)	0.012	(0.00)
New Mexico	0.009	(0.00)	0.021	(0.00)
New York	-0.004	(0.04)	-0.006	(0.04)
North Carolina	-0.003	(0.13)	-0.007	(0.03)
North Dakota	-0.003	(0.10)	0.006	(0.02)
Ohio	-0.002	(0.12)	-0.017	(0.00)
Oklahoma	0.004	(0.01)	0.024	(0.00)
Oregon	-0.003	(0.11)	-0.005	(0.11)
Pennsylvania		-----		-----
Rhode Island	-0.004	(0.00)	-0.006	(0.02)
South Carolina	0.001	(0.59)	-0.001	(0.76)
South Dakota	0.001	(0.78)	0.009	(0.00)
Tennessee	-0.002	(0.33)	-0.007	(0.02)
Texas	0.010	(0.00)	0.025	(0.00)
Utah	-0.002	(0.40)	0.007	(0.03)
Vermont	0.001	(0.53)	0.001	(0.68)
Virginia	-0.001	(0.49)	-0.006	(0.08)
Washington	-0.002	(0.20)	-0.003	(0.32)
West Virginia	0.008	(0.00)	0.013	(0.00)
Wisconsin	0.003	(0.03)	-0.002	(0.46)
Wyoming	0.004	(0.01)	-0.005	(0.07)
Constant	0.010	(0.01)	0.020	(0.00)
R^2 Statistic	0.86		0.90	

NOTES: Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.
A GLS fixed effects model was used to estimate the equations.
Pennsylvania was omitted as the reference state.
Significance levels are noted in parentheses.
The R^2 statistics for these equations are inflated because of the inclusion of the 49 state dummy variables. When the state dummy variables were excluded from the models, the R^2 of the employer appeal rate equation was 0.17 and of the claimant appeal rate equation was 0.34.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994), U.S. Department of Labor (1995a,b,c,d), and U.S. General Accounting Office (1993).

The statistical significance of most of the state coefficients from the GLS regressions presented in Table 7 indicates that unexplained state variation has a substantial impact on employer and claimant appeal rates. Furthermore, for the claimant appeal rate, the map of significant state coefficients (not presented in this paper) showed distinct geographic patterns. A group of contiguous states in the Midwest and Southwest have higher claimant appeal rates than would be expected.[41] The significant state coefficients for employer appeal rates showed no strong geographic patterns.

Results for Employer and Claimant Success Rates

Separate regression equations were estimated for employer and claimant success rates. In these equations, success rate is defined as the number of appeals employers (claimants) won as a percentage of all lower authority appeals brought by employers (claimants). The employer and claimant success rate results from the GLS regressions are presented in Table 8. Although individual variables were significant in these regressions, these models had low predictive power (almost none of the variation was explained in either equation when the state dummy variables were excluded). The results indicate that among employer-initiated appeals, high employer success rates are associated with only the following variables: (1) lower effective tax rates and (2) lower rates of employer appeals. These results suggest that when states have low tax collections, employers are more likely to win their appeals at the lower authority.

A number of variables were significant predictors of claimant appeal success. The results indicate that among claimant-initiated appeals, high claimant success rates are associated with the following: (1) lower effective tax rates; (2) lower state taxable wage bases; (3) more lenient penalties for voluntary quit and misconduct issues; (3) more stringent penalties for refusal of suitable work; (4) more Democratic state government; (5) lower quality of nonmonetary determinations; (6) higher denial rates; (7) lower rates of unionization; and (8) higher percentages of appeals filed by employers. While the explanatory power of the model was low, most of the significant variables were anticipated.

Most of the states have insignificant coefficients in the employer success rate equation presented in Table 8, while in the claimant success rate equation, most of the states have significant coefficients. Thus, the state dummy variables were better able to explain the variation across states and over time for claimant success rates (66 percent of variation in

Table 8. Regression Results for Lower Authority Appeal Success, All States, 1978-1990

Explanatory Variables:	Lower Authority Appeal Success Rate			
	Employer		Claimant	
Effective Tax Rate	-4.209	(0.04)	-2.286	(0.00)
State Tax Base Over Federal Level	-0.000002	(0.64)	-0.000006	(0.00)
Reserve Ratio (lagged 3 years)	-0.011	(0.22)	-0.004	(0.18)
Disqualification for Voluntary Quit	0.017	(0.63)	-0.027	(0.04)
Disqualification for Refusing Work	-----		0.025	(0.01)
Disqualification for Misconduct	0.004	(0.88)	-0.015	(0.14)
State Government	0.008	(0.40)	0.009	(0.01)
Performance of Nonmonetary Determinations	-0.026	(0.38)	-0.017	(0.10)
Timeliness of Nonmonetary Determinations	-0.024	(0.55)	-0.003	(0.81)
Denial Rate per Initial Claim	-0.105	(0.33)	0.069	(0.07)
Actual Benefit Duration	0.004	(0.49)	0.003	(0.14)
Benefit Amount/Wages	-0.020	(0.93)	0.068	(0.42)
Total Unemployment Rate	-0.522	(0.34)	-0.015	(0.94)
Percent Labor Force Unionized	0.132	(0.54)	-0.238	(0.00)
Job Losers as Percent of Unemployed	0.053	(0.66)	0.047	(0.27)
Percent of Appeals Filed by Employers	-0.304	(0.01)	0.101	(0.02)
State Dummy Variables:				
Alabama	0.203	(0.01)	-0.033	(0.25)
Alaska	0.149	(0.15)	0.105	(0.00)
Arizona	0.072	(0.31)	-0.116	(0.00)
Arkansas	0.016	(0.84)	-0.070	(0.01)
California	0.017	(0.79)	0.041	(0.10)
Colorado	0.182	(0.02)	0.016	(0.56)
Connecticut	-0.060	(0.37)	-0.111	(0.00)
Delaware	0.326	(0.00)	0.044	(0.03)
District of Columbia	0.089	(0.19)	-0.024	(0.32)
Florida	0.041	(0.56)	-0.102	(0.00)
Georgia	0.303	(0.00)	-0.163	(0.00)
Hawaii	-0.014	(0.85)	0.027	(0.28)
Idaho	0.137	(0.06)	0.042	(0.09)
Illinois	0.004	(0.95)	-0.126	(0.00)
Indiana	0.064	(0.34)	-0.042	(0.07)
Iowa	0.154	(0.01)	0.050	(0.02)

(continued)

Table 8. (continued)

Explanatory Variables	Lower Authority Appeal Success Rate			
	Employer		Claimant	
Kansas	0.005	(0.93)	0.083	(0.00)
Kentucky	0.028	(0.64)	-0.076	(0.00)
Louisiana	0.093	(0.16)	-0.055	(0.02)
Maine	-0.038	(0.49)	-0.004	(0.84)
Maryland	0.112	(0.09)	0.118	(0.00)
Massachusetts	-0.091	(0.10)	0.009	(0.68)
Michigan	-0.050	(0.41)	0.100	(0.00)
Minnesota	-0.006	(0.92)	-0.031	(0.05)
Mississippi	-0.035	(0.67)	-0.122	(0.00)
Missouri	0.101	(0.15)	-0.078	(0.00)
Montana	0.082	(0.14)	-0.061	(0.00)
Nevada	0.107	(0.08)	-0.013	(0.54)
New Hampshire	0.038	(0.56)	-0.035	(0.16)
New Jersey	-0.044	(0.49)	0.007	(0.76)
New Mexico	0.123	(0.07)	-0.007	(0.77)
New York	-0.172	(0.01)	-0.050	(0.03)
North Carolina	0.215	(0.00)	-0.056	(0.02)
North Dakota	0.130	(0.02)	0.041	(0.04)
Ohio	0.044	(0.42)	-0.001	(0.95)
Oklahoma	0.036	(0.56)	-0.101	(0.00)
Oregon	0.059	(0.36)	0.078	(0.00)
Pennsylvania	-----		-----	
Rhode Island	-0.004	(0.94)	0.080	(0.00)
South Carolina	0.213	(0.01)	-0.114	(0.00)
South Dakota	0.050	(0.46)	-0.060	(0.01)
Tennessee	0.069	(0.30)	-0.115	(0.00)
Texas	0.052	(0.47)	-0.047	(0.06)
Utah	0.055	(0.43)	0.059	(0.02)
Vermont	-0.005	(0.93)	-0.071	(0.00)
Virginia	0.128	(0.06)	-0.109	(0.00)
Washington	0.028	(0.65)	0.045	(0.04)
West Virginia	0.100	(0.12)	0.051	(0.03)
Wisconsin	-0.062	(0.25)	-0.048	(0.01)
Wyoming	0.137	(0.03)	-0.055	(0.01)
Constant	0.395	(0.01)	0.287	(0.00)
R^2 Statistic	0.35		0.66	

NOTES: Success rate is defined as percent of appeals won by party who appealed.
Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.
A GLS fixed effects model was used to estimate the equations.
Pennsylvania was omitted as the reference state.
Significance levels are noted in parentheses.
The R^2 statistics for these equations are inflated because of the inclusion of the 49 state dummy variables. When the state dummy variables were excluded from the models the R^2 of both equations was 0.00.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994), U.S. Department of Labor (1995a,b,c,d), and U.S. General Accounting Office (1993).

success rates was explained when the state dummy variables were included) than for employer success rates (35 percent of variation in success rates was explained when the state dummy variables were included). Maps of the significant state coefficients (not presented in this paper) showed little geographic clustering of states with higher or lower than expected employer or claimant success rates.

Summary

All of the regression equations presented in this section, especially the success rate equations, performed relatively poorly. There are two primary reasons for this poor performance. First, there are a number of variables that were unavailable, but could have added significant explanatory power to the model. For example, information on the administrative processes of the state UI programs and definitions of the nonmonetary eligibility requirements in each state might have improved the regression equations' prediction of state variation (when the state dummy variables were excluded). Second, states are probably not the ideal unit of measurement, especially in the equations estimating the appeal behavior of claimants and employers. Appeal-level microdata would provide a better framework for analyzing this behavior. The following section presents microdata for two states.

ANALYSIS OF APPEAL-LEVEL DATA

The following questions can more appropriately be answered with appeal-level data: (1) whether the current structure which finances UI benefits encourages employers to appeal legitimate cases, and (2) what factors predict which party will win an appeal. This section provides background information on these two issues and results from an analysis using 1994 appeal-level data.

The appeal-level data are from Texas and Wisconsin, and include information on employer tax rates (in both states) and use of representation (in Wisconsin only). The data from Texas were a random sample consisting of 20 percent of all experience-rated employers in 1994, which were merged with the corresponding lower level appeals data for nonmonetary separation issues (3,561 hearings). The Wisconsin data included all lower level appeals resulting from a nonmonetary separation issue in 1994 (11,746 hearings).[42]

Effect of Experience Rating On Appeal Rates and Success Rates

In most states, UI benefits are financed exclusively through employer payroll taxes that are assessed by the state.[43] States are currently required by the Federal Unemployment Tax Act to finance program benefits through an "experience-rated" tax structure. Under experience rating, the rate of taxation for a given tax schedule varies with an individual employer's unemployment experience.[44] In other words, employers who create the most cost for the system are assessed the highest tax rates.[45] It is often argued that experience-rated taxes allow state and federal governments to influence employers' behavior in socially beneficial ways. Economists, however, often assert that the entity upon which a tax is legislatively imposed (in this instance, employers) may be different from the entity which actually pays the tax.[46]

Recent research by Anderson and Meyer (1994), which focused specifically on the experience-rated UI tax that firms pay, indicates that firms are able to shift flat taxes (e.g., the minimum tax rate within that firm's industry) to their employees, but are much less able to shift the portion of their taxes that is experience-rated. Thus, a significant percentage of experience-rated taxes are absorbed by the individual firm.

As a result, an experience-rated UI tax (rather than a flat tax) is likely to promote UI program goals by affecting a firm's decision-making. One such program goal is to provide a financial incentive for employers to police the UI program by protesting ineligible claims for UI benefits and to participate in the state legislative process.[47] This program goal, however, may result in negative consequences, depending on the extent to which it is realized. For example, experience rating may result in inappropriate employer involvement in the eligibility determination and appeal processes if some employers respond to these financial incentives by contesting legitimate UI claims.

Since their UI taxes are directly related to the extent to which their former employees receive UI benefits, employers have an incentive to contest UI claims. In 1994, employers were responsible for 26 percent of lower authority appeals (approximately 256,000 employer appeals); as previously discussed, the rate of employer appeals has grown more rapidly than that of claimant appeals.

Empirical Results: Appeal Rates

The Texas and Wisconsin data confirm results of the U.S. Department of Labor, Office of the Inspector General (1985). They indicate that employers at the maximum tax rate are less likely to file appeals than employers at other tax rates. In Texas, employers filed 45 percent of all appeals involving employers at the maximum tax rate, and 55 percent of all appeals involving employers at a tax rate other than the maximum. In Wisconsin, employers filed 19 percent of all appeals involving employers at the maximum tax rate, and 31 percent of all appeals involving employers at a tax rate other than the maximum (see Table 9). This finding does not necessarily indicate that employers are making *excessive* use of the appeals system. Such a conclusion might be valid, however, if there were evidence that employer (or claimant) success rates vary systematically with an employer's level of experience rating.

Empirical Results: Success Rates

Tabulations of the data from Texas and Wisconsin do not provide evidence that employer success rates (i.e., the number of appeals won by employers as a percentage of all appeals brought by employers) vary with experience rating. Of the appeals filed by Texas employers at both the maximum tax rate and at all other tax rates, employers won 14 percent of their appeals. Of the appeals filed by employers in Wisconsin, employers at the maximum tax rate won 28 percent of their appeals and employers at all other tax rates won 26 percent of their appeals (see Table 9). Thus, this preliminary analysis of success rates by the level of experience rating does not provide evidence that employers are making excessive use of the appeals system.

One might conclude that employers are making excessive use of the appeals system if they won a substantially lower percentage of the appeals that they filed compared to the percentage of appeals won by claimants who file them. There is no evidence that this is the case on a national level. In 1993, nationwide, employers won 34 percent of the appeals that they filed and claimants won 31 percent of the appeals that they filed.

There is, however, considerable variation across states. In Wisconsin during 1994, employers won 28 percent of the appeals that they filed and claimants won 29 percent of the appeals they filed. In Texas, however, employers won 14 percent of the appeals that they filed and claimants won 67 percent of the appeals they filed. Texas employers filed a disproportionately higher share of appeals (55 percent compared to a national average of 26

Table 9. Employer Appeal Rate and Success Rate by Employer Tax Rate, Texas and Wisconsin

Tax Rate	Texas Data		Wisconsin Data	
	Appeal Rate	Success Rate	Appeal Rate	Success Rate
Less than Maximum	55	14	31	26
Maximum Rate	45	14	19	28

NOTE: Data are based on 3,561 lower authority appeal hearings from Texas and 11,746 lower authority appeal hearings from Wisconsin in 1994.
Employer success rate is defined as the number of appeals employers win as a percentage of all appeals filed by employers.

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin; and Texas Employment Commission.

percent) and claimants won a disproportionately higher share of appeals (78 percent compared to a national average of 31 percent).[48] These statistics from Texas, while by no means conclusive, would be consistent with the hypothesis that employers in that state make excessive use of the appeals system.

It is important to note that at least two primary factors influence the outcome of an appeal—which parties participated in the hearing and which, if any, parties were represented (by either an attorney or an advocate who is not an attorney, such as a union official or a third party employer representative). The regression results for Wisconsin presented later in this paper provide additional information on how tax rates influence employer success rates when important variables such as participation and representation are included. This more sophisticated analysis of the employer success rate also indicates that this rate does not vary significantly with the experience-rated tax rate.

Other Factors Influencing Appeals Outcomes

Little research has been devoted to understanding the UI appeals process and the factors which affect the probability that either the employer or claimant wins. This section discusses two relevant factors that contribute to how well each side is able to present its case. First, it is important for both parties to participate in the hearing. Second, representation may affect the effectiveness of case presentation.

The importance of participation depends on which separation issue is in question. The burden of proof is placed on employers for misconduct issues and on claimants for voluntary quit issues. Thus, if an employer did not attend a hearing for a misconduct issue, the claimant would most likely win. If an employer did not attend a hearing for a voluntary quit issue related to good cause, however, the verdict would depend on whether the claimant could prove he or she had good cause for leaving.

Participation

In both Texas and Wisconsin, claimants are more likely than employers to participate in lower authority appeal hearings. In Texas, claimants participated (including over the phone) in 70 percent of the total hearings and employers participated in 59 percent of the total hearings. When the claimant was the appellant, claimants participated in 86 percent of the hearings, while

employers participated in 53 percent of the hearings. When the employer was the appellant, however, claimants participated in 58 percent of the hearings, whereas employers participated in 65 percent of the hearings.

In Wisconsin, claimants participated (including over the phone) in 66 percent of the total hearings and employers participated in only 16 percent of the total hearings. The claimant was somewhat more likely to participate in the hearing when he or she was the appellant (68 percent) than when the employer was the appellant (59 percent). Employers participated in 16 percent of hearings in both circumstances. As expected, participation in the hearing increased the party's likelihood of winning when the other party did not participate. Table 10 displays these results.

Representation

A second factor that increases the likelihood that one side will win an appeal is the use of representation (either an attorney or an advocate who is not an attorney). A recent process analysis of lower authority appeals hearings in Wisconsin addressed this issue (Kritzer, 1995).[49] Kritzer finds that representation in general can have a significant affect on UI appeals hearings. Representatives often perform one or more of the following functions: (1) preparing their client for the UI hearing, (2) helping to frame the issue being appealed in a manner that best serves their client, (3) ensuring that necessary witnesses and documentation are brought to the hearing, and (4) asking relevant questions of the parties and their witnesses. In most states, representation of claimants and employers can be either by attorneys or by advocates who are not attorneys. There are, however, some differences between the type of representatives claimants are likely to use and those employers are likely to use.

Kritzer notes that claimant representatives are usually either union officials or law students. Because the fees that attorneys earn when representing claimants in UI cases are limited in most states (including Wisconsin), lawyers represent claimants relatively infrequently and often only when the case is connected in some way to another proceeding (e.g., an allegation of harassment or discrimination). In contrast, union officials usually represent claimants as part of their union duties and law students usually represent claimants as volunteers.

Because of the restricted fees that attorneys must charge claimants and the limited availability of most "voluntary" claimant representatives, claimants may be more likely to have

Table 10. Appearance and Success Rate, Texas and Wisconsin

	Who Appears at Hearing			
	Only Claimant	Only Employer	Both Parties	Neither Party
Texas				
Percent Appearing				
All Hearings	20	9	50	21
Claimant Appellant	36	3	50	12
Employer Appellant	7	14	51	28
Success Rate				
Claimant	87	N.A.	73	N.A.
Employer	4	46	12	2
Number of observations	712	320	1,792	737
Wisconsin				
Percent Appearing				
All Hearings	53	3	13	32
Claimant Appellant	55	3	13	29
Employer Appellant	46	3	13	38
Success Rate				
Claimant	43	1	33	2
Employer	23	59	33	30
Number of observations	6,168	324	1,508	3,746

NOTE: N.A. indicates the information is not available because sample sizes were too small to estimate. Success rate is defined as the number of appeals claimants (employers) win as a percentage of all appeals brought by claimants (employers).

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin; and Texas Employment Commission.

representation when they have a strong case. Thus, it is possible that a proportion of claimants with representation are more likely to win their cases because of the strength of the case, rather than the actual contribution the advocates make to the hearing process.

In general, employers are likely to be more familiar than claimants with the unemployment compensation appeals process. Employers frequently are represented by either someone from inside the firm or an agent outside the firm; this representative may or may not be an attorney. Larger firms are more likely to have either internal legal staff or human resources personnel who are familiar with the UI appeals system. Many firms also rely on third party employer representatives—agents who specialize in monitoring and controlling firms' payroll costs, including costs associated with workers' compensation and unemployment compensation. Part of the responsibility of third party representatives is to file appeals and represent firms at the actual hearings. As a result of the use of third-party representatives and because of the unrestricted fees that lawyers can charge employers (unlike claimants), employers are more likely than claimants to make use of representation in UI hearings. Additionally, firms that are large, have in-house experience with UI hearings, or contract with third-party representatives are more likely to bring a representative because of their easy access to these resources.

As a result of his observations of UI hearings in Wisconsin, Kritzer suggests that attorneys are not necessarily the most effective representatives in UI hearings for either claimants or employers. He finds that the most effective advocates are those that are most familiar with UI hearings procedures. Effective attorneys, therefore, typically specialize in employment law and appear at UI hearings frequently. Effective representatives who are not attorneys are generally knowledgeable about specific UI rules, regulations, and procedures and also specialize in providing representation at UI hearings.

In the appeal-level data used for this analysis, representation information was only available for Wisconsin. Furthermore, representation refers only to that by an attorney; unfortunately, the data do not include any other form of representation. In 1994 in Wisconsin, parties were represented in only 6 percent of all appeals. When one party was represented, the party increased its chance of winning the appeal. In addition, claimants were helped slightly more than employers when they were represented by an attorney (see Table 11). The following

Table 11. Success Rate by Representation, Wisconsin

Success Rate	Only Claimant Represented (2.2%)	Only Employer Represented (3.4%)	Both Parties Represented (0.4%)	Neither Parties Represented (94.1%)
Claimant	55	24	46	28
Employer	25	41	N.A.	28
Number of observations	260	380	52	11,054

NOTE: N.A. indicates the information is not available because sample sizes were too small to estimate. Success rate is defined as the number of appeals claimants (employers) win as a percentage of all appeals brought by claimants (employers).

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin.

section discusses a more sophisticated analysis using the Wisconsin data to determine how various factors influence the outcome of an appeal hearing.[50]

Analysis of the Wisconsin Data

Variables Used in the Analysis

Using the appeal-level data from Wisconsin (of 11,746 lower authority appeal hearings resulting from nonmonetary separation issues), two categories of factors were analyzed to determine their influence on the success rates of claimants and employers. These categories include variables describing characteristics of the employer and variables describing characteristics of the appeal hearing. Table 12 displays the means for the total sample of all variables used.

Employer Characteristics. Three variables were used to describe characteristics of the employer. The first measured the size of the firm, and was divided into four groups: firms with less than 20 employees, firms with between 20 and 99 employees, firms with between 100 and 499 employees, and firms with 500 or more employees. It is anticipated that larger employers are more likely to win an appeal, since they have more resources to devote to managing unemployment compensation costs. The second variable measured the experience-rated tax of the employer.[51] The expected effects of employer tax rates on employer success rates have been discussed previously in this paper. A third measure of whether the employer was in the manufacturing industry was included to further describe the type of employer.

Characteristics of the Appeal Hearing. Six variables were used to describe characteristics of the hearing. The first two were whether the claimant appeared at the hearing and whether the employer appeared at the hearing. The second two were whether the claimant was represented by an attorney at the hearing and whether the employer was represented by an attorney at the hearing.[52] With regard to employers, the attorney could either work internally for the firm or be hired as outside counsel. As discussed earlier, participation and representation are generally expected to increase the likelihood that the party wins. The fifth variable was whether the hearing involved consideration of multiple issues. Employers are more likely to win appeals involving multiple issues than are claimants because the issues that have been raised by the employer in these appeals are more complex and require more preparation and familiarity with

Table 12. Means and Standard Deviations of Variables From Regressions, Wisconsin, 1994

	Means	Standard Deviations
Dependent Variables:		
Employer Received Favorable Decision*	0.58	0.49
Claimant Received Favorable Decision*	0.42	0.49
Explanatory Variables:		
Employer Size:		
Less Than 20 Employees	8	6
Between 20 and 99 Employees	51	23
Between 100 and 499 Employees	247	113
500 or More Employees	2203	2242
Tax Rate	2.31	1.95
Manufacturing Industry*	0.29	0.45
Employer Appears at Hearing*	0.16	0.36
Claimant Appears at Hearing*	0.65	0.48
Employer is Represented at Hearing*	0.03	0.16
Claimant is Represented at Hearing*	0.04	0.19
Multiple Issues Contested*	0.33	0.47
Telephone Hearing*	0.18	0.38

NOTES: Data are based on 11,746 lower authority appeal hearings from Wisconsin in 1994. The means of variables with an asterisk (*) are percentages of the total sample. For example, the mean value of 0.58 for the first dependent variable indicates that employers received a favorable decision in 58 percent of all appeals brought.

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin.

UI laws and the appeals system. The final variable was whether the appeal hearing was conducted by telephone or in-person; the effect of this variable is difficult to predict.

The issue being appealed is an important characteristic of the hearing that was not available in this data and, therefore, not used in the equations. As previously discussed in this paper, this is an important variable because the party who has the burden of proof in a given appeal hearing varies with the issues being disputed.

Model Specification

The data were divided into two subsamples based upon which party filed the appeal. The employer filed the appeal in 3,583 of the cases, the claimant in 8,163. Two equations were estimated—one for each subsample. The dependent variable in each equation is the success rate, defined as whether an employer (claimant) won the appeal that the employer (claimant) filed. Because the dependent variables are dichotomous (i.e., they equal one if the employer (claimant) won the appeal and zero if the employer (claimant) did not win the appeal), the models were estimated using a logistic regression.[53]

The results of these regressions are presented in Table 13. The numbers displayed in this table are the log odds ratios associated with each variable. The log odds ratio indicates the change in the likelihood of an event occurring (in this case whether or not the employer (claimant) won the appeal) caused by each explanatory variable, holding all other factors constant. A log odds ratio greater than one denotes an increase in the likelihood of the event, while a log odds ratio less than one denotes a decrease in the likelihood of the event. For example, according to the results of the regressions in Table 13, an employer who appeared at a hearing was 2.027 times more likely to win the appeal than an employer who did not appear. In contrast, an employer was only 0.623 times (about two-thirds) as likely to win an appeal when the claimant appeared at the hearing than when the claimant did not appear. These results are discussed in the following sections.

Results for Employer Success Rate

The model for employers correctly predicted whether the employer would win or lose an appeal in 72 percent of the cases and was statistically significant, as indicated by the model chi square of 117.[54] These results indicate that employers are more likely to win an appeal when: (1) the

Table 13. Regression Results for Employer and Claimant Success Rates, Wisconsin, 1994

Explanatory Variables:	Received Favorable Decision	
	Employers	Claimants
Employer Size:		
Less than 20 Employees	-----	-----
Between 20 and 99 Employees	1.090 (0.44)	0.813 (0.01)
Between 100 and 499 Employees	1.355 (0.01)	0.845 (0.03)
500 or More Employees	1.345 (0.01)	0.742 (0.00)
Tax Rate	0.986 (0.53)	1.046 (0.00)
Manufacturing Industry	1.125 (0.19)	0.873 (0.03)
Employer Appears at Hearing	2.027 (0.00)	0.666 (0.00)
Claimant Appears at Hearing	0.623 (0.00)	30.143 (0.00)
Employer is Represented at Hearing	1.698 (0.00)	0.642 (0.01)
Claimant is Represented at Hearing	0.872 (0.63)	2.288 (0.00)
Multiple Issues Contested	0.769 (0.00)	0.533 (0.00)
Telephone Hearing	0.711 (0.00)	0.678 (0.00)
N	3,583	8,132
Percent Correctly Classified	72.17	71.84
Model Chi Square	117 (0.00)	1906 (0.00)

NOTES: Data are based on lower authority appeals hearings from Wisconsin in 1994.
A logistic regression model was used to estimate the equations.
"Less Than 20 Employees" was omitted as the reference group.
Significance levels are noted in parentheses.

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin.

firm has more than 100 employees; (2) the employer appears at the hearing; and (3) the employer was represented at the hearing. Employers are less likely to win an appeal when: (1) the claimant appears at the hearing; (2) multiple issues are contested;[55] and (3) the hearing is conducted by telephone.

There are two variables which were not significant in this equation—the individual employer's tax rate and whether the claimant has representation. These two results are important, indicating that individual employer tax rates do not affect the employer success rate, and that a claimant's use of representation does not significantly affect the appeal outcome when the employer files the appeal.

Results for Claimant Success Rate

The model for claimants correctly predicted whether the claimant would win or lose an appeal in 72 percent of the cases and was statistically significant, as indicated by the model chi square of 1906.[56] These results indicate that claimants are more likely to win an appeal when: (1) the claimant appears at the hearing, (2) the claimant is represented at the hearing, and (3) the employer is taxed at a higher rate. Claimants are less likely to win an appeal when: (1) the employer has 20 or more employees, (2) the employer appears at the hearing, (3) the employer is represented at the hearing, (4) the employer is in the manufacturing industry, (5) multiple issues are contested, and (6) the hearing is conducted by telephone.

Both employers and claimants are less likely to win an appeal that they filed when there are multiple issues involved in the appeal and when the hearing is conducted by telephone instead of in-person. These factors, however, have more of a negative effect on claimants than on employers. Claimants are only about half (0.533) as likely to win an appeal when multiple issues are involved, whereas employers are just over three-fourths (0.769) as likely to win, all else being equal. This difference is smaller for telephone hearings—claimants are only 0.68 times as likely to win the appeal, while employers are 0.71 times as likely to win.

It is important to note that, in contrast to when the employer files an appeal, a claimant's use of representation affects the outcome of the appeal when the claimant is the appellant. Employer tax rates also affect the outcome of the appeal when the claimant files the appeal, but not when the employer is the appellant.

Summary

The empirical results were better when appeal-level data from within a state were used rather than macro-level state data. Because data were available from only one state, the factors explaining employer and claimant success rates for that particular state could be described, but the results could not be generalized to other states. It would be useful to extend this analysis with data from more states. This could allow for identification of the factors affecting appeals across the nation. More detailed information for some of the variables would also help. Information on all types of representation and on the specific issue being appealed would be especially useful.

NOTES

1. See, for example, Advisory Council on Unemployment Compensation (1995).

2. For more information on monetary eligibility, see Chapter 7 of Advisory Council on Unemployment Compensation (1995).

3. Corson *et al.* (1986) is the source of the information on how nonmonetary determinations and denials are made.

4. For more information on nonmonetary eligibility definitions, see Chapter 8 of Advisory Council on Unemployment Compensation (1995).

5. In addition, some of these factors could affect the number of individuals who apply for benefits.

6. The state UI agency may also be involved in an appeal.

7. Specific state information on filing time and hearing officers for lower and higher authority appeals was obtained from U.S. Department of Labor (1995d).

8. Referees in Hawaii, Ohio, and Tennessee have up to 30 days to reconsider a decision; in Michigan, they have up to 10 days.

9. Hawaii, Nebraska, and the Virgin Islands do not provide a second administrative appeal. Appeals of lower authority decisions in these states are taken directly to the state courts for judicial review.

10. Except in Mississippi where the board is appointed by the Employment Security Commission, and in New Jersey where the board is appointed by the Director of Employment Security.

11. Data for the analysis of trends in determinations, denials, and appeals were extracted from the Unemployment Insurance Required Reports (UIRR) database, which contains statistics provided by the states.

12. According to knowledgeable individuals in the Unemployment Insurance Service, there are problems with some data reported by Nebraska to the UIRR database.

13. An "other" category accounted for the remaining 12 percent.

14. The denial rate per initial claim is the mathematical product of the determination rate per initial claim and the denials per determination.

15. See note 12.

16. An "other" category accounted for the remaining 13 percent.

17. The states report UI appeals information monthly by filing Report 5130 in the UIRR database. Other than the number of appeals filed each month, the 5130 reports information in terms of decisions made on higher and lower authority appeals. Therefore, to remain consistent, the analysis reported here uses decisions to approximate appeals.

Between 1971 and 1994, the percentage of lower authority appeals decided ranged from 83 percent to 100 percent, and was below 93 percent in only four of those years. The percentage of higher authority appeals decided ranged from 84 percent to 100 percent, and was below 93 percent in only six of those years. Therefore, the number of decisions closely approximates the number of appeals, and is adequate to analyze trends in UI appeals.

18. The number of initial claims has increased 15 percent between 1971 and 1994.

19. In contrast to the increase in initial claims, the number of denials has remained relatively constant between 1971 and 1994 (see Table 1).

20. According to knowledgeable individuals in the Unemployment Insurance Service, there are problems with the denial rates reported by Nebraska. It is, however, possible for this ratio to exceed 100 percent because the denominator of the ratio does not include the number of weeks that UI benefits are claimed by active UI claimants (i.e., weekly claimant contacts). Therefore, exclusion of the weeks of claimant contacts from the denominator in Table 4 causes the denial rate to be overestimated. Measuring total denials as a proportion of initial claims, however, allows this ratio to be directly compared with the ratio of total appeals to initial claims.

21. The misreporting of data by Nebraska may make this figure artificially low.

22. Since the UIRR Report 5130 does not separate the "other" category by issue, changes over time in appeals decisions with respect to specific issues within this category cannot be determined.

23. The figures in this section include only lower and higher authority appeals involving claimants and employers. Appeals in which the UI agency was a party have been excluded. They represent an average of 0.1 percent of total lower authority appeals and 1 percent of higher authority appeals during the period 1971 to 1994.

24. The lower authority appeal rate is defined as the percentage of unfavorable decisions received by the claimant (employer) that the claimant (employer) appealed.

25. The success rate is defined as the percentage of lower or higher authority appeals filed by the claimant (employer) that the claimant (employer) won.

26. Both the denial rate and appeal rate are expressed as a percentage of initial claims.

27. This measure was lagged 3 years in the regression equation. The 3-year lag structure had the most statistically significant impact on the denial and appeal rates. Statistically, the lag structure reflects the notion that it takes a few years for state policy decisions prompted by the status of the trust fund balance to affect a state's law or a state's administration of the program.

28. Since refusal of suitable work is not a factor in determining initial eligibility, it was not included in the equations for separation denial rate, employer appeal rate, or employer success rate.

29. Between 1978 and 1994, 9 states imposed durational disqualifications for voluntary leaving, 12 states imposed durational disqualifications for misconduct discharges, and 15 states imposed durational disqualifications for refusing suitable work. Advisory Council on Unemployment Compensation (1995, 111).

30. For example, a state which is not adept at identifying nonmonetary eligibility violations would be paying benefits to recipients who are actually "ineligible"; this would result in low determination rates and consequently low denial rates. In contrast, a state which is very good at detecting eligibility violations would conduct a larger number of determinations which would result in a larger number of denials.

31. There are some disadvantages with the use of these two particular measures. For example, Advisory Council on Unemployment Compensation (1995) noted that the wage replacement rate (i.e., average weekly UI benefit divided by average weekly wage) is an inaccurate measure because the denominator is not available for UI recipients. See, for example, Advisory Council on Unemployment Compensation (1995, 126). Similarly, variations in the actual duration of benefits are more dependent upon the characteristics of the unemployed and the labor market in a given state and year than upon the potential duration for which a claimant is eligible to receive benefits.

32. Tabulations from the Survey of Income and Program Participation (SIPP) indicate that while 61 percent of unemployed union members receive UI benefits, only 29 percent of unemployed non-union workers receive benefits (Bassi and Chasanov, forthcoming).

33. Due to problems of data availability for a number of variables, only these 13 years were used.

34. Unlike ordinary least squares regression (OLS), the GLS model does not assume that the observations are independent of one another. Consequently, it is the preferred estimation technique for panel data, resulting in more reliable estimates of standard errors and the model's explanatory power.

