



Sick Leave: Usage Rates and Leave Balances for Employees in Major Federal Retirement Systems

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Summary

Full-time federal civilian employees receive 13 days of sick leave each year, and may carry over an unlimited amount of unused sick leave from year to year. At the time of retirement, employees in the Civil Service Retirement System (CSRS) (those hired before 1984) receive credit in the computation of their civil service retirement annuities for any unused sick leave they have at the time of retirement. Until October 2009, employees in the Federal Employees Retirement System (FERS) (those hired after 1983 and others who transferred to FERS) generally received no credit for unused sick leave at the time of retirement. As a result, some believed that FERS employees would use more of their sick leave as they approach retirement (resulting in productivity losses) than their CSRS counterparts. The conference report for the legislation creating FERS in 1986 urged the Office of Personnel Management (OPM) to examine this issue. FERS employees comprise an increasing percentage of the federal workforce, and by 2014 virtually all federal employees are expected to be in FERS.

In 2004, CRS obtained data indicating that FERS retirees and FERS employees in that group who were eligible to retire or approaching eligibility used substantially more sick leave and had much lower sick leave balances than comparable CSRS retirees and employees. In 2006, OPM similarly concluded that FERS employees who were eligible to retire or were nearing eligibility used more sick leave than their CSRS counterparts, but concluded that to make sick leave creditable under FERS would cost several times more than the potential productivity savings. In April 2008, the Treasury Inspector General for Tax Administration concluded that the lack of compensation for unused sick leave was causing FERS employees in the Internal Revenue Service to use more sick leave than their CSRS counterparts.

In the 111th Congress, Representative Jim Moran introduced H.R. 958, which would permit retiring FERS employees to receive service credit for unused sick leave. Similar provisions were added to legislation providing the Food and Drug Administration with certain authority to regulate tobacco (H.R. 1256), but those provisions were not included in the final legislation (P.L. 111-31). The House-passed version of the 2010 Department of Defense authorization legislation (H.R. 2647) contained the FERS sick leave provisions, but the Senate-passed version (S. 1390) did not. Conferees agreed to include the sick leave provisions in the final legislation, but to phase in the service credit over four years (with 50% credit for unused sick leave until the end of 2013, and 100% credit starting in 2014). The House agreed to the conference report (H.Rept. 111-288) on October 8, 2009, and the Senate agreed on October 22, 2009. The President signed the legislation on October 28, 2009 (P.L. 111-84). The amount of increase in an employee's annuity varies substantially based on the employee's high-three average salary and sick leave balance at the time of retirement, and whether they retire before or after January 1, 2014.

According to a 2004 study, all but a few state governments provided some type of compensation to employees for unused sick leave at retirement, usually either as cash payments, service credit in the computation of annuities, or payment of health or life insurance premiums. The states generally limited these payments in some way (e.g., capping the number of hours of sick leave payable).

This report will not be updated.

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Introduction

Pensions for nearly all federal civilian employees are provided through one of two retirement programs—the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS).¹ Most federal civilian workers hired before January 1, 1984, are covered by CSRS, whereas those hired after that date are covered by FERS (as are employees who voluntarily switched from CSRS to FERS during “open seasons” held in 1987 and 1998).

CSRS and FERS are similar in several respects. In both retirement systems, employees’ annuities are a function of age, length of federal service, and final average pay.² The normal retirement age (without reduction of annuity) under both CSRS and FERS is 55 for employees born before 1948 who have at least 30 years of service.³ Both retirement systems also allow normal retirement at age 60 for employees with 20 or more years of service, and 62 for employees with at least five years of service. Also, employees in both systems receive 13 days (104 hours) of sick leave each year, and may carry over an unlimited amount of unused sick leave from year to year. Therefore, an employee who carries over an average of nine days (72 hours) of sick leave each year during a 30-year career would accumulate 2,160 hours of unused sick leave by the time he or she is eligible to retire.

Until October 2009, one of the many ways in which CSRS and FERS differed was in how accumulated sick leave was accounted for at the time of retirement.⁴ In the CSRS system, retiring employees receive service credit in the computation of their annuities for any unused sick leave they had at the time of retirement. For example, a retiring CSRS employee with 30 years of service and one year (2,087 hours) of accumulated sick leave would be considered to have 31 years of service for purposes of annuity computation.⁵ In sharp contrast, FERS retirees generally received no service credit or other type of compensation for their accumulated sick leave.⁶ As a result, some observers suggested that FERS employees would be on sick leave more frequently than CSRS employees, particularly as they approach retirement age, thereby resulting in reduced productivity, increased personnel costs, or both. Reports of FERS employees actually carrying out this “use it or lose it” behavior periodically appeared in press articles.⁷

¹ Although the federal government has many different retirement plans, CSRS and FERS are by far the largest. In this report, “federal civilian employees” refers to those in the CSRS or FERS plans. For a more thorough discussion of these two plans, see CRS Report 98-810, *Federal Employees’ Retirement System: Benefits and Financing*, by Patrick Purcell.