35. This is presumably because more individuals are being denied benefits at an early stage in the application process.

36. This result was not expected.

37. This suggests that the variables that were available for this analysis were not able to capture adequately the reasons for variations in denial rates across states. Other variables that may explain some variation, but that could not be quantified for use in the regression analysis include the following: actual definitions of nonmonetary eligibility conditions; the ability of states to detect and investigate nonmonetary eligibility issues; and state administrative practices.

38. This result was not expected.

39. This result was not expected.

40. This result was not expected.

41. Given the effects of the other independent variables included in the analysis and relative to Pennsylvania.

42. The authors thank Advisory Council on Unemployment Compensation member Bill Grossenbacher (Administrator, Texas Employment Commission) and alternate Carol Skornicka (Secretary, Wisconsin Department of Industry, Labor, and Human Relations) for providing these data.

43. Employees may also be required to pay payroll taxes in four states. See Advisory Council on Unemployment Compensation (1995, 51) for more information.

44. In addition, the tax schedule in effect in a given state often varies based on state trust fund solvency and economic conditions.

45. See Chapter 6 of Advisory Council on Unemployment Compensation (1995) and Chapter 7 of Advisory Council on Unemployment Compensation (1996) for additional information on experience rating and a detailed discussion of the types of experience rating.

46. For example, some or all of the ultimate burden of UI taxes could be shifted from employers to workers in the form of lower wages or benefits, or to consumers in the form of higher prices.

47. Such involvement could include the following: scrutinizing former employees' UI claims, reviewing charges to their UI accounts, and participating in the appeal process.

48. When compared to other states, Texas has a higher than average rate of denial per initial claim (see Table 4). This may explain, in part, why claimants have a high success rate in Texas.

49. Much of the information provided in this section was taken from Kritzer (1995).

50. A similar analysis of the Texas data was not performed because of the lack of information on representation in the data. Also, as previously discussed, appeal and success rates in Texas are very different from the national averages of those rates. In Texas, employers comprised a large proportion of all appellants and claimants won a large percentage of all appeals.

51. A dummy variable measuring whether the firm was paying the maximum tax rate was also considered. It was not statistically significant in either the employer or the claimant regression equations. However, only 1.6 percent (183) of the hearings in this sample involved firms at the maximum tax rate, which may make conclusions about the lack of significance of

this variable inappropriate. Therefore, it was dropped from the analysis.

52. A dummy variable measuring whether both the claimant and the employer had representation in the hearing was also considered. It was not statistically significant in either the employer or claimant regression equations. However, only 0.4 percent (52) of the hearings in this sample were those in which both parties were represented, which may make conclusions about the lack of significance of this variable inappropriate. Therefore, it was dropped from the analysis.

53. The model was also estimated using OLS and probit regressions. However, the models did not correctly account for the error distribution of the data using any of the regression techniques and only the logistic regression results are presented in this paper.

54. The model was significantly better at predicting when an employer would lose an appeal than when an employer would win an appeal, however. It correctly predicted when an employer would lose an appeal in 99 percent of the cases, but it correctly predicted when an employer would win an appeal in only 4 percent of the cases. Employers in Wisconsin lose 72 percent of their appeals, and the model was able to correctly predict 72 percent of the outcomes.

55. This result was not expected.

55. The model was significantly better at predicting when a claimant would lose an appeal than when a claimant would win an appeal, however. It correctly predicted when a claimant would lose an appeal in 94 percent of the cases, but it correctly predicted when a claimant would win an appeal in only 17 percent of the cases. Claimants in Wisconsin lose 71 percent of their appeals, and the model was able to correctly predict 72 percent of the outcomes.

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Disputes Over Unemployment Insurance Claims: A Preliminary Analysis

by

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Introduction

Disputes over eligibility for benefits arise frequently in state unemployment insurance (UI) programs. This paper focuses on four areas. (1) It documents the frequency of disputes, the issues and the resources devoted to dispute resolution. (2) It describes the variation in claims disputes or controversion across states and through time in the United States. (3) It undertakes a limited comparative analysis of disputes and dispute resolution procedures in Canada. (4) It assesses the linkage between disputes over eligibility and experience rating. Because the analysis in areas (3) and (4) is admittedly exploratory, the findings include major caveats that reflect the preliminary nature of the analysis.

I. Disputes in Unemployment Insurance

The activities undertaken in conjunction with UI benefit payments administration are often divided into four so called broadband areas: initial claims, weeks claimed, nonmonetary determinations (or nonmons) and appeals. To receive UI benefits the claimant must satisfy a number of eligibility criteria: i) sufficient base period earnings, ii) appropriate reason for unemployment (most typically an employer-initiated separation caused be inadequate labor demand), iii) being able and available for work and iv) not refusing "suitable" work. The preceding list is only indicative of the main eligibility criteria. Initial claims cover both new claims at the start of benefit years and additional claims associated with second and later spells of unemployment within previously established benefit years. Monetary eligibility is determined as a part of initial claims broadband activities which also include completing initial applications and other intake procedures. Weeks claimed broadband activities cover the routine aspects of payments administration to those in benefit status.

Nonmonetary determinations are divided into two major areas: separation from work issues (termed separation nonmons) and all

other determinations (termed nonseparation nonmons). The former address the circumstances surrounding leaving the last job which can affect claimant eligibility. The latter typically deal with issues of continuing eligibility while in benefit status and benefit payment reductions which occur when certain other income is received at the same time (either disqualifying or deductible income). The issues in dispute, both nonseparation and separation issues, are resolved by determinations made within the UI agency. Agency determinations, termed adjudications, include fact finding and the subsequent application of relevant statutes and/or administrative rules appropriate to the claimant's situation.

If the worker and the employer agree that the worker was laid off by the employer no separation issue will arise. However, issues frequently arise regarding the reason for the separation. Two common situations are the following: i) a worker alleges the separation was a layoff while the employer asserts the worker quit and ii) the employer alleges the worker was discharged for "cause" while the worker asserts it was an ordinary layoff. In both instances the worker's eligibility and/or total potential entitlement will be enhanced if the separation is judged to be an ordinary layoff. If the employer's position prevails benefits will be denied for the entire spell of unemployment or for a fixed disqualification period, say from four to twelve weeks. Also, if the employer prevails, there will not be direct financial consequences to the employer even if benefit are paid, i.e., the benefit payments will not be charged to the employer's account.

Agency rulings against claimants reduce payments but typically the reduction is larger when a separation issue is in dispute. As noted, quits and discharges for cause result in denials for the entire spell of unemployment or multi-week disqualifications. Nonseparation nonmons, in contrast, may cause benefits to be denied only for the week(s) of the act resulting in ineligibility or cause only a partial denial of the weekly benefit. Separation nonmons generally are decided before benefits are paid while nonseparation nonmons mainly affect workers already receiving benefits.

If either party to a nonmonetary determination is dissatisfied with the agency's decision there can be an appeal.[1] Administrative appellate proceedings resemble formal court proceedings with a presiding officer (typically an administrative law judge), the presentation of evidence, cross examination, possible formal representation of one or both parties and the issuance of a written ruling. All but two states also allow subsequent (higher level) administrative appeals of initial (lower level) appeals decisions.

In some disputes there are only two interested parties, the claimant and the UI agency, and the key issue is whether or not the claimant satisfies all the conditions of benefit eligibility. In other disputes there are three interested parties and the key issue is the reason for the job separation. Here the UI agency initially adjudicates the issue (making a separation nonmonetary determination), and remains an interested party if its initial determination is followed by an appeal.

Each year UI agencies resolve millions of disputes over benefit eligibility. For the period 1971 to 1993 new and additional initial claims for regular state UI benefits averaged 18.3 million per year while nonmons averaged 7.7 million and appeals averaged .9 million. Typically, the annual number of nonmonetary determinations exceeds one-third of the number of new and additional claims for benefits; more than one tenth of UI agency nonmonetary determinations are appealed; and more than one tenth of lower level appeals decisions are themselves appealed, Disagreements over benefit eligibility are common in UI programs.

Substantial UI administrative resources are devoted to resolving disputes over claims. This can be illustrated in two ways. First, the national office of the UI Service recently conducted a survey of state-level staffing of benefits

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[1] Some states initially limit the right of appeal by requiring an agency redetermination in certain specified situations. In practice, only about ten states make use of redeterminations (reconsiderations) in more than one or two percent of all nonmonetary determinations.

administration during fiscal years 1989 and 1991. In the 46 states that provided responses for both years, 32 percent of employment involved in benefits administration was devoted to nonmons and appeals in 1989 and 31 percent in 1991. In both years nonmonetary determinations accounted for somewhat more staff time than appeals.[2] Second, when counts of broadband workload activities are weighted by the average time needed to accomplish workload tasks (minutes per unit or MPUs), the share of benefit staffing resources devoted to nonmons and appeals has fallen into the 29-33 percent range in recent years. Weighted by their respective MPUs nonmons and appeals are of roughly equal importance.[3] Since about 70 percent of all UI administrative staff time involves the administration of benefit payments, issues and disputes resolved by nonmons and appeals account for 20-23 percent of all staff time devoted to UI program administration.[4]

Agency administrative resources used in nonmons and appeals are the largest component of UI dispute-related costs. While this paper did not try to examine all costs, other major cost categories can be identified. Claimants and employers devote time complying with requests for information needed for agency determinations. They also may incur costs of formal representation in appeals proceedings. It would be instructive to undertake a full analysis of all costs associated with disputes over UI eligibility.

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[2] Of UI agency staffing devoted to nonmons and appeals, nonmons accounted for 54.4 percent of the combined total in 1989 and 56.2 percent in 1991. Since lawyers are highly paid, the two activities are probably of nearly equal importance as elements of UI agency costs.

[3] This range of percentages is deduced using national data on workload and the average productivity in completing individual tasks. Assessing the share of staff time devoted to individual broadband administrative activities is hampered by outdated data on MPUs, the time needed to complete individual administrative tasks. The last systematic survey that timed these activities took place in 1984, a full decade ago.

[4] About 30 percent of UI agency staff work in tax administration.

II. Time Series and Geographic Variation

National Trends in Nonmonetary Determinations and Appeals

State reporting of nonmonetary determinations and appeals extends back several decades with computerized records available from the national office of the UI Service since 1971. Thus one can examine time series and geographic patterns in disputes over UI eligibility. Table 1 presents national summaries of nonmonetary determinations and appeals in annual data extending from 1965 to 1993. The table also shows new claimant spells of unemployment to provide background information on the labor market situation in these years. The right hand columns show rates of occurrences of nonmonetary determinations, denials and appeals relative to new claimant spells and nonmonetary determinations. Finally, to help summarize these data, the bottom rows show annual averages for three periods: 1965-1970, 1971-1980 and 1981-1993.

Several features of Table 1 are noteworthy. First, observe the cyclical responsiveness of new claimant spells. Between 1989 and 1991 new spells increased from 15.62 million to 21.30 million or by 36 percent. Even larger percentage increases occurred during 1969-1971 (46 percent) and 1973-1975 (92 percent). Nonmonetary determinations, denials and appeals do not exhibit such pronounced short run variability. Disagreements over eligibility for benefits are more cyclically stable than are new claims for benefits.

Second, note the unusually large volume of nonmonetary determinations during the four years 1976-1979. This was a period of economic expansion but the volume of determinations ranged from 9.43 million to 10.37 million, the highest levels observed in the table, higher than in recessions years such as 1982 and 1991. Because of the high volume of nonmons during 1976-1979, the average for the 1971-1980 decade exceeded the 1981-1993 average, 8.28 million versus 7.05 million, despite the higher volume of new spells of the latter period. On a per-spell basis the rate of nonmonetary determinations was .493 during 1971-1980 versus .377

during 1981-1993. This aspect of disputes over eligibility was more common during the 1970s than in more recent years.

Third, while the per-spell rate of nonmonetary determinations has declined since the 1970s, denials and disqualifications per determination have increased. The average for 1971-1980 was .437 per determination compared to .542 during 1981-1993. When individual years are examined the highest rate of denials and disqualifications per spell are observed during 1989-1993, all exceeding .570. The rate of denials and disqualifications per nonmonetary determination first reached .50 in 1985, and has not fallen below .50 since that year. In recent years UI agency determinations have increasingly been decided against claimants.

Fourth, and perhaps most obvious, there has been a pronounced upward trend in appeals of UI agency determinations. The absolute annual volume of appeals averaged .24 million during 1965-1970, .64 million during 1971-1980 and then 1.02 million during 1981-1993. Appeals per new claimant spell increased from .023 during 1965-70 to .055 during 1981-1993, and there was a noticeable increase in the rate of appeals in 1992 and 1993. Between 1971 and 1993 the rates of appeals per new spell and per determination roughly tripled. All measures of appeals activities in Table 1 indicate that increasingly nonmonetary determinations are questioned and contested by claimants and employers.

The data on nonmonetary determinations and appeals in Table 1 are highly aggregative. The data reporting system has more details on activities within these two broadband areas of benefits administration. The following section examines nonmonetary determinations in greater detail.

Nonmonetary Determinations

As noted above nonmonetary determinations are traditionally divided into two broad classes of issues, separation issues and nonseparation issues. Typically nonseparation issues account for somewhat more than half of both determinations and denials. For the entire 1965-1993 period annual denials on separation issues

averaged 1.50 million while denials on nonseparation issues averaged 1.83 million. For both types of determinations the overall denial rate has averaged somewhat more than 50 percent in recent years, e.g., .545 on separation issues and .543 on nonseparation issues during 1981-1993.

While separation nonmons account for somewhat less total workload than nonseparation nonmons, they represent a larger share of UI agency administrative staff time and costs because individual determinations typically take more time to complete. The national average MPU for separation nonmons is about 90 minutes compared to about 50 minutes for nonseparation nonmons.[5] Thus in terms of UI administrative staff time the breakdown is roughly 60 percent for separation nonmons and 40 percent for nonseparation nonmons.

Agency determinations on separation issues are generally made at the start of new claimant spells. Increasingly disqualifications on separation issues are outright denials that preclude the claimant from any benefits for that entire spell of unemployment.[6] A natural divisor for measuring the frequency of determinations and disqualifications on separation issues is the number of new claimant spells of unemployment. Traditionally the UI Service defines new spells as the sum of new initial claims (where claimants are monetarily eligible) plus additional claims (where monetary eligibility has already been established). For nonseparation issues such as ability to work and availability for work, the claimant is exposed to the risk of ineligibility during

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[5] The reader is reminded that the MPUs were last measured in 1984. While the analogous statistics for 1994 are not known it is still the case that separation nonmons involve substantially more time per case than nonseparation nonmons.

[6] A durational disqualification will continue to be effective for some interval even after the person has been reemployed. Typically states have so called requalification requirements that mandate a period of employment and/or level of earnings that must be met before the previous disqualification becomes inoperative. One may still be ineligible even if the termination is a layoff by the most recent employer.

each week when benefits are claimed. Because exposure to an eligibility determination exists during all weeks of a claim, not just at the start of a new spell, the measure of exposure to this risk covers all weeks claimed by active claimants and is termed claimant contacts. The UI Service traditionally measures the rate of denials on nonseparation issues relative to the number of claimant contacts. These measurement conventions will be followed in this section.

Table 2 displays denial-disqualification rates and determination rates on separation issues. Because the issues of voluntary quits and misconduct account for the vast majority (over 90 percent) of all separation issues, these are the only detailed issues highlighted in the table. In the first three columns of data where disqualifications are measured per new claimant spell two patterns are apparent. (1) There was an unusually high denial rate for voluntary quits during 1976-1979. (2) There is a gradual upward trend in the denial-disqualification rate for misconduct. Comparing the overall denial rates per new spell in 1965-1970 with 1981-1993, the rates are the same for voluntary quits (.055 in both periods) while for misconduct it more than doubled (.016 versus .034).

The next six columns in Table 2 provide a useful perspective on the evolution of separation denials and disqualifications since 1971. For voluntary quits, determinations per new spell have been less frequent in recent years than during the 1970s. The average rate of determinations during 1981-1993 (.076) was almost three full percentage points less than during 1971-1980 (.105). During these same years misconduct determination rates increased: .075 during 1971-1980 compared to .088 during 1981-1993. In every year since 1980 the misconduct determination rate has exceeded the determination rate for voluntary quits.

Three features of the final three columns of Table 2 are important. Denials per determination are much higher for voluntary quits than for misconduct (.729 versus .389 during 1981-1993). For both separation issues the average denial rate was somewhat higher during 1981-1993 than during 1971-1980, 4.5 percentage points

higher for voluntary quits and 2.7 percentage points higher for misconduct. However, because the mix of determinations has changed toward misconduct determinations which have lower disqualification rates, the overall denial-disqualification rate per determination on separation issues was only slightly higher in 1981-1993 than during 1971-1980, .545 versus .539. The stability of the overall denial rate on separation issues masks two distinct trends; an increased (decreased) share of misconduct (voluntary quit) determinations and small upward trends in denial-disqualification rates per determination for both issues.[7]

Table 3 displays national summary data on nonmonetary denials-disqualifications and determinations for nonseparation issues. The main categories of nonseparation issues are shown as well as totals. Of the detailed issues, able and available (and actively seeking work) issues are most common while refusal of suitable work issues are least common. Data showing denials for these two issues extend back to 1965 in Table 3. Starting in 1971 details for two other nonseparation issues (disqualifying and deductible income and miscellaneous nonseparation denials) become available. Categories of income that cause disqualifications and denials include workers' compensation, severance and other termination pay and pension payments. Disqualifications for receipt of pensions were broadened in April 1980 following federal legislation. Miscellaneous nonseparation issues were divided into reporting requirement issues and other issues starting in late 1979. Reporting requirements obligate certain claimants to appear in person to verify continuing eligibility or suffer an automatic denial for not reporting. Other issues apply mainly to claimants who are professional athletes, aliens and school system employees all of whom face special eligibility requirements. The Table 3 denial-disqualification rates and determination rates are shown per ten claimant contacts, i.e.,

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[7] Of the two series of denials per determination shown in Table 2 the trend in the misconduct denial rate is more robust than for voluntary leaving. For voluntary leaving the highest annual rates of denials per determination occurred between 1980 and 1983.

per ten weeks in active claims status.

The overall denial-disqualification rate on nonseparation issues was quite stable between 1965 and 1993. Except for the rate of .182 in 1978 all other rates per ten claimant contacts ranged from .107 to .161. The average for the 1965-1970 period was .147 compared to .145 during 1971-1980 and .133 during 1981-1993. There is a clear tendency for the overall rate to fall in recession years like 1970, 1975, 1982 and 1991.

While the overall denial rate on nonseparation issues was stable, the mix by issue changed markedly between 1965 and 1993. In 1965 able and available denials alone accounted for 77 percent of the total, while refusals of suitable work added another 7 percent. By 1993 able and available denials accounted for only 37 percent of the total and refusals added but another 2 percent. Thus over the full 1965-1993 period their combined share fell from more than 80 percent to less than 40 percent of all nonseparation denials and disqualifications.[8]

Denial-disqualification rates for disqualifying and deductible income issues ranged from .016 to .023 per claimant contact between 1971 and 1979 and then increased to the .026-.036 range starting in 1980. In April 1980 federal requirements became effective that increased mandatory disqualifications for pension income, and the effect is immediately obvious in data for 1980II. Note in the bottom rows of Table 3 that the average per ten claimant contacts increased from .019 during 1971-1980 to .029 during 1981-1993. The annual data also suggest a small upward trend in the denial-disqualification rate for income issues during 1981-1993.

Separate information on denials related to reporting requirements and "other" issues are available from 1980. The reporting requirements denial rate trends upward after 1980 while

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[8] These are the two nonseparation issues examined by Corson, et. al., in their analysis of nonmonetary determinations. See Walter Corson, Alan Hershey and Stuart Kerachsky, Nonmonetary Eligibility in State Unemployment Insurance Programs, (Kalamazoo, MI: W.E. Upjohn Institute, 1986).

the rate for "other" denials is quite stable. Reporting requirements can lead to denials for two distinct reasons, the failure to report itself or the discovery of ineligibility conditions among those who do report. Thus for reporting requirements and other nonseparation issues the precise reason for the denial is not obvious.[9]

What is clear from Table 3 is that the three broad categories of nonseparation issues combined (disqualifying and deductible income, reporting requirements and "other") now account for more denials and disqualifications than the able and available and refusal of suitable work issues. During the 1981-1993 period the former trio had a combined denial-disqualification rate of .072 per ten claimant contacts compared to .061 for the latter two.

Absent from both Table 2 and Table 3 is information on the severity of the denials and disqualifications. As noted earlier, denials on separation issues are increasingly durational disqualifications. Many disqualifications on nonseparation issues are only for the week of the act or condition requiring denial, but durational disqualifications can be applied for some nonseparation issues. There are no data available to show the breakdown of the denials and disqualifications by the severity of the penalties. As a general observation, however, those for nonseparation issues are less severe per disqualification because some are explicitly limited to one or two weeks while others, even if durational, take place after some weeks of benefits have already been paid. Thus, weeks disqualified per denial or disqualification are shorter for nonseparation issues than for separation issues.

The middle section of Table 3 displays determination rates for nonseparation issues, with rates again measured per ten claimant contacts. Determinations data are available only from 1971. Note that for able and available issues the determination rates are much lower after 1979 and especially after 1982. A continuing decline

[9] The same observation applies to miscellaneous denials and disqualifications that were reported during the 1970s.

after 1982 is also suggested. Over these 23 years the frequency of refusal of suitable work determinations also declined with a discontinuity apparent in 1980. In this same year disqualifying and deductible income determinations increased in frequency and the frequency is even higher during 1987-1993 than during 1980-1986. In contrast, no major trends in determination rates are apparent for either reporting requirements or other nonseparation issues.

The final columns of Table 3 show denial rates per determination on nonseparation issues. The overall denial rate trended sharply upward between 1971 and 1993. It fell below .40 in every year between 1971 and 1979, but consistently exceeded .50 during 1985-1989 and then exceeded .60 during 1990-1993.

Three factors explain this upward trend. First, note that the denial rate on able and available issues increased from roughly .35 during the 1970s to .55-.60 after 1985.[10] Second, note that the denial rates for reporting requirements and other nonseparation issues have both trended upward since 1980. Both denial rates were generally below .50 during 1980-1984 and both have consistently exceeded .60 since 1989.[11] Third, the mix of determinations on nonseparation issues has changed towards issues with higher denial rates. As noted earlier, able and available issues and refusal of suitable work issues have declined in relative importance while disqualifying and deductible income, reporting requirements and other nonseparation issues have become more prevalent. The latter three generally have higher denials per determination. Thus mix

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[10] The trends in denials per determination and determinations per claimant contact on able and available issues are to some extent offsetting. However, the downtrend in the determination rate dominates in time series data so that denials per ten claimant contacts declined from .115 in 1965 to .048 in 1993.

[11] The upward trend in denial rates for these issues extends back into the 1970s. Recall that miscellaneous issues for the 1971-1979 period were later subdivided into reporting requirements and "other" issues. Denials per determination for miscellaneous issues consistently fell below .40 during the 1970s and averaged .358. Thus the increase between 1971-1980 and 1981-1993 exceeded .20.

effects and increasing probabilities of denials on given issues have both contributed to the post-1971 upward trend in denials per determination on nonseparation issues.

Geographic variation in denial-disqualification rates and determination rates are next examined in Tables 4 and 5 which focus respectively on separation and nonseparation issues. The separation issues covered in Table 4 are the same as earlier in Table 2, i.e., total, voluntary quits and discharges for misconduct. States are aggregated into the nine census divisions and averages for three multiyear periods are shown: 1965-1970, 1971-1980 and 1981-1993. Determinations per spell and denials per determination are available only for the latter two periods.

Several geographic patterns are repeated for each time period in Table 4. Denials and disqualifications per spell consistently are below-average in the Mid-Atlantic and New England divisions. This holds for voluntary leaving and misconduct denials as well as the total for all nonseparation issues. Conversely, very high denials and disqualifications per spell are consistently observed for the West North Central, West South Central and Mountain divisions. Again, high denial rates are observed for both voluntary quits and misconduct in these three divisions.

When high-to-low comparisons of denials per new unemployment spell are made across divisions, the ratios in Table 4 all exceed 2.5. The likelihood of a denial or disqualification on a separation issue clearly depends on the geographic area of the claim.[12] The high-to-low ratios across divisions are larger in earlier periods and higher for misconduct than for voluntary quit denials.

There are clear upward trends in misconduct denial rates in all divisions and for seven of nine the rate per new spell increases monotonically across the three time periods.[13] Voluntary

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[12] Even sharper contrasts are present in state-level data.

[13] The two exceptions for adjacent periods are in New England between 1971-1980 and 1981-1993 when the rate was .040 for both periods and in the West South Central division where the 1981-1993

quit denials per spell, in contrast, generally increase between 1965-1970 and 1971-1980 but then decline during 1981-1993.

When determination rates are examined the tendency for voluntary quit determination rates to be lower in 1981-1993 than in 1971-1980 is observed in most divisions. Large reductions took place in the three divisions with the highest determination rates in 1971-1980, i.e., the West North Central, West South Central and Mountain divisions. Misconduct determination rates, in contrast, were nearly stable across most divisions over these two periods with noticeable increases occurring only in the New England and Mid-Atlantic divisions.

Denials per determination also vary across divisions particularly for misconduct issues. For both detailed separation issues the averages in Table 4 show a tendency to increase between 1971-1980 and 1981-1993, but the changes are often small and some decreases also are observed. Three divisional averages are actually lower in 1981-1993 than in 1971-1980 for both voluntary quits and misconduct denials. As noted earlier in Table 2, these upward trends in denials per determination are not strong.

To summarize, determination rates on separation issues vary widely across divisions with high-to-low divisional averages exceeding 3.0 for both voluntary quits and misconduct determinations. Denials per determination exhibit a smaller range of variation, particularly for voluntary quits. Even here, however, the outcome of a typical determination on both issues is systematically different by area. The geographic aspect of variation in both determination rates and denials per determination on separation issues is considerably larger than the time series national variation examined previously in Table 2.

Table 5 shows geographic detail on nonseparation denials and determinations for the same three periods as the preceding tables.

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rate of .063 was lower than the 1971-1980 rate of .072. For all nine divisions the misconduct denial rate for 1965-1970 was much lower than for 1981-1993.

Denials and disqualifications per ten claimant contacts vary widely by division and in some instances change noticeably between adjacent periods. During 1965-1970 denial rates were unusually high in the Mid-Atlantic division and low in the East South Central division. Able and available issues account for most of the variation with the Mid-Atlantic and East South Central divisions respectively providing the high and low extremes of the range.

Overall, nonseparation denial rates increased by .04 or more during 1971-1980 in three divisions (West North Central, Mountain and Pacific) and declined by .04 in the Mid-Atlantic division. Between 1971-1980 and 1981-1993 the averages increased by .04 or more in four divisions (West North Central, East South Central, West South Central and Mountain) while decreasing by at least .04 in two divisions (Mid-Atlantic and East North Central). Sharp decreases in denial rates per ten claimant contacts on able and available issues occurred in the latter two divisions along with the Pacific division while smaller decreases occurred elsewhere. Except for refusal of suitable work issues the other detailed issues also show a wide range of interdivisional variation during 1981-1993. Clearly the divisions present a highly varied face in their denial rates on nonseparation issues. Because the detailed reporting categories changed between 1971-1980 and 1981-1993, however, the intertemporal changes cannot be traced with precision.

The determination rates per ten claimant contacts also are highly varied by census division. For the two time periods (1971-1980 and 1981-1993) the range across divisions has the top rate more than twice the level of the lowest rate. Determination rates on able and available issues decreased sharply over these periods in all divisions but the West North Central and West South Central divisions. Note also that determination rates for disqualifying and deductible income increased sharply in the New England, East South Central and Mountain divisions during 1981-1993. Again the data indicate that determination rates per ten claimant contacts differ noticeably by geographic area and that changes have occurred by area within short time periods.

Denials and disqualifications per determination increased for nonseparation issues in the aggregate, for able and available issues and for the categories that constituted miscellaneous issues during 1971-1980 and then for reporting requirements and "other" issues during 1981-1993. The national averages which had been about .35 during 1971-1980 increased to about .55 during 1981-1993. For both refusals of suitable work and disqualifying and deductible income, in contrast, denial rates were quite stable during these two periods.

For the 1981-1993 period there is a distinct regional pattern to the overall denial rates for nonseparation issues. The lowest rate is found in the Mid-Atlantic division (.302) followed by the New England and the East North Central divisions (.509 and .518 respectively). The rate ranges from .60 to .75 across the other six divisions. The detailed nonseparation issues mainly responsible for the contrasting regional pattern are able and available issues where denial rates fall into the .31-.44 range for the former three divisions but into the .61-.77 range for the other six divisions. Reporting requirements denial rates also are lowest for the former three divisions, but the contrasts with the other six divisions are less dramatic than for able and available denial rates. The final observation is that the Mid-Atlantic division has uniformly low denial rates for all the nonseparation issues covered by Table 5.

When the geographic data from both Tables 4 and 5 are considered a few conclusions emerge. (1) The Mid-Atlantic division has consistently low denial rates, either the lowest or nearly the lowest across all nine divisions, particularly during 1981-1993. The New England and East North Central divisions often rank below the national average but not by as much as the Mid-Atlantic division. Conversely, the West North Central, West South Central and Mountain divisions typically have above-average denial-disqualification rates. Thus geographic contrasts in denial rates were found for both separation and nonseparation issues.

(2) For the time periods covered in Tables 4 and 5 the denial rates by division are not stable and sometimes change sharply from

one time period to the next. (3) Not all determination rates have increased since the late 1970s. In particular, determination rates declined during 1981-1993 for voluntary quits, able and available and refusal of suitable work issues. Since refusal issues were never a large element of workload, this decline is much less important than the decline in voluntary quit and able and available issues.(4) Denials per determination for all issues either increased or remained stable between 1971-1980 and 1981-1993. For individual census divisions there are exceptions to both (3) and (4), but the exceptions are relatively infrequent.

Finally, it should again be emphasized that the severity of penalties for denials and disqualifications could not be examined with data from ETA 207 reports submitted by the states. On average, the penalties have probably increased since the early 1970s, but an analysis of their average severity was not attempted.

Appeals

Monthly state reports on UI appeals have followed a consistent format for over thirty years. For the regular state UI programs the data cover four aspects of appeals activities: i) case management (appeals filed, disposed of and pending), ii) time lapses in appeals decisions, iii) the identity of appellants (claimants and employers) by level of appeal (higher and lower authority) and appeals outcomes and iv) lower authority appeals issues.[14] This section will emphasize only selected aspects of these data.

Table 6 shows national counts of appeals volume from 1965 to 1993. Three dimensions of annual appeals are emphasized: level (lower and higher),[15] appellant (claimants and employers) and

[14] The reporting document, the ETA 5130 report, includes 73 fields of monthly data from each state. Certain fields are entered more than one time in the 5130 report. In particular, the number of lower authority appeals decisions appears in five separate fields and the monthly estimates may not all be the same.

[15] Hawaii and Nebraska do not have higher appeals authorities. New Hampshire added higher appeals in 1981.

caseload volume (total decisions and decisions favorable to appellants). While this section focuses mainly on rates of appeals and appellant success rates two features of Table 6 are worth noting. First, at both the lower and higher authority levels employer appeals have grown more rapidly than claimant appeals. Employer appeals accounted for 13.4 percent of the lower authority total for claimants plus employers in 1965 (29,934 of 223,957) but 25.1 percent in 1993 (250,845 of 997,532).[16] Over the same period the employer share of the higher authority combined total rose from 18.1 percent (6,544 of 36,128) to 32.5 percent (59,641 of 183,606). Second, the volume of higher level appeals has grown more rapidly than lower level appeals volume, increasing from 13.9 percent of the total for claimants plus employers in 1965 (36,128 of 260,085) to 15.5 percent in 1993 (183,606 of 1,181,138).

The multiyear averages shown at the bottom of Table 6 provide vivid documentation of the growth in UI appeals volume since 1965. For all decisions and decisions favorable to appellants the claimant totals more than doubled between 1965-1970 and 1971-1980 while the employer totals more than tripled. Differential growth in employer appeals is also apparent between 1971-1980 and 1981-1993. However, during the latter two periods favorable decisions for claimant appellants grew at about the same rate as favorable decisions for employer appellants.

From data previously shown in Table 1 it was clear that appeals have grown more rapidly than the overall volume of UI claims. It seems probable that the share of UI administrative staff time devoted to appeals probably has also increased since 1965.

Table 7 displays data on rates of appeals and success rates of appellants. The table shows details on the level of the appeal (higher and lower) and the appellant (claimants and employers). Rates of appeals are measured as proportions relative to adverse decisions at the preceding administrative level. Adverse decisions

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[16] These comparisons do not include a small number of appeals filed by others, e.g., the UI agencies themselves.

motivating lower level claimant appeals are nonmonetary denials and disqualifications while employer lower level appeals are filed following determinations that award benefits to claimants. Adverse lower level decisions motivate higher level appeals for both parties. Appellant success rates are also measured as proportions relative to adverse decisions from the preceding stage of administration. At the lower level appellant successes are reversals of UI agency nonmonetary determinations, i.e., awards for claimant appeals of denials and denials for employer appeals of awards. At the higher appellate level adverse decisions motivating claimant appeals (the denominator of the success rate) are the sum of lower level denials of claimant appeals plus denials resulting from successful employer appeals.[17] For higher level employer appeals adverse decisions are the sum of lower level awards from claimant appeals plus denials from employer appeals. As in earlier tables, Table 7 also shows averages of the proportions for three periods, 1965-1970, 1971-1980 and 1981-1993.

The rates of lower level appeals have grown for both claimants and employers.[18] However, while the claimant rate of appeals roughly doubled between 1965-1970 and 1981-1993 (increasing from .098 to .177) the rate for employers tripled between 1971-1980 and 1981-1993 (from .021 to .062). Thus although claimants continue to file lower level appeals at a higher rate per adverse nonmonetary determination (a denial or disqualification), the ratio of the two rates of appeals declined from 5.7 during 1971-1980 (.119/.021) to 2.9 in 1981-1993 (.177/.062). A continuous increase in the rate of lower level employer appeals is also apparent during 1981-1993 with the 1992 and 1993 rates exceeding .090. Thus by 1993 the ratio of

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[17] Data as reported on the ETA 5130 forms do not distinguish higher appeals arising from these two lower level outcomes or their respective success rates at the higher level.

[18] Because nonmonetary determinations are available only since 1971 the rate of employer appeals cannot be measured before this year. In contrast, because denials are available for earlier years, rates of lower level appeals by claimants extend back to 1965.

the two rates of appeals had further decreased to 2.1 (.198/.095).

For claimants the rate of filing higher appeals has remained quite stable, between .170 and .210 in all but three years of the 1965-1993 period. The multiyear averages at the bottom of Table 7 fall into the narrow range from .190 to .193. The rate of higher level employer appeals also has increased but not as dramatically as the rate for lower level employer appeals, e.g., .090 in 1965-1970 versus .137 in 1981-1993. Thus at both levels the rates of appeals converged during the 1965-1993 period with increased rates of employer appeals responsible for closing the gap.

The success rates of UI appeals also show a number of contrasts. Claimants and employers are both more successful at the lower level than at the higher level. At each level employers are more successful than claimants. However there is also a tendency for success rates at both levels to converge. Claimant success rates are roughly stable over the full 1965-1993 period while employer success rates, especially for lower level appeals, declined. Since 1973, for example, employer success rates at the lower level have never exceeded .361 whereas between 1965 and 1973 the rates ranged from .391 to .433. Thus in 1993 the lower level success rates were .307 for claimants and .338 for employers while their respective higher level success rates were .148 and .190.