² FERS annuities are generally smaller than in CSRS because they are only one component of the system. A more detailed description of the two systems is provided later in this report.

³ The FERS normal retirement age increases for employees born in 1948 or later, and eventually reaches age 57 for employees born in 1970 or later.

⁴ As discussed later in this report, a provision in the Department of Defense Authorization Act for 2010 (P.L. 111-84, October 28, 2009) changed this element of FERS.

⁵ The congressionally mandated number of hours in a work year is 2,087. Only full years and months are counted in the annuity computation. For example, if a full-time employee worked 30 years and had 835 hours (four months and 24 days) of accumulated sick leave at the time of retirement, the employee would be credited with 30 years and four months of service; the 24 additional days would be dropped.

⁶ FERS employees who transferred from CSRS receive credit for sick leave balances at the time of the transfer or at the time of retirement, whichever is smaller.

⁷ See, for example, “Sick Leave and FERS: Leave Abuse? Justifiable Cheating? Flexible Ethics?,” in *FedSmith.com*, available at <http://www.fedsmith.com/articles/articles.showarticle.db.php?intArticleID=1143>; and “FERS and sick leave,” *Federal Times*, April 24, 2006, p. 20.

To discourage this phenomenon from occurring, some observers advocated changing FERS to provide some kind of value for unused sick leave (e.g., allowing full or partial service credit to be used in annuity calculations, or providing full or partial lump-sum cash payments for such leave).⁸ For example, in April 2006, a coalition of federal management groups (the Federal Managers Association, the Senior Executives Association, the Federal Aviation Administration Managers Association, the National Council of Social Security Management Associations, and the Professional Managers Association) called for a change in federal sick leave policy (e.g., allowing FERS employees to apply a portion of their unused leave toward post-retirement health care policies).⁹ Others, however, believed that the CSRS sick leave benefit is excessively generous, and that FERS should not replicate that generosity. Opponents of a policy change (and even some proponents) also pointed out that use of sick leave for unauthorized reasons is inappropriate, and that FERS employees knew (or should have known) about this policy when they agreed to the terms of employment.¹⁰

This report provides data that CRS obtained on sick leave usage rates by many employees and recent retirees in the CSRS and FERS retirement systems in 2003 and 2004. It also discusses a study of federal sick leave use in 2005 and 2006 by the Office of Personnel Management (OPM), and provides information on unused sick leave policies in private sector and other public sector organizations (e.g., state governments). Finally, it discusses the enactment of changes to the FERS sick leave policy. First, though, the report provides some background information on CSRS and FERS trends and federal sick leave policies in general.

Background

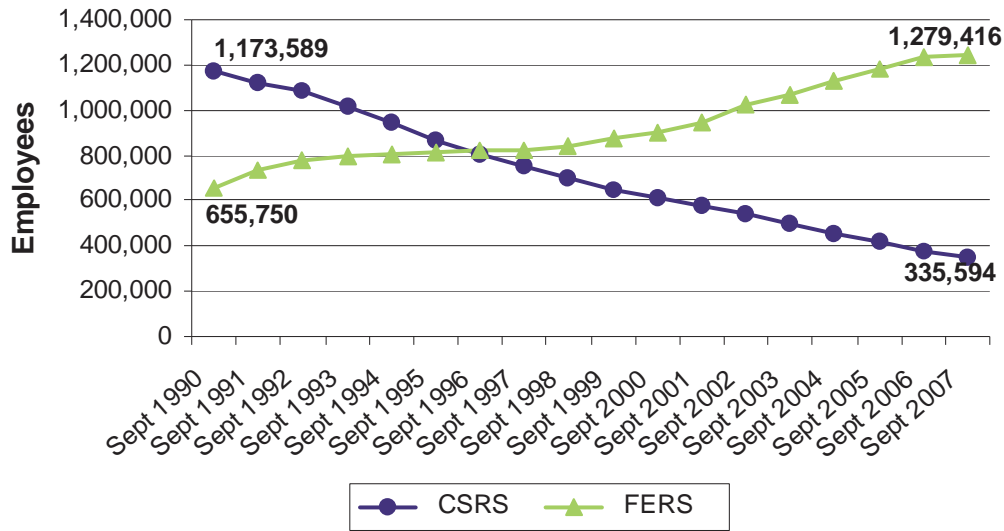
As **Figure 1** below shows, because all new federal employees for more than 20 years have been put in FERS, the number of FERS employees in the federal workforce has increased substantially, whereas the number of CSRS employees has declined. By September 1996, more federal employees were in FERS (818,650) than in CSRS (809,098). As of September 2007, nearly 1.3 million federal employees were in FERS, compared with about 335,000 in CSRS. At the rate of decline in the CSRS population since 1990, by about 2014 virtually all federal employees are expected to be in FERS.