Table 8 traces the growth in lower appeals by issue for the 1965-1993 period. Misconduct appeals grew the most rapidly while refusal of suitable work and able available appeals grew hardly at all between the late 1960s and the early 1990s. Note also that voluntary quit appeals grew less rapidly than misconduct appeals and that more misconduct appeals are now heard. This growth disparity mirrors the growth pattern in nonmonetary separation determinations, i.e., misconduct determinations have grown more rapidly than voluntary quit determinations.[19]

More generally, appeals over separation issues have grown more rapidly than appeals over nonseparation issues. Voluntary quit and

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[19] Recall the Table 2 trends in determinations per new spell.

misconduct appeals combined represented 53.2 percent of all lower authority appeals in 1965 (119,300 of 224,200) but 66.5 percent in 1993 (664,100 of 997,900).

Table 9 displays rates of appeals by issue. Because the ETA 5130 reports do not distinguish claimant from employer appellants, the rates of appeals are measured relative to all nonmonetary determinations on each issue. Since nonmonetary determinations were first available in 1971, Table 9 covers only 23 years.

Rates of appeals differ systematically by issue. The highest rates consistently occur for voluntary quit and misconduct appeals. Because disqualifications on separation issues usually are durational, these issues have larger financial stakes than other issues, probably contributing to their higher rates of appeals. During 1981-1993 nearly one determination in five on these issues was appealed. Rates of appeals for the other issues during 1981-1993 were about half of these rates or lower for able and available issues. When the 1971-1980 and 1981-1993 periods are compared, all rates of appeals are higher in 1981-1993, especially for voluntary quits, misconduct and labor disputes and other issues.

Overall, the rate of lower level appeals was almost twice as high in 1981-1993 as during 1971-1980 (.124 versus .064). The aggregate rate of appeals tripled when endpoints of the 1971-1993 period are compared, e.g., .155 for 1992-1993 compared to .050 for 1971-1972. Most of the increase in the overall rate of appeals was due to higher rates for the individual issues.[20]

Tables 10 and 11 provide summary data on rates of appeals and appellant success rates for census divisions. When the four sets of rates of appeals by division are compared the greatest relative spreads (the ratio of the highest divisional rate to the lowest rate) are observed for lower level employer appeals. However, for the other three rates of appeals the ratio of the highest to the

[20] When the 1993 rates of appeals were applied to the 1971 mix of appeals by issue the overall rate was calculated to be .164, or .009 higher than the actual rate of .155.

lowest divisional rate is always at least 1.5, and six of eleven exceed 2.0. Wide variation is observed across geographic areas.

Several patterns in the rates of appeals by census division are consistently observed during all three time periods in Table 10. Rates of lower level claimant appeals were consistently below-average in four divisions (East North Central, West North Central, Mountain and Pacific) but above-average in four other divisions (New England, Mid Atlantic, East South Central and West South Central). Lower level appeals by employers are especially infrequent in the Mid Atlantic and Pacific divisions. Very high rates of lower employer appeals are observed in several divisions with four divisions having rates above .100 during 1981-1993 (the West North Central and all three southern divisions).

Rates of higher level appeals by census division show more variation across time periods. Consistently above-average rates of claimant higher appeals are observed only in the East North Central and East South Central divisions. Consistently low rates of claimant higher appeals are observed in the New England, West North Central and Mountain divisions. Higher employer appeals also have above-average rates in the East North Central and East South Central divisions but below average rates in the New England and Mountain divisions. All of these patterns match the geographic patterns for higher level claimant appeals. It appears claimants and employers are both more likely to resort to higher level appeals in some census divisions than in others.

Appellant success rates also vary by division, but there is relatively less variation across divisions in lower level claimant success rates than in the other three success rates shown in Table 10. The high-to-low ratios for lower claimant appeals fall into the 1.3-1.45 range for the three time periods, i.e., a ratio of 1.45 for 1981-1993 is derived from the .330 success rate in the Pacific division divided by the .228 success rate in the East South Central division. For the other three types of appeals five of nine high-to-low success rate ratios by division fall into the 1.90-2.19 range with two higher and two lower ratios.

Divisional appellant success rates also show considerable variability over time. For lower level claimant appeals only the Mid Atlantic and East South Central divisions consistently have below-average success rates in Table 10 while only the Mountain and Pacific divisions have consistently above-average success rates. For lower level employer appeals one division has consistently below-average success rates (Mid Atlantic) and only one has consistently above-average rates (South Atlantic). Only the New England and South Atlantic divisions have consistently above-average success rates for higher claimant appeals.

Much greater consistency in regional success rate patterns is observed for higher level employer appeals. Four divisions are consistently above-average (the three southern divisions and the Pacific division) while the other five are below-average in two or all three periods covered by Table 10. For a given division large changes in success rates between adjacent periods are frequently observed. Thus except for higher level employer appeals, the pattern of divisional success rates is quite varied and subject to change from one time period to the next.

Table 11 displays rates of lower level appeals by issue and geographic area. Because these data do not identify the appellant the rates of appeals for each issue are shown relative to all nonmonetary determinations on that issue, as in Table 9.[21] The previous observations from Table 10 about interdivisional variation apply to Table 11 as well. The high-to-low ratios exceed 2.0 in eleven of twelve instances,[22] and six ratios exceed 3.0. Increases between 1971-1980 and 1981-1993 are observed in the rates of appeals for both voluntary quits and misconduct issues in seven of nine divisions. Exceptions are found only in the South Atlantic and

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[21] The rates of appeals in Table 11 are averages of corresponding claimant and employer rates shown earlier in Table 7.

[22] The exception is the overall rate of appeals during 1981-1993 where the ratio is 1.85, i.e., .174 from the West South Central division relative to .094 for the Mid Atlantic division.

East South Central divisions, those with the highest rates of appeals on these issues during 1971-1980. More mixed patterns of growth in rates of appeals are observed for the other three detailed issues.

To summarize the findings from Tables 6-11, seven concluding observations can be offered. (1) Appeals activities grew rapidly during the 1965-1993 period, not only the absolute volume of appeals but also appeals measured relative to decisions at the preceding levels of UI administrative determinations. (2) Employer appeals grew more rapidly than claimant appeals, although rates for both increased noticeably at the lower appellate level. (3) Rates of appeals for separation issues, especially misconduct issues, grew especially rapidly at the lower appellate level. (4) Employer success rates exceed claimant success rates at both levels of appeals. (5) At both levels employer success rates declined over the period so that the differential with claimant success rates was much smaller in the early 1990s than it had been in the late 1960s. (6) There is a wide range of variation in both appeals rates and appellant success rates across census divisions. (7) In nearly all divisions rates of lower level appeals grew between 1971-1980 and 1981-1993, particularly for separation issues.

III. UI Dispute Resolution in Canada

Canadian procedures for resolving disputes over UI eligibility present a number of interesting contrasts with U.S. procedures. After some introductory discussion this section undertakes two main tasks. (1) It describes the institutional arrangements for resolving UI eligibility disputes in Canada. (2) It makes Canada-U.S. comparisons of caseloads and outcomes at different stages of administrative processes. Selected features of Canada's dispute resolution procedures that present particularly vivid contrasts with U.S. procedures are included in this discussion.

There are several reasons to examine UI dispute resolution in Canada. Its economy shares many features with the U.S. economy,

e.g., primary reliance on market determined prices and wide diversity in regional economies, but is more open to international trade. Its unemployment insurance (UI) program is similar in some ways, but UI benefits replace a somewhat higher fraction of prior earning, a larger proportion of the unemployed collect benefits and benefits are received for considerably longer periods, particularly in provinces with high unemployment.

Several institutional contrasts distinguish the UI programs of the two countries. The Canadian program is national in scope with a single law covering all provinces. Program administration is conducted by the Canada Employment and Immigration Commission (EIC or Commission). Although supported by payroll taxes, Canadian UI financing differs from U.S. financing in that employer contributions are levied at a flat rate, not experience rated, and employees also contribute. The absence of experience rating is of particular interest since some feel experience rating contributes to disputes over eligibility in the U.S..

An analysis of Canadian experiences is interesting for at least two additional reasons. First, a study completed in 1985 examined all major aspects of Canadian dispute resolution procedures.[23] This study examined both within-agency determinations (analogous to nonmonetary determinations in the U.S.) and appeals. Besides drawing upon administrative data the study interviewed three representative samples of claimants for whom there was an issue regarding UI eligibility.[24] It also examined the effects of formal representation on the outcomes of appeals. Second, Canada has recently restricted eligibility among job leavers through legislation enacted in 1990 and 1993. Those who leave jobs without good cause are now disqualified for the duration of their

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[23] Helene Boyer, "Evaluation of the UI Appeal System," Program Evaluation Branch, Employment and Immigration Canada, (December 1985). This report also cites earlier studies from the late 1970s.

[24] The three were i) claimants disqualified (or disentitled) by the agency, ii) claimants who appealed their disqualifications and iii) claimants who made higher level appeals

unemployment spells, similar to the job leaver disqualifications currently applied by most state UI programs in the U.S..

A Description of the Canadian System

Issues and disputes over UI eligibility in Canada are resolved in four forums that are linked sequentially: initial EIC local office determinations, reconsiderations, hearings before the Board of Referees (lower level appeals) and hearings before Umpires (higher level appeals).[25] The first two sets of determinations take place within local EIC offices, but regional EIC offices must approve all reversals arising from reconsiderations. The two appeals bodies are nominally independent of the Commission but rely heavily on EIC staff in making their decisions. Caseloads at the four levels during fiscal year 1993-1994 (April 1993 to March 1994) were respectively 3.265 million, more than 277,000,[26] 37,000 and 3800. Of the 3.265 million applicants for benefits 1.0 million were disqualified or disentitled through Commission decisions.[27]

Disqualifications and disentitlements are the result of local office decisions on issues of monetary eligibility, reasons for the work separation and issues related to availability for work and ability to work. These areas of EIC local office determinations all parallel U.S. procedures for making monetary determinations and

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[25] For completeness, appeals of Umpire decisions to the Federal Court of Appeals also occur, and finally there may be appeals to Canada's Supreme Court. During fiscal 1993-1994, however, only 48 cases went to the Court of Appeals in all of Canada.

[26] The number of reconsiderations is not known with certainty since the EIC employee (agent) who made the initial eligibility determination usually also directs the reconsideration. Many disqualified and disentitled claimants contact EIC just to obtain information on the reason(s) for the adverse decision. However, in fiscal years 1989-1990 to 1993-1994 annual reconsiderations leading to partial or total reversals of initial negative determinations averaged about 320,000.

[27] A disqualification is a fixed length period of ineligibility while a disentitlement is for an indefinite period ending when the claimant's situation changes, e.g., is able or available for work.

nonmonetary determinations on separation and nonseparation issues. About one third of initial and renewal applications[28] generate an eligibility issue that results in a Commission decision to deny benefits altogether or withhold benefits for a finite period. Typically the applicant is informed in writing of an adverse decision. The notification also informs the applicant of the right to appeal the decision to the Board of Referees, the first level of appeals in Canada.

After receiving written notice of an adverse decision many claimants contact EIC for clarification or to question the basis of the decision. While the number of such follow-up contacts is not known precisely, the volume is substantial.[29] The EIC local office employee (agent) who made the initial decision may review the basis for the decision, either in light of new facts or because of a question about some interpretative aspect of the original decision.

As noted, a large number of internal reviews are undertaken each year. During fiscal year 1993-1994 .288 million of 1.237 million initial adverse decisions were completely rescinded or had the original penalties reduced. The vast bulk of all reversals of initial EIC decisions against claimants take place through reconsiderations. During fiscal year 1993-1994, for example, 96.3 percent of all reversals occurred at this level (277,460) and only 3.6 percent (10,567) were the result of formal appeals.

Canada's heavy reliance on internal reviews of initial decisions and the large annual volume of reversals present some problems of interpretation. Are there major ambiguities about eligibility that arise from imprecise statutory language? Are there

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[28] Respectively these are analogous to new initial claims and additional claims in U.S. UI programs.

[29] A survey of 464 disqualified/disentitled UI claimants indicated that half questioned the original decision. Typically contact is made by telephone or by an in-person visit to a local office. Only about 3 percent of inquiries are written. The Commission does not keep records on the total number of follow-up contacts from unsuccessful claimants or the number of requests for a review of the initial decision. See Chapter 2 of Boyer (1985).

wide areas of administrative discretion regarding eligibility decisions? Are nonuniform interpretations of statutory language and/or administrative guidelines made from one local office to the next? A study of local office operations would be helpful in providing answers to such questions.

Nevertheless, three points about the Canadian system for resolving disputes over eligibility are clear. (1) Many issues arise which the Commission must resolve, and disqualifications and disentitlements are imposed in more than one third of all applications. This represents a higher proportion of adverse determinations than in the U.S. where about three quarters of new initial claims are followed by first payments.[30] Thus eligibility issues commonly arise in Canada even though employers have a smaller direct financial interest in the results of eligibility determinations than in the U.S. where employers are experience rated. (2) Many of the initial determinations against claimants are later reversed by EIC reconsiderations. Because reconsideration procedures have not been the subject of an external evaluation by EIC, they are not as easy to describe as the appeals procedures to be discussed below. At present, reconsiderations are to some extent a black box. (3) Questions about eligibility are mostly resolved by within-EIC procedures. Appeals of eligibility determinations are much less common in Canada. For example, the number of appeals in Canada during fiscal year 1993-1994 was about 37,000 or 3.6 percent of disqualifications and disentitlements for the year. During 1993 there were 1.2 million appeals in the U.S. or 31.3 percent of all nonmonetary denials and disqualifications. To the extent that salaries of staff involved in within-agency procedures (nonmons in the U.S.) are lower than for appeals staff, e.g. hearings officers, the contrasts in administrative costs are even more favorable to Canada which relies much less heavily on appeals to resolve

[30] For the 28 years from 1966 to 1993 first payments as a proportion of new initial claims ranged from .690 to .799 and averaged .748.

disputes over eligibility.

Canada utilizes an independent body, a Board of Referees, to hear lower appeals of disqualifications and disentitlements. The Board is a tripartite body with a Chair, a labor representative and a business representative. Members of the Board serve three year terms which can be renewed. They are trained by EIC as to the statutes and administrative regulations governing UI eligibility. Hearings take place at 96 locations throughout the Country with telephone hearings often used in rural areas.

The Board of Referees receives written requests for hearings which must be filed within 30 days of notification of EIC decisions. Board decisions, in turn, are to be made within 30 days.[31] A Board decision draws heavily upon a document termed a submission which is prepared by the EIC employee (agent) who made the original eligibility determination. The submission identifies the issue(s) under appeal, provides all pertinent background facts, and notes basis for the original decision (the UI statute, Commission regulations or previous court decisions). Prior to the hearing, copies of the submission are sent to the claimant and, if appropriate, to the employer.[32] The parties are also requested to supply any additional information that may be relevant.

Board of Referees procedures are intended to be informal with claimants able to represent themselves, but formal representation of claimants is permitted. Witnesses can be cross examined, but subpoenas are not permitted. Taped records of most hearings are kept. Interested parties in attendance include Commission agents, but deliberations by the Board are conducted in private. The Board usually completes its deliberations the day of the hearing, and issues written decisions that either confirm, rescind or modify the

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[31] There is a performance standard that 90 percent of appeals are to be herd by the Board within 30 days of receipt of notice of appeal and all appeals are to be heard within 45 days.

[32] The employer is considered to be an interested party when the issue is a labor dispute, a voluntary quit or a discharge for misconduct.

previous Commission decision.

Appeals to the Board are dominated by cases involving two issues, unavailability for work and voluntary leaving. In 1984-1985 each accounted for more than one fourth of all appeals. Misconduct issues accounted for less than one tenth of the total, in contrast with the U.S. where misconduct appeals have been the leading issue in lower level appeals since 1981 (as shown in Table 8) and now account for more than 35 percent of the total.

Three issues dominate in disqualifications and disentitlements by the Board: inadequate base period earnings, unavailability for work and voluntary leaving. In 1984-1985 inadequate earnings accounted for 30.6 percent of all disqualifications and disentitlements while unavailability issues added 19.6 percent and voluntary leaving added 18.4 percent. Combined, the three issues accounted for two thirds of the total.[33]

Appeals before the Board do not require attendance in person by the appellant. However, attendance favorably affects outcomes for claimants. When appellants were absent 79 percent of Commission decisions were upheld by the Board in 1984-1985 while only 56 percent were upheld when the claimants were not in attendance. Attendance had more favorable effects in Canada's western provinces than elsewhere.[34]

Representation at Board hearings also affects outcomes. Survey data indicated that appellants accompanied by a lawyer, a union representative or a member of an action group for unemployed

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[33] Data on issues before the Board and its decisions are not reported as systematically in Canada as in the U.S.. The percentages in the text are taken from Tables 3.3 and 3.4 of the Boyer (1985) report. Data on appeals by issue during 1984-1985 were derived from a random sample taken in the fourth calendar quarter of 1984. For the preceding two years appeals by issue were estimated based on administrative data from five provinces. The exact source of data on disqualifications and disentitlements by issue is not indicated other than "Administrative data."

[34] National and provincial percentages are given Table 3.6 of Boyer (1985).

workers achieved a modification the original Commission decision in 57 percent of appeals whereas those acting alone secured modifications in only 42 percent of cases.[35] While several UI staff believe a similar situation exists in the U.S., this question has not been formally investigated in research supported by the national office of the UI Service or by the states.

A survey of claimants who received adverse eligibility decisions from the Commission indicated that their understanding of Canada's appeals system is limited.[36] Only three fourths of respondents knew of their right of appeal even though the written notice of disqualification or disentitlement included this information. Many who acted on their own behalf at hearings were not aware of the possibility of formal representation and many also indicated that advice and representation would have been welcomed. Also, only about half realized the Board of Referees was formally independent of the Commission. Thus, the willingness to appeal initial EIC decisions is probably inhibited since the Board is viewed by many claimants as a part of the same agency which made the initial adverse determination.[37]

Appeals to the Board declined from about 3.0 percent of all EIC decisions adversely affecting claimants in the late 1970s to 1.2-1.3 percent in the mid 1980s. More recently, however, the rate of appeals has risen from 1.6 percent of adverse decisions in fiscal year 1989-1990 to 3.6 percent in 1993-1994. Appellants before the Board had success rates in the 15-20 percent range during the late 1970s and early 1980s, but this has risen in recent years. Their success rate was 19.5 percent in fiscal year 1989-1990

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[35] See Table 3.7 in Boyer (1985). Large provincial differences are also apparent in this table.

[36] See Chapter 3 of Boyer (1985).

[37] At least three factors contribute to the impression that the Board is part of the Commission. The Board clerks are Commission employees. Hearings are held on Commission premises. The Commission supervises the training of Board members.

but 25.4 percent in 1992-1993 and 28.6 percent in 1993-1994.

The decisions of the Board of Referees can themselves be appealed to a higher level to Umpires who specialize in UI cases. Umpires are mainly judges from the federal court system. They hear appeals of Board decisions brought by claimants, employers, their representatives and the EIC. The Commission initiates appeals when it deems the Board of Referees has misapplied the law or misinterpreted administrative procedures.[38] Higher appeals volume has followed a strong upward trend since the early 1970s rising from fewer than 200 cases in 1972 to 3800 in fiscal year 1993-1994. Growth in higher appeals volume has been especially rapid in the 1990s both in absolute volume and as a prcportion of decisions made by the Board of Referees.[39]

The disputed issues in appeals to Umpires are quite varied. In 1983 administrative data from the Commission identified nine detailed issues but not one accounted for 20 percent of the total. However, in the five years from 1979 through 1983 unavailability for work, voluntary leaving, and issues related to earnings and overpayments consistently accounted for at least 10 percent of all appeals and each averaged about 15 percent of the total.[40] As with lower appeals, claimant attendance at Umpire hearings and having formal representation systematically result in more favorable

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[38] Section 80 of Canada's Unemployment Insurance Act specifies four grounds for appealing Board decisions to Umpires: i) a breach of natural justice, ii) a failure to exercise jurisdiction or excess of jurisdiction, iii) an error of law or iv) erroneous findings of fact made in a perverse or capricious manner or without regard to materials before the Board. Natural justice refers the appropriate application of relevant statutes and legal precedents.

[39] Between fiscal years 1989 -1990 and 1993-1994 the absolute numbers of higher level appeals increased from 1738 to 3811. As a proportion of Board decisions the growth was from .080 to .103. The comparable rate was only .056 in 1980-1981.

[40] See Table 4.2 in Boyer (1985). Comparable data on higher appeals are not collected in ETA 5130 reports.

outcomes for claimants.[41]

In recent years the volume of appeals to Umpires has greatly exceeded the volume of Umpire decisions, creating a large backlog of cases. At the end of 1993-1994 the backlog stood at 7,434 representing more than four years of cases at recent rates of decisionmaking.[42] Unlike appeals to the Board of Referees there are no timeliness performance standards for appeals to Umpires. This backlog represents a major challenge to Canada's UI program.

The Commission itself has increasingly filed higher level appeals since claimants rights of appeal were broadened in 1980. In 1981 Commission appeals accounted for 2.8 percent of all appeals to Umpires, but by 1993-1994 this had grown to 16.2 percent. Discussions with Commission staff indicated some Board of Referees decisions did not follow UI statutes, administrative regulations or court decisions affecting eligibility. Thus Commission appeals to Umpires were filed to overturn Board decisions.

Commission representatives felt the volume of these appeals could be reduced. Two helpful changes would be to institute more extensive training of Board members and having EIC staff expertise available on call during Board deliberations to answer technical questions about applicable UI statutes, administrative regulations and court precedents.

Following a decade of comparative stability in lower level appeals with annual caseloads ranging from 15,000 to 19,000, the 1990s have witnessed a large growth in both lower and higher level appeals. Legislation affecting eligibility for job leavers has undoubtedly contributed to the growth in appeals caseloads. For those who quit without good cause, 1990 legislation increased the range of the disqualification penalty from 1-6 weeks to 7-12 weeks.

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[41] See Table 4.7 in Boyer (1985).

[42] During the four consecutive fiscal years from 1990-1991 through 1993-1994 the total number of umpire decisions (excluding cases returned to the Board and cases adjourned) was about 6500. This backlog problem has existed for more than a decade.

Legislation of mid-1993 further lengthened the penalty to a durational disqualification and imposed a requirement of 12 to 20 weeks of subsequent employment before eligibility is regained.[43] Commission staff as well as claimants did not fully understand the new penalties that were applicable, contributing to appeals caseload growth.

The recent growth in appeals volume affected the timeliness of Board of Referees decisions. The overall timeliness percentage dropped from 85.7 percent in fiscal year 1989-1990 to a low of 66.4 percent in 1991-1992 but then recovered to 85.1 percent in 1993-1994. As noted above, caseload growth has added to the increased backlog of unresolved appeals to Umpires.

Many policy makers in Canada would like to reduce appeals caseloads. Three possible changes are currently under active consideration. (1) When there is new or amended information relevant to an eligibility decision before the Commission, give it the right to revise its initial decision and authorize paying benefits before permitting a formal appeal to be filed. (2) Closely related is a proposal to institute a "seek leave to appeal" requirement that empowers the Commission to restrict an unlimited right of appeal. While this would restrict appellant rights it can be supported as a way to limit frivolous appeals. (3) Ensure closer coordination between the Board of Referees and the Commission when the Board is deliberating. If one or more of the Board members wanted clarification of a question regarding the UI statute, a regulation or court precedent, have the deliberations open to expert advice from Commission staff. While the third suggested change would lessen the independence of the Board from the Commission, it would reduce the need for EIC appeals to Umpires. These three changes would reduce the volume of appeals.

Other changes in Canada's system of UI appeals can be identified. A timeliness standard is needed for adjudicating

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[43] The two pieces of legislation are commonly referred to as C21 and C113 respectively.

appeals brought before Umpires. It also seems obvious that more umpires are needed to increase Canada's capacity to hear upper level appeals. Despite having a single national statute governing the UI program, there is substantial interprovincial variation in rates of lower and higher level appeals, access to formal representation, attendance at hearings and appellant success rates. Understanding why such variation exists is important for assurance that uniform methods of administration are in fact consistently followed throughout Canada.

The UI dispute resolution system in Canada is not presently a system in equilibrium that is fully successful in addressing the issues of claimant eligibility. However, compared to the U.S., certain obvious contrasts are apparent. (1) The volume of appeals is substantially lower. (2) The use of reconsiderations is the major avenue for changing initial EIC decisions on claimant eligibility. (3) Employer appeals on misconduct and other issues are much less frequent. (4) The large and growing backlog of unresolved higher level appeals represents a major problem. (5) Finally, due to prior research, the Canadian UI appeals system can be described more easily and its strengths and weaknesses can be identified more easily than its U.S. counterpart.

A Quantitative Comparison of the U.S. and Canadian Systems

Reference to quantitative data may help in highlighting the contrasts between the Canadian and U.S. systems for resolving disputes over UI eligibility. Table 12 presents data for 1993 that summarize national labor market indicators, within-agency administrative activities, lower authority appeals and higher authority appeals. The U.S. labor force is roughly nine times the size of Canada's, but because of Canada's higher unemployment rate (11.2 percent versus 6.8 percent) total unemployment in the U.S. (the weekly average) was only 5.6 times Canadian unemployment in 1993. The U.S./Canada ratio of (estimated) new unemployment spells was higher at 8.6 to 1 implying average duration per spell was

about 50 percent higher in Canada (18.5 weeks versus 12.0 weeks).[44]

During 1993 new and additional claims for UI benefits totaled 17.429 million in the U.S. versus 3.265 million in Canada. Their ratio of 5.3 roughly matches the ratio of initial benefit denials for monetary and nonmonetary reasons combined (5.581 million relative to 1.237 million or a ratio of 4.5).[45]

The first major contrast in UI dispute resolution procedures is found in rates of utilization of reconsiderations and redeterminations. These within-agency procedures are internal reviews of initial determinations that are conducted before appeals are filed. The U.S. reporting system that tracks nonmonetary determinations also records the number of redeterminations.[46] There were .255 million redeterminations in 1993 of which .169 million were awards and .086 million were denials. Thus redeterminations represented only 4.0 percent of total nonmonetary determinations, 6.8 percent of nonmonetary denials and 4.6 percent of all (monetary plus nonmonetary) denials of initial claims.

Because these reviews of initial determinations are brought by employers as well as claimants, the net effect of redeterminations

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[44] Average duration for each country was estimated as 52 times total unemployment divided by the estimated number of new unemployment spells. The application rate for UI benefits is also considerably higher in Canada than in the U.S.. The implied 1993 application rate was .74 in Canada (3.265 million/4.392 million) but only .46 in the U.S. (17.429 million/37.920 million).

[45] The U.S. total of 5.581 million includes 1.811 million denials on monetary issues and 3.770 million denials on nonmonetary issues. Comparing aggregate denials with a ratio suggests that all denial penalties in the two countries are of equal importance when this is clearly not the case. Monetary denials and nonmonetary denials on separation issues are nearly all durational whereas nonmonetary nonseparation denials are usually for shorter periods. Issues of the mix of durational versus shorter penalties within and between Canada and the U.S. are not addressed here.

[46] There are four conditions for counting a redetermination in ETA 207 reports: i) there is a protest by an interested party or the UI agency based on new information; ii) all pertinent records are reexamined; iii) a written determination is made and is sent to the claimant; and iv) there is an opportunity for rebuttal.

in changing total initial denials is even smaller than suggested by the caseload. In 1993 their net effect reduced initial denials by .083 million or 1.5 percent of all initial denials. Thus after accounting for the net increase awards from redeterminations, total net denials in the U.S. totaled 5.498 million. The low volume of redeterminations and the fact that claimants are denied in about one third of such cases combine to yield the modest effect of these within-agency administrative procedures in the U.S..

While small in aggregate numbers, the use of redeterminations and the pattern of outcomes are both highly varied across states. The ten states with the most redeterminations accounted for 89 percent of the national total in 1993.[47] In the five largest states (California, Florida, New York, Pennsylvania and Texas) redeterminations are not frequently used, accounting for less than 2.0 percent of 1993 nonmonetary determinations in each state. In three states with high redetermination caseloads (Missouri, New Jersey and Ohio) more than 90 percent were decided in favor of claimants in 1993 while in two other high volume jurisdictions (Illinois and Michigan) more than 60 percent are decided against claimants. The interstate contrasts in the utilization and outcomes of redeterminations have not been investigated systematically.

Reconsiderations in Canada are initiated by claimants and frequently result in the complete removal of a penalty (termed a rescission) or a reduction in the penalty (termed a termination) from an initial Commission eligibility determination. While the total number of reconsiderations is not subject to systematic measurement,[48] .277 million rescissions and terminations resulted

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[47] In many areas of UI administrative activities the ten states with largest caseload volume for that activity typically account for about half of the national total. Thus redeterminations are highly concentrated within a small number of states.

[48] Reconsiderations are conducted within local EIC offices. They are not systematically counted when there is no change in the initial decision. In fact, distinguishing a reconsideration from information dissemination to a disappointed claimant at this level is not easy. When a local agent recommends that the original

from reconsiderations during fiscal year 1993-1994. The U.S./Canada ratio for such within-agency decisions favoring claimants was .3. Reconsiderations reduced total disqualifications and disentitlements in Canada from 1.237 million to 1.028 million.[49]

Thus the U.S/Canada ratio of total intake volume was 5.3, the ratio of initial decisions against claimants was 4.5, but the total net ratio of adverse decisions against claimants was 5.3. Reconsiderations and redeterminations operate much more to the advantage of claimants in Canada than in the U.S..

Filing lower level appeals is much more common in the U.S. than in Canada. Lower appeals represented .181 of total net UI agency denials and disqualifications in the U.S. during 1993 but only .036 of similar decisions in Canada. Consequently the U.S./Canada ratio of such appeals in 1993 was 27.0. Since appellants experienced similar success rates in the two countries, the ratio of favorable decisions (29.8) was similar to the caseload ratio (27.0). However, because successful employer appeals in the U.S. reverse awards to claimants the U.S./Canada ratio of net appeals decisions favorable to claimants was much lower at 13.7.

The contrast in net claimant successes between lower level appeals and redeterminations/reconsiderations across the two countries is vivid. In the U.S. net lower authority appeals decisions for claimants in 1993 (145,000) exceeded net awards from redeterminations (83,000). In Canada the totals were 10,600 from lower authority appeals and 277,000 from reconsiderations.

For higher appeals, the 1993 U.S./Canada ratio of cases filed was higher than for lower appeals (48.0) and even higher for higher appeals decisions (116.1). These contrasts partially reflect higher rates of filing higher appeals, .183 of lower appeals in the U.S. versus .103 in Canada. In 1993 Canadian higher appeals filings

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penalty be modified in the claimant's favor, the reconsideration is reviewed (and counted) in the regional EIC office.

[49] The 1.028 million total includes 68,577 terminations that reduced (but did not fully eliminate) initial EIC penalties.

represented about 2 percent of U.S. filings, but Canadian decisions totaled less than 1 percent of U.S. decisions and the backlog of undecided cases grew by more than 2000 in Canada.

Appellants prevailed in 30,000 of the 185,000 higher appeals cases decided in the U.S. during 1993 for a success rate of .162. However successful claimant appeals only exceeded successful employer appeals by 7,000. Of the 1,595 Umpire appeals decided in Canada, 911 upheld an initial Commission penalty and only 684 were a recision or termination. Thus higher appeals yielded a net decrease of 227 in awards to claimants. The small Canadian caseload at this level further illustrates the trivial importance of appeals in resolving disputes over UI eligibility in Canada.

One main conclusion should be drawn from the preceding comparisons. Canada is much more successful than the U.S. in resolving UI eligibility disputes before they reach the stage of a formal appeal. A probable advantage of the Canadian system is the lower level of resources needed to resolve eligibility disputes since they are settled primarily through within-agency procedures and not by appeals. Cost comparisons were not undertaken in this paper. Some of the contrast between the two systems for resolving disputes over eligibility may arise from the smaller role played by Canadian employers as an interested party.

IV. Regression Analysis of Disputes Over UI Claims

Disputes over eligibility for UI benefits are resolved through within-agency procedures (monetary and nonmonetary determinations and redeterminations) and formal appeals. Because claimants and employers supply information needed by UI agencies to make appropriate decisions, eligibility determinations can be described as having three interested parties.

The role of U.S. employers in eligibility determinations is unusual in two ways. (1) Because their UI taxes are experience rated, employer financial interest in eligibility determinations is higher in the U.S. than elsewhere. If a determination favors the

claimant the associated benefit payouts often lead to higher future UI taxes. This direct financial consequence of benefit awards undoubtedly is a factor motivating employer participation in nonmonetary determinations and appeals. To the extent such motivation exists it is probably stronger in states where experience rating is followed to a greater degree, i.e., where the effect of a given change in benefit payments, say 1.0 million dollars, on employer UI taxes is larger. (2) Because many statutory provisions and administrative procedures affecting eligibility are determined by the individual states, employers have an opportunity to influence UI eligibility through their effects on state-level legislation. Both channels could increase the likelihood of employer opposition to claims and result in an increased likelihood of disputes over eligibility.

While this section does not try to develop a formal model of UI eligibility disputes, a few points should be noted. First, if a state institutes restrictive statutes affecting eligibility it may raise rates of disputes in the short run but have little or no effect in the long run after claimants understand the statute and its method of administration. Second, restricting eligibility through legislation may lead to fewer employer-initiated disputes over eligibility, but have an ambiguous effect on total disputes because of claimant-initiated disputes. Third, more claimant-initiated disputes may arise in states where unions are stronger. Fourth, the volume of disputes initiated at one level of UI administrative process (say, separation nonmons) can affect caseload volume in subsequent administrative processes (say, lower authority appeals). Adequate modelling of disputes probably should employ a recursive framework.

Previous literature on UI eligibility disputes is extremely limited. The book by Corson, Hershey and Kerachsky examined nonmonetary determinations, but most of their analysis focused on interstate differences in agency processes for making nonmonetary

determinations.[50] A major finding of their quantitative analysis was that interstate variation in denials per new claimant spell is mainly caused by differences in determination rates (determinations per new claimant spell) and much less by variation in denials per determination. The data period for their regression analysis ended in 1981. No important literature on UI appeals was encountered in preparing the present paper.

This section uses state-level data to examine three arenas for resolving controversies over UI benefit eligibility. Decisions affecting eligibility are made through nonmonetary determinations, lower authority appeals and higher authority appeals.[51] The analysis focuses on frequencies of eligibility disputes where frequencies are measured relative to initial intake or decisions made in later stages of administrative procedures. It does not try to explain the frequency of denials from within-agency procedures or from appeals.

Employer-initiated activities are given particular attention. To the extent there are financial motivations for employer-initiated actions, these motivations will be stronger when experience rating is followed to a greater extent. The analysis makes use of state-level estimates of the Experience Rating Index (ERI) as collected from the states by the national office of the UI Service. These estimates extend back to 1988.

The ERI is a proportion that is derived by subtracting from total benefit payouts in a given year three types of charges not levied against active employer accounts in that year and dividing

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[50] See Corson, Hershey and Kerachsky (1986), op. cit..