⁸ For example, in testimony before the Senate Committee on Governmental Affairs on February 4, 2004, the President of the National League of Postmasters said, “We also need to address the issue of sick leave for FERS employees. Currently, they get no credit for unused sick leave at retirement. We need to change this rule so they could sell back sick leave or get credit at retirement.”

⁹ Deborah Funk and Stephen Losey, “Sick Leave abuse: Managers prescribe cure for use-or-lose rules,” *Federal Times*, April 17, 2006, p. 1.

¹⁰ For example, in the “Sick Leave and FERS” article mentioned above, 56% of the respondents to an unscientific survey said it was not ethical for a federal employee to use sick leave without having an authorized medical reason for using the leave. One respondent said “If you were hired under FERS, then you should go by the rules, and the CSRS rules are not your concern.”

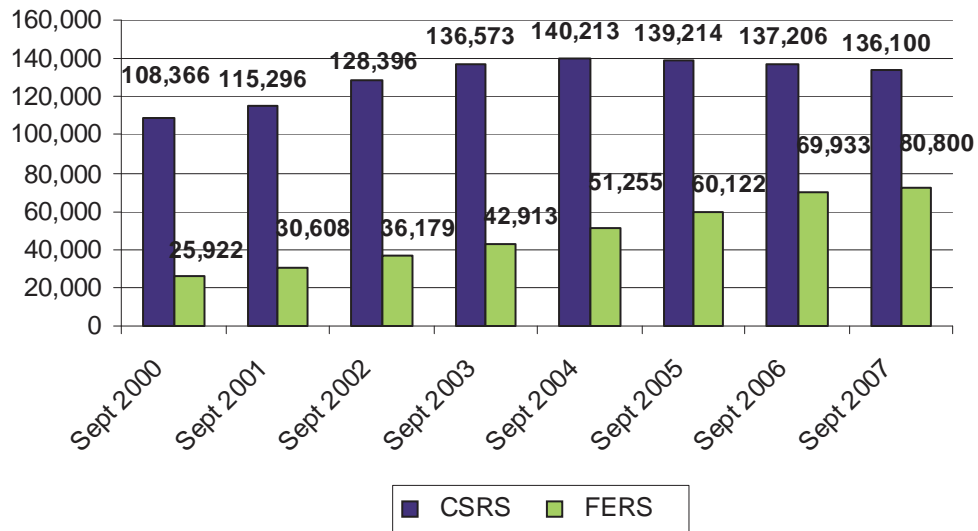
Figure 1. Number of FERS Employees Is Increasing



Source: U.S. Office of Personnel Management Central Personnel Data File. Data include full-time, permanent employees.

Figure 2 shows the number of employees who were eligible to retire (“retirement eligibles”) in both the CSRS and FERS retirement systems from September 2000 until September 2007. Although the number of CSRS retirement eligibles at the end of this period still exceeded the number of FERS eligibles, the difference between the two retirement systems has been steadily narrowing in recent years.

Figure 2. Number of FERS Retirement Eligibles Is Increasing



Source: U.S. Office of Personnel Management Central Personnel Data File. Data are for full-time, permanent employees.

Federal Sick Leave

Sick leave benefits provide paid time off while an employee temporarily cannot work due to a non-work-related illness or injury. As noted previously, all federal civilian employees receive four hours of sick leave each biweekly pay period, for a total of 104 hours (13 days) each year. Employees must request sick leave within such time limits as their agencies may require, and agencies may grant sick leave only when supported by evidence they consider administratively acceptable. For absences in excess of three days, or for a lesser period when determined necessary by the agency, an agency may require a medical certificate or other administratively acceptable evidence before approving sick leave requests.