[51] Redeterminations are not included in the analysis because of their small overall importance. Monetary eligibility determinations are not examined because UI agency decisions are more routinized than for nonmonetary determinations which cover several possible reasons for denials and require more judgements to be made by UI administrative staff. Monetary determinations involve comparing past earnings by quarter with earnings requirements for the base period, high quarter and possibly other statutory requirements.

the difference by total benefit payouts. The three (noncharges, ineffective charges and charges against inactive accounts)[52] often account for one-third or more of all benefit payments. By construction the ERI is a proportion bounded between 0 and 1.0 with higher proportions indicative of a higher degree of experience rating. The ERI is a static measure, i.e., connections across years are not recognized, even though in actual operation experience rating connects current benefit payments and/or trust fund balances to future UI taxes. At best, the ERI is only an approximation to the intertemporal concept of experience rating.

The ERI varies considerably from one state to the next. For example, across all states during the six years 1988 to 1993 the national average was .62. For individual states, ten had six-year average ERIs below .55 while nine had averages of at least .70.[53]

Proportional occurrences of disputes over eligibility were measured for nonmonetary determinations, lower appeals and higher appeals. Altogether six different rates of occurrences were examined with new claimant spells as the normalizing variable for measuring both nonmonetary determinations and lower authority appeals. For nonmons, the determination rates on all issues and separation issues were both measured. For lower and higher authority appeals, total appeals and employer appeals were measured. Employer appeals at each level were measured relative to adverse decisions at the previous level, e.g., lower authority appeals as a proportion of nonmonetary awards and higher authority

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[52] By statutory intent noncharges are not to be charged to individual employer accounts as the employer was not responsible for the separation. Ineffective charges are assigned to employers but cannot be collected, either because the employer is already taxed at the maximum rate (in benefit ratio states) or has a negative balance that is less than the lowest negative balance for which charges continue to be assigned. Inactive accounts no longer pay taxes, usually because the business has ceased all operations in the state.

[53] The individual state-year observations appear in Attachment 1 of U.S. Department of Labor, "Unemployment Insurance Program Letter 40-94," (August 16, 1994).

appeals as a proportion of lower authority awards. Tests were conducted for the differential effects of nonmonetary determinations on separation issues as opposed to all issues.

All of rates of disputes over claims displayed a high degree of variation. Total lower authority appeals as a proportion of new claimant spells, for example, had six year averages that ranged from .017 in Idaho to .141 in Colorado and averaged .059. Coefficients of variation for individual state-year data points ranged from .379 to .874 across the six series.

Table 13 displays a set of eight regression results. The structure of the analysis is recursive, i.e., the effects of disputes from an earlier stage of administrative process on the subsequent stage is estimated. Weighted data are used (1990 taxable covered employment as weights) to prevent small states from having an undue influence on the results. Each specification also included fixed effects for individual years.[54]

Three aspects of the regression results are noteworthy. First, there is strong evidence supporting a recursive structure for modeling UI disputes. All six recursive arguments (explanatory variables) have positive coefficients and all are significant at the .01 level.[55] Interstate variation in lower level appeals is highly dependent interstate differences in rates of nonmonetary determinations (equations (3) through (6)). Three of the four nonmonetary determination variables have coefficients with t ratios that exceed 15.0. Interstate variation in higher appeals is strongly linked to rates of filing lower level appeals (per nonmonetary determination or award).

Second, nonmonetary determinations on separation issues have larger effects on lower authority appeals than other nonmons. Note

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[54] Because the omitted year was 1993 the constant terms are intercepts for 1993. Typically two or three of the individual year dummies were significant.

[55] Under a one sided t test at the .01 level the critical value of tabular t is 2.34 whereas the smallest t ratio exceeds 4.0.

the relative sizes of coefficients and t ratios in comparing equations (3) and (4) and equations (5) and (6). The contrast between equations (5) and (6) is particularly striking. Separation nonmons are more powerful than nonmons across all issues in explaining interstate variation in lower appeals.[56]

Third, each regression tested for effects of the ERI on rates of disputes, but the results were mixed. Higher levels of the ERI are presumed to imply larger adverse financial consequences for employers arising from awards to claimants. Thus a positive coefficient for the ERI was anticipated in each regression, but particularly in regressions where employer appeals are the dependent variable. Only three of eight ERI slope coefficients have the expected positive signs, but two of the three are in regressions explaining employer appeals. The positive ERI coefficients in equations (6), (7) and (8) are significant at the .05 level. Better results were expected for the ERI in explaining employer appeals and some support was found in these equations.

Not expected, however, are negative and significant coefficients in the two regressions explaining nonmonetary determination rates, equations (1) and (2). Note in equations (1) and (2) that the ERI is the only explanatory variable. Thus there is a risk of spurious correlation effecting the estimated slopes. A richer specification might alter the size, sign and significance of the ERI coefficients in these equations.

Overall, even considering the equations where the ERI enters significantly, its effects appear to be quite modest. The average value of the ERI by state ranged from .45 in North Carolina to .84 in Indiana. As a consequence, its maximum state-level effect in regression (7) where the ERI coefficient is .086 is only .035 (.086 times the ERI's range of .39) whereas the dependent variable (total higher appeals as a proportion of lower appeals) has a range of

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[56] This result is fully consistent with the data presented earlier in Table 9 where the two separation issues (voluntary quits and misconduct) have higher rates of appeals than the other issues.

.193, i.e., state-level averages from .075 to .268. Total lower appeals per nonmonetary determination has a larger and more significant effect on the rate of higher appeals in equation (7).

The results presented in Table 13 are preliminary, and additional work is warranted. Among the areas needing added attention are i) the careful development of the specifications for each dependent variable, ii) formulation of variables representing employee motivations and willingness to contest eligibility decisions and iii) a more careful derivation of variables representing employer financial stakes in awards to claimants. It is also possible that some states are more prone to disputes than others, and that disputes over UI claims are strongly influenced by such factors in state-level environments.

Even after listing the preceding limitations of the analysis, the generally weak performance of the ERI in explaining disputes is somewhat surprising. This led to some additional analysis of the ERI itself. The years 1988 to 1993 are interesting in that a recession dominates the last half of the period, and several states experienced sizeable drawdowns in their UI trust fund balances. Two elements of the ERI, ineffective charges and uncollectible charges, would be expected to grow more than proportionately in recessionary periods as more individual employer account balances decline sharply and as bankruptcy is more prevalent.

The supplementary analysis examined the relationship between the size of each state's UI trust fund balance and the ERI for that state. One would generally expect that higher trust fund balances (as proxied by state reserve ratio multiples or RRMs)[57] would be associated with higher ERIs. When tested in regressions, however, the RRM showed only a small association with the ERI. The specifications used the average of the start-of-year and end-of-year RRMs to gauge each state's trust fund reserve position.

[57] Intuitively the reserve ratio multiple (RRM) shows how many years of benefits are implied by the state's trust fund reserve if drawdowns were to occur at their historically highest rates. A RRM of 1.0 means the trust fund has twelve months of reserves.

Two analyses were undertaken. In each the ERI was the dependent variable and the average RRM was the independent variable. First, annual and pooled relationships across states were fitted for the 1988-1993 period. In all individual year and pooled relationships the coefficient for the RRM was consistently insignificant. Second, time series relationships were fitted for individual states using the six (or fewer) available observations. For the fifty regressions, 35 yielded positive coefficients for the RRM while fifteen coefficients were negative. The slopes were usually insignificant. When tested at the .05 level under one sided tests only eleven of the positive coefficients were significant and three negative coefficients were significant.[58] Thus the expected positive association between the RRM and ERI held for 35 of 50 states, but the fits were not as good as one might have expected.

Since at present there is no generally available alternative to the ERI for measuring the degree of experience rating in individual states, the preceding results are disappointing. To this author they suggest the need for more conceptual work on what is meant by the "degree" of experience rating and a review of how states are currently reporting data used to calculate the ERI. Only after there is a clear understanding of how to characterize the financial incentives facing employers could an analysis of disputes over UI claims hope to clearly isolate the role of experience rating in motivating employers to dispute UI claims.

To summarize the analysis of this section, five concluding comments can be offered. (1) A recursive structure for examining disputes at different levels of UI administrative processes seems appropriate. (2) Nonmonetary determinations on separation issues are much more likely to lead to appeals than determinations over nonseparation issues. (3) No strong evidence of the effects of financial incentives for employers to contest claims was found in the regression analysis. (4) More work at the theoretical and

[58] A one sided test at the .05 level requires a t ratio of 2.132 to be significant.

measurement levels is needed to better characterize the factors that lead to disputes over UI claims. (5) It is especially important to further delineate what is meant by the intuitive phrase, the "degree" of experience rating. Here too, additional theoretical and empirical analysis are both needed.

V. Conclusions

This paper has examined several aspects of disputes over UI eligibility. Given the paper's length, this section will highlight only a few findings. The reader is reminded that summaries have already been given at the ends of the major subsections.[59] Six areas will be emphasized here.

(1) For the two broad categories of dispute resolution procedures (nonmons and appeals) the macro trends over the past 30 years have been quite distinct. Levels and rates of nonmonetary determinations were actually higher in the mid to late 1970s than during the 1980s and the early 1990s. In contrast, appeals volume has increased more continuously throughout the 1965-1993 period.

(2) For both nonmons and appeals, misconduct issues have become increasingly important. Also, employer appeals (both lower and higher) have grown more rapidly in volume than claimant appeals. Both trends are indicators that employers have become more proactively involved in the outcomes of UI administrative processes over the past 30 years.

(3) All measures of nonmonetary determinations and appeals show vivid contrasts by geographic area. While the tables of this paper emphasized contrasts across census divisions, even sharper contrasts would have been demonstrated with a state-level analysis. High-to-low ratios across census divisions almost always exceeded

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[59] In particular, summaries have been given for earlier sections of the paper: national trends (pages 5 and 6), nonmonetary determinations (pages 16 and 17), appeals (page 24), Canada-U.S. contrasts (page 35) and regression analysis of rates of disputes (pages 46 and 47).

1.5 and most exceeded 2.0. Understanding the reasons for the sharp geographic contrasts should be a topic for additional analysis.

(4) Probably the most useful result of the Canada-U.S. comparisons was to document the high reliance of the Canadian system on reconsiderations as a first line for resolving questions and disputes related to initial eligibility determinations. Claimants (and employers) in the U.S., in contrast, almost always go immediately to lower appeals. While no Canada-U.S. cost comparisons were attempted, Canada's greater reliance on within-agency procedures at a minimum deserves closer examination for possible increased use in the U.S..

(5) The regression analysis generated a few interesting findings. Use of a recursive structure seemed to produce sensible results for explaining rates of lower and higher appeals. Decisions on separation issues seem to be most problematical, leading to appeals more often than other types of initial nonmonetary determinations. Perhaps most surprising, results using the Experience Rating Index (ERI) as a measure of costs of awards to employers were mixed. Some ERI coefficients were negative, but even when positive and significant their size suggested small effects.

(6) It seems clear that more research is needed on several topics related to disputes over UI eligibility. Theoretical and empirical work is needed in the areas identified at the end of section IV. Since the Canada-U.S. comparisons seemed instructive, studying dispute resolution procedures in other foreign UI systems might also yield useful insights. Finally, a study is needed of the effects of formal representation on lower and higher appeals decisions.

T- Aggregate Measures of Disputes over Unemployment Insurance Eligibility , 1965 to 1993

Year	New Claimant Spells	Non-monetary Deter-minations	Non-monetary Denials	All Appeals	Occurrences per New Spell: NonMon Deter-minations	NonMon Denials	All Appeals	Occurences per Determination: NonMon Denials	All Appeals
1965	11.05	NA	1.94	0.26	NA	0.175	0.024	NA	NA
1966	9.74	NA	1.65	0.23	NA	0.170	0.024	NA	NA
1967	10.90	NA	1.81	0.24	NA	0.166	0.022	NA	NA
1968	9.68	NA	1.68	0.23	NA	0.173	0.024	NA	NA
1969	9.58	NA	1.64	0.22	NA	0.172	0.023	NA	NA
1970	14.28	NA	2.26	0.27	NA	0.158	0.019	NA	NA
1971	13.95	5.93	2.55	0.33	0.425	0.183	0.024	0.430	0.056
1972	12.23	5.92	2.55	0.36	0.484	0.208	0.029	0.430	0.060
1973	11.58	5.83	2.54	0.39	0.503	0.220	0.033	0.437	0.066
1974	17.24	6.91	3.06	0.45	0.401	0.178	0.026	0.444	0.066
1975	22.29	9.07	4.02	0.63	0.407	0.180	0.028	0.443	0.070
1976	17.38	9.43	4.10	0.76	0.543	0.236	0.044	0.434	0.081
1977	17.01	9.93	4.24	0.81	0.584	0.249	0.048	0.427	0.082
1978	16.09	10.37	4.36	0.82	0.644	0.271	0.051	0.420	0.079
1979	18.44	9.56	4.18	0.88	0.518	0.226	0.047	0.437	0.092
1980	23.55	9.83	4.62	0.97	0.417	0.196	0.041	0.471	0.099
1981	22.00	8.78	4.24	1.02	0.399	0.193	0.046	0.483	0.116
1982	27.94	8.73	4.33	1.07	0.313	0.155	0.038	0.496	0.122
1983	20.40	7.61	3.69	1.09	0.373	0.181	0.053	0.485	0.143
1984	17.69	6.73	3.29	0.95	0.380	0.186	0.054	0.490	0.142
1985	18.86	6.81	3.50	0.94	0.361	0.186	0.050	0.514	0.138
1986	18.06	6.82	3.71	0.96	0.378	0.205	0.053	0.543	0.141
1987	15.43	6.34	3.51	0.94	0.411	0.227	0.061	0.553	0.149
1988	14.62	6.10	3.38	0.87	0.417	0.231	0.060	0.554	0.143
1989	15.62	6.14	3.51	0.87	0.393	0.225	0.056	0.571	0.142
1990	18.54	6.58	3.87	0.95	0.355	0.208	0.051	0.587	0.145
1991	21.30	7.47	4.41	1.10	0.351	0.207	0.052	0.590	0.148
1992	19.17	7.13	4.18	1.27	0.372	0.218	0.066	0.586	0.179
1993	15.89	6.42	3.77	1.18	0.404	0.237	0.074	0.587	0.184
Avg									
1965-70	10.87	NA	1.83	0.24	NA	0.169	0.023	NA	NA
1971-80	16.98	8.28	3.62	0.64	0.493	0.215	0.037	0.437	0.075
1981-93	18.89	7.05	3.80	1.02	0.377	0.205	0.055	0.542	0.145

Source: Based on data reported by states to the UI Service of the U.S. Department of Labor. New claimant spells, determinations, denials and appeals all measured in millions. Denials refer both to denials for the duration of a spell and fixed length disqualifications. The data in this table and in all subsequent tables are for the fifty states plus the District of Columbia.

Table 2. Denial Rates and Determination Rates on Separation Issues, 1965 to 1993.

Year	Denials Per New Spell: Tot Sep	Vol Quit	Miscon-duct	Determinations per Spell: Tot Sep	Vol Quit	Miscon-duct	Denials per Determination: Tot Sep	Vol Quit	Miscon-duct
1965	0.075	0.056	0.017	NA	NA	NA	NA	NA	NA
1966	0.071	0.054	0.015	NA	NA	NA	NA	NA	NA
1967	0.072	0.054	0.016	NA	NA	NA	NA	NA	NA
1968	0.075	0.056	0.017	NA	NA	NA	NA	NA	NA
1969	0.075	0.057	0.016	NA	NA	NA	NA	NA	NA
1970	0.072	0.054	0.017	NA	NA	NA	NA	NA	NA
1971	0.082	0.061	0.020	0.162	0.095	0.058	0.509	0.640	0.342
1972	0.099	0.074	0.022	0.186	0.111	0.065	0.529	0.662	0.339
1973	0.109	0.082	0.024	0.201	0.123	0.071	0.542	0.672	0.345
1974	0.090	0.067	0.022	0.164	0.098	0.060	0.549	0.678	0.363
1975	0.089	0.063	0.024	0.164	0.093	0.064	0.544	0.678	0.370
1976	0.113	0.081	0.030	0.210	0.119	0.083	0.539	0.680	0.359
1977	0.114	0.079	0.032	0.215	0.117	0.089	0.530	0.676	0.358
1978	0.117	0.079	0.035	0.222	0.116	0.096	0.529	0.688	0.360
1979	0.107	0.071	0.034	0.193	0.099	0.089	0.553	0.721	0.377
1980	0.088	0.057	0.030	0.154	0.076	0.076	0.567	0.746	0.395
1981	0.084	0.053	0.030	0.149	0.070	0.077	0.566	0.763	0.393
1982	0.065	0.040	0.025	0.118	0.053	0.064	0.553	0.754	0.394
1983	0.077	0.046	0.030	0.144	0.063	0.080	0.533	0.737	0.379
1984	0.082	0.050	0.031	0.154	0.068	0.084	0.528	0.726	0.371
1985	0.080	0.049	0.031	0.155	0.069	0.085	0.518	0.712	0.360
1986	0.086	0.052	0.033	0.164	0.073	0.090	0.526	0.714	0.373
1987	0.095	0.058	0.036	0.180	0.081	0.098	0.530	0.716	0.374
1988	0.102	0.063	0.038	0.189	0.088	0.100	0.539	0.717	0.383
1989	0.103	0.064	0.038	0.190	0.090	0.098	0.544	0.710	0.390
1990	0.094	0.058	0.035	0.169	0.079	0.088	0.554	0.731	0.395
1991	0.092	0.056	0.036	0.164	0.076	0.086	0.565	0.736	0.413
1992	0.099	0.059	0.039	0.176	0.081	0.093	0.564	0.732	0.416
1993	0.109	0.066	0.042	0.194	0.091	0.101	0.561	0.724	0.414
Avg									
1965-70	0.073	0.055	0.016	NA	NA	NA	NA	NA	NA
1971-80	0.101	0.071	0.027	0.187	0.105	0.075	0.539	0.684	0.361
1981-93	0.090	0.055	0.034	0.165	0.076	0.088	0.545	0.729	0.389

Source: Based on data reported to the UI Service of the U.S. Department of Labor. Separation denials for 1966-1970 based partly on estimates made by the author. Denials refer both to denials for the duration of a spell and fixed length disqualifications.

Table 3. Denial Rates and Determination Rates on Nonseparation Issues, 1965 to 1993.

Year	Denials per 10 Claimant Contacts: Total NonSep	Able& Available	Refusal Suitable Work	D&D Income	Misc NonSep Issues	Report Requirements	Other NonSep Issues
1965	0.148	0.115	0.010	NA	NA	NA	NA
1966	0.158	0.114	0.012	NA	NA	NA	NA
1967	0.149	0.088	0.010	NA	NA	NA	NA
1968	0.151	0.089	0.009	NA	NA	NA	NA
1969	0.149	0.089	0.009	NA	NA	NA	NA
1970	0.125	0.072	0.005	NA	NA	NA	NA
1971	0.130	0.075	0.005	0.023	0.027	NA	NA
1972	0.144	0.089	0.007	0.021	0.028	NA	NA
1973	0.159	0.098	0.008	0.021	0.032	NA	NA
1974	0.128	0.078	0.005	0.017	0.028	NA	NA
1975	0.109	0.061	0.004	0.017	0.027	NA	NA
1976	0.154	0.093	0.006	0.018	0.038	NA	NA
1977	0.161	0.095	0.006	0.016	0.044	NA	NA
1978	0.182	0.102	0.006	0.018	0.056	NA	NA
1979	0.156	0.091	0.005	0.017	0.043	NA	NA
1980	0.131	0.067	0.004	0.026	NA	0.021	0.013
1981	0.135	0.068	0.003	0.027	NA	0.023	0.014
1982	0.107	0.050	0.002	0.026	NA	0.018	0.011
1983	0.109	0.051	0.002	0.024	NA	0.020	0.012
1984	0.128	0.060	0.003	0.026	NA	0.025	0.014
1985	0.129	0.060	0.003	0.027	NA	0.026	0.013
1986	0.139	0.063	0.003	0.031	NA	0.028	0.015
1987	0.152	0.068	0.003	0.031	NA	0.034	0.015
1988	0.155	0.069	0.003	0.027	NA	0.040	0.016
1989	0.150	0.066	0.003	0.028	NA	0.037	0.015
1990	0.143	0.057	0.003	0.036	NA	0.035	0.013
1991	0.126	0.048	0.002	0.034	NA	0.031	0.012
1992	0.122	0.046	0.002	0.031	NA	0.030	0.014
1993	0.130	0.048	0.003	0.033	NA	0.029	0.017
Avg							
1965-70	0.147	0.095	0.009	NA	NA	NA	NA
1971-80	0.145	0.085	0.005	0.019	0.036	NA	NA
1981-93	0.133	0.058	0.003	0.029	NA	0.029	0.014

Source: Based on data reported to the UI Service of the U.S. Department of Labor. Nonseparation denials for 1966-1970 based partly on estimates made by the author. Denials both refer to denials for the duration of a spell and fixed length disqualifications. For miscellaneous nonseparation issues the average is for 1971-1979.

Table 3. (Cont.) Denial Rates and Determination Rates on Nonseparation Issues, 1965 to 1993.

Year	Determinations per 10 Claimant Contacts: Total NonSep	Able& Available	Refusal Suitable Work	D&D Income	Misc NonSep Issues	Report Requirements	Other NonSep Issues
1965	NA	NA	NA	NA	NA	NA	NA
1966	NA	NA	NA	NA	NA	NA	NA
1967	NA	NA	NA	NA	NA	NA	NA
1968	NA	NA	NA	NA	NA	NA	NA
1969	NA	NA	NA	NA	NA	NA	NA
1970	NA	NA	NA	NA	NA	NA	NA
1971	0.340	0.211	0.016	0.037	0.076	NA	NA
1972	0.391	0.249	0.022	0.035	0.085	NA	NA
1973	0.434	0.275	0.028	0.037	0.095	NA	NA
1974	0.346	0.214	0.019	0.030	0.083	NA	NA
1975	0.291	0.176	0.012	0.028	0.075	NA	NA
1976	0.418	0.264	0.017	0.032	0.105	NA	NA
1977	0.439	0.273	0.017	0.031	0.118	NA	NA
1978	0.501	0.303	0.019	0.034	0.145	NA	NA
1979	0.423	0.262	0.018	0.033	0.110	NA	NA
1980	0.317	0.181	0.012	0.044	NA	0.052	0.028
1981	0.311	0.173	0.012	0.045	NA	0.053	0.027
1982	0.231	0.118	0.007	0.043	NA	0.041	0.022
1983	0.239	0.119	0.008	0.042	NA	0.046	0.024
1984	0.276	0.134	0.011	0.045	NA	0.059	0.028
1985	0.253	0.119	0.010	0.045	NA	0.056	0.024
1986	0.250	0.111	0.010	0.050	NA	0.055	0.025
1987	0.266	0.115	0.011	0.053	NA	0.063	0.024
1988	0.273	0.114	0.012	0.053	NA	0.069	0.025
1989	0.251	0.102	0.012	0.052	NA	0.060	0.024
1990	0.232	0.094	0.010	0.055	NA	0.052	0.021
1991	0.206	0.080	0.008	0.053	NA	0.045	0.020
1992	0.202	0.078	0.008	0.050	NA	0.044	0.021
1993	0.214	0.082	0.009	0.054	NA	0.044	0.026
Avg							
1965-70	NA	NA	NA	NA	NA	NA	NA
1971-80	0.390	0.241	0.018	0.034	0.099	NA	NA
1981-93	0.246	0.111	0.010	0.049	NA	0.053	0.024

Source: See the first page of this table.

Table 3. (Cont.) Denial Rates and Determination Rates on Nonseparation Issues, 1965 to 1993.

Year	Total NonSep	Able& Avail	Refusal Suitable Work	D&D Income	Misc NonSep Issues	Report Requirements	Other NonSep Issues
			Denials per Determination:				
1965	NA	NA	NA	NA	NA	NA	NA
1966	NA	NA	NA	NA	NA	NA	NA
1967	NA	NA	NA	NA	NA	NA	NA
1968	NA	NA	NA	NA	NA	NA	NA
1969	NA	NA	NA	NA	NA	NA	NA
1970	NA	NA	NA	NA	NA	NA	NA
1971	0.381	0.355	0.308	0.623	0.351	NA	NA
1972	0.369	0.355	0.301	0.590	0.334	NA	NA
1973	0.367	0.357	0.276	0.578	0.341	NA	NA
1974	0.370	0.364	0.277	0.568	0.333	NA	NA
1975	0.375	0.349	0.323	0.593	0.362	NA	NA
1976	0.368	0.351	0.346	0.552	0.356	NA	NA
1977	0.366	0.349	0.346	0.522	0.369	NA	NA
1978	0.363	0.336	0.320	0.528	0.386	NA	NA
1979	0.368	0.348	0.292	0.511	0.388	NA	NA
1980	0.414	0.373	0.290	0.586	NA	0.402	0.482
1981	0.434	0.392	0.292	0.594	NA	0.426	0.515
1982	0.462	0.424	0.290	0.603	NA	0.458	0.486
1983	0.454	0.429	0.286	0.561	NA	0.428	0.496
1984	0.464	0.448	0.265	0.581	NA	0.429	0.498
1985	0.511	0.502	0.270	0.613	NA	0.471	0.554
1986	0.556	0.565	0.259	0.620	NA	0.512	0.604
1987	0.572	0.592	0.266	0.592	NA	0.550	0.631
1988	0.566	0.606	0.265	0.507	NA	0.579	0.629
1989	0.596	0.644	0.266	0.540	NA	0.622	0.621
1990	0.617	0.605	0.274	0.654	NA	0.664	0.623
1991	0.613	0.592	0.275	0.631	NA	0.681	0.627
1992	0.606	0.581	0.284	0.613	NA	0.681	0.651
1993	0.610	0.590	0.285	0.617	NA	0.668	0.672
Avg							
1965-70	NA	NA	NA	NA	NA	NA	NA
1971-80	0.374	0.354	0.308	0.565	0.358	NA	NA
1981-93	0.543	0.536	0.275	0.594	NA	0.550	0.585

Source: See the first page of this table.

Table 4. Denial Rates and Determination Rates on Separation Issues by Census Division

Div	Denials Per New Spell			Determinations per Spell			Denials per Determination		
	Tot Sep	Vol Quit	Miscon-duct	Tot Sep	Vol Quit	Miscon-duct	Tot Sep	Vol Quit	Miscon-duct
Divisional Averages 1965-1970									
NEng	0.055	0.043	0.012	NA	NA	NA	NA	NA	NA
MAtl	0.040	0.031	0.005	NA	NA	NA	NA	NA	NA
ENC	0.071	0.052	0.018	NA	NA	NA	NA	NA	NA
WNC	0.113	0.088	0.024	NA	NA	NA	NA	NA	NA
SAtl	0.118	0.087	0.028	NA	NA	NA	NA	NA	NA
ESC	0.086	0.062	0.025	NA	NA	NA	NA	NA	NA
WSC	0.159	0.117	0.042	NA	NA	NA	NA	NA	NA
Mt	0.111	0.083	0.028	NA	NA	NA	NA	NA	NA
Pac	0.072	0.056	0.016	NA	NA	NA	NA	NA	NA
US	0.073	0.055	0.016	NA	NA	NA	NA	NA	NA
Divisional Averages 1971-1980									
NEng	0.081	0.062	0.018	0.140	0.086	0.051	0.582	0.723	0.346
MAtl	0.057	0.037	0.014	0.123	0.066	0.038	0.467	0.574	0.389
ENC	0.106	0.076	0.029	0.182	0.109	0.070	0.583	0.695	0.408
WNC	0.180	0.137	0.042	0.329	0.206	0.104	0.546	0.669	0.402
SAtl	0.126	0.086	0.037	0.206	0.105	0.096	0.610	0.820	0.387
ESC	0.090	0.059	0.031	0.141	0.078	0.062	0.643	0.769	0.493
WSC	0.226	0.153	0.072	0.373	0.184	0.188	0.602	0.829	0.379
Mt	0.176	0.130	0.043	0.346	0.229	0.109	0.514	0.582	0.396
Pac	0.083	0.062	0.021	0.185	0.096	0.089	0.447	0.644	0.236
US	0.101	0.071	0.027	0.187	0.105	0.075	0.539	0.684	0.361
Divisional Averages 1981-1993									
NEng	0.064	0.046	0.018	0.146	0.069	0.076	0.444	0.659	0.245
MAtl	0.058	0.034	0.024	0.111	0.049	0.061	0.524	0.694	0.393
ENC	0.081	0.051	0.030	0.146	0.071	0.074	0.562	0.723	0.411
WNC	0.126	0.083	0.043	0.219	0.102	0.115	0.573	0.811	0.372
SAtl	0.103	0.055	0.046	0.168	0.065	0.100	0.611	0.851	0.457
ESC	0.071	0.037	0.034	0.106	0.044	0.062	0.671	0.841	0.551
WSC	0.157	0.093	0.063	0.296	0.119	0.177	0.529	0.780	0.359
Mt	0.142	0.094	0.047	0.250	0.134	0.112	0.565	0.699	0.415
Pac	0.084	0.056	0.027	0.173	0.088	0.083	0.485	0.636	0.326
US	0.090	0.055	0.034	0.165	0.076	0.088	0.545	0.729	0.389

Source: Based on state level data reported to the UI Service of the U.S. Department of Labor. Separation denials for 1965-1970 based partly on estimates made by the author.

Table 5. Denial Rates and Determinaiton Rates on Nonseparation Issues by Census Division

Div	Total NonSep	Able& Available	Refusal Suitable Work	D&D Income	Misc NonSep Issues	Report Requirements	Other NonSep Issues
	Denials per 10 Claimant Contacts:						
	Divisional Averages 1965-1970						
NEng	0.089	0.057	0.008	NA	NA	NA	NA
MAtl	0.208	0.137	0.009	NA	NA	NA	NA
ENC	0.167	0.108	0.009	NA	NA	NA	NA
WNC	0.102	0.067	0.008	NA	NA	NA	NA
SAtl	0.128	0.076	0.013	NA	NA	NA	NA
ESC	0.047	0.028	0.005	NA	NA	NA	NA
WSC	0.116	0.081	0.014	NA	NA	NA	NA
Mt	0.134	0.082	0.010	NA	NA	NA	NA
Pac	0.124	0.077	0.009	NA	NA	NA	NA
US	0.147	0.095	0.009	NA	NA	NA	NA
	Divisional Averages 1971-1980						
NEng	0.087	0.048	0.005	0.015	0.018	NA	NA
MAtl	0.167	0.100	0.005	0.027	0.036	NA	NA
ENC	0.150	0.084	0.006	0.020	0.041	NA	NA
WNC	0.166	0.090	0.006	0.034	0.036	NA	NA
SAtl	0.109	0.062	0.008	0.014	0.028	NA	NA
ESC	0.071	0.036	0.004	0.014	0.017	NA	NA
WSC	0.110	0.066	0.007	0.013	0.022	NA	NA
Mt	0.201	0.118	0.009	0.030	0.040	NA	NA
Pac	0.181	0.113	0.005	0.009	0.054	NA	NA
US	0.145	0.085	0.005	0.019	0.036	NA	NA
	Divisional Averages 1981-1993						
NEng	0.108	0.033	0.002	0.046	NA	0.012	0.015
MAtl	0.099	0.047	0.002	0.024	NA	0.022	0.003
ENC	0.105	0.037	0.002	0.031	NA	0.020	0.015
WNC	0.213	0.117	0.003	0.048	NA	0.038	0.008
SAtl	0.112	0.061	0.003	0.024	NA	0.014	0.009
ESC	0.134	0.032	0.002	0.064	NA	0.025	0.011
WSC	0.157	0.064	0.003	0.025	NA	0.042	0.021
Mt	0.260	0.093	0.003	0.078	NA	0.067	0.019
Pac	0.148	0.073	0.003	0.007	NA	0.042	0.023
US	0.133	0.058	0.003	0.029	NA	0.029	0.014

Source: Based on state level data reported to the UI Service of the U.S. Department of Labor. For miscellaneous nonseparation denials the averages are for 1971-1979.

Table 5. (Cont.) Denial Rates and Determinaiton Rates on Nonseparation Issues by Census Division

Div	Total NonSep	Able& Available	Refusal Suitable Work	D&D Income	Misc NonSep Issues	Report Requirements	Other NonSep Issues
	Determinations per 10 Claimant Contacts:						
	Divisional Averages 1965-1970						
NEng	NA	NA	NA	NA	NA	NA	NA
MAtl	NA	NA	NA	NA	NA	NA	NA
ENC	NA	NA	NA	NA	NA	NA	NA
WNC	NA	NA	NA	NA	NA	NA	NA
SAtl	NA	NA	NA	NA	NA	NA	NA
ESC	NA	NA	NA	NA	NA	NA	NA
WSC	NA	NA	NA	NA	NA	NA	NA
Mt	NA	NA	NA	NA	NA	NA	NA
Pac	NA	NA	NA	NA	NA	NA	NA
US	NA	NA	NA	NA	NA	NA	NA
	Divisional Averages 1971-1980						
NEng	0.276	0.194	0.011	0.022	0.048	NA	NA
MAtl	0.504	0.303	0.014	0.066	0.125	NA	NA
ENC	0.353	0.233	0.017	0.029	0.077	NA	NA
WNC	0.287	0.160	0.018	0.045	0.067	NA	NA
SAtl	0.341	0.196	0.018	0.019	0.115	NA	NA
ESC	0.210	0.130	0.010	0.021	0.051	NA	NA
WSC	0.204	0.124	0.024	0.018	0.037	NA	NA
Mt	0.394	0.248	0.029	0.038	0.075	NA	NA
Pac	0.517	0.315	0.029	0.014	0.167	NA	NA
US	0.390	0.241	0.018	0.034	0.101	NA	NA
	Divisional Averages 1981-1993						
NEng	0.215	0.079	0.007	0.073	NA	0.022	0.034
MAtl	0.335	0.154	0.008	0.080	NA	0.086	0.007
ENC	0.205	0.093	0.008	0.042	NA	0.040	0.022
WNC	0.282	0.152	0.012	0.059	NA	0.043	0.016
SAtl	0.175	0.085	0.009	0.039	NA	0.025	0.017
ESC	0.179	0.052	0.005	0.080	NA	0.029	0.014
WSC	0.244	0.102	0.015	0.041	NA	0.047	0.039
Mt	0.363	0.141	0.013	0.090	NA	0.084	0.033
Pac	0.244	0.115	0.013	0.012	NA	0.067	0.038
US	0.246	0.111	0.010	0.049	NA	0.053	0.024

Source: See the first page of this table.