The federal sick leave program has been expanded several times, allowing the benefit to be used for purposes other than personal medical attention. For example:

- the Federal Employees Family Friendly Leave Act of 1994 (P.L. 103-388) permitted employees to use up to 13 days of sick leave each year to provide medical or personal care to a family member, or to make arrangements for or to attend the funeral of a family member.¹¹
- the Treasury-Postal Service Appropriations Act for FY1995 (P.L. 103-329) permitted the use of sick leave to pursue activities related to the adoption of a child.
- in 2000, the federal sick leave program was again expanded, allowing employees to use up to 12 weeks of sick leave per year to care for family members with a serious health condition.¹²

According to OPM, federal sick-leave usage rates increased during this period—from an average of 8.59 days of sick leave used per year in 1994 to 9.52 days in 2001. One possible explanation for this overall increase in sick leave use could be the changes in policy that allowed additional uses for sick leave. As explained more fully later in this report, though, another possible explanation could be the increasing number of FERS employees who were approaching retirement eligibility.

From time to time, Congress attempts to broaden or otherwise change federal sick leave policy even further. For example, in the 110th Congress, one of the provisions in H.R. 2200 proposed exempting federal employees who are undergoing medical treatment for a combat-related disability sustained while a member of the armed forces from the requirement in the federal leave sharing program that they exhaust their annual and sick leave before using any transferred leave. A provision in S. 1649 in the 110th Congress would have required OPM to establish a program to allow federal employees serving as caregivers to dependents of members of the armed forces deployed overseas to use their sick leave in the same manner as annual leave is used. (Note: A

¹¹ The act guaranteed full-time employees the use of five days (40 hours) of sick leave each year to care for family members or for bereavement purposes. Employees wanting to use more than five days had been required to maintain a sick leave balance of at least 80 hours. However, in 2006, OPM issued final regulations that removed this requirement. See U.S. Office of Personnel Management, “Absence and Leave,” 71 *Federal Register* 47693, August 17, 2006.

¹² Office of Personnel Management, “Sick Leave for Family Care Purposes; Final Rule,” 65 *Federal Register* 37234, June 13, 2000. Until 2006, to use the full 12 weeks of leave, employees had been required to maintain a sick leave balance of at least 80 hours. However, in 2006, OPM issued final regulations that removed this requirement. See U.S. Office of Personnel Management, “Absence and Leave,” 71 *Federal Register* 47693, August 17, 2006.

subsequent “Legislative Developments” section of this report discusses a broader proposed change in federal sick leave policy.)

CSRS and Sick Leave

The Civil Service Retirement Act of 1920 (P.L. 66-215) created CSRS to provide pension benefits to federal employees. CSRS is a “defined benefit” retirement plan in that the benefit is paid as a lifelong annuity based on years of service and average salary in the last few years of employment. CSRS employees accrue benefits equal to 1.5% of their highest three consecutive years of base pay (often called the employee’s “high-three” pay) for their first five years of service, 1.75% of their “high-three” pay for each year in years 6 through 10, and 2% of their “high-three” pay for each subsequent year. Therefore, a CSRS employee who retires with 30 years of service would receive an annuity equal to 56.25% of the employee’s “high-three” pay. CSRS annuities are adjusted annually for inflation and are financed by contributions from both employees and the government (although the CSRS system is currently not fully funded).¹³

Until 1969, CSRS employees forfeited any unused sick leave at the time of their retirement. At that time, the Civil Service Commission (now OPM) estimated that about half of all retiring federal employees had zero sick leave balances, and the other half had an average of about 44 days (352 hours) of sick leave that were forfeited at retirement. Also, a House Post Office and Civil Service Committee report noted that retiring employees used an average of 40 days (320 hours) of sick leave during their last year of employment.¹⁴

In 1969, Congress enacted legislation (P.L. 91-93) to permit CSRS employees to receive service credit for unused sick leave in the computation of their retirement annuities. This change in policy made unused sick leave highly valuable. For example, as noted previously, an employee retiring with 30 years of service and a year of unused sick leave would get credit for 31 years of service for purposes of annuity computation. If this employee’s “high-three” salary was \$50,000, the additional year of service would increase his or her pre-tax retirement annuity by 2%, or \$1,000 per year. Therefore, even before indexing for inflation, if the employee received the annuity for 20 years, the unused sick leave would be worth about \$20,000. To pay for this and other changes in the retirement system, the law increased employee and agency contributions to the civil service retirement fund from 6.5% to 7.0% of pay.