Table 5. (Cont.) Denial Rates and Determinaiton Rates on Nonseparation Issues by Census Division

Div	Total NonSep	Denials per Determination: Able& Available	Refusal Suitable Work	D&D Income	Misc NonSep Issues	Report Requirements	Other NonSep Issues
			Divisional Averages 1965-1970				
NEng	NA	NA	NA	NA	NA	NA	NA
MAtl	NA	NA	NA	NA	NA	NA	NA
ENC	NA	NA	NA	NA	NA	NA	NA
WNC	NA	NA	NA	NA	NA	NA	NA
SAtl	NA	NA	NA	NA	NA	NA	NA
ESC	NA	NA	NA	NA	NA	NA	NA
WSC	NA	NA	NA	NA	NA	NA	NA
Mt	NA	NA	NA	NA	NA	NA	NA
Pac	NA	NA	NA	NA	NA	NA	NA
US	NA	NA	NA	NA	NA	NA	NA
			Divisional Averages 1971-1980				
NEng	0.314	0.251	0.434	0.707	0.373	NA	NA
MAtl	0.336	0.337	0.340	0.417	0.285	NA	NA
ENC	0.426	0.358	0.337	0.685	0.548	NA	NA
WNC	0.586	0.562	0.357	0.768	0.537	NA	NA
SAtl	0.340	0.337	0.413	0.704	0.248	NA	NA
ESC	0.345	0.307	0.444	0.657	0.349	NA	NA
WSC	0.543	0.534	0.293	0.725	0.666	NA	NA
Mt	0.513	0.483	0.303	0.796	0.506	NA	NA
Pac	0.352	0.360	0.170	0.652	0.328	NA	NA
US	0.374	0.354	0.308	0.565	0.356	NA	NA
			Divisional Averages 1981-1993				
NEng	0.509	0.435	0.281	0.634	NA	0.568	0.464
MAtl	0.302	0.314	0.274	0.303	NA	0.289	0.487
ENC	0.518	0.412	0.294	0.731	NA	0.500	0.686
WNC	0.755	0.768	0.269	0.807	NA	0.860	0.488
SAtl	0.644	0.733	0.344	0.645	NA	0.589	0.548
ESC	0.753	0.614	0.495	0.809	NA	0.848	0.784
WSC	0.643	0.642	0.229	0.613	NA	0.888	0.578
Mt	0.712	0.656	0.246	0.858	NA	0.792	0.562
Pac	0.609	0.642	0.241	0.606	NA	0.618	0.601
US	0.543	0.536	0.275	0.594	NA	0.550	0.585

Source: See the first page of this table.

Table 6. Appeals Volume and Decisions in Favor of Appellants by Level of Appeal and Appellant, 1965 to 1993

Year	All Appeals Decisions: Lower Level: Claimant	Lower Level: Employer	Higher Level: Claimant	Higher Level: Employer	Decisions For Appellant: Lower Level: Claimant	Lower Level: Employer	Higher Level: Claimant	Higher Level: Employer
1965	194.0	29.9	29.6	6.5	41.5	8.7	1.8	1.2
1966	176.5	25.1	27.2	5.1	53.7	12.8	3.5	1.5
1967	177.3	29.6	26.3	5.5	48.8	10.7	3.7	1.3
1968	169.8	33.0	25.4	6.2	49.0	12.7	3.9	1.3
1969	156.9	30.9	25.0	6.1	48.2	14.3	3.3	1.6
1970	190.2	43.6	27.6	7.5	44.7	13.1	3.3	1.6
1971	229.4	56.9	35.3	10.8	54.7	17.2	3.4	2.2
1972	250.9	56.0	36.9	11.7	66.2	22.9	3.7	3.2
1973	271.8	59.3	41.2	12.2	69.9	22.3	4.1	3.4
1974	312.7	75.6	47.1	16.6	73.8	23.2	5.5	3.4
1975	438.4	107.8	63.8	22.7	82.9	27.3	5.8	4.3
1976	541.5	113.8	80.5	25.2	120.3	33.9	6.8	6.2
1977	571.1	119.0	92.9	26.1	144.0	39.4	9.5	5.7
1978	568.5	132.0	88.9	27.9	155.8	42.0	11.1	5.4
1979	595.2	144.5	100.9	30.9	151.4	43.2	10.1	5.5
1980	669.3	162.7	102.5	36.2	158.2	48.7	11.7	6.3
1981	684.1	174.8	112.2	43.1	174.5	56.3	13.5	6.6
1982	726.2	175.2	117.4	43.8	176.4	59.2	15.5	8.7
1983	726.8	179.3	133.8	45.5	196.6	58.8	14.7	8.8
1984	628.9	167.1	110.9	44.5	204.8	60.2	15.5	8.3
1985	626.7	170.1	98.4	40.6	177.2	56.4	15.7	7.6
1986	635.2	180.5	99.6	40.4	179.1	57.2	13.1	6.5
1987	625.8	178.1	97.3	40.8	189.4	64.1	13.7	6.6
1988	574.7	171.9	88.5	37.3	186.3	63.5	14.1	6.6
1989	574.2	179.3	81.2	35.4	170.7	61.3	12.0	6.7
1990	626.9	193.9	89.4	40.4	169.9	64.6	11.3	6.8
1991	726.4	230.5	98.8	46.6	184.3	68.2	12.6	7.6
1992	832.2	269.1	116.4	54.2	213.1	77.6	14.2	9.1
1993	746.7	250.8	124.0	59.6	255.8	90.3	18.0	10.5
Avg								
1965-70	177.5	32.0	26.9	6.1	47.7	12.0	3.3	1.4
1971-80	444.9	102.8	69.0	22.0	107.7	32.0	7.2	4.6
1981-93	671.9	193.9	105.2	44.0	190.6	64.5	14.1	7.7

Source: Based on data reported by the states to the UI Service of the U.S. Department of Labor. All data measured in thousands.

Table 7. Rates of Appeals and Success Rates of Appellants by Level of Appeal and Appellant, 1965 to 1993

Year	Rates of Appeals: Lower Level: Claimant	Rates of Appeals: Lower Level: Employer	Rates of Appeals: Higher Level: Claimant	Rates of Appeals: Higher Level: Employer	Success Rates: Lower Level: Claimant	Success Rates: Lower Level: Employer	Success Rates: Higher Level: Claimant	Success Rates: Higher Level: Employer
1965	0.100	NA	0.193	0.092	0.277	0.427	0.119	0.233
1966	0.107	NA	0.197	0.081	0.276	0.424	0.137	0.251
1967	0.098	NA	0.187	0.083	0.276	0.430	0.149	0.234
1968	0.101	NA	0.187	0.092	0.284	0.433	0.132	0.258
1969	0.095	NA	0.199	0.097	0.285	0.423	0.134	0.266
1970	0.084	NA	0.181	0.092	0.288	0.395	0.121	0.291
1971	0.090	0.017	0.190	0.107	0.289	0.402	0.106	0.298
1972	0.098	0.017	0.181	0.112	0.279	0.397	0.111	0.294
1973	0.107	0.018	0.186	0.111	0.272	0.391	0.132	0.275
1974	0.102	0.020	0.183	0.127	0.265	0.361	0.123	0.260
1975	0.109	0.021	0.181	0.117	0.274	0.315	0.106	0.274
1976	0.132	0.021	0.184	0.115	0.266	0.346	0.118	0.226
1977	0.135	0.021	0.203	0.112	0.273	0.353	0.120	0.208
1978	0.130	0.022	0.193	0.116	0.266	0.327	0.114	0.196
1979	0.143	0.027	0.208	0.122	0.266	0.337	0.116	0.203
1980	0.145	0.031	0.186	0.129	0.261	0.346	0.132	0.182
1981	0.161	0.039	0.198	0.148	0.258	0.339	0.138	0.202
1982	0.168	0.040	0.200	0.140	0.271	0.336	0.126	0.200
1983	0.197	0.046	0.230	0.141	0.282	0.336	0.116	0.183
1984	0.191	0.049	0.218	0.154	0.282	0.338	0.141	0.171
1985	0.179	0.051	0.195	0.139	0.286	0.336	0.133	0.161
1986	0.171	0.058	0.195	0.132	0.298	0.355	0.137	0.164
1987	0.178	0.063	0.194	0.136	0.298	0.356	0.145	0.162
1988	0.170	0.063	0.190	0.133	0.297	0.357	0.136	0.179
1989	0.164	0.068	0.173	0.125	0.296	0.360	0.140	0.193
1990	0.162	0.071	0.175	0.130	0.294	0.352	0.141	0.189
1991	0.165	0.075	0.167	0.127	0.293	0.337	0.143	0.195
1992	0.199	0.091	0.175	0.125	0.307	0.336	0.155	0.193
1993	0.198	0.095	0.206	0.151	0.307	0.338	0.148	0.190
Avg								
1965-70	0.098	NA	0.191	0.090	0.281	0.422	0.132	0.255
1971-80	0.119	0.021	0.190	0.117	0.271	0.357	0.118	0.242
1981-93	0.177	0.062	0.193	0.137	0.290	0.344	0.138	0.183

Source: Based on data shown previously in Tables 1 and 6. Rates of appeals at the lower level are measured as a proportion of unfavorable nonmonetary determinations, e.g., denials for claimants and awards for employers. Rates of higher appeals are measured as proportions of unfavorable decisions from lower level of appeals, e.g., denials for claimants and awards for employers.

Table 8. Lower Authority Appeals by Issue, 1965 to 1993

Year	Total	Vol Quit	Miscon-duct	Refusal Suitable Work	Able& Avail-able	Labor Disp& Other
1965	224.2	83.3	36.0	15.2	53.9	35.7
1966	201.9	76.5	29.8	14.9	49.8	30.8
1967	207.0	78.4	33.7	14.6	48.5	31.7
1968	203.0	76.9	33.5	13.3	49.4	29.8
1969	187.9	71.8	31.6	12.3	44.1	28.1
1970	234.0	93.0	44.3	11.2	49.3	36.2
1971	286.5	114.7	60.0	12.6	54.2	45.2
1972	307.1	124.7	61.2	13.3	57.5	50.4
1973	331.5	133.6	65.1	16.2	64.3	52.2
1974	388.9	153.5	89.5	14.9	71.1	59.9
1975	546.9	205.9	150.1	17.4	83.8	89.8
1976	656.5	248.0	174.9	22.8	100.0	110.7
1977	691.1	247.8	186.7	24.3	112.3	120.0
1978	701.7	236.4	194.5	23.2	111.4	136.1
1979	741.1	250.1	209.7	23.8	107.5	150.0
1980	833.4	267.9	251.8	22.2	99.3	192.1
1981	860.6	265.8	278.0	20.4	99.1	197.2
1982	903.8	269.5	318.9	16.8	96.9	201.7
1983	908.3	265.9	328.2	17.2	93.0	204.0
1984	797.0	244.0	289.1	15.2	67.8	181.0
1985	798.4	243.9	288.5	14.7	65.4	185.8
1986	817.7	241.1	304.2	13.3	70.1	189.0
1987	805.0	234.2	301.1	13.4	65.6	190.7
1988	747.2	221.5	279.2	13.1	53.2	180.2
1989	753.2	224.2	280.3	13.9	52.8	182.0
1990	821.5	244.0	301.3	13.1	57.1	206.0
1991	957.8	275.3	360.6	13.8	62.5	245.5
1992	1101.8	309.8	409.4	16.3	69.7	296.6
1993	997.9	288.1	376.0	15.4	63.7	254.8
Avg						
1965-70	209.6	80.0	34.8	13.6	49.2	32.1
1971-80	548.5	198.3	144.3	19.1	86.1	100.6
1981-93	866.9	255.9	316.5	15.1	70.5	208.8

Source: Based on data reported by the states to the UI Service of the U.S. Department of Labor. All data measured in thousands. Totals include a small number of appeals by other parties as well as appeals by claimants and employers.

Table 9. Rates of Lower Authority Appeals per Nonmonetary Determination by Nonmonetary Issue, 1971 to 1993

Year	Total	Vol Quit	Miscon-duct	Refusal Suitable Work	Able& Avail-able	Labor Disp& Other
1971	0.048	0.087	0.075	0.072	0.024	0.034
1972	0.052	0.092	0.076	0.066	0.025	0.041
1973	0.057	0.094	0.080	0.072	0.029	0.045
1974	0.056	0.091	0.087	0.068	0.028	0.041
1975	0.060	0.099	0.105	0.081	0.026	0.043
1976	0.070	0.120	0.121	0.100	0.027	0.054
1977	0.070	0.124	0.123	0.100	0.029	0.053
1978	0.068	0.127	0.126	0.092	0.027	0.052
1979	0.078	0.137	0.128	0.091	0.029	0.071
1980	0.085	0.150	0.140	0.092	0.028	0.078
1981	0.098	0.173	0.164	0.098	0.032	0.087
1982	0.103	0.183	0.178	0.103	0.035	0.080
1983	0.119	0.208	0.201	0.109	0.040	0.092
1984	0.118	0.202	0.194	0.099	0.035	0.094
1985	0.117	0.187	0.180	0.095	0.036	0.096
1986	0.120	0.184	0.188	0.087	0.041	0.093
1987	0.127	0.187	0.200	0.090	0.043	0.101
1988	0.122	0.173	0.190	0.086	0.038	0.100
1989	0.123	0.159	0.183	0.090	0.041	0.104
1990	0.125	0.166	0.184	0.088	0.041	0.106
1991	0.128	0.170	0.197	0.090	0.040	0.106
1992	0.155	0.199	0.229	0.108	0.048	0.136
1993	0.155	0.199	0.234	0.110	0.050	0.131
Avg						
1971-80	0.064	0.112	0.106	0.083	0.027	0.051
1981-93	0.124	0.184	0.194	0.096	0.040	0.102

Source: Based on data reported by the states to the UI Service of the U.S. Department of Labor.

Table 10. Rates of Appeals and Success Rates of Appellants by Level of Appeal, Appellant and Census Division

Div	Rates of Appeals: Lower Level: Claim-ant	Lower Level: Em-ployer	Higher Level: Claim-ant	Higher Level: Em-ployer	Success Rates: Lower Level: Claim-ant	Lower Level: Em-ployer	Higher Level: Claim-ant	Higher Level: Em-ployer
Divisional Averages 1967-1970								
NEng	0.128	NA	0.150	0.058	0.293	0.461	0.282	0.333
MAtl	0.125	NA	0.188	0.056	0.250	0.279	0.121	0.183
ENC	0.059	NA	0.209	0.147	0.288	0.460	0.139	0.304
WNC	0.078	NA	0.143	0.086	0.263	0.300	0.076	0.157
SAtl	0.075	NA	0.181	0.075	0.277	0.483	0.144	0.281
ESC	0.127	NA	0.233	0.111	0.255	0.411	0.152	0.284
WSC	0.150	NA	0.161	0.086	0.313	0.393	0.149	0.220
Mt	0.077	NA	0.151	0.069	0.319	0.381	0.139	0.238
Pac	0.076	NA	0.222	0.110	0.341	0.459	0.103	0.287
US	0.095	NA	0.188	0.091	0.283	0.420	0.134	0.262
Divisional Averages 1971-1980								
NEng	0.173	0.019	0.165	0.088	0.252	0.335	0.187	0.241
MAtl	0.149	0.008	0.210	0.095	0.242	0.300	0.069	0.220
ENC	0.076	0.035	0.219	0.181	0.261	0.353	0.144	0.289
WNC	0.102	0.035	0.141	0.106	0.288	0.344	0.092	0.184
SAtl	0.118	0.030	0.168	0.098	0.280	0.439	0.204	0.259
ESC	0.169	0.034	0.231	0.135	0.239	0.437	0.116	0.275
WSC	0.170	0.059	0.170	0.109	0.314	0.351	0.117	0.132
Mt	0.113	0.027	0.158	0.101	0.286	0.378	0.114	0.185
Pac	0.099	0.015	0.184	0.107	0.311	0.324	0.127	0.254
US	0.119	0.021	0.190	0.117	0.271	0.357	0.118	0.242
Divisional Averages 1981-1993								
NEng	0.187	0.085	0.179	0.117	0.300	0.222	0.154	0.129
MAtl	0.219	0.022	0.199	0.134	0.268	0.266	0.146	0.197
ENC	0.146	0.062	0.239	0.186	0.260	0.304	0.137	0.207
WNC	0.145	0.108	0.179	0.139	0.308	0.363	0.159	0.197
SAtl	0.187	0.110	0.187	0.143	0.287	0.445	0.155	0.220
ESC	0.189	0.115	0.251	0.169	0.228	0.388	0.109	0.200
WSC	0.228	0.102	0.221	0.154	0.289	0.348	0.093	0.116
Mt	0.162	0.095	0.143	0.105	0.315	0.393	0.130	0.143
Pac	0.157	0.042	0.142	0.093	0.330	0.344	0.181	0.210
US	0.177	0.062	0.193	0.137	0.290	0.344	0.138	0.183

Source: Based on state data identical the national data shown previously in Tables 1 and 6. Rates of appeals and success rates measured as in Table 7.

Table 11. Rates of Lower Authority Appeals per Nonmonetary Determination by Nonmonetary Issue and Census Division

Div	Total	Vol Quit	Miscon-duct	Refusal Suitable Work	Able& Avail-able	Labor Disp& Other
Divisional Averages 1971-1980						
NEng	0.083	0.144	0.125	0.166	0.035	0.089
MAtl	0.059	0.192	0.160	0.104	0.024	0.035
ENC	0.055	0.063	0.087	0.085	0.036	0.056
WNC	0.095	0.181	0.172	0.120	0.034	0.068
SAtl	0.156	0.266	0.272	0.150	0.052	0.075
ESC	0.141	0.305	0.249	0.119	0.030	0.100
WSC	0.126	0.182	0.177	0.140	0.045	0.113
Mt	0.072	0.079	0.107	0.068	0.041	0.092
Pac	0.047	0.096	0.080	0.027	0.015	0.046
US	0.064	0.112	0.106	0.083	0.027	0.051
Divisional Averages 1981-1993						
NEng	0.133	0.243	0.212	0.139	0.047	0.073
MAtl	0.094	0.254	0.207	0.097	0.021	0.064
ENC	0.106	0.139	0.185	0.118	0.036	0.080
WNC	0.132	0.205	0.185	0.151	0.051	0.102
SAtl	0.157	0.200	0.199	0.133	0.049	0.149
ESC	0.166	0.269	0.275	0.204	0.051	0.083
WSC	0.174	0.237	0.236	0.089	0.062	0.130
Mt	0.138	0.191	0.233	0.087	0.090	0.084
Pac	0.106	0.112	0.122	0.039	0.033	0.167
US	0.124	0.184	0.194	0.096	0.040	0.102

Source: Based on state data for appeals and nonmonetary determinations by issue. Data on nonmonetary determinations first available in 1971.

BRIEFING PAPER ON THE UNEMPLOYMENT INSURANCE DATA SYSTEM

PREPARED FOR THE ADVISORY COMMISSION ON UNEMPLOYMENT COMPENSATION

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Purpose of Briefing

The purpose of this briefing is to provide a non-technical summary (10 - 20 pages) of the issues involved with regard to the data generated by the Unemployment Insurance (UI) System. The briefing (1) describes the data, (2) identifies the uses made of the data, (3) explores some of the ways in which the information generated by the System can be improved, and (4) discusses some of the tradeoffs to be considered in improving the data. The entire study was completed in approximately one month. The scope of the study was limited to a few personal visits, about a dozen telephone interviews and the review of published and unpublished studies, correspondence and other relevant documents. (See Appendix A for a list of persons interviewed.) Because of the highly technical nature of some of the issues involved, it was not possible to carry out a sufficiently comprehensive study in this time frame to conclusively recommend detailed changes to the UI data system. However several areas for future study have been identified and the major issues are discussed.

Data Generated by the Unemployment Insurance System

It would take thousands of pages to technically describe the different data systems related to the Unemployment Insurance System. Appendix B lists 35 national reports generated by the UI system. Most of the reports are required by the UI staff in Washington, but some of the reports are required by other agencies, such as the ES-202 report which is required by the BLS.

The reports having the greatest use outside of the administration of the UI law are:

- ES-202. This report provides the Bureau of Labor Statistics with monthly covered employment and quarterly wages for each location of a company. Information is collected on the Standard Industry Code (SIC) at each location and on quarterly taxable wages and UI contributions. Information on number of reporting units as well as an establishment mailing list is derived in conjunction with this report.
- ES-203. This report provides monthly data on the characteristics of the insured unemployed. It is based on a sample of the unemployed workers receiving unemployment insurance which averages about 10%. The sample rate varies by state. Characteristics collected include: type of claim, number of weeks claimed, current duration of unemployment, age, sex, industry and occupation.
- ETA-5210. This report provides weekly the number of claims filed for unemployment insurance.
- ETA-5159. This report is a monthly variant of ETA-5210 and includes payment activity as well.
- ES-235. This report provides information on mass layoffs generally involving 500 or more workers.
- ETA-9048. This draft report will provide quarterly information on detailed characteristics and services provided to unemployment insurance claimants selected because they are deemed likely to exhaust their benefits.

A more complete listing of reports is contained in Appendix B. Appendix C provides a more complete description of the reports and data collected most widely for use outside of the administration of the UI law.

Appendix B does not list the reports created by the states. Each state creates its own set of reports which differ in part due to differences in the state UI laws. However the most widely used state report is a wage record report which lists all workers employed in the previous quarter by social security number along with their wages paid. This report is used by the states to determine the eligibility of workers for unemployment insurance. Two states do not have this report: Michigan and New York. These states are called wage request states instead of wage reporting states because they request the information from employers after a claim is filed rather than requiring the information before a claim is filed. Michigan will become a wage reporting state by 1997. All states are required by the Deficit Reduction Act of 1984 to have an income and eligibility verification system (IEVS) to verify eligibility for various Federal programs. Wage records serve this purpose in the wage reporting states. New York satisfies it with tax records and Michigan uses a system run in conjunction with the welfare and employment service departments.

The wage records contain different information, due in large part to differences in state UI laws. For example in the State of Washington, UI eligibility depends on hours of employment. In Minnesota, information on weeks of employment in each quarter is requested. Alaska requests information on the occupation of the worker. Except in Minnesota, wage records do not identify the worksite of the employee. The wage record identifies the location of the company. Approximately 93% of total wage and salary workers are covered by state unemployment insurance according to the Bureau of Labor Statistics. The major gap in wage records is caused by exclusions to coverage: armed forces and federal government employees, self employed workers, domestic service workers, railroad workers and student workers.

Other wage or UI reports collected by states could be of potential interest to users of administrative data. For example, over a dozen states require employers to send in a report on newly hired workers by social security number within a few weeks of the date of hire for income and eligibility verification.

Uses of Unemployment Insurance Data

The principal uses of unemployment insurance data can be categorized as follows:

- Administration of Unemployment Insurance
- Administration of other State and Federal laws
- Generation of Labor Market Information
- Evaluation of Federal and State Programs
- Research

Administration of Unemployment Insurance . Shirley Goetz, director of the Labor Market and Demographic Research Division of the New Jersey Department of Labor cautions that the reason for the collection of wage record information is to pay UI benefits accurately and in a timely manner.

As exciting as the potential may be for using administrative records for other purposes, these other uses must peacefully coexist with the original intention of the wage record system. The wage records are used by the states to determine the eligibility of a worker for benefits.

Many wage records are collected by states but not carefully examined other than to compare them to total wages reported on the ES-202 report. Incorrect social security numbers may never be caught. If a worker makes a claim and there is a discrepancy between what the worker thinks he or she is entitled to and what is contained on a wage record, an error may be corrected but otherwise the file may not be examined. Some states send employers the social security numbers and names of employees reported in previous quarters, which minimizes errors.

Wage records can also be used by the Department of Labor to determine if a worker receiving Unemployment Insurance is working at another company and receiving wages above the threshold allowed before the recipient would lose a portion of their benefit. Because the wage records could take four months from the initial hire date to be received by the State Employment Service, several states have initiated a program of new hire reports due within two weeks of hire of new employees.

The ES-202 report is a state summary derived from individual reports of employment, wages and taxable wages. The individual reports upon which the ES-202 is derived are used in the collection of Unemployment Insurance tax. Each state has its own format for the collection of the original information. The state has an interest in obtaining these reports to assure it is collecting the correct amount of tax. The Federal government has its own form for collecting its share of this tax (FUTA). ES-202 data are used in solvency studies of the UI fund and in experience rating of firms. The data are also used for workload studies and budget estimates.

The various administrative uses of some of the other UI reports are too technical for discussion in the body of this briefing. Additional details on some of the key reports can be found in Appendix C.

The newest UI form, ETA-9048, is used to follow the activities of claimants deemed likely to exhaust their UI benefits. The activity is referred to as profiling. The purpose of profiling is to target the reemployment services that are most effective for persons with various characteristics. The form was in a draft format when I reviewed it.

Administration of other State and Federal Laws. Because wage records identify the social security number of employed workers, they can be used to track the wage income of workers to verify that these workers are not claiming benefits under one program such as welfare while receiving wages in excess of the amount allowed by law. The ability of other agencies to obtain this information is required by Federal law. Some examples of this required use and enabling legislation are:

- Public Works (SSA 303 (a) (7))
- Railroad Retirement Board (SSA 303 (c) (1))
- Department of Agriculture and any state food stamp agency (SSA 303 (d) (1))
- State or local child support agency (SSA (e) (1))
- Income Eligibility Verification System for welfare (SSA 303 (f))
- Federal Office of Child Support Enforcement (SSA 303 (h))
- State or local Agency administering a plan for aid to needy families with children (FUTA 3304 (a) (16))
- State or local AFDC or Child Support Program (Wagner-Peyser 3(b))

In addition to the above mandated federal laws, some states have cooperated with other agencies in the cross matching of UI Wages or Benefits with other Program records. Identification of which states cooperate in which programs as well as how the data are used goes beyond the scope of this briefing. However, a listing of the various programs in which at least one state participates is of some interest as is the number of participating states as of 1990:

- Black Lung (1)
- Employment Service (16)
- National Guard (2)
- Immigration/Naturalization Service (7)
- Internal Revenue Service (25)
- Railroad Retirement (16)
- Job Training (17)
- Supplemental Security Income (13)
- Veterans Administration (9)
- Other (41 states)

Some of the other users include:

- Departments of Human Resources
- Department of Justice
- Board of Equalization
- Franchise Tax Board
- Department of Industrial Relations
- Public Employees Retirement System
- State Teachers Retirement
- Local Housing Authorities
- Universities
- State Departments of Commerce
- State Auditor Generals
- State Departments of Revenue
- H.U.D.
- Other States
- School Lunch Programs
- Internet
- Bureau of Special Investigations
- Vocational Rehabilitation
- FHA
- Workers Compensation
- Higher Education Assistance Agency
- County Courts/ Domestic Relations
- Governmental Collection Agencies
- Student Loan Boards
- Local Governments
- State Departments of Personnel
- Bendex

As one can see, many uses are made of wage records and benefits by other government agencies in the course of their business. In determining what is a proper use, federal and state laws determine when cross matches are permitted.

From a policy perspective, there is a right for individuals to have their privacy protected. However, if individuals apply for government assistance or owe the government money or even if they have reneged on their child support commitments, government policy is quite permissive in allowing these records to be used.

As these records become increasingly used by more government agencies, the possibility for abuse becomes even more likely unless safeguards are built into the system.

The Unemployment Insurance Service (UIS) attempted to draft regulations to govern some of the issues regarding dissemination of these data, (Federal Register, March 23, 1992) however extensive negative comments were received by the UIS and the proposed regulations were withdrawn. (Federal Register, Apr. 25, 1994)

Generation of Labor Market Information. Administrative data from the Unemployment Insurance System are the backbone of our federal - state labor statistics program. Without these data, the most optimistic scenario would be that the cost of running the program would be significantly greater and the quality would be significantly worse. To emphasize the importance of these data to the Federal Statistical system, Thomas Plewes, Associate Commissioner of the Bureau of Labor Statistics (BLS), indicated that he views the UI data system as primarily existing to generate data for the BLS. According to Mr. Plewes, if the BLS lost access to UI data, they would probably lose their ability to produce data on our nation's economy. There are no good substitutes.

If one analyzes the programs of the Bureau of Labor Statistics, one can see a reliance on Unemployment Insurance Data in most Bureau of Labor Statistics programs. To illustrate this, each major BLS program is listed and the importance of UI data is described. Quotes are from the BLS Handbook of Methods, Bulletin 2414, 1992. Not all references are included.

- **Employment and Unemployment Statistics:** Employment, Hours and Earnings from the Establishment Survey. "Since 1940 the basic source of benchmark information for 'all employees' has been the periodic tabulation compiled by State employment security agencies from reports of establishments covered under State UI laws. The state employment security agencies receive quarterly reports from each employer subject to the UI laws showing total employment in each month ... and total quarterly wages. The state agencies submit tabulations of these reports to BLS each quarter."
- **Employment and Unemployment Statistics:** Occupational Employment Statistics. "The sample is selected primarily from the lists of establishments reporting to the state unemployment insurance program."
- **Employment and Unemployment Statistics:** Measurement of Unemployment in States and Local Areas. "The base variable for the unemployment rate models is the statewide UI claims rate"
- **Employment and Unemployment Statistics:** Employment and Wages Covered by Unemployment Insurance. It is not necessary to quote from the Handbook for this example. A further description of the program is contained in Appendix C (ES 202).
- **Prices and Living Conditions**: Producer Prices. "The primary source for compiling the Universe of establishments is the Unemployment Insurance System"
- **Compensation Levels and Trends**: Occupational Pay and Benefits.. "BLS uses [sample] frames primarily compiled from lists provided by administrative or regulatory government agencies (primarily state unemployment insurance agencies)"

- **Compensation Levels and Trends**: Employee Benefits Survey. "The list of establishments from which the sample is drawn is the State Unemployment Insurance (UI) reports for the 50 States and the District of Columbia."
- **Productivity**. This is one area that does not use UI data. Instead it relies on Current Employment Statistics data (collected using UI data) and data from the Bureau of Economic Analysis (which again relies on UI data to compile it).
- **Employment Projections**. This is another area that does not rely on UI data. Instead it relies on Occupational Employment data for the base year and for constructing a basis for allocating industry forecasts into occupational forecasts. However the Occupational Employment data is constructed using UI data to draw its sample.

The other major agency using Unemployment Insurance data for their estimates is the Bureau of Economic Analysis (BEA). BEA bases their estimates of wages and salaries by county and by SIC four-digit industry using the ES-202 program. They make adjustments to the data in order to correct for incomplete coverage and differences in their concepts. This detailed exposition is very important to illustrate how crucial UI data are for our present data collection system. Private companies that do not have access to UI data survey other private companies. If the BLS had to rely on these companies for data, serious disruptions would take place to the majority of BLS programs. In some industries the coverage available from private companies may be fairly good. But in other industries it could be very uneven. I did not have the time to seriously evaluate the consequences of this option, but even if the data were generally good a major disruption would be created.

State agencies rely on UI data for a variety of special reports. A survey of these reports is beyond the scope of this briefing.

Evaluation of Federal and State Programs and Research. One of the previous use categories for UI data was administration of other federal and state programs. This category could encompass evaluation of these programs as well. However generally the types of efforts listed there were matching worker social security numbers listed in wage records with social security numbers of recipients of aid in federal programs to determine if the recipient is ineligible for the government program. For example if the recipient is claiming welfare at the same time an employer reports paying the worker $15,000 a quarter the welfare agency would like to know about this. Also the previous category included matching social security numbers to find the location of parents delinquent on child payments or delinquent on repaying federal loans.

The use of UI records in evaluation typically looks at recipients after they have received benefits from some federal program to determine how effective the program has been. With some exceptions, the interest is not in how well the individual recipient does but rather how effective the program has been in increasing employment or wages of individuals with certain general characteristics.

In some cases as in profiling or where an employability plan is developed for an individual the results on an individual may matter.

The Job Training Partnership Act of 1992 has a provision which, according to Paula Duggan of the Northeast-Midwest Institute, could "revolutionize performance management in the vocational education and occupational training world." The provision, according to Ms. Duggan, "would use existing unemployment insurance records to provide a common set of employment and earnings information that states and training program operators could use to evaluate the effectiveness of occupational training including: JTPA, vocational education, the JOBS program for welfare recipients, community college courses and programs of study in higher education. Researchers would also be able to use the information to investigate critical questions about worker mobility, dislocation and re-employment (NE-MW Economic Review October, 1992).

According to Section 405 of the Job Training Partnership Act:
"(g)(1)...the Commissioner of Labor Statistics, in cooperation with the states, shall determine appropriate procedures for establishing a nationwide database, containing information on the quarterly earnings, establishment and industry affiliation, and geographic location of employment, for all individuals for whom such information is collected by the States."
"(2) The Commissioner of Labor Statistics shall determine appropriate procedures for maintaining such information and for making such information available for policy research or program evaluation purposes or both, while ensuring the confidentiality of information and the privacy of individuals."

The Act is referring to UI wage records, however ironically these records do not identify the location of workers or the establishment in which workers are employed unless the worker happens to work in Minnesota or happens to work in a company with only one location. This is one of several limitations of wage records to be discussed in the next major section of this briefing. A summary of the BLS progress toward developing a National Wage Record Database can be found in the next major section of this briefing.

In addition to BLS efforts, a few states have begun Regional efforts to use wage records for program evaluation and research. David Stevens of the University of Baltimore School of Business has developed a regional database effort to use wage records from Maryland and other cooperating states. Jay Pfeiffer directs the Florida Education and Training Placement Information Program which matches UI wage records with education records and Training Agency records.

The State of Washington has developed a Continuous Wage and Benefit History database that contains information on covered workers, claimants and beneficiaries of an individual followed through time. This provides both cross-sectional and longitudinal information. The longitudinal aspect is a major advantage because it allows the same individuals, whether employed or not, to be followed through time for up to ten years , measuring the actual processes of change in an individual's employment status. The

CWBH contains not only quarterly data from the UI program (including records of claimants filing for UI benefits as well as employment histories for workers covered by UI provisions) but also wage data and JobNet data from the Employment Service. Some of the uses of the CWBH file identified by the State of Washington are to:

- Analyze legislative proposals relating to the UI system and determining the potential impact on UI
- Support operations research by providing data useful for agency operations, such as supporting workload and making budget analyses
- Respond to inquiries and requests for statistical information
- Supply the needed data to study the interaction between the economy and the UI program
- Determine the percentage of claimants returning to work by duration of unemployment by characteristics of claimant
- Follow earnings of claimants before filing a claim and after exhausting benefits

Washington's database is unique in that it requires employers to report hours of work in the quarter. This makes the database more useful than in other states. For example one of the indicators of a labor shortage is the increase in wages offered to newly hired workers. Most published occupational wage rates pertain to the average wage paid and thus would not be as valuable in identifying newly hired workers. From wage records you can identify newly hired workers by comparing their social security number in the current quarter to the social security number of workers that worked in the firm in previous quarters. If the social security number did not appear, for example, for the last four quarters the hire could be classified as a new hire.

In a paper prepared for the Bureau of Labor Statistics in conjunction with the National Wage Record Database project, David Stevens traced the various historical users of wage records for evaluation purposes. Examples of some of the studies included:

- Michael Borus, The Economic Effectiveness of Retraining the Unemployed, 1964
- Malcolm S. Cohen, A Study of On-Line Use of Job Information In Employment Service Local Offices, 1975
- James S. Hanna, Progress Report: Employment Service Potential Project, 1976
- Glen A. Siebert, First Progress Report on the Employment Service Potential Project, 1976
- David Stevens, Unemployment Insurance Beneficiary Job Search Behavior: What is Known and What Should be Known for Administrative Planning Purposes, 1977
- Kathaleen Shaffer, David W. Stevens and Lynda West, Federal Vocational Education Funding and Promotion of Successful Reemployment of Workers' Disability Payment Recipients, 1982
- Robert L. Crosslin and Stephen Wandner, Using the Continuous Wage and Benefit History to Locate Dislocated Workers, 1980
- Charles Trott, Robert Sheets and John Baj, An Evaluation of ETA's PY85 , 1985
- Robert Crosslin and David Stevens, The Feasibility of a National Wage Record Data Base, 1989

- William Bowman, Evaluating JTPA Programs for Economically Disadvantaged Adults, 1993

Policy Issues

There are several policy issues that are highlighted in this briefing:

- To whom and how should UI wage records be made available?
- What additional data should be added to UI wage records to make them more useful?
- What efficiencies should be made to the UI reporting system to reduce the burden on respondents?
- What additional resources are needed to make UI data more accurate?
- Should a national Continuous Wage Benefit History (CWBH) file be developed similar to the one started in Washington?

Who Should have Access to Wage Records and how should that access be provided?
The Bureau Of Labor Statistics has set forth a proposal for developing a National Wage Record Database (NWRD) which seems to be headed in the right direction.

In September 1992, Congress approved legislation requiring the Bureau of Labor Statistics to determine appropriate procedures for the establishment of a national longitudinal wage record database containing information on the quarterly earnings, establishment and industry affiliation, and geographic location of employment for every individual for whom such information is collected and stored by the State Employment Security Agency (SESA) Unemployment Insurance (UI) files. This database is intended to be used primarily for program evaluation and research purposes, but can also be used for eligibility, regulatory or enforcement uses.

In June 1993, BLS obtained funding to develop a design for the NWRD and recently issued a report outlining the major steps necessary to establish such a database. Confidentiality and assuring that the establishment of such a database would not conflict with federal and state confidentiality laws was a major focal point of the report. BLS determined that it was important to separate the statistical use of such data from eligibility, regulatory, or enforcement purposes and thus recommended the design of two separate databases.

Before either database could be established, BLS determined that a new program should be established, in conjunction with State agencies, to ensure the basic quality and standardization of maintenance of the State wage record files. The BLS report outlines concerns that several key data elements, including social security numbers, might be incorrect in the state databases, and the BLS hopes that such a program will reduce errors and enhance the quality of the UI wage record data elements.

The first database would be accessible in a distributed form, with data residing in the owning states but accessible through a consolidated exchange facility. This distributed database would support program evaluation and eligibility/regulatory purposes.

The second database would be centralized and maintained by the Bureau of Labor Statistics. This database would be used for research and statistical purposes. This database would provide an independent and accurate source of employment and earnings information that would be valuable for studying a wide range of issues. This database would store edited data on a time lag basis and would be supplemented with other data on business establishments from the ES-202 program. The BLS envisions the establishment of a separate facility for providing the wage record data to analysts and researchers in a protected manner which ensures confidentiality of sensitive data.

To comply with relevant federal and state statutes, the BLS recommends that legislation authorizing NWRD address who has access to the database and for what purposes, safeguards for disclosed records, and notification to individuals, claimants, and employers of the potential use of their records.

The establishment of a National Wage Record Database would greatly enhance program evaluation and policy research, as well as greatly improving the eligibility, regulatory and enforcement functions of federal and state agencies.

There would be several benefits to evaluating the JTPA and other vocational education programs using NWRD over the conventional practice of telephone surveys. First, there is a substantial cost savings to simply accessing the UI wage record data electronically over the use of labor intensive and costly telephone surveys. Second, UI wage records could be used to track the employment and earnings of individuals over a substantially longer period than telephone surveys which cover a shorter period of time. Third, UI wage records allow evaluators to examine the employment and earnings outcomes of *all* participants in a program rather than just a sample of program completers, allowing for a more accurate analysis of individual service providers. Fourth, with UI data, program evaluation would not depend upon a person's memory about his/her employment and earnings history. In summary, the use of a unified wage record system would allow agencies to gain access to data which are accurate, more complete, and less costly to obtain than are the data currently available.

Policy research would also be greatly enhanced through the use of this disaggregate data. NWRD would allow further research into the underlying forces which cause certain firms, industries, and geographic regions to expand or contract by allowing analysis of less aggregated data. NWRD could be used to explore responses to employment "shocks", evaluate labor turnover at both the individual and firm level, study the ability and extent of worker migration between states, and trace the sequence and consequences of individual human capital patterns. Finally, NWRD would serve as an independent and accurate source of employment and earnings information.

NWRD would enhance current cooperative efforts between Federal and State agencies and the SESAs to determine program eligibility or enforce regulations. Congress currently requires SESAs to aid in the prevention of food stamp fraud by providing the

U.S. Department of Agriculture or relevant state Food Stamp Agency information regarding a person's earnings, unemployment compensation claims, home address, and circumstances of refusal to work. Congress also requires SESAs to relinquish control over confidential administrative records to Federal or State agencies to determine eligibility for AFDC, Medicaid, and other Federal income maintenance programs. Federal law also requires SESAs to transmit earnings and unemployment compensation claim information for absent parents to the U.S. Department of Health and Human Services.

What Additional data should be added to the Wage Record Data base? The addition of additional data requires states to collect additional information from employers. In this environment which stresses no new regulations, the addition of additional data items should be considered only if there is a clear benefit to be derived from the data without imposing a major burden on employers. For example if additional items can be added which would reduce the need for employers to report in other ways, the burden could be cost justified. If additional data provided information which could make federal programs so much more effective or could considerably cut down on fraud, the reporting could be justified. Some of the items missing from the wage record files in most states which would significantly improve the value of the file are:

- Occupation of wage earner
- Hours or weeks worked in quarter
- Location where employee works
- Expanded predecessor/ successor identifiers for the firm
- Uniform definitions of reportable earnings
- Adding federal government employees to coverage

Although I think it would be quite useful to continue to experiment with ways of collecting occupational data, if a national system were implemented the cost of making sure that the data reported is useful could be considerably in excess of $10 million per year. Each firm has its own occupational classification system. Even the BLS uses different occupational classification systems in its various data collection programs. Unless Congress were willing to make a financial commitment to assuring this information could be collected properly, I would be very skeptical that this data could be cost justified.

Most states merely collect the wages paid to a worker in a given quarter. If a worker started in a firm March 25 and earned $2,000 per week ($50 per hour), the worker's wages for the quarter would be $2,000. We would not know if the worker earned $50 per hour or if they started March 1 at $11 per hour or if they started January 1 at $4 per hour. This requirement would be far less costly for employers to provide than occupation, but we still wouldn't know hour many hours were regular hours and how many were overtime involving premium pay or if the pay included a lump sum bonus or vacation pay.

The location of the employee would seem to be the easiest item for the employer to provide and probably the least extensive to edit. The item could be sensitive in that employers may not want to identify where an employee is working.

It would be useful to know more about succession of ownership of firms and establishments within companies. Currently some of that information is collected as part of the ES-202 program, however additional details could be useful.

State laws differ in definitions of reportable wages. These differences are minor and could probably be adjusted by the BLS rather than imposing a burden on employers.

Federal government employees are missing from the wage record files. This can be a very serious problem when evaluating performance (in areas with large federal government employment) of a job training program. If a worker is hired by the federal government after receiving training, it will appear to the analyst that the former participant is without a job. Why should federal government agencies be exempt from the burden private employers face? One argument is confidentiality. We wouldn't want persons to be able to locate where certain Drug enforcement or FBI agents worked. However sensitive workers could be exempted from location or any reporting.

What efficiencies should be made to the UI reporting system to reduce the burden on respondents? It is unlikely that the BLS will be able to persuade OMB to significantly increase the reporting burden on employers. In fact the current directive from the White House is to reduce that burden. ACUC has already recommended the elimination of the FUTA reporting form. The Bureau of Labor Statistics and ICESA should experiment with ways to reduce the burden of reporting by employers even further. Unfortunately, recommending exactly what should be done to reduce the burden is too technical to discuss in this briefing. Any suggestions would require discussion and experimentation to determine what effect the changes have on reporting accuracy and burden. However, to illustrate the types of changes that might lead to improvements in efficiency:

- Combine the ES-202 and wage record reporting in a single form as is done in South Dakota
- Have employers submit wage record lists and have the Employment Security Agency compute a bill and selected ES-202 data based on the wage records.
- Experiment with the elimination of the requirement that employers report employment each month on the report and substitute with quarter beginning and ending concepts which can be computed by subtracting social security accessions in the quarter from wage items. This information could also be combined with new hire reports now required in over 12 states.

All of the above changes are highly controversial and it should be noted that I am only recommending feasibility studies of ways to improve the collection process. If these experiments are not conducted the Department of Labor could find itself in a position of having to make cuts to its programs without the benefit of a systematic study.

What Additional Resources are necessary to improve the UI data system?
Wage records, for example, are collected in order to enable determination of eligibility for Unemployment Insurance. When a claim is made and contested, wage records may be carefully examined. In the vast majority of cases, however. virtually no examination of the wage records is carried out by the Employment Service. Vast new uses of wage records are being contemplated. It only makes sense to allocate resources so the value of the data can match the varying uses being contemplated. Without this investment, much frustration will be created by users who attempt to use poor quality data or data constructed for one purpose that does not meet other purposes for which it is increasingly being used.

Should a national Continuous Wage Benefit History (CWBH) file be developed similar to the one started in Washington? An extensive discussion of the Benefits of a Continuous Wage Benefit History file like the one in the state of Washington was provided. In addition Ging Wong of the Canadian Human Resource Development Department has developed such a file for Canada which has enabled extensive research to be done on such topics as the effects of changes on the UI benefit level on unemployment , the effects of unemployment on job search and the differences in behavior between recipients who repeatedly use unemployment insurance versus the occasional user.

A Continuous Wage Benefit History file could be developed at a cost of a few million dollars according to Steven Wanderer. It could be of great value in better understanding causes of unemployment . If such a file improved our understanding of unemployment such that a 0.1% unemployment reduction in the insured unemployment rate could be achieved, the investment would have an enormous benefit cost ratio. (a .1% reduction would decrease claims by 100,000. Assuming a $2,000 cost per claimant, this would be a saving of $200,000,000. Although the example is totally fictitious, it illustrates how, if a small amount of money spent on research could improve the functionally of the unemployment insurance system, it would be cost effective.

Although the emphasis of this study has been on the use of administrative records, Brian McCall indicated that additional questions could be added to sample surveys which are commonly used by UI researchers and enhance the research thatcan be done. For example the dispalced worker supplement to the Current Population Survey would be an excellent place to add more detail on the month in which a worker lost his /her job and where they were when they lost their job as well as more job history information since they were laid off.

Appendix A List of Interviews Conducted

FIRST	LAST	TITLE	DIVISION	AGENCY	TYPE
Mary	Hummel	Research Analysis Specialist	Research & Statistics	Minnesota Department of Economic Security	Visit
Theresa	Van Hoomissen	Assistant Director	Research & Statistics	Minnesota Department of Economic Security	Visit
Med	Chottepanda	Director	Research & Statistics	Minnesota Department of Economic Security	Visit
Shirley	Goetz	Director	Labor Market & Demographic Research	State of New Jersey Department of Labor	Telephone
Paula	Duggan	Senior Policy Analyst		Northeast Midwest Institute	Telephone
Thomas	Plewes	Associate Commissioner		Bureau of Labor Statistics	Visit
David	Stevens	Executive Director	The Jacob France Center Merrick Business	School of Business ** University of Baltimore	Telephone
Stephen	Wandner	Deputy Director	Office of Legislation and Acturial **Services	Unemployment Insurance Service	Visit
Lynne	Webb			Unemployment Insurance Service	Telephone
Ging	Wong	Director	Insurance Programs Directorate Program	Human Resources Development Canada	Telephone
Sharon	Brown	Chief	Local Area Unemployment	Bureau of Labor Statistics	Visit
Michael	Searson	Senior Economist		Bureau of Labor Statistics	Visit
Von	Logan	Deputy Director	Financial & Management Services	Michigan Employment Security Commission	Visit
Abel	Feinstein	Manager	Labor Market Research	Michigan Employment Security Commission	Visit
Gary	Bodeutsch	Director	Labor Market Information	Washington State Employment Security Department	Telephone
Rena	Kottcamp	Director	Research Division	Massachusetts Division of Employment Security	Telephone
Cherlyl	Templeman	Director	Unemployment Insurance	Interstate Conference of Employment Security Agencies	Telephone
Cynthy	Ambler			Unemployment Insurance Service	Telephone
Brian	McCall	Assistant Professor	Industrial Relations Center	Carlson School of Business University of Minnesota	Visit
Vivien	Shapiro	Assistant Commissioner	Research Analysis and Evaluation	State of New Jersey Department of Labor	Telephone
James	Phillips	Director	Program Planning, Analysis & Evaluation	State of New Jersey Department of Labor	Telephone
Laurence	Seidel	Staff Director		NJ Occupational Information Coordinating Committee	Telephone

Appendix B List of Federally Required UI Reports

Number	Description
67	WIN--Program Status
191	Statement of Expenditures and Financial Adjustments
202	Employment, Wages and Contributions Report
203	Characteristics of the Insured Unemployed
204	Experience Rating Report
205	Preliminary Estimates of Average Employer Contribution Rate
207	Nonmonetary Determination Report
209D	Local Office Directory Changes
218	Benefit Rights and Experience
223	In-Season Farm Labor Report
227	Overpayment Detection and Recovery Activity
228	Report of Work Stoppages
232	Domestic Agricultural In-Season Wage Report
235	Report of Mass Layoff
244	Status of Obligational Authority
266	Reconciliation of Liability to ETA
532	Payment Activities Under the Disaster Relief Act of 1974
538	Advance Weekly Initial and Continued Claims Report
539	Extended Benefit Data
563	Trade Readjustment Allowance Activities and Employability Services
581	Contribution Operations
586	Interstate Agreement for Combining Employment & Wages
902	Disaster Unemployment
2112	UI Financial Transaction Summary
5210	Weekly Claims and Extended Benefits Trigger Data
5130	Benefit Appeals Report
5157	Apprenticeship Information Centers Monthly Report
5159	Claims and Payment Activities
8401	Monthly Analysis of Benefit Payment Account
8403	Summary of Financial Transactions - Title IX Funds
8405	Monthly Analysis of Clearing Account
8413	Income-Expense Analysis, UC Fund, Benefit Payment Account
8414	Income-Expense Analysis, UC Fund, Clearing Account
9000	Internal Security
9016	Alien Claimant Activity Report
9048	Worker Profiling and Reemployment Services Activities

Appendix C - Description of Major UI Reports and Program uses

The Covered Employment and Wages Program (ES-202)

The Covered Employment and Wages program (ES-202) is a cooperative endeavor of the Bureau of Labor Statistics and the employment security agencies of the U.S. States and territories (including the District of Columbia). BLS uses data submitted by the agencies to summarize employment and wage data for workers covered by State Unemployment Insurance (UI) laws and for civilian workers covered by the program of Unemployment Compensation for Federal Employees (UCFE).

The ES-202 program is a comprehensive and accurate source of employment and wage data, by industry, at the national, State, and county levels. Unlike many other statistical data series, the ES-202 program covers a broad universe rather than a sample population. The scope of its coverage is in line with the scope of employees covered by UI or UCFE, which in 1991 covered 98 percent of total wage and salary civilian employment. It currently includes anyone employed by a private firm, Federal employees and ex-military personnel, virtually all State and local public employees, less than half of those employed by agricultural firms, and some domestic workers. Excluded are just over half of all agricultural employees, all of the self-employed, some domestic workers and all unpaid family workers, members of the Armed Forces, those covered by the railroad unemployment insurance system, some State and local government employees, and some nonprofit employers.

The ES-202 program collects data on an *establishment* basis, defined as an economic unit which produces goods or provides services. It is usually in a single physical location and engaged in predominantly one type of economic activity for which a single industry classification may be applied. Most employers have only one establishment; thus, the establishment is the predominant reporting unit or statistical entity for reporting employment and wage data. When a single physical location encompasses two or more distinct and significant activities, each is defined as a separate establishment and the employer is requires to file a Multiple Worksite Report (MWR).

The ES-202 employment data represent the number of workers on the payroll during the pay period including the 12th day of the month. Workers are reported in the State and county of the physical location of their job rather than their place of residence. Because the data is collected by establishment, persons on the payroll of more than one firm are counted in *each* firm. The employment count includes persons on paid sick leave, holiday or vacation, but excludes employees who earned no wages during the pay period because of work stoppages, temporary layoffs, illness, unpaid leave or vacation, and those who earned wages during the month but not during the applicable pay period.

The ES-202 total wage data is collected each quarter and in most states includes gross wages and salaries, bonuses, tips and other gratuities, and the value of meals and lodging, where supplied. In the majority of states, employers contributions to certain deferred

compensation plans are also included. The total wage data excludes employer contributions to Old-age, Survivors', and Disability Insurance (OASDI); health insurance; unemployment insurance; workers' compensation; and private pension and welfare funds.

In the ES-202 program, statewide classification of industries using the 1987 Standard Industrial Classification Manual is mandated at the 4-digit level. Industrial codes are assigned by State agencies to each reporting unit based on responses to questionnaires in which employers indicate their principal product or activity. In order to insure the highest possible quality of data, BLS and the States verify and update the SIC, location, and ownership classification of all units on a 3-year cycle. Government units in the public administration industry division are verified on a 5-year cycle.

Individual State agencies are responsible for collecting, coding and summarizing the raw data from the Unemployment Insurance Contribution Reports and Multiple Worksite Reports; checking for missing information and errors; imputing data for delinquent reports; and machine processing the data onto magnetic tapes. These tapes arrive at BLS five months following the end of each quarter. To assure accuracy, BLS edits the data each quarter and asks State agencies to review questionable entries and provide updates or explanations where necessary.

ES-202 data are published annually by BLS in *Employment and Wages*. This publication presents State and national totals for covered employment and wages by broad industry division, major industry group, and detailed 4-digit industry. BLS withholds publication of data for any geographic industry level which could disclose information pertaining to an individual firm. In addition to published information, county and metropolitan data and historical information are available.

The ES-202 program provides data necessary to both the Employment and Training Administration and the various State employment security agencies in administering the employment security program. The data are used to measure UI revenues; National, State, and local area employment; and total and taxable wage trends. The information is used as an input for actuarial studies, determination of experience ratings, maximum benefit levels, and areas needing Federal assistance. The data are also used to measure the solvency of unemployment insurance funds.

The ES-202 data also serve as the basic source of benchmark information for the Current Employment Statistics program and The Unemployment Insurance Name and Address File. The Bureau of Economic Analysis (U.S. Department of Commerce) uses the wage data as a base for estimating a large part of the wage and salary component of national income and gross domestic product, which is in turn used by the Federal government to allocate program grants to State and local governments. The Social Security Administration and State governments use the data in updating economic assumptions and forecasting trends in their taxable wage base. Finally, the data are used extensively by business and public and private research organizations.

Characteristics of the Insured Unemployed (ES-203)

The Characteristics of the Insured Unemployed (ES-203) program is administered by the Bureau of Labor Statistics using data submitted monthly by the States. Those states reporting fewer than a specified number of weeks of unemployment claims must submit data on all weeks claimed; those above the threshold may submit a statistical sample as specified by BLS.

The program collects data an individuals filing continued weeks claimed of Unemployment Insurance, including the type of claim, number of weeks claimed, current duration of unemployment, age, gender, race, industry affiliation, and occupation.

The data are published monthly in *Unemployment Insurance Statistics* and annually in the *Handbook of Labor Statistics* and *Employment and Training Report of the President.*

The primary use of the ES-203 program is to provide data by State and for the U.S. on characteristics of the insured unemployed. These data are used by the Employment and Training Administration ** ~~for use~~ in promoting employment opportunities, improving utilization of human resources, alleviating unemployment through studies of its causes, guiding related government policies, evaluating the UI program and developing recommendations for changes, and improving public information and understanding.

The data are also used for these and other purposes by State agencies, unions, businesses, business and labor advisory groups, Federal Reserve Board and Banks, Council of Economic Advisers, National Science Foundation, Bureau of Labor Statistics, researchers and students.

Weekly Report of Claims-Taking Activities (ETA 5-210)

The Weekly Report of Claims-Taking Activities (ETA 5-210) uses data submitted weekly by the States, including some separate data for selected labor market areas or segments of States one week each month.

The weekly report contains data on initial claims and continued weeks claimed (State UI, UCFE, UCX, Extended Benefit programs). The report also includes comments on the effects of employment "shocks" such as labor disputes, natural disasters and energy shortages on employment and unemployment. Total insured unemployment for selected labor areas is reported one week per month.

The data are published weekly in *Unemployment Insurance Claims*; monthly in *Unemployment Insurance Statistics, Business Conditions Digest, Social Security Bulletin,* and *Employment and Earnings*; and annually in *Handbook of Unemployment Insurance Financial Data, Employment and Training Report of the President,* and *Statistical Abstract of the United States.*

The data are used by the Employment and Training Administration for current analysis of insured unemployment trends and for public information. The data are also used by State agencies, Council of Economic Advisers, Bureau of Labor Statistics, Federal Reserve Board, U.S. Department of Commerce, researchers and consultants. The data are also used to determine the Leading Economic Indicators.

Extended Benefit Data (ETA 5-39)

Extended Benefit Data (ETA 5-39) summarizes data submitted weekly by the States.

The ETA 5-39 report includes data on weeks claimed of State Unemployment Insurance; regular, Federal-State UI extended and State UI extended additional compensation; average adjusted total continued weeks claimed; covered employment; rate of insured unemployment; average rate of insured unemployment for the prior two years and the current rate as a percent of average rate for the prior two years.

The data are used by the Employment and Training Administration to determine the initiation, continuance or termination of an extended benefit period in any State by reason of the State trigger and of a national on/off trigger. The data are also used by State agencies, researchers and consultants.

Measurement of Employment in States and Local Areas

Unemployment estimates for States and local areas are key indicators of local economic conditions and are used extensively by Federal, State and local government agencies. Under the Federal-State cooperative program, the Department of Labor develops the concepts, definitions, and technical procedures which are used by State agencies for the preparation of labor force and unemployment estimates. Known as the Local Area Unemployment Statistics (LAUS) program, data from each State's UI data base are used to yield monthly estimates of unemployment and employment for all States, all labor market areas, and counties and cities having a population of 25,000 or more.

The Bureau of Labor Statistics relies upon a State-based design for the Current Population Survey (CPS) of appropriate sample size conducted each month to determine official statewide labor force estimates for the 11 largest States (California, Florida, Illinois, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas) and for 2 sub-State areas (Los Angeles-Long Beach MSA and New York City).

BLS estimates of statewide labor force statistics for the remaining 39 States and the District of Columbia are based upon time series models developed by BLS and tested by State employment security agencies using standardized procedures. Separate regression models are used to determine employment levels and unemployment rates, and each year, monthly State employment and unemployment estimates prepared by State employment security agencies using these models are benchmarked to the annual average CPS State estimates of employment and unemployment.

Sub-State estimation of unemployment and employment are conducted using the "Handbook" method. This effort to estimate unemployment for an area is comparable to what would be produced by a random sample of households in the area but relies upon available information to avoid the expense of a large labor force survey. These estimates

of employment and unemployment rely on estimates of those who were last employed in industries covered by State UI laws, those who were last employed in noncovered industries, and those who either entered or reentered the labor force.

Covered unemployment for sub-State estimates is further broken down into four categories: those currently collecting UI benefits, those who have exhausted their benefits, those who have been disqualified from receiving benefits, and those who have delayed filing for benefits. Estimates of covered unemployment rely on actual counts of those currently collecting UI benefits and the use of special estimating equations to estimate counts for the other three categories, which rely on actual and estimated data.

Sub-State estimates of uncovered employment are based primarily on the application of the State-covered unemployment rate to estimates of current employment for each noncovered industry or class-of-worker subgroup.

Sub-State estimates of new entrants and reentrants into the labor force are based on the national historical relationship of entrants to the experienced unemployed and the experienced labor force.

Sub-State estimates of total employment are based primarily on surveys of establishments, either directly from the Federal-State Current Employment Statistics (CES) survey or by the States themselves. These employment estimates of nonfarm industries are adjusted using data from the most recent decennial census.

All of these data are adjusted monthly to ensure that sub-State areas sum to the State total estimates and are benchmarked each year.

Because some Federal programs require estimates of employment and unemployment on a sub-LMA basis, BLS estimates sub-LMA labor statistics using either current Bureau of the Census estimates of population or decennial census employment and unemployment counts.

BLS surveys individual State data bases through the UI Data Base Survey to assure that data used in LAUS estimates meets BLS standards. The UI Data Base Survey helps to verify whether currently existing LAUS UI data bases meet standards for unduplicated and complete claimant data, and aids BLS in determining elements that are inappropriately defined, not available, missed, or insufficient.

Estimates of unemployment and unemployment rates are used by Federal agencies to determine area eligibility for benefits in various Federal programs. The unemployment data are used in many programs to determine the distribution of funds to be allocated to each eligible area. Under the Emergency Unemployment Compensation Act, the State total unemployment rate is one of two triggers for paying extended unemployment benefits.

UNEMPLOYMENT INSURANCE: PUBLIC VIEWS

by Stacey G. Grundman

January 1996

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UNEMPLOYMENT INSURANCE: PUBLIC VIEWS

The Advisory Council on Unemployment Compensation contracted with The Gallup Organization and Fu Associates to conduct a nationally-representative survey to assess public attitudes towards the Unemployment Insurance (UI) System. The Gallup Organization conducted the survey of 1,206 adults in the United States in July and August of 1995. The findings discussed in this paper are based on the author's analysis of the survey results compiled by Gallup.

Ten survey questions dealing with participants' views about the UI system were cross tabulated by various demographic and personal characteristics (also called classification variables).[1] For each cross-tabulation, a Pearson Chi-Square statistic was calculated to determine whether the actual frequency of responses across categories of the classification variable were significantly different from the frequencies that would be expected if the characteristics were independent from the participants views.[2]

EXPERIENCE WITH THE UNEMPLOYMENT INSURANCE SYSTEM: WHO APPLIES FOR BENEFITS?

Participants in the survey were asked a number of questions about their employment history and their experiences with the unemployment insurance system. Almost half (46%) of the participants reported that they had been unemployed at some point in their life *other than when [they] were student[s] or when [they] might have chosen not to work outside the home.* Two-thirds (66%) of the people who had been unemployed reported that they had applied for unemployment insurance benefits and most of them (89%) actually received benefits.

People who reported having been unemployed but not applying for benefits were asked why they had not applied. This question was open-ended (it did not provide explicit response categories for the participants) in order to capture as many responses as possible.[3] The most frequent response, that the individual had found another job, was mentioned by 24 percent of the

respondents. Fourteen percent reported that they did not apply because they did not think they were eligible for benefits. Another eight percent reported that they were unfamiliar with the unemployment insurance system or that they did not know that they could apply for benefits.[4]

In addition to the reasons for not applying mentioned above, there are demographic and other personal characteristics that seem to influence the decision for unemployed people to apply for benefits. Results of this question were cross-tabulated against demographic characteristics, union membership, participants' views of UI as earned insurance or welfare, and if they knew people outside their family who had collected benefits.[5]Advisory Council on Unemployment Compensation Significant results are mentioned below. A more detailed summary of responses by category, including those that were not significant, is contained in Table 1.

- Older respondents (74% of those aged 35-54 and 72% over age 54) were more likely to report that they had applied for benefits than younger respondents aged 18-34 (51%).
- A higher percentage of men (73%) than women (61%) who had experienced unemployment reported having applied for benefits.
- Respondents earning $25-45,000 (73%) were more likely to report that they had applied for benefits than respondents in other income categories. Those with slightly higher earnings $45-75,000 (70%), were more likely to report that they had applied than those earning less than $25,000 (63%) or more than $75,000 (49%).
- Union members (81%) were more likely to report that they had applied for benefits than non-union members (66%).
- Divorced, separated, or widowed respondents (75%) were more likely than married (67%) or single (55%) respondents to report that they had applied for benefits
- Respondents who viewed UI benefits as earned insurance were more likely (71%) to file than those who viewed them as part of the welfare system (42%).
- Respondents who knew someone outside their immediate family who had received UI benefits (72%) were more likely to report that they had applied for benefits than those who did not (53%).

TABLE 1. Applicants for UI Benefits

Classification Variable	Percent of people who have been unemployed who applies for UI benefits (n=550)	Classification Variable	Percent of people who have been unemployed who applies for UI benefits (n=550)
Total	66.2	Race	
Age		Hispanic	63.0
18-34	**50.5**	White	65.6
35-54	**73.5**	Black	77.2
55+	**71.5**	Other[1]	50.0
Sex		Marital Status	
Male	**72.6**	Single	**54.8**
Female	**60.5**	Married	**66.7**
Education		Other[2]	**75.3**
HS or less	70.5	Union Member	
Some College	66.4	Yes	**80.6**
College	59.5	No	**65.6**
Income		View of UI	
<25K	**63.0**	Earned Insurance	**71.1**
25<45	**73.2**	Welfare	**42.4**
45<75	**70.2**	Know People Who Have Collected UI	
75+	**48.8**	Yes	**71.6**
		No	**52.5**

NOTE: Responses that are statistically significant different across classification variables are indicated in bold.
[1] Asian, Native American, or other race.
[2] Divorced, separated, or widowed.

Regression Analysis and Results

Logistic regression also was used to estimate the individual influence of the characteristics described above on a respondents' decision to apply for UI benefits. Again, only cases in which the respondent had reported a history of unemployment were included. The dependent variable used in the analysis was whether the respondent had applied for UI benefits. The independent variables used were the classification variables in Table 1 as well as survey participants' views of the importance of benefits as a source of income.[6] The results indicate that respondents who are (1) male, (2) black, or (3)widowed, separated or divorced are significantly more likely to apply for benefits. In addition, survey participants who viewed UI as earned insurance as opposed to welfare, knew people outside their families who had collected UI benefits, or believed that benefits were an important source of income to the families that receive them were also significantly more likely to apply. Specific regression results, including the log odds ratios and significance levels, are presented in Table 2. The log odds ratio represents the likelihood that a person will apply for benefits if the observed independent variable is changed while all other independent variables are held constant. For example, according to the logistic results, people who know someone outside the family who has collected UI benefits are 2.5 times more likely to apply for benefits that those who do not.

TABLE 2. Applicants for Benefits: Logistic Regression Results

Independent Variable	Log Odds Ratio
Age	1.02 (.08)
Male	1.55 (.05)
Education	0.84 (.24)
Income	1.02 (.80)
Union	1.82 (.09)
Race	
Black	2.33 (.03)
Hispanic	1.15 (.83)
Asian, Native American, Other	1.07 (.92)
Marital Status	
Married	1.67 (.07)
Divorced, Separated, Widowed	2.67 (.00)
View UI as Earned Insurance	2.93 (.00)
Know People Who Have Collected UI Benefits	2.50 (.00)
Importance of Benefits	1.41 (.03)

NOTES: n=463. Significance levels are reported in parentheses.

The Role of Knowledge of the UI System

Additional examination of the role of knowledge or understanding of the unemployment insurance system on people's decision to apply for benefits may prove illuminating. Theoretically, familiarity with the application process or an understanding of the benefits available would encourage the unemployed to apply. This survey, however, asked only people who reported having applied for benefits about their level of knowledge of the UI system. Knowing people who have received benefits may, however, be representative of a person's familiarity or knowledge of the system.

Survey results parallel other UI data indicating that a greater percentage of unemployed workers who are members of labor unions apply for UI benefits than non-union members. [7] This survey, however, does not provide an explanation for this result. It may be that union members who are laid off are more frequently provided with information about the availability of UI benefits and assisted with the application process by the union. It is not possible to measure accurately differences in levels in knowledge between union and non-union members because survey results include this information only for participants who have applied for benefits.

VIEWS ON ELIGIBILITY

Monetary Eligibility Requirements

Eligibility for UI benefits is restricted to individuals who have a demonstrated attachment to the labor force. In most states, this labor force attachment is measured by earnings during a defined time period relative to the individual's job separation. This survey asked questions designed to elicit views on whether this type of work force attachment measure is fair, whether people think that length of time worked is a more appropriate measure, or whether they believe that labor force attachment should not be the basis for eligibility at all. Participants were asked, *"Should eligibility for unemployment benefits be based on how much individuals have worked or on how much they earn or should eligibility be based on something else like age or economic need?"* The most frequent response given was that eligibility should be based on how much an individual has worked (36%). About a quarter of participants thought that eligibility should be based on earnings (27%) or on economic need (25%).

The chi-square statistics were significant for cross-tabulations of this question by gender, education, unemployment history, whether survey participants know people who have collected UI benefits, and whether they view UI as earned insurance as opposed to welfare. The greatest variation is seen in the distribution of respondents who believe that eligibility should be based on how much an individual has earned. Some of the results are presented below. More details are provided in the first three columns of Table 3.

- A larger percentage of men (31%) than women (23%) believe that eligibility should be based on how much an individual has earned.
- A larger percentage of survey participants with a high school education or less (33%) than those with some college (22%) or college graduates (24%) believe that eligibility should be based on how much an individual has earned.
- A larger percentage of survey participants who reported having been unemployed (30%) than those who had not (24%) believe that eligibility should be based on how much an individual has earned.
- A larger percentage of people who viewed UI benefits as earned insurance (29%) as opposed to welfare (21%) believed that eligibility should be based on how much an individual has earned.

In addition, some variation was evident across the various classification variables for other responses to this question.

- A larger percentage of women (37%) than men (34%) believe that eligibility for UI benefits should be based on how much an individual has worked.
- About 22 percent of survey participants with a high school degree or less compared to 27 percent of those who with college degrees believed that eligibility for UI benefits should be based on economic need.
- Survey participants who had never been unemployed (38%) were more likely than those who had been unemployed (33%) to believe that eligibility for UI benefits should be based on how much an individual has worked.

- Similarly, about 37 percent of participants who knew people who had collected UI benefits and only 33 percent of those who did not believed that eligibility for UI benefits should be based on how much an individual has worked.
- Finally, 23 percent of people who viewed UI benefits as earned insurance and 30 percent of people who viewed it as part of the welfare system believed that eligibility should be based on economic need.

TABLE 3. Views on Eligibility

Classification Variable	Should eligibility for unemployment benefits be based on how much an individual has worked, or on how much they earn, or should eligibility be based on something else like age or economic need? (n=1206)			For a full-time job, how long a period of time should a person have to work before they would be eligible for UI benefits? (n=417)	
	% how much they have worked	% how much they have earned	% economic need	% less than 1 year	% 1 year
Total	35.6	26.6	24.6	27.3	37.3
Age					
18-34	36.0	25.1	27.4	34.2	36.0
35-54	37.2	27.6	21.7	20.2	39.1
55+	31.7	27.3	26.8	28.5	36.8
Sex					
Male	**34.1**	**30.9**	**23.5**	28.5	35.1
Female	**37.0**	**22.8**	**25.6**	26.4	39.1
Education					
HS or less	**36.0**	**33.1**	**21.7**	32.2	36.2
Some College	**36.7**	**22.4**	**25.3**	23.2	34.4
College	**34.1**	**24.1**	**27.3**	26.5	41.8
Income					
<25K	33.2	30.6	27.2	32.7	28.7
25<45	39.7	24.8	23.1	29.8	39.8
45<75	36.0	23.3	25.5	23.3	43.0
75+	32.7	27.4	22.1	14.2	36.4

Table 3. (continued)

Classification Variable	Should eligibility for unemployment benefits be based on how much an individual has worked, or on how much they earn, or should eligibility be based on something else like age or economic need? (n=1206)			For a full-time job, how long a period of time should a person have to work before they would be eligible for UI benefits? (n=417)	
	% how much they have worked	% how much they have earned	% economic need	% less than 1 year	% 1 year
Race					
Hispanic	36.0	38.0	8.0	46.7	40
White	36.0	25.7	25.1	25.7	39.1
Black	36.7	31.9	21.3	37.6	26.7
Other[1]	18.9	26.4	39.6	14.3	00.0
Marital Status					
Single	35.6	26.0	26.9	33.3	28.6
Married	36.0	27.1	22.7	25.2	42.4
Other[2]	34.0	26.3	27.4	26.7	33.9
Union Member					
Yes	34.6	33.6	19.9	35.1	25.6
No	35.9	25.5	25.5	31.0	39.4
Ever Unemployed					
Yes	**33.4**	**30.1**	**23.9**	32.7	39.0
No	**37.5**	**23.7**	**25.3**	23.4	36.0
Knows People Who Have Collected UI					
Yes	**36.6**	**25.8**	**24.8**	**30.6**	**38.9**
No	**33.3**	**28.4**	**24.2**	**19.7**	**32.8**
View of UI					
Earned Insur.	**35.6**	**29.0**	**22.9**	**30.9**	**39.7**
Welfare	**36.9**	**21.0**	**30.0**	**17.3**	**31.3**

NOTE: Responses that are statistically significant different across classification variables are indicated in bold.