This change in policy was expected to reduce federal employees’ use of sick leave and to grant limited recognition to those who prudently utilized their sick leave. In 1986, the General Accounting Office (GAO, now the Government Accountability Office) examined the implementation of this change in policy, and reported that employees who retired in 1984 and 1985 had significantly higher sick leave balances than employees who retired in 1968, before the law was changed.¹⁵ Specifically, the average sick leave balances for employees who retired in 1984 and 1985 were 38% and 46% higher, respectively, than the estimated average balance of

¹³ See CRS Report RL30023, *Federal Employees’ Retirement System: Budget and Trust Fund Issues*, by Patrick Purcell.

¹⁴ Cited in U.S. General Accounting Office, *Federal Workforce: Retirement Credit Has Contributed to Reduced Sick Leave Usage*, GAO/GGD-86-77BR, June 1986.

¹⁵ GAO/GGD-86-77BR. Specifically, GAO reported that retirees in 1968 had an average of 642 hours of unused sick leave. Retirees in 1984 averaged 884 hours and retirees in 1985 averaged 940 hours—about 38% and 46% higher, respectively, than the average retirees’ leave balance in 1968.

1968 retirees. GAO concluded that the changes made in 1969 had “contributed to reducing the overall usage of sick leave and increasing the unused sick leave balances of retiring federal employees.”

FERS and Sick Leave

The Federal Employees’ Retirement System Act of 1986 (P.L. 99-335) created FERS with three basic elements—(1) Social Security, (2) a FERS basic annuity, and (3) a thrift savings plan (TSP).

- The Social Security component is based on wages earned while a federal employee. Employees may begin receiving reduced Social Security benefits at age 62, but may receive a portion of that amount in the form of a FERS supplement as early as age 55.
- The FERS basic annuity is a defined benefit plan in which employees retiring below age 62 accrue benefits at the rate of 1% of their “high-three” average pay per year of service. Therefore, a FERS employee retiring at age 58 with 30 years of service will accrue a pension benefit equal to 30% of his or her “high-three” average pay.¹⁶ Like CSRS, FERS annuities are funded by contributions from employees and the government, but (unlike CSRS) FERS benefits must be pre-funded according to their full actuarial costs. FERS annuitants over age 62 receive annual cost-of-living adjustments, but those adjustments may be less than the amount of inflation.¹⁷
- The TSP is patterned after the “401(k)” savings plans available in the private sector, and encourages employees to save for retirement by making contributions “pre-tax” and by making interest earned on these contributions non-taxable until they are withdrawn. The government contributes 1% of pay for all FERS participants, and provides whole or partial matches for up to 5% of pay contributed by FERS employees. The maximum annual employee contribution is \$16,500.¹⁸

In contrast to the approach taken with regard to CSRS employees in 1969, Congress did not authorize FERS employees to receive service credit for unused sick leave (except for leave carried into the system by employees who transferred to FERS from CSRS).¹⁹ The legislative history for the 1986 act creating FERS does not explain why Congress took this approach. However, in the conference report for the act, the conferees noted that FERS employees’ unused sick leave generally could not be used in the computation of their annuities, and urged OPM to examine sick leave usage by FERS employees. The conferees went on to say that they were “concerned that without an incentive to save sick leave, the use of sick leave may substantially

¹⁶ FERS employees who have at least 20 years of service and who work until at least age 62 earn 1.1% for each year of service. Therefore, an employee who retires at age 62 with 30 years of service will accrue a pension benefit equal to 33% of his or her “high-three” average pay.

¹⁷ For example, if the amount of inflation is more than 3%, the annuitant would receive an adjustment equal to the amount of inflation minus 1 percentage point.

¹⁸ Employees age 50 and older can also make catch-up contributions of up to \$5,500 per year. CSRS employees can contribute to the TSP, but they receive no government matching contribution.

¹⁹ Retiring employees who transferred to FERS receive service credit for the amount of unused sick leave they had at the time of transfer or the time of retirement, whichever is less.

increase.”²⁰ OPM did not conduct this study until 2006, and the study is described and analyzed later in this report. OPM representatives told CRS that their office had not conducted the study previously because the agency’s Central Personnel Data File does not contain data that would allow comparison of sick leave usage rates or sick leave balances by employees in different retirement plans.²¹

Indications of Greater Sick Leave Use by FERS Employees

There have been indications for some time that FERS employees may be using sick leave more often than their CSRS counterparts, particularly as they approach retirement. As noted previously, average sick-leave usage rates for all federal employees increased by more than 10% from 1994 to 2001 (rising from 8.59 days per year in 1994 to 9.52 days per year in 2001). One possible explanation for this increase is the additional uses for sick leave that were allowed during that period (e.g., to care for sick family members or to adopt a child). However, another explanation could be the increasing numbers of FERS employees in the federal workforce and the fact that they received no benefit for accrued sick leave at retirement. The percentage of full-time, permanent federal civilian employees in FERS increased from about 46% in 1994 to about 62% in 2001.²²

Also, a May 2004 survey suggested that FERS employees were more likely to use sick leave as they approach retirement than their CSRS counterparts. FPMI Solutions, Inc., a human resources services, staffing, and training company primarily for federal agencies, conducted an unscientific online poll of its subscribers (current and retired federal employees) regarding sick leave usage. Of the more than 2,300 participants in the poll, 51% said they were under CSRS and 49% said they were under FERS. Although both groups of participants said they were strongly in favor of sick leave conservation, the groups diverged regarding sick leave use in the last year before retirement. Whereas nearly 85% of CSRS employees and retirees said they would or did conserve as much sick leave as possible, more than 75% of FERS employees and retirees said they planned to use as much sick leave as possible during their last year before retirement. One respondent said that there was “a huge incentive for CSRS and offset employees to conserve sick leave and a very large disincentive for FERS employees to do the same.”²³ Another respondent said that this incentive structure caused “a lot of productivity to go down the drain.” However, other respondents said that, this incentive structure notwithstanding, the use of sick leave when not sick was morally “the wrong thing to do.”

A more scientific study of sick leave use within the Bureau of Prisons from 1994 through 2003 indicated that FERS employees in the agency were, in fact, using more sick leave than those in CSRS, even when controlling other possible factors (e.g., race, gender, education, age, and sick

²⁰ Committee on Post Office and Civil Service, U.S. House of Representatives, Committee Print 99-8, 99th Congress Second Session June 12, 1986, p. 127.

²¹ Telephone discussions with the Confidential Assistant to the Director and Chief, Administration, Office of Congressional Relations, OPM, May-June 2004.

²² These percentages include employees in federal retirement systems other than FERS or CSRS (e.g., employees in the foreign service retirement system).

²³ CSRS “offset” retirement generally applies to employees who had a break in service that exceeded one year and ended after 1983, and had five years of creditable civilian service on January 1, 1987. When these employees become eligible for Social Security benefits, their annuities will be offset by the value of the Social Security Benefit earned during CSRS offset service.

leave balances of employees).²⁴ The authors concluded that the study’s findings “strongly suggest that the apparent difference between the incentive systems in the CSRS and FERS systems regarding the use of sick leave is translated into actual differences in behaviors of CSRS and FERS employees.”²⁵

FERS Employees Use More Sick Leave Than Their CSRS Counterparts

Although OPM’s Central Personnel Data File does not contain data on sick leave usage rates by employees in different retirement systems, those data are available from each federal agency or, more centrally, through organizations that administer payroll functions for multiple federal agencies. For example, the Defense Finance and Accounting Service (DFAS) administers payroll functions for nearly 700,000 civilian employees in the Department of Defense and the Executive Office of the President.

In 2004, CRS requested data from DFAS on sick leave usage rates and sick leave balances for employees and retirees in the agencies they service. We focused on full-time, permanent employees in General Schedule (GS) and Wage Grade (WG) (or equivalent) pay systems, which included more than 500,000 employees in CSRS and FERS—about one-third of the full-time permanent workforce outside of the Postal Service, intelligence agencies, and law enforcement.²⁶ Our data request was essentially in two parts. First, for employees who did not retire during the one-year period from June 1, 2003, through May 29, 2004, we requested the average number of sick leave days used during that period and average sick leave balances as of the end of that period for the following categories:

- employees in CSRS and (separately) employees in FERS who were “eligible to retire” without penalty as of June 1, 2003 (i.e., at least 55 years of age and with at least 30 years of service, or at least 60 years of age and 20 years of service, or 62 years of age and 10 years of service).²⁷
- employees in CSRS and (separately) employees in FERS who were eligible to retire and “almost eligible to retire” (defined as being within two years of retirement eligibility in terms of any combination of age or service—e.g., an employee who is 53 with 30 years of service or 55 with 28 years of service, or an employee who is 58 with 20 years of service or 60 with 18 years of service).
- employees in CSRS and (separately) employees in FERS who were eligible to retire and “nearing eligibility to retire” (defined as being within five years of retirement eligibility in terms of any combination of age or service—e.g., an

²⁴ Scott D. Camp, and Eric G. Lambert, “The Influence of Organizational Incentives on Absenteeism: Sick Leave Use Among Correctional Workers,” *Criminal Justice Policy Review*, vol. 17, no. 2 (June 2006), pp. 144-172.