[1] Asian, Native American, or other race.

[2] Divorced, separated, or widowed.

Among the survey participants who believed that eligibility should be based on how much individuals have worked (n=417), almost two-thirds (65%) believe that individuals should not have to work more than 1 year to be eligible for UI benefits. The variation of observed responses from expected responses is significant for two classification variables.

- Among survey participants who believed UI eligibility should be based on how much a person has worked, a greater percentage of those who know people who have received unemployment benefits (70%) than those who do not (53%) believe that no more than a year of work should be required.
- For the same group of survey participants, a greater percentage of those who view UI as earned insurance (71%) than those who view it as part of the welfare system (49%) believe that no more than a year of work should be required.

Regression analysis of this group's views on how long people should work in order to be eligible for UI benefits indicates that there are four significant predictive variables: age, whether they had been unemployed in the past, whether they knew people who had collected unemployment insurance benefits, and how import they viewed unemployment insurance benefits. As shown in Table 4, participants who are younger, had been unemployed, knew others who collected benefits, or viewed unemployment benefits as an important source of income to the families that receive them indicated that a shorter period of work should be required when all other factors in the model are held constant. For example, a 10 year increase in the age of the survey participants would produce a .18 year increase in the length of time that the respondent believes should be required.

TABLE 4. Work Requirements: Regression Results

Independent Variable	
Age	0.02 (.03)
Male	0.12 (.47)
Education	-0.08 (.58)
Income	0.06 (.36)
Union	-0.19 (.58)
Ever Unemployed	0.44 (.05)
Race	
Black	-0.36 (.31)
Hispanic	-0.99 (.15)
Asian, Native American, Other	1.14 (.27)
Marital Status	
Married	-0.48 (.10)
Divorced, Separated, Widowed	-0.15 (.67)
View UI as Earned Insurance	-0.39 (.13)
Know People Who Have Collected UI Benefits	-0.82 (.00)
Importance of Benefits	-0.36 (.01)
R-squared	.09

NOTES: n=417. Significance levels are reported in parentheses.

Nonmonetary Eligibility Issues

In order to be eligible for UI benefits, unemployed workers must meet a number of nonmonetary conditions. Individuals are required to demonstrate (1) an ability to seek and accept suitable work and (2) that there are no disqualifications related to the individual's most recent job separation.[8] Survey participants were asked if they agreed or disagreed with specific statements that present positions on a variety of issues related to these nonmonetary requirements. The results, in brief, follow.

- Almost half (47%) of the survey respondents agreed somewhat or agreed strongly that a person should be eligible for UI benefits if their employer changes their work hours and the person is not able to work those hours.
- Three-quarters (75%) of the survey respondents agreed somewhat or agreed strongly that a person should be eligible for UI benefits if they leave their job because of a family crisis (for example, a child becomes seriously ill).
- More than a third (37%) of the survey respondents agreed somewhat or agreed strongly that a person should be eligible for UI benefits if they leave their job because their spouse has been transferred to or accepted a new job in a different region of the country.
- More than a third (38%) of the survey respondents agreed somewhat or agreed strongly that people who receive UI benefits should be required to accept ANY job they are offered.

Age, education, unemployment history, and views of UI benefits as earned income or welfare seem to have a profound influence on peoples' views on all of these issues. The response patterns as well as additional significant variables, however, vary from issue to issue. The only consistent trend that emerges is that survey participants who have been unemployed in the past and those who view UI benefits as earned insurance seem to support less restrictive eligibility requirements. For example, compared to survey participants who have never been unemployed (44%), a higher percentage of survey participants who have been unemployed (51%) agree that a person should be eligible for UI benefits if their employer changes their work hours and the person is not able to work those hours. A higher percentage of this group also agree that a

person should be eligible for UI benefits if they leave their job because of a family crisis (78% compared to 73% of those who have never been unemployed) and that they should be eligible if they leave their job because their spouse has been transferred to or accepted a new job in a different region of the country (41% compared to 34% of those who have never been unemployed.). Conversely, compared to survey participants who have never been unemployed (43%), a smaller percentage of those who have been unemployed (32%) agree that people who receive UI benefits should be required to accept ANY job they are offered. A similar pattern exists for people who view UI benefits as earned insurance.

Cross-tabulations of responses to the statement regarding changes in work hours produced significant chi-squares for age, gender, education, unemployment history, view of UI benefits as earned insurance or welfare, and marital status. All except marital status were also significant for responses to the statement on family crisis. Income was also significant for this statement. For the remaining statements dealing with the transfer of a spouse and a requirement to accept any job, age, education, income, unemployment history, whether survey participants knew people who had collected UI benefits, and their views on UI benefits as earned insurance or welfare were all significant. Selected results are discussed below. Detailed responses to each of the four statements by demographic and other personal characteristics are summarized in Table 5.

Changes in Work Hours

- Women (49%) are more likely than men (45%) to agree that a person should be eligible for UI benefits if their employer changes their work hours and the person is not able to work those hours.
- Participants with high school education or less are more likely to agree that a person should be eligible for UI benefits if their employer changes their work hours and the person is not able to work those hours (50%) than people with some college (47%) or college graduates (44%).
- Divorced, separated, or widowed respondents (51%) are more likely to agree that a person should be eligible for UI benefits if their employer changes their work hours and the person is not able to work those hours than married respondents (45%).

- Participant who view UI benefits as earned insurance (49%) are more likely to agree that a person should be eligible for UI benefits if their employer changes their work hours and the person is not able to work those hours than are those who view UI as welfare (39%).

Family Crisis

- Younger respondents are more likely to agree that a person should be eligible for UI benefits if they leave their job because of family crisis. Eighty-three percent of 18-34 year-olds agreed with this statement compared to 72 percent of those 35-54 years old and 71 percent of those 55 and older.
- Women (79%) are more likely to agree that a person should be eligible for UI benefits if they leave their job because of family crisis than men (72%)
- Respondent with high school education or less (81%) are more likely to agree that a person should be eligible for UI benefits if they leave their job because of family crisis than are respondents with some college (77%) or college graduates (68%).
- Low income respondents earning less than $25,000 per year (81%) are more likely to agree that a person should be eligible for UI benefits if they leave their job because of family crisis than are people with higher income levels. Sixty-one percent of those earning over $75.000 per year agree with the statement.

Moving to Different Region

- A greater percentage of respondents with a high school education or less (43%) agreed that a person should be eligible for UI benefits if they leave their job because their spouse has been transferred to or accepted a new job in a different region of the country than respondents with some college (39%) or college graduates (29%).
- Respondents who knew people outside their families who had received benefits (35%) were less likely to agree that a person should be eligible for UI benefits if they leave their job because their spouse has been transferred to or accepted a new job in a different region of the country than those who did not (41%).
- People who view UI benefits as earned insurance are more likely to agree that a person should be eligible for UI benefits if they leave their job because their spouse has been

transferred to or accepted a new job in a different region of the country (39%) than those who view UI as part of the welfare system (31%).

Acceptance of Any Job

- Respondents over age 55 (42%) are more likely to agree that people who receive UI benefits should be required to accept any job they are offered than are younger respondents (32%).
- Respondents with a high school or less education (45%) are more likely to agree that people who receive UI benefits should be required to accept any job they are offered that are those with some college (36%) or college graduates (32%).
- Respondents earning less than $25,000 a year (41%) are more likely to agree that people who receive UI benefits should be required to accept any job they are offered than people with higher incomes. Those earning more than $75,000 a year are least likely to agree with this statement (28%).
- Respondents who knew people outside the family who collected UI benefits are less likely to agree that people who receive UI benefits should be required to accept any job they are offered (33%) that those who do not (49%).

TABLE 5. Percent of Respondents Who Agree with Specified Nonmonetary Requirements

	New Hours (% agree)	Family Crisis (% agree)	Moving (% agree)	Accept Any Job (% agree)
Total	47.2	75.3	37.3	37.9
Age				
18-34	**49.2**	**82.9**	**34.4**	**31.7**
35-54	**45.1**	**71.9**	**38.3**	**32.4**
55+	**48.1**	**71.1**	**39.2**	**41.7**
Sex				
Male	**45.4**	**71.5**	36.0	37.8
Female	**48.7**	**78.6**	38.4	38.0
Education				
HS or less	**50.2**	**80.5**	**42.8**	**45.3**
Some College	**47.1**	**76.5**	**39.1**	**36.0**
College	**43.9**	**68.1**	**29.1**	**31.8**
Income				
<25K	51.2	**80.5**	**43.4**	**41.3**
25<45	48.3	**76.7**	**38.3**	**39.8**
45<75	46.3	**75.2**	**30.8**	**34.7**
75+	38.6	**61.0**	**32.5**	**28.1**
Race				
Hispanic	55.1	77.6	44.9	40.0
White	47.1	73.4	35.6	37.1
Black	43.7	85.9	48.6	42.4
Other[1]	53.6	90.9	38.9	42.9
Marital Status				
Single	**49.1**	78.6	34.8	41.1
Married	**44.8**	73.6	36.4	36.7
Other[2]	**51.1**	75.9	41.6	36.7

TABLE 5. (continued)

	New Hours (% agree)	Family Crisis (% agree)	Moving (% agree)	Accept Any Job (% agree)
Union Member				
Yes	47.8	74.7	37.5	36.4
No	46.8	75.4	37.0	37.6
Ever Unemployed				
Yes	**51.1**	**78.0**	**41.1**	**32.2**
No	**43.8**	**72.9**	**34.1**	**42.8**
Knows People Who Have Received UI				
Yes	47.7	73.3	**35.2**	**32.8**
No	45.8	79.3	**41.1**	**48.6**
View of UI				
Earned Insurance	**49.4**	**77.1**	**39.3**	**34.2**
Welfare	**39.0**	**68.7**	**30.8**	**49.7**

NOTE: Responses that are statistically significant different across classification variables are indicated in bold.
[1] Asian, Native American, or other race.
[2] Divorced, separated, or widowed.

Generally, nonmonetary eligibility requirements are set by the states and vary significantly across states. A survey of states conducted by the Interstate Conference of Employment Security Agencies (ICESA) provides the most current and comprehensive state by state information on UI nonmonetary eligibility requirements.[9] While the circumstances described in the state survey do not parallel the public opinion survey exactly, some comparison can be made. Summaries of the state policies in various circumstances are presented below, along with a description of public opinion on each matter. [10]

- Individuals who have left their jobs due to *new employment circumstances* are eligible for UI benefits in 15 states. Their status will vary according to individual circumstances in 25 states and they are ineligible in 13 states.

The ACUC survey indicated that almost half the respondents believe that a person should be eligible for benefits if their employer changes their work hours and the person is not able to work those hours.

- Individuals who have left their jobs *to perform other marital or domestic obligations (e.g. to deal with an illness in the family)* are eligible for UI benefits in 8 states. Their status varies according to individual circumstances in 13 states and they are ineligible in 32 states.

  The ACUC survey indicated that almost three-quarters of the respondents believe that a person should be eligible for UI benefits if they leave their job because of a family crisis.

- Individuals who have left their jobs *to move with their spouse to another locality* are eligible for UI benefits in 9 states. Their status varies according to individual circumstances in 6 states and they are ineligible in 38 states.

  The ACUC survey indicated that more than a third of the respondents believe that a person should be eligible for UI benefits if they leave their job because their spouse has been transferred to or accepted a new job in a different region of the country.

- Individual who have *refused a job with good cause* are eligible for benefits in 42 states. Their status varies according to individual circumstances in 7 states and they are not ineligible in any states.[11]

  The ACUC survey indicates that more than a third of survey respondents believe that people who receive UI benefits should be required to accept any job they are offered.

Part-time Work Issues

A number of the ACUC survey questions address eligibility issues related to part-time work. Almost three quarters of the respondents (71%) believed that people who worked part-time should, under some circumstances, be eligible for unemployment insurance benefits. Based on the chi-square test, responses broken down by gender, income, race, whether the survey

participant had a history of unemployment, and their views of UI benefits as earned insurance or welfare are significantly different from response rates that would have been predicted if these characteristics were independent of participants' views on part-time workers.

Survey participants who were women, had annual incomes of less that $25,000, had been unemployed, or viewed UI as earned insurance were significantly more likely to believe that part-time workers should be eligible for UI benefits. Black and Hispanic respondents were also more likely to hold this view. Additional details are summarized in column 1 of Table 6.

Of the respondents who believed that people who worked part-time should, under some circumstances, be eligible for unemployment insurance benefits, almost three-quarters (72%) thought that people who worked half-time (20 hours per week) should not have to work for more than one year to be eligible for unemployment insurance benefits. As shown in column 2 of Table 6, income, unemployment history, race, marital status and view of UI benefits as earned insurance or welfare are significantly related to views on this issue.

- Eighty-one percent of Hispanic respondents, 72 percent each of white and black respondents, and 65 percent of Asian, Native American or other race respondents believed that individuals who work 20 hours per week should not have to work for more than a year to be eligible for UI benefits.
- A higher percentage of people who have been unemployed (77%) than people without a history of unemployment (69%) believed that individuals who work 20 hours per week should not have to work for more than a year to be eligible for UI benefits.
- Divorced, separated, or widowed respondents (75%) are more likely to believe that individuals who work 20 hours per week should not have to work for more than a year to be eligible for UI benefits than are married (73%) or single (69%) respondents.
- Respondents who view UI benefits as earned insurance (75%) are more likely to believe that individuals who work 20 hours per week should not have to work for more than a year to be eligible for UI benefits than are those who view UI benefits as part of the welfare system (64%).

TABLE 6. Part-time Work Issues

	Percent of respondents who said that part-time workers should be eligible for UI benefits under some circumstances. (n=1206)	Percent of respondents who said that individuals who work 20 hours per week should have to work for 1 year or less to be eligible for UI benefits (n=772)	What is the minimum number of hours per week that someone who had worked at a job for at least a year should have to work to be eligible for UI benefits (n=1206)		Percent of respondents who agree that people who are unemployed and searching for part-time and not for full-time work should be eligible to receive UI benefits (n=1206)
			Percent of responses 20 hours or less	Percent of responses 21-34 hours	
Total	71.0	72.1	28.9	29.0	48.0
Age					
18-34	75.3	72.3	**29.5**	**32.5**	**57.2**
35-54	72.0	70.2	**30.9**	**29.5**	**48.1**
55+	71.7	75.8	**23.8**	**22.7**	**37.5**
Sex					
Male	**69.8**	69.0	**26.9**	**29.1**	45.8
Female	**75.7**	74.7	**30.8**	**28.9**	42.1
Education					
HS or less	73.1	76.8	24.2	30.7	**48.3**
Some College	71.2	72.1	27.8	28.7	**48.6**
College	74.4	67.6	35.0	27.6	**49.1**
Income					
<25K	**78.0**	**72.6**	25.8	31.0	50.8
25<45	**72.8**	**77.6**	29.8	29.1	49.2
45<75	**68.8**	**67.4**	28.6	28.2	49.8
75+	**69.8**	**69.0**	38.8	24.0	41.5
Union Member					
Yes	76.1	72.3	29.9	30.1	43.1
No	71.8	71.7	28.6	29.0	48.9
Ever Unemployed					
Yes	**76.7**	**75.7**	29.6	30.8	**53.7**
No	**69.8**	**68.7**	28.4	27.5	**44.7**

TABLE 6. (continued)

	Percent of respondents who said that part-time workers should be eligible for UI benefits under some circumstances. (n=1206)	Percent of respondents who said that individuals who work 20 hours per week should have to work for 1 year or less to be eligible for UI benefits (n=772)	What is the minimum number of hours per week that someone who had worked at a job for at least a year should have to work to be eligible for UI benefits (n=1206)		Percent of respondents who agree that people who are unemployed and searching for part-time and not for full-time work should be eligible to receive UI benefits (n=1206)
			Percent of responses 20 hours or less	Percent of responses 21-34 hours	
Knows People Who Have Collected UI					
Yes	73.8	72.2	30.8	28.6	48.2
No	71.2	71.7	25.2	29.9	50.2
Race					
Hispanic	**83.3**	**80.6**	23.4	36.2	50.0
White	**71.0**	**72.2**	28.6	28.9	48.6
Black	**85.6**	**71.7**	30.3	29.3	50.8
Other	**73.1**	**64.7**	34.0	28.3	46.1
Marital Status					
Single	74.7	**69.0**	28.8	32.8	53.2
Married	72.5	**72.7**	29.5	27.8	48.2
Other	72.0	**75.3**	27.6	28.0	45.5
View of UI					
Earned	**75.5**	**74.6**	**30.2**	**29.5**	**50.7**
Welfare	**64.9**	**63.9**	**24.3**	**28.4**	**41.8**

NOTE: Responses that are statistically significant different across classification variables are indicated in bold.
[1] Asian, Native American, or other race.
[2] Divorced, separated, or widowed.

All survey participants were also asked what they thought the minimum number of hours per week people who have worked for at least a year should have to work in order to be eligible for unemployment insurance benefits. Fifty-nine percent of all participants' responses were less than 35 hours per week. Age, sex, and survey participants' views of UI benefits as earned

insurance or welfare were significantly related to responses to this question. Responses are summarized in columns 4 and 5 of Table 6.

When only participants who previously had indicated that part-time workers *should* be eligible for UI benefits under some circumstances were included in the analysis, the percentage of responses that were less than 35 hours a week rose to 72 percent. Additional analysis of this group, however, reveals some inconsistencies. When asked about someone who had worked at a job for at least a year, 38 percent of the respondents in this group thought that people should not have to work more than 20 hours per week to be eligible for unemployment insurance benefits. When asked, however, how long a person should have to work at a part-time job for 20 hours per week before they could be eligible for unemployment insurance benefits, 72 percent of the same group responded 1 or less years.

When asked about people who are searching for part-time work, forty-eight percent of respondents agreed or agreed strongly with the statement *people who are unemployed and searching for part-time work and not for full-time work should be eligible to receive unemployment insurance benefits.* While variation in the level of agreement or disagree with this statement varies significantly based on age, education, unemployment history, and view of UI benefits as earned insurance or welfare, the variation by age is most dramatic. More than 57 percent of respondents age 18-34 agree or agree strongly that people searching for part-time work should be eligible for UI benefits while only 38 percent of people 55 or older agree or strongly agree. Complete responses to this question are contained in final column of Table 5.

CONCLUSION

This survey was conducted to assess public attitudes towards the UI system. This analysis focused on two fundamental areas—factors affecting the application for benefits and public views on eligibility—in an effort to define and examine trends in public opinions about the program. Though few clear trends emerged from the results, the survey provided some previously unknown information and allows for a few general conclusions.

The survey indicated that almost half of the participants had been involuntarily unemployed at some point in their life and that two-thirds had applied for UI benefits. Unemployed men and older workers were more likely to apply for benefits then were women and

younger workers. Men and older workers are also the groups that are traditionally most likely to be eligible for benefits given the earnings requirements currently in place in most states.

There is skepticism among respondents, however, about whether such earnings requirements should be used in determining eligibility. A plurality of survey respondents believe that eligibility for unemployment insurance should be based on how much a person has worked rather than how much they have earned. As would be expected, women (who have lower average earnings than men) are far less likely than men to believe that earnings should be used and the primary eligibility test. Furthermore, nearly as many respondents believed that eligibility should be based on economic need as believed that it should be based on earnings.

These views, to a great extent, coincide with recommendations made by the ACUC. The ACUC recognizes that the use of earnings as a measure of labor force attachment inherently penalizes low-wage workers—forcing them to work more hours to become eligible for benefits than workers who earn higher wages. As a result, the Advisory Council has recommended that any individual who works 800 hours per year (or about 16 hours per week for a full year) should be eligible for UI benefits and that state earnings requirements should not exceed 800 times the state minimum wage.[12] It has also recommended that the federal government take an active role in assuring that all workers with a given level of attachment to the work force are eligible for a minimum level of benefits.[13] Nearly three-quarters of the survey participants believe that part-time workers should be for eligibility for UI benefits under some circumstances. In addition, almost thirty percent of the survey participants agreed that someone who worked for a year should *not* have to work *more* than 20 hours per week in order to be eligible for benefits.

The survey also indicated that people have mixed views about nonmonetary eligibility issues. Previous work suggests that state laws do not always match public opinion. People who have been unemployed and who view UI benefits as earned insurance support more flexible eligibility requirements for each of the situations included in the survey. Generally, women, younger, lower income and less educated respondents also had more generous views.

NOTES

1. The 10 questions follow. (1) When you were unemployed, did you ever apply for unemployment insurance benefits? (2) ...should eligibility for unemployment benefits be based on how much an individual has worked, or on how much they earn, or should eligibility for unemployment benefits be based on something else like age or economic need? (3) For a full-time job, how long a period of time do you PERSONALLY think a person SHOULD have to work before they would be eligible for unemployment insurance benefits? (4) Under some conditions should people who work part-time, that is, less than 35 hours a week, and not full-time, be eligible for unemployment? (5) How long do you personally think a person should have to work at a particular PART TIME job, for 20 hours per week before they would be eligible for unemployment insurance benefits? (6) Think now about someone who had worked at a job for at least a year. What is the minimum number of hours per week you PERSONALLY THINK they should have to work to be eligible for unemployment insurance benefits? (7) Please tell me if you agree strongly, agree somewhat, neither agree not disagree, disagree somewhat, or disagree strongly, with the following statement: People who are unemployed and SEARCHING for PART-TIME work and NOT for full-time work should be eligible to receive unemployment insurance benefits. I am going to read you a series of statements about eligibility for unemployment insurance benefits. Please tell me, overall, how strongly you agree or disagree with each. Use a five-point scale, where 5 means agree strongly, 4 means agree somewhat, 3 means neither agree nor disagree, 2 means disagree somewhat, and 1 means disagree strongly. (8) A person should be eligible for unemployment insurance benefits if their employer changes their work hours and the person is not able to work those hours. (9) A person should be eligible for unemployment insurance benefits if they leave their job because of a family crisis, for example, a child becomes seriously ill. (10) A person should be eligible for unemployment insurance if they leave their job because their spouse has been transferred to or accepted a new job in a different region of the country. (11) Please tell me, OVERALL, if you agree strongly, agree somewhat, neither agree nor disagree, disagree somewhat or disagree strongly with the following statement: People who receive unemployment insurance benefits should be required to accept ANY job they are offered.

2. A Pearson chi-square statistic with a significance of .05 or less indicates, with a 95 percent confidence level, that the classification variable has a statistically significant relationship to the survey participant's response to the designated question. In some cases, the failure of chi-square tests to produce a significant relationship is due to the limited number of responses in a specific category. In addition, the chi-square test is not reliable if there are empty cells in the table or if there are cells with frequencies of less then five. Significant results are listed in boldface in all summary tables.

3. A previous effort to provide a comprehensive set of response categories had been unsuccessful and resulted in a large percentage of responses categorized as *other* or *don't know*. A supplemental set of questions regarding experience with the Unemployment Insurance System was added to the Current Population Survey (CPS), a monthly household labor force survey, in May, August and November 1989 and February 1990. Among other

questions, unemployed CPS participants were asked about their reasons for not receiving UI. Seven specific response categories were provided and about 20 percent of the responses were coded as *other* or *don't know* (Vroman 1991).

This problem was corrected in a 1993 supplement that more than doubled the number of response categories. The percentage of *other* and *don't know* responses dropped dramatically (U.S. Department of Commerce 1993).

While the CPS and the public opinion survey produced similar types of responses, results are not directly comparable because the CPS included only those people who were unemployed at the time of the survey. The public opinion survey asked this question of all people who reported any history of unemployment. However, the large variation in responses to this question is similar to experience in previous CPS supplements.

4. Additional responses to this question included: hadn't worked enough to qualify (6%); wanted to find a job or too busy looking for a job (5%); no need to apply (4%); ill, disabled or couldn't work (4%); quit job (4%); hassle, inconvenience (4%); benefits were not offered or not available (3%); never occurred to me/didn't think of it (3%); and no particular reason (4%). Numerous responses (27%) did not fit into any of these categories. They included: moved out of state, retired, decided not to work, had pension or other benefits, and didn't want to take public aide. Five percent didn't know and one percent refused to answer.

5. Specifically, in addition to the questions on demographic characteristics, survey participants were asked the following questions. (1) Which of these two statements do you think is the more accurate description of unemployment insurance? *It is part of our welfare system that provides for people who lose their jobs*; or *It is earned insurance that provides for people who lose their jobs.* (2) Other than yourself or members of your immediate family, do you know anyone who has ever received unemployment insurance benefits?

6. Specifically, survey participants were asked, *In your opinion, how important are unemployment benefits as a source of income to the families that receive them? Please use a five point scale, where "5" is very important, and "1" is not at all important.*

Dummy variables were used for education, race, and marital status. Omitted cases used were less than high school (for education), white (for race), and single (for marital status).

7. See Vroman 1991.

8. See Advisory Council on Unemployment Compensation 1995, p. 101.

9. The ICESA survey asks about *expected* decisions under a variety of circumstances because state statutes often do not include specific eligibility guidelines. Instead, interpretations of eligibility guidelines are frequently provided in state rules, regulations, or administrative or judicial case law.

10. See Advisory Council on Unemployment Compensation 1995, pp. 101, 114-117.

11. States, however, define good cause differently. For additional information on expected state UI agency treatment of particular cases see Advisory Council on Unemployment Compensation 1995, p. 117.

12. See ACUC 1995, pp. 17-18.

13. See Advisory Council on Unemployment Compensation 1996.

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CASE STUDY OF LOWER-AUTHORITY APPEALS HEARINGS IN EIGHT STATES

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Anne Gallagher and Sarah Ralph are research assistants at the Advisory Council on Unemployment Compensation. The views expressed in this paper are those of the authors and do not necesarily reflect those of the members of the Advisory Council on Unemployment Compensation. This paper should not be quoted without permission of the authors.

Research Design

In order to supplement existing data on unemployment insurance lower-authority appeals and to collect otherwise unreported qualitative data about the hearing process, the Advisory Council on Unemployment Compensation undertook a case study of appeals hearings conducted in eight states - California, Colorado, Illinois, Iowa, Maine, Maryland, Texas, and Virginia - over the summer of 1995.[1] An effort was made to select states that differed from one another with regard to a number of characteristics, including the volume of lower-authority appeals processed each year, the location of the state, whether the state was primarily rural or urban, and whether the state conducted the majority of its hearings by telephone or in person.

Researchers attended a total of 284 hearings between May and August 1995 (approximately 35 hearings were attended in each of the eight states).[2] Primary issues of research interest included the following: (1) the nature of the hearing process including its complexity, the role of the administrative law judge, and the relative ability of the claimant and employer to participate effectively; (2) the role of representation and its effect on appeal outcomes and the hearing process; and (3) issues of due process of law under the United States Constitution and the statutory "fair hearing" requirement.

Methodology

Data on the 284 hearings were collected using a survey designed by researchers to capture both objective and subjective information about the appeals process. A mixture of separation cases and non-separation cases were observed. Separation hearings were those in which the issue being addressed was whether the claimant is disqualified from receiving benefits due to circumstances

surrounding the end of employment. Non-separation hearings were those in which the issue raised was whether the claimant met initial or continuing state eligibility requirements for UI benefits.[3] Of the 284 cases, 145 hearings were strictly non-separation hearings and 139 were separation hearings or hearings where both types of issues were in question.

In addition to collecting data on hearings as they were taking place, 10 percent of the cases used in the study were tape recorded hearings that had taken place roughly during the same time period. This was done to assess whether hearings with observers present were conducted differently than those where no observers were attending.

Quantitative information gathered on each appeal included the duration of the hearing, the number and role of hearing participants, the nature of the issue being addressed, the type and frequency of use of documents, witnesses, and other evidence, and of representation. Subsequent to the hearing, researchers also collected data on appeal outcomes. In addition, researchers systematically gathered qualitative data on how the administrative law judge (hereafter referred to as the referee) structured and participated in the hearing, on the effectiveness of evidence, witnesses, and representation, and on the ability of parties to present their case with and without representation. Questions were also included in the survey to evaluate due process concerns such as whether the parties received an opportunity to question and cross-examine witnesses, to present evidence, and argue their case, whether the parties received adequate notice of the hearing and the issues on appeal, and whether the hearing was "fair" and the decision maker impartial. Finally, the survey measured differences that occurred when hearings were conducted by phone as opposed to taking place in person.[4]

This case study is unique in that researchers had access to first-hand qualitative observations of some of the more subtle dynamics that take place in an appeals hearing. This included behavioral cues provided by participants (i.e., tone of voice, physical expressions) that offer an indication of the level of participant comprehension and satisfaction with the process that have thus far gone largely unexamined in the UI literature. In some states interviews were conducted with both claimants and employers after the hearing but before a decision was issued. This was done to establish how much prior knowledge of, and advanced preparation for the hearing had taken place, and to assess each party's satisfaction with the process up to that point.[5] Researchers were also able to obtain information from referees about the factors that lead the referee to reach a particular decision. Findings concerning appeal outcomes are strengthened by the fact that researchers had access to written decisions in all eight states.

Summary of Findings

This research was exploratory in nature. Therefore, much of the information collected was qualitative and not easily generalizable. However, a number of trends that affect the process and outcome of lower authority appeals were identified. Some issues that came to the attention of researchers were state-specific. Other issues were common across all of the eight states.

One trend that emerged across all states was that a substantial number of hearings take place with either the claimant or the employer failing to participate in the hearing. On average claimants participated 87 percent of the time, and employers participated 65 percent of the time. These figures are high considering that this research excluded appeals where neither party appeared. Participation rates varied both by state and by the nature of the issue being addressed.

In separation cases, even when both parties did attend the hearing, parties often failed to bring witnesses who had first hand knowledge of the culminating event that lead to the work separation.

A second trend which emerged in all states was that representation was the exception rather than the rule.[6] Employers were more apt to send representation to participate on their behalf than were claimants. As will be delineated in the body of this paper, claimants, when they did bring representation, were more likely to bring legal representation. Employers, when represented, were more likely to rely on the services of an outside payroll company to represent their interests.

Data from this study reveal that having representation did not significantly enhance the likelihood that an employer would win the case. Representation for claimants occurred too infrequently to be able to generate statistically significant findings.[7] The presence of representation did tend to affect the hearing process, however. Hearings where representation was present tended to be longer and to involve more witnesses and documentation.

Substantive variations in the hearing process were observed both in and between states. Some of the observed differences were the result of variations in state UI law. Other differences were the product of the volume of cases that particular states and individual referees were responsible for handling, and the degree of discretion that each referee is afforded. A discussion of some of the variations in state procedure is included below. Finally, the nature and legal requirements of the appeals process offers advantages and disadvantages to participants. Aspects of the appeals process that appear to be performing well, and components that seem to be functioning less smoothly are identified and discussed in the final section.

Description of Observed Appeals

The average length of an appeals hearing across the eight states was thirty-one minutes. Separation hearings tended to be longer than nonseparation hearings due to the nature of the issue being contested, and because both parties were more likely to attend and bring documentation and/or witnesses. Separation hearings had an average duration of 33 minutes, but had a range of between 2 and 146 minutes.

Non-separation hearings were shorter in length, and largely involved only the claimant and the appeals referee. Under these circumstances the hearings lasted on average 20 minutes.

The majority of hearings that were observed (87%) involved private companies. This figure includes both large corporations and small businesses with only a few employees. The remaining 13 percent were public employers including schools, utility companies, and state municipalities.

Of the observed hearings, 70 percent were appeals filed by the claimant. This percentage is similar to that of claimant appeals in the overall UI system. More than three-fourths of the hearings (77%) involved a separation issue.[8] Just over half of the hearings (52%) were conducted in person, and the remaining 48 percent were conducted with at least one person participating by telephone.

Employers appealed less frequently than claimants (30 percent of the time); overall, however, 41 percent of the decisions were decided in the employer's favor and 42 percent were decided in the claimant's favor.[9] Employers and claimants each won roughly 42 percent of the time when they appealed.[10] For additional outcomes see Table 1.1. A number of factors affected

the hearing process, including participation by the parties and the presence of representation. These factors are explored in additional detail below.

Participation by the Parties

Lack of participation was noteworthy in observed hearings.[11] In most states appeals are automatically dismissed if either the appealing party or neither side appears for the hearing.[12] Even having excluded such cases, however, at least one side failed to appear in 37 percent of the separation hearings. The participation rate for such hearings varied by state. For claimants, participation ranged from between 74 to 100 percent of the time. Employers participated in separation hearings between 41 and 96 percent of the time.

A number of factors may lead to a party's failing to attend the hearing. If a claimant has accepted a new job in the period after filing the appeal but prior to the scheduled hearing, he or she may decide not to pursue the appeal despite the fact that the case may have merit. An additional portion of claimants may not attend out of a reluctance to confront a former employer in the context of a hearing.

In several states, if the employer does not participate in the initial fact finding, then it loses the right to file an appeal later. Busy employers may not feel that they have the time to attend the hearings. Anecdotal information reveals that many companies automatically appeal every time an employee is awarded benefits, but then attend only if they feel they have an exceptionally strong case. It was not possible to measure what percentage of non-participation on the employer's part was due to mis-communication or mishandling of hearing notice information.

Potentially, a portion of both claimants who did not participate in the hearing did not receive or fully understand the hearing notice. Unforeseen logistical problems, and/or an inability to locate the appeals office may pose problems for some. Both parties may not realize the consequences of not attending the hearing. Either side may request that the case be re-opened if it can be established that the party had "good cause" for not having appeared at the scheduled hearing.

As would be expected, participation in the hearing significantly affected the outcome of appeals for both claimants and employers (see table 1.2). Of the separation hearings observed, claimants who participated achieved favorable outcomes 52 percent of the time, while those who did not participate won only 26 percent of the time. Similarly, employers who participated in hearings won 54 percent of the time, but those who did not participate won only 39 percent of the time.[13]

Preparing For the Hearing

The actual appeals hearing occurs after participants have completed a number of preliminary steps in the application and appeals process. After an initial determination of benefit eligibility is issued by the local UI representative, parties are given 15 - 30 days to file an appeal. Twenty-two percent of observed appeals were first reconsidered by a representative at the local office before a formal hearing was scheduled. In general, a reconsideration of the initial determination was done only if new evidence or pertinent facts emerged that would alter a decision before the initial determination took effect.[14]

Hearings are scheduled to take place at both central state UI headquarters and at local offices scattered throughout states.[15] Some states require that referees regularly rotate where they conduct hearings to avoid having repeated dealings with the same firms or with the same party representatives. Theoretically, this could help maintain impartiality. Other states prefer that referees have set jurisdictions. This reduces travel expenses and may allow referees to become more familiar with labor issues in their geographical districts.