²⁵ *Ibid.*, p. 168.

²⁶ The GS and WG pay systems are the major white-collar and blue-collar pay systems, respectively, in the federal government.

²⁷ Although the minimum retirement age increases slightly for employees born after 1947, in this study CRS used age 55 consistently because the differences in eligibility were minimal.

employee who is 50 with 30 years of service or 55 with 25 years of service, or an employee who is 55 with 20 years of service or 60 with 15 years of service).

Second, for employees who retired during the June 1, 2003, through May 29, 2004, period, we asked for the average number of sick leave days used per pay period when they were working and their average sick leave balance as of their date of retirement.

Differences in Sick Leave Usage and Balances

The Defense Manpower Data Center acted as DFAS's agent to generate the sick leave information that we requested.²⁸ As **Table 1** shows, the data indicated that FERS employees in the agencies that DFAS supports who were eligible to retire or approaching eligibility generally used more sick leave than their CSRS counterparts during the one-year period ending May 29, 2004. The differences between the two groups were greatest for GS employees as they approached or achieved retirement eligibility. For example, whereas FERS employees in the GS pay system who were either eligible to retire or were within five years of retirement eligibility used only slightly more sick leave during the year than comparable CSRS employees (89 hours versus 85 hours, respectively), FERS employees who were eligible to retire or within two years of eligibility used 25% more sick leave than their CSRS counterparts (105 hours versus 84 hours, respectively). FERS employees who were eligible to retire used nearly 35% more sick leave than comparable CSRS employees (119 hours versus 89 hours, respectively). FERS employees in the WG pay system who were eligible to retire or were within two years of eligibility also used somewhat more sick leave than their CSRS counterparts (e.g., 139 hours versus 127 hours in the "eligible to retire" category), but the differences between FERS and CSRS employees were not as significant as in the GS pay system.²⁹

Table 1. FERS Employees Used More Sick Leave than CSRS Employees as They Approached Retirement Eligibility

Status as of May 2004	Average Hours of Sick Leave Used in Previous Year			
	GS/Equivalent Employees in		WG/Equivalent Employees in	
	CSRS	FERS	CSRS	FERS
Eligible to retire	89	119	127	139
Eligible or within two years of retirement eligibility	84	105	114	119
Eligible or within five years of retirement eligibility	85	89	110	102

Source: DFAS.

²⁸ According to its website (<http://www.dmdc.osd.mil/about.html>), the Defense Manpower Data Center supports the information requirements of the Office of the Under Secretary of Defense for Personnel & Readiness and other members of the Department's manpower, personnel, and training communities.

²⁹ The number of WG employees in each of these categories was also significantly smaller than the number of GS employees. For example, there were more than 33,000 CSRS employees in the GS system who were eligible to retire, compared to about 5,500 WG employees in that category.

Differences between CSRS and FERS employees were even more pronounced when considering their average sick leave balances as of May 2004. As **Table 2** shows, FERS employees' sick leave balances in all three retirement eligibility categories were only about half as large as their CSRS counterparts (and in some cases were less than half as large). The differences between FERS and CSRS employees were about the same in both the GS and WG pay systems.

Table 2. FERS Employees Had Lower Sick Leave Balances than CSRS Employees

Status as of May 2004	Average Sick Leave Balance (in Hours) as of May 2004			
	GS/Equivalent Employees		WG/Equivalent Employees	
	CSRS	FERS	CSRS	FERS
Eligible to retire	1,364	715	804	438
Eligible or within two years of retirement eligibility	1,222	540	761	323
Eligible or within five years of retirement eligibility	934	463	604	331

Source: DFAS.

As **Table 3** shows, for employees who retired from June 2003 through May 2004, FERS retirees' sick leave balances at the time of retirement were significantly smaller than the sick leave balances of CSRS retirees. CSRS retirees (particularly within the GS pay system) also had lower average days of sick leave used per pay period prior to their retirement than their FERS counterparts.