Once an appeal has been scheduled for a hearing, all participants are sent a "Notice of Hearing". While the format varied somewhat between states, in general hearing notices contained at least the following information:

- A statement of the legal authority and jurisdiction under which the proceeding was being conducted;
- A reference to the particular substantive statutory rule under which the proceeding was being conducted;
- A short statement of the nature and purpose of the proceeding and of the matters asserted;
- A statement of the time and place of the hearing;
- A statement of the manner and time within which evidence and argument may be submitted to the Division of Administrative Hearings for consideration.[16]

In general, states also provided information to hearing participants about the format of the hearing (i.e., a telephone hearing or an in-person hearing), the option of bringing representation, and the right to subpoena witnesses and/or evidence if necessary. The length of the notice, level of formality, and sophistication of language used in the hearing notices varied by state.

In addition to the formal notice, all eight states included in this case study distributed or made available literature to assist participants in preparing for the hearing. The degree of formality and ease of comprehension of material provided to parties varied across states. Some of the literature was simply a statement of rights and responsibilities that are incumbent upon participants.[17] Other, more helpful, brochures included pictures of the hearing room, a description of what to expect at the hearing, and tips on how to effectively prepare one's case.[18]

The Role of the Administrative Law Judge

Lower-level unemployment appeals hearings are presided over by an administrative law judge known alternatively as an administrative hearing officer, or a referee. This referee may or may not be admitted to the bar depending on state requirements.[19] As is described by Kritzer (1995), the referee in this type of administrative proceeding is not merely a passive weigher of facts. He or she is required to take an active role in conducting the hearing, in eliciting information, and in assisting participants in structuring their case if necessary.

The variation in referee involvement that researchers observed was more a product of the style and perceived role of the individual acting as referee, than as a result of state-imposed requirements. Some referees took stern authoritative stances during hearings, tightly controlling all aspects of the hearing, and only allowing testimony and evidence to be entered that was unequivocally related to the issue at hand.

Other referees adopted a more informal, permissive approach, intervening minimally after explaining what would take place. These referees allowed parties to present any information they believed would help their case (even if some of it was superfluous). After the hearing they

set aside irrelevant testimony and evidence, relying only on pertinent information presented at the hearing to reach a decision[20]

All sampled states made efforts to minimize the influence of the individual style of referees by standardizing proceedings where possible. This included providing uniform introductory statements for referees to make at the beginning of each hearing. Although the content of these introductory statements varied across states, they generally gave an overview of the hearing process, including such things as the order of testimony, the right to question and cross-examine witnesses, the right to present testimony, documents, and other evidence, what participants could and could not do during the hearing, how a decision would be reached, and options if a participant wished to appeal the lower-authority decision.[21]

The Hearing

In 78 percent of observed separations hearings that both parties attended, the claimant came to the hearing alone, without the aide of either representation or witnesses to substantiate his or her case. A single spokesperson attended the hearing on behalf of the employer 45 percent of the time.[22]

For both claimants and employers, crucial elements in presenting an effective case included submitting documentation on time and having relevant witnesses and evidence available at the hearing. The frequency and nature of evidence and witnesses used differed for claimants and employers in this study.

Claimants brought documentation that was submitted as evidence to 24 percent of separation hearings which both parties attended.[23] The type of documentation claimants brought

included medical records and letters from medical professionals verifying illnesses and work restrictions. In addition, claimants also brought written statements from co-workers describing working conditions, copies of favorable work evaluations, and records of hours worked for the employer.[24]

Employers brought documentation more frequently: 40 percent of the time. Theoretically it is easier for the employer to arrive with workplace documentation because they have greater access to personnel files and employer policy manuals. The type of evidence that employers brought to the hearings included signed employee acknowledgments of employer policies, performance evaluations, written warnings given to claimants for performance concerns, and attendance records.

In 15 percent of separation hearings, claimants brought witnesses to support their claim. These witnesses tended to be relatives, co-workers, friends, and family counselors. Occasionally, people who accompanied claimants acted merely as observers to provide moral support. More frequently, claimant witnesses were present to provide evidence of working conditions, character references, or verification that the claimant's version of separation events. Witnesses for claimants tended to be most helpful when they had directly observed the event that lead to the claimant's discharge, or when they could provide first-hand testimony that the employer routinely allowed other workers to follow a practice for which the claimant had been terminated. Character witnesses, and testimony on how indigent the claimant was did not have much (if any) bearing on outcomes.[25]

Even with the option to subpoena witnesses, it may be difficult for claimants to arrange for co-workers (who are still working for the employer) to participate on the claimant's behalf.

Claimants spoke of being reluctant to ask co-workers to testify for fear of putting the co-worker's position in the company in jeopardy and of co-workers who had refused the claimant's request that they testify against their employers for the same reason. Furthermore, because perjury is rarely pursued by authorities, the claimant has no guarantee that a subpoenaed witness will tell the truth.[26]

Employers brought witnesses more frequently, 53 percent of the time.[27] Witnesses for the employer included administrators, co-workers supervisors, human resource representatives, and upper-level company executives. As was the case with witnesses for claimants, employer witnesses were most helpful when they had first-hand knowledge of the events leading to the work separation. The quality of the testimony offered by witnesses uniformly was more important than the number of witnesses who participated on the firm's behalf. There was no evidence that companies who sent multiple executives and human resource representatives to testify about official company policies fared any better than firms who sent the claimant's direct supervisor who was most familiar with the issue being addressed.[28]

Representation

In accordance with the fair hearing provisions spelled out in the United States Supreme Court case Goldberg v. Kelly[29] all states allow for representation by counsel for hearing participants. None of the sampled states currently provide representation to participants as a matter of protocol, free of charge. All sampled states made an effort through their literature to inform claimants that they were permitted to have a lawyer or representative of their choice present at the hearing at the participant's own expense.[30]

Representation took various forms, including both legal and non-legal representation[31] and representation by non-attorneys. This included so-called "third party" representation, usually in the form of a payroll service or a claims management firm representing the employer. *Legal* representation was quite infrequent, occurring in only 4 percent of cases for either claimant or employer. None of the states included in this study required that representatives be admitted to the bar.

Overall, claimants were represented in 6 percent of hearings, although 92 percent of their representation was legal in nature. Claimants tended to be represented when there was also a worker's compensation case pending, when there were criminal allegations or questions of fraud involved, or when the claimant had a family member or friend who was an attorney take on the case. In addition, a claimant was also more likely to secure representation if he or she had already received a substantial portion of unemployment compensation benefits. Under these circumstances the claimant had a significant financial interest in winning the appeal to avoid paying back money already received.

Unlike claimants, employers were represented in 28 percent of hearings they attended, usually by a payroll or claims management firm (83 percent of the cases in which they were represented). When representation was observed in this study, it was most frequently employer representation in the form of payroll services or UI claims management firms. In an additional four percent of cases, employers sent only a hired representative to the hearing to participate on the company's behalf, without a company employee being present at all.[32] Involvement by these firms ranged from filing the appeal on the employer's behalf, to passively attending the hearing without participating, to actively questioning and cross examining witnesses.

Anecdotal information reveals that there are different packages of services that an employer may purchase from a claims management firm, each providing a different level of involvement in the hearing process.[33] Quality of employer representation varied more by individual representative than by firm providing the representation or by state. The most effective employer representatives were those who appeared to have the most thorough knowledge of state UI law, and who were very succinct in presenting the employer's case. Researchers observed representation by large national firms, and by individuals who had started their own business representing employers at unemployment insurance hearings. Referees reported having previously encountered a particular employer representative in eleven percent of the hearings.[34]

The Effect of Representation on Appeals Hearing Outcomes

The lack of a statistically significant impact of representation on outcomes for employers is noteworthy.[35] Whether considering overall employer representation or representation by a third-party firm, employers were *not* statistically more likely to win cases in which they were represented.[36] Controlling for who participated in the hearing and for whether a separation or nonseparation issue was at stake, employers were as likely to win a case when they were represented by a payroll firm or claims management firm (they won 50 percent of the time) as when they were unrepresented (they won 51 percent of the time in this situation). Overall, the results suggest that the predominant form of representation observed had no significant effect on appeal outcomes.

Because the frequency of claimant representation was so low (14 out of 284 cases), no statistically significant effect of representation on outcomes is observable.[37] Similarly, because

the absolute level of legal representation in the hearings observed was so low for both claimants and employers[38], no generalizable findings with respect to the effect of legal representation on outcomes based on this study are possible.[39]

While the small sample size used in this study may be one reason why representation was not shown to significantly enhance the party's chances of winning, there may be other factors involved. Qualitative observations suggested that mistakes by employer representatives, particularly administrative mistakes, seemed frequently to diminish the positive effect of representation at the hearing. For example, researchers observed several cases in which the employer representatives failed to file the appeal by the appropriate deadline, leading to the automatic dismissal of the appeal. Employer representatives also failed to inform employers of appropriate times and dates of hearings in a few instances. Furthermore, employer representatives often failed to bring the employer witness with the most direct knowledge of an alleged incident to the hearing, substituting instead an administrator or personnel spokesperson.[40] Any information provided by a second-hand witness would be considered hearsay and be given less weight than direct testimony from the claimant. These factors worked to decrease the employer's chances of winning an appeal.

The Effects of Representation on the Hearing Process

Although representation appeared to have no effect on outcomes in the cases observed, it did appear to affect the hearing process. When claimants were represented, they were far more likely to bring documents and witnesses to the hearing then when they were unrepresented. For example, unrepresented claimants brought witnesses to only 9 percent of hearings; represented

claimants brought claimants to 57 percent of hearings. Claimants who were represented were also more likely to register objections than were unrepresented claimants.[41]

Employers were more likely to bring witnesses and to register objections when represented then when unrepresented. For example, unrepresented employers registered objections in only 3 percent of cases, whereas represented employers registered objections in 17 percent of cases.[42] Employers were not statistically more likely, however, to bring documents when they were represented. This result was expected, as employers routinely arrived at hearings with paper work such as personnel and other records.

Hearings were longer when parties were represented then when they were unrepresented. The average hearing length when neither claimant nor employer were represented was 29 minutes. The average hearing length when at least one side had representation increased to 39 minutes, a statistically significant difference. These results suggest that, in the hearings observed, represented parties asserted more rights than nonrepresented parties did, although the represented did not achieve more favorable results (see table 1.3).

Telephone Hearings

The ACUC study also examined the impact of conducting hearings by telephone, compared to the impact of holding hearings with all participants attending in person. Each of the eight states in the case study conducted a portion of its hearings by telephone. The percentages of observed hearings in which at least one party participated by telephone varied among states, ranging from a high of 75 percent to a low of 12 percent.[43] Overall, 48 percent of observed hearings were conducted, at least partially, by telephone.[44]

The criteria for conducting appeals hearings in person or by telephone varied by jurisdiction. Interstate hearings, or other situations in which the employer and claimant are separated by a substantial geographic distance (generally 30 miles) were usually held by telephone in all surveyed states.

Two of the eight states sampled conducted telephone hearings by default. That is, the hearing is conducted by telephone unless at least one party requested an in-person hearing.[45] The other six states conducted hearings in person unless a formal request for a telephone hearing is made in advance.[46] Policies vary by state regarding whether parties are informed in advance as to how the other party will be participating.

The nature and complexity of the case also played a role in determining how a hearing is conducted. Those that involve extensive documentation, fraud cases, and hearings in which attorneys or a number of witnesses are scheduled to participate, generally take place in person. Interstate, single party nonseparation hearings, and those for which the claimant was allegedly separated from employment for a violent offense are often held by telephone. All surveyed states intend to maintain if not expand the use of telephones for appeals hearings.

Advantages and Disadvantages of Telephone Hearings

There are advantages and disadvantages to conducting hearings by telephone. It is easier to maintain the safety of all parties when direct physical confrontation is avoided. It is often logistically easier to participate if a party has the option to do so by telephone. In addition, outcomes may be less likely to be biased by how well a participant presents himself or herself

physically. At the same time, however, the use of telephone hearings may cause difficulties or even inequities, as discussed here.

When a hearing is scheduled to take place by telephone, a substantial amount of advance preparation must be undertaken to assure that all parties have received copies of any documentation that will be referred to during the hearing. This may pose difficulties for parties going through the process for the first time.

Non-verbal cues, often an integral part of an in-person hearing, are not available to the referee to assess credibility.[47] It is easier for the referee to gage whether participants are following the proceedings when they are present in the room. It is virtually impossible for a referee to verify whether or not a witness who is participating by telephone has been sequestered. Parties that are not comfortable using the telephone may be at a disadvantage. Finally, the hearing may be perceived as being less formal and may not be taken as seriously if participants are not compelled to show up and confront the other participant face to face.

The Effect on the Hearing Process of Conducting Hearings by Telephone

Employers tended to participate in hearings by telephone more often than claimants did.[48] It was found that the longest average hearings (50 minutes) occurred when both parties participated in person. Hearings in which the claimant participated in person and the employer participated by telephone had the shortest average duration (28 minutes).

There is evidence that who participated in person were more likely to bhave brought documentation, and there is also some evidence that parties who participated by telephone may have been less likely to raise questions about the hearing process. Claimants were twice as likely

(33 percent of the time) to bring documentation to be used as evidence when both parties participated in person then they were when both parties participated by telephone. Similarly, employers were more likely to bring documentation when participating in person then by telephone. In separation cases (in which it is more likely that both sides will participate) it was found that claimants who participated by telephone tended to raise fewer questions about the process than did claimants who participated in person.

The results of a subjective evaluation of how prepared each party was for an observed hearing are also consistent with these findings. On a five-point scale, which took into consideration factors such as the use of supporting documentation, and the use of relevant witnesses, both claimants and employers received their highest scores when they both participated in person.

One additional consideration was evident in observing telephone hearings. Nearly 20 percent of hearings that involved the telephone were characterized as having various technical difficulties. This was defined as either a poor-quality connection or as situations where the referee had trouble establishing or maintaining contact between all parties. Procedures varied by state as to how long a referee will wait for an in-coming call from a participant before starting proceedings.[49] They also varied as to how many times the referee would attempt to reach a party if the initial attempt was unsuccessful.

Overall, therefore, as with the presence of representation, the use of telephone participation did have some clear impact on the nature of the individual hearing process itself, although there is no evidence that it affected the actual outcomes of the observed lower-authority appeals hearings.

State Variations in Lower-Authority Appeals Hearings

Observed variations in the way that hearings were conducted were due in part to variations in state UI laws. In one state, this included who the chargeable employer was. If all employers during the specified base period were potentially chargeable (rather than just the most recent employer), then it was more likely that multiple employers would have beeen party to a case and would participate in the hearing or that multiple UI hearings would be held for a single claim (one for each employer).

Other variations in state law include how the terms "misconduct" and "quit for good cause" were defined and applied. Some of the surveyed states require intentional disregard of the employer's interest on the part of the claimant in order to find misconduct while others do not.[50] In addition, some but not all states required a quit to be directly related to work conditions to be non-disqualifying.[51] The periods of disqualification for misconduct or for quitting a job also varied among states.

States' definitions of what constitutes an "active work search" and being "able and available" also varied. Thus, claimants in different states with identical claims could experience very different outcomes to their appeal simply due to variations in state UI law.

In addition to differences in hearings attributable to varying substantive state laws, some variation in state process was due to practices that states have developed over time. Considerable variation existed among states and hearing officers with regard to what is considered "good cause" for re-opening a hearing. (i.e., a claimant's inability to locate a baby sitter on the day of the hearing might be considered good cuase to re-open the case in some states, but not in others).

States also differed in the way they serve subpoenas. In one state, subpoenas were simply mailed out. Another state hired a company to act as process servers. In all observed states, however, there appeared to be some reluctance to grant subpoenas. This is further discussed below. as discussed below.

One of the most noteworthy variations in state procedure, is the amount of time that is allocated to a hearing. One sampled state allocates a half hour to each hearing, regardless of the issue being addressed or the number of witnesses and documentation involved.[52] Some states allocated from forty-five minutes up to an hour and a half for separation or more complicated cases. Most common was to schedule separation hearings for a longer time period than nonseparation hearings. There is evidence that *some* states with a high volume of cases were less likely to grant postponements or continuances for fear of creating a greater backlog of cases and jeapordizing the ability to meet federally mandated timeliness deadlines.

Other variations in state procedure included how vigorously overpayments were pursued by state UI offices. In one state, an overpayment would end up being collected only if at some point the claimant opened a new claim. Under these circumstances the claimant is ineligible for benefits until the outstanding overpayment is paid back. Other states pursued overpayments more aggressively by doing such things as witholding tax refunds. [53]

Another noticeable variation was how states handled multiple issues involved in a single claim (i.e., cases in which both a separation and a nonseparation issue needed to be addressed). Most states handled both issues at the same hearing. One state scheduled separate hearings five minutes apart for each issue, and then with the consent of parties, heard both issues at the same

hearing. Still others scheduled separate issues relating to the same claim on completely different days.

Due Process Issues

Qualitative information gathered during the observed hearings revealed several essentially informational problems related to due process and the ability of claimants and/or employers to obtain a fair hearing.

Cross Examination

The process of cross-examination, whereby a party has the opportunity to question a witness about testimony that he or she has already given, posed problems for both claimants and employers.[54] By convention, the opportunity to ask the opposing witness questions about his or her testimony comes before the opportunity for rebuttal. Researchers observed that it was difficult for both claimants and employers alike to refrain from responding to testimony during cross-examination. Frequently referees reprimanded participants for violating this policy. Claimants and employerrs also found it awkward to phrase *questions* designed to elicit the information they were interested in.

The difficulty parties had with cross-examination was not merely one of form. Many claimants and some employers forgot the points they were going to make on rebuttal because of the intervening period of cross-examination. This raises the question whether, regardless of who has the burden of proof, it would be more advantageous to the parties to have the option of cross-examining at the conclusion of all testimony.

Objections

Researchers observed that claimants and some employers also did not understand what referees meant by "entering documents into the record." Claimants frequently were concerned that making a document part of the record implied that the referee had accepted the content of the document as being factually correct. Rarely did referees explain the significance of entering documents into the record or the possible grounds for objecting to a document being entered into the record.[55] Although many legal objections may be fruitless in the context of UI hearings, where strict evidentiary rules are not followed, this research revealed that claimants and employers are uniformed of the possibilities for making legal objections to submission of evidence.

Notice

A potential problem with hearing notices concerned notification of issues on appeal. Some states specified with greater clarity than others what legal and factual isues were properly before the referee on appeal. Other states, however, tended to list blanket legal issues such as listing all categories of misconduct or listing both misconduct and voluntary quit as issues to be addressed in the hearing. Still other states treated certain subjects, such as ableness and availability for work, as issues which the referee could raise at any time during the hearing. Most states list both misconduct associated with the work and voluntary quit for good cause as issues to be explored and decided upon at the hearing.[56] While this may not technically be considererd issue switching (i.e., where the claimant shows up prepared to discuss one issue only to have a completely different issue than expected on the agenda), this practice may make it more

difficult for participants to effectively prepare their cases if the specific issues to be addressed are not clearly delineated and restricted in advance.

Claimants also seemed to have difficulty understanding the legal issues at stake. For exmample, claimants had difficulty in comprehending the idea that the claimant is only eligible to receive benefits if he or she voluntarily left employment for a cause that is directly attributable to the employer. Often claimants came to the hearing prepared to defend the proposition that they had good reason to leave a position (i.e.,too long a commute, the need to accompany a spouse who was relocated for employment purposes, or that a claimant could no longer find child care). Many referees did not see it as their role to define what "good cause *attributable to the employer* " meant, but assumed that the decison letter would provide sufficient explanation.

De Novo Hearing

Employers and claimants were also frequently confused by the concept of the "de novo" hearing.[57] The fact that in over a third of the cases one party or the other did not show up may be an indication that the parties felt that if they since have had already presented their version of the case to the local office, they had nothing to add to previously supplied information. Participants may not realize that they must "re-present" their case to the appeals referee for a new determination.

Availability of Subpoenas, Continuances, and Postponements

Theoretically, claimants and employers have the right to subpoena witnesses to attend UI hearings, and to obtain continuances or postponements of hearings if there is good cause for doing so.[58]Observations in the studied states suggested that in general, employers generally do not

need subpoenas because the witnesses they wish to bring are often still employed by the company. Under these circumstances employer witnesses are more likely to be influenced by the wishes of the employer. On the other hand, in post-hearing interviews, claimants noted on several occasions that they had wanted to bring a witness who still worked for the company, but that the individual was too fearful of losing his or her job to testify on the claimant's behalf. Therefore, the availability of subpoenas may be most relavant to claimants.

As mentionned above, some states may be more reluctant to grant subpoenas, continuances, and postponements. The reluctance with respect to subpoenas may stem in part from an institutional lack of power to enforce subpoenas without going to court. It may also stem from a desire to avoid being perceived perceived as needlessly disruptive of business, by drawing employer witnesses away from work.

Reluctance by state agencies to grant continuances and postponemnets may stem instead from the pressure to meet federal timeliness guidelines on the issuance of decisions. Some states may opt to issue fewer continuances and postponements in order to fulfill these federally mandated timeliness requirements. This study relied on information in the appeals file to determine whether a subpoena, continuance, or postponement had been requested.[59]

Interpreted Hearings

Due to the fact that reserchers observed only a small number of hearings that had involvement by interpreters, statistically significant quantitative findings are limited. In most states, if the claimant requests the services of an interpreter, then it was provided free of charge by the state (requests must be made in advance). Other states left it up to claimants to bring an

interpreter if they feel that it is necessary.[60] Some states required that all interpreters in appeals hearings be court-certified. Other states, however, periodically used court certified interpreters, but also used professional or non-professional interpreters. In observed hearings, non court-certified interpreters tended to be less consistent about providing a verbatim translation of testimony. In some cases this may have had the potential to impede the ability of the parties to understand proceedings and to be fully heard.

In addition to identifying some of the concerns cited above, researchers consistently observed parts of the process that were performing well. In particular, in all states, referees consistently made an effort to provide some explanation of the hearing process. Furthermore, in all observed hearings referees clearly attempted to afford participants due process by providing at least a brief summary of participant rights and options for further appeal. This was the case both in the live hearings observed, and the tape recorded hearings that researchers randomly selected to include in this study.

Table 1.1 Summary of Outcomes by Various Circumstances

	Number of Cases Observed			Percent of Cases Won By: Claimant	Employer
Overall[a]	236	42	41		
Appeal Initiated By:					
Claimant	183	42	58		
Employer	72	58	42		
Issue Appealed					
Separation	198	49	51		
Nonseparation[b]	58	40	28		
Appeal Conducted[c]					
In Person	42	52	48		
Phone 99	52	48			
Participation					
Both Parties Present		142	52	48	
Claimant Present[d]		173	52	48	
Claimant Not Present[d]		23	26	74	
Employer Present[d]		155	36	54	
Employer Not Present[d]		41	61	39	
Representation of Claimants[c]					
Overall 12	33	67			
Attorney	10	30	70		
Representation of Employers					
Overall 31	55	45			
Attorney	9	55	45		

NOTES: [a]In 17 percent of the cases, decisions were either unavailable or in favor of the state.
[b]The remaining 32 percent of the nonseparation cases were in favor of the state in that the initial determination (disqualifying the claimant or holding the claimant ineligible) was upheld.
[c]Includes only those separation hearings in which both parties participated.
[d]Participation in separation hearings only.

SOURCE: ACUC tabulations of observed lower authority appeal hearings.

Table 1.2 Frequency and Effect of Participation, Separation Appeal Hearings

	Participated (Percent)	Did Not Participate (Percent)
Claimant		
Overall	86	14
Favorable Outcome	52	26
Employer		
Overall	77	23
Favorable Outcome	54	39

NOTE: The number of cases in which claimants did not participate and employers did not participate are additive because there is no overlap between these cases. Thus, in 37 percent of the hearings, only one party participated.

SOURCE: ACUC tabulations of observed lower authority appeal hearings.

Table 1.3 Frequency and Effect of Representation

	Represented (Percent)	Not Represented (Percent)
Claimant	6	94
Overall		
Favorable Outcome When:		
Documents Used	50	20
Witnesses Used	57	9
Objections Raised	64	7
Employer		
Overall	28	72
Represented by UI Firm	23	-----
Other	4	-----
Favorable Outcome When:		
Documents Used	N.A.	N.A.
Witnesses Used	94	37
Objections Raised	3	17

NOTE: Only statistically significant results are reported for favorable outcome. N.A. indicates that the result was not statistically significant.

SOURCE: ACUC tabulations of observed lower authority hearings.

1. The Advisory Council expresses its thanks to all of the individuals who work in the appeals offices of the eight states that participated in the case study. In particular, this project would not have been possible without the assistance of the following individuals: Mike DiSanto, Ron Kammann, and Tim McArdle in California; Betty Graham, Lyle Seebaum, and Dennis Zerlan in Colorado; Victor Napolitano in Illinois; Dan Anderson and Steve Beasley in Iowa; Allan Toubman in Maine; Marvin Pazornick, Henry Rutledge, and Louis Steinwedel in Maryland; Gordon Doig and Lee Hartman in Texas; and David Breme and David Latham in Virginia.

2. Because of the relatively small number of hearings observed in each state, the capacity to find statistically significant differences was generally limited. Unless otherwise noted, this paper only reports results that are statistically significant at the 95 percent confidence level.

3.See Advisory Council on Unemployment Compensation. 1995. "Trends in Appeals in the UI System". Advisory Council on Unemployment Compensation, Washington, DC. April.

4. Several questions were included in the survey to assess the equity of hearings that took place when a party relied on an interpreter to participate on his or her behalf. However, there were an insufficient number of hearings where interpreters were involved to be able to arrive at any definitive findings.

5. As researchers were unable to conduct interviews on a systematic basis in each state, information gathered from these interviews is provided here simply to flesh out qualitative findings that were systematically observed.

6. Employers were considered to be "represented" when either an outside agent or in-house legal counsel attended the hearing for purposes of presenting the employer's case and conducting questioning and cross-examination. Human resource professionals who may have acted in part as representatives were *not* treated as "representation."

7. This research was geared towards measuring the actual frequency and effectiveness of representation that is taking place in the eight states surveyed. Therefore, no claims about the potential impact of representation under ideal circumstances are being made.

8. See Chapter 8 of Advisory Council on Unemployment Compensation (1995) for additional information on nonmonetary eligibility, including separation issues.

9. Of the remaining 17 percent of the cases, the decision was either unavailable, or it was more favorable to the state UI agency than to the claimant or employer. These decisions were most often issued in cases where the state found the claimant ineligible or disqualified after a non-separation hearing to which the employer was not a party.

10. Nationally this figure is at about 32 percent each for both claimant and employer. See Advisory Council on Unemployment Compensation, "Understanding Denials and Appeals in The United States". June, 1995.

11. Analysis of participation in appeals hearings was limited to those hearings involving a separation issue, in order to avoid underestimating employer participation. Employers generally have less incentive to attend non-separation hearings, both because the state often appears as a party and because a relatively short period of disqualification or ineligibility is often at stake. Further, the state does not always consider the employer a party to a non-separation hearing and may therefore not notify the employer about the hearing.

12. In one state, if neither party appears for the hearing, then the referee reviews the hearing file and issues a decision based on the existing record compiled by the initial fact finder. On no occasions in this study did the referee reverse the initial fact finder's decision under these circumstances.

13. This result was significant at the 90 percent level.

14. Two states, however, perform reconsiderations on all initial determinations that are appealed. However, these reconsiderations rarely if ever yield different outcomes.

15. In an effort to reduce administrative overhead, one state periodically rents space in local hotels for hearings. This reduces the need for office space in areas of the state where the number of hearings that need processing is low.

16. These requirements were taken from state specific regulations for the state of Maine, although researchers observed similar information on hearing notices in all states. See Commerce Clearing House Inc., Unemployment Insurance Reports, 1993.

17. Issues addressed included the concept of a "de novo" hearing (documents and testimony should be presented at the hearing as if for the first time as the referee is not bound by the initial determination of the local office), options for non-native speakers, what to do if unable to attend the scheduled hearing etc.

18. One state makes available a video that guides participants through the process. This same video is periodically broadcast on local cable access channels for those without access to a VCR.

19. Researchers did not systematically gather information on whether each referee was admitted to the Bar. However, researchers concluded that the general public would most likely be unable to discern whether a particular referee was admitted to the Bar or not, based on how hearings were conducted.

20. While referees were not questioned systematically, impromptu self-descriptions of the role of the referee ranged from "neutral fact-finder" to "impartial mediator", to "defender of the fund". Naturally the perceived role was a factor in the tone that a particular hearing took.

21. In most cases, these preliminary statements were read or recited extremely rapidly. It was unclear whether this was the case due to time considerations, because referees felt that

this part of the hearing was perfunctory and participants would not derive much benefit from it anyway, to set a formal if not intimidating tone, or whether referees were simply not cognizant that much of the pre-hearing information was not being presented in lay terms at a speed where first-time participants could understand and make use of the information.

22. This includes hearings where an employer sent a claims manager or attorney as the sole representative.

23. Hearings discussed from this point on are separation hearings which both parties attended.

24. For nonseparation hearings which involved questions of continuing eligibility, the nature of documentation that claimants brought included resumes, copies of letters sent to perspective employers, copies of paychecks, and tax documents.

25. While character witnesses may not strengthen the claimant's case, they may heighten the claimant's sense of confidence in going into the hearing, a factor that was not able to be measured.

26. Although this is not information that participants are likely to be aware of.

27. The greater prevalence of witnesses among employers may be, in part, due to definitional issues in this case study. Claimants who were represented were not considered to be acting primarily as witnesses, in contrast to any individuals who gave testimony for a represented employer, who were considered witnesses.

28. Information about the effectiveness of documentation and witnesses and the relative weight that was attached to particular evidence was derived from conversations with referees after a hearing took place. These conclusions are observations, and are statistically significant findings.

29. See 397 U.S. 254 (1970).

30. Several states went further than informing people of their right to counsel by including phone numbers of legal aid services and other programs that provide representation to indigent clients free of charge.

31. Legal representation was defined in the ACUC study to include attorneys, paralegals, law students, and law clerks. "Nonlegal" representation was a catch-all term for all other categories, including payroll firms, for employers, and union representatives, friends, or family members for claimants.

32. On no occasions did a representative for the claimant attend without the claimant being present.

33. A considerable number of questions remain unanswered about the practices of third-party claims management firms or payroll firms who tended to represent employers at lower-level

unemployment appeals hearings in this study. This includes questions on how contractual arrangements work (i.e. whether these firms get paid for successfully winning cases or simply by the volume of hearings they participate in.).

34. The actual number is likely to be higher, as this information was not able to be obtained on each hearing that observers attended.

35. Analysis of the impact of representation on appeals hearing outcomes was limited to separation hearings in which both parties participated in order to exclude the independent effect of non-participation on outcomes.

36. In observed appeals, employers *actually* won more frequently when they were represented (17 out of 31 cases) than when they were unrepresented (48 out of 99 cases). As noted, however, these results were not statistically significant.

37. Of separation hearings where both parties participated, claimants *actually* lost_ more frequently (8 out of 12 occasions) when they were represented than when they were unrepresented (58 out of 119). As noted, however, these results were not statistically significant.

38. Overall, legal representation was observed in only 19 out of 284 cases.

39. In other words, when looking at the overall UI appeals system, representation may have a measurable impact that could not be discerned through observations of the small sample of cases at issue here.

40. It is not clear whether on these occasions the employer representative failed to inform the employer that a particular witness should be present, or whether the employer chose not to send the particular witness.

41. Unrepresented claimants registered objections in only 7 percent of cases, whereas represented claimants registered objections 64 percent of the time. Claimants who were unrepresented also brought documents to the hearing only 20 percent of the time, but represented claimants brought documentation 50 percent of the time.

42. Employers also brought witnesses in 37 percent of cases when unrepresented, and 94 percent of cases when represented. As stated earlier, the greater prevalence of witnesses among employers may be, in part, due to definitional issues in the case study.

43. Rural states tended to conduct a greater proportion of hearings by telephone then did more urban states.

44. In addition to hearings where both parties participated by telephone, these percentages also include hearings in which one party participated in person at the local office in the presence of the referee, while the other party participated by telephone (hereafter referred to as "mixed hearings").

45. If this request were made, a hearing would then be scheduled at the local office most convenient for the party who did not request the in-person hearing.

46. Some states will only honor this request if the parties are separated by a substantial geographic distance.

47. It should be noted that overall, in separation hearings which both parties attended, researchers questioned the employer's credibility 12 percent of the time, and the claimant's credibility 10 percent of the time. There was no statistical difference in the frequency that credibility was an issue between phone hearings and in-person hearings. Researchers recorded that there was a question of credibility only when it was not evident that the person testifying was telling the truth or not. In other words, if a participant was clearly not telling the truth, then there was no ambivalence or question as to credibility, the participant was not credible and the referee could easily ascertain this.

48. When both claimant and employer attended, hearings were classified on the basis of the manner in which the primary spokesperson for either the claimant or the employer participated. Both parties participated in a total of 105 hearings.

49. Interstate phone hearings may present additional difficulties for participants. There may be time differences between where the witness is and where the referee is conducting the hearing. Also varying area codes can add to the complexity of making a connection.

50. In one state, there are various degrees of misconduct including simple, aggrevated, and gross misconduct, each with varying penalty periods of disqualification. Some states had varying categories of non-disqualifying quits.

51. For example, some states allow benefits when a claimant quits work because of medical problems or urgent family circumstances (illness or death in family or child care problems). Often such benefits come from a general fund and are not chargeable to the employer. One state had a separate legal category non-disqualifying quits not related to the work ("valid circumstances").

52. Lower volume states were able to individualize the daily hearing schedules by having the scheduler estimate how long a case might take given the nature of the issue and the number of participants. Referees would then be given a greater or lesser number of cases for the day depending on the estimated complexity of the scheduled hearings.

53. In all surveyed states it is possible for claimants to participate in a flexible re-payment plan when an overpayment occurs.

54. Assisting claimants and employers in conducting cross-examination, is an area where, in theory, competent representation could be helpful.

55. When asked why they did not explain legal objections to participants, many referees cited the need to avoid appearing impartial and the need to avoid encouraging participants to object by providing them with a list of acceptable reasons for objecting.

56. One state also makes clear on the notice that the issue of being able and available for work is an issue that the agency can raise at any time.

57. All UI lower-authority appeals hearings are considered de novo hearings, whereby the referee is not bound by the decision that the initial fact finder made. The referee in a sense starts the process again, as if the initial fact finding had not taken place. Thereby claimants and employers need to present their case at the hearing as if for the first time, re-entering any evidence that had already been submitted to the fact finder at the local office.

58. In only three perent of two-party separation hearings did the claimant subpoena witnesses (for the emplopyer the figure was even lower, one percent).

59. Most states had separate request forms which are supposed to be filled out and placed in the appeals file any time a party requests a subpoena, continuance, or postponement. Very few of these forms were encountered.

60. When it was left up to claimants to obtain their own interpreters, researchers witnessed neighbors, friends, and family members acting as interpreters.

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