Table 3. FERS Retirees Had Lower Sick Leave Balances than CSRS Retirees

	GS/Equivalent Retirees		WG/Equivalent Retirees	
	CSRS	FERS	CSRS	FERS
Sick Leave Balance (in Hours) at Retirement	1,029	313	537	119
Average Hours of Sick Leave Used Per Pay Period Before Retirement	7.4	9.9	10.4	10.6

Source: DFAS.

Some (and perhaps most) of the differences in leave balances between employees in CSRS and FERS may be due to differences in length of service rather than their retirement systems. For example, the DFAS data indicated that CSRS employees who were eligible to retire had an average of nearly 34 years of service, compared with nearly 24 years of service for FERS employees. Similarly, CSRS employees who retired averaged nearly 32 years of service, compared with nearly 24 years of service for employees in FERS. However, differences in longevity between these groups do not explain why FERS employees' use of sick leave and FERS retirees' use of sick leave just before retirement was greater than their CSRS counterparts.

OPM's 2006 Study of Sick Leave Usage

In May 2006, CRS contacted DFAS in an attempt to obtain more recent data on federal employees' sick leave usage rates. OPM responded to CRS, indicating that it was conducting its own study in response to a request from a Member of Congress (who had reminded OPM that Congress had urged the agency to conduct such a study in 1986). In October 2006, OPM reported to the Member of Congress on the results of the study, and the Member's office shared those results with CRS. The overall design of the study was similar to the design that CRS used in its 2004 study, but the data covered more employees. Specifically, OPM obtained sick leave use data on full-time permanent, non-Postal Service employees from the four major federal payroll providers: DFAS (the organization providing data to CRS in 2004), the Department of the Interior's National Business Center, the Department of Agriculture's National Finance Center, and the General Services Administration's National Payroll System. The study focused on the amount of sick leave used by three groups of FERS and CSRS employees between April 2005 and March 2006: (1) those already eligible to retire without penalty; (2) those "nearly eligible" to retire (i.e., within two years of being eligible); and (3) all other employees. OPM also examined sick leave use by FERS and CSRS employees who had retired during this period.

Some of the OPM study's results appear similar to the results of the earlier CRS study. As **Table 4** below shows, the OPM study indicated that FERS employees who were eligible to retire used an average of 20.2 more hours of sick leave per year from April 2005 through March 2006 than their CSRS counterparts. (As described in **Table 1** above, the CRS study indicated that white-collar FERS employees who were eligible to retire used 30 hours more sick leave per year in 2003 and 2004 than their CSRS counterparts; blue-collar FERS employees who were retirement eligible used about 12 hours more sick leave per year than similar blue-collar CSRS employees.) Among employees who were within two years of retirement eligibility, OPM reported that FERS employees used an average of 13.5 more hours of sick leave per year than CSRS employees. (In the CRS study, the FERS-CSRS difference for employees eligible and nearly eligible to retire was 21 hours for white-collar employees, and five hours for blue-collar employees.) OPM reported that there were only minor differences in leave usage rates between other FERS and CSRS employees.

Table 4. OPM Study Shows FERS Employees Generally Used More Sick Leave in 2005-2006

Employee Group	Average Hours of Sick Leave Used per Year by CSRS Employees	Average Hours of Sick Leave Used per Year by FERS Employees	FERS minus CSRS Difference
Eligible to retire	84.7	104.9	20.2
Nearly eligible to retire	80.9	94.4	13.5
Other	75.1	73.2	-1.9

Source: OPM.

However, in one area the results of the OPM study differed substantially from the CRS study. Among employees who had retired between April 2005 and March 2006, the OPM study indicated that FERS employees used an average of 3.3 hours *less* sick leave per year than employees who were in CSRS (22.8 hours per pay period for FERS compared with 26.1 hours per

pay period for CSRS).³⁰ (In contrast, the CRS study indicated that white-collar employees in FERS who retired in 2003 and 2004 used 2.5 *more* hours of sick leave per pay period than their CSRS counterparts. For blue-collar workers the FERS-CSRS difference was 0.2 hours more per pay period.)

OPM said it did not believe that the higher rate of sick leave use by FERS employees who were eligible and nearly eligible to retire was solely attributable to the fact that they do not receive retirement credit for unused sick leave. The agency said other possible explanations included demographic differences between employees in the two retirement systems and the increased number of ways that sick leave can be used. Nevertheless, using what it characterized as “the unproven assumption that the entire difference in sick leave usage ... is solely attributable to the fact that FERS employees do not receive retirement credit for unused sick leave,” OPM estimated that the lost productivity caused by increased use of sick leave by FERS employees who were eligible or nearly eligible to retire cost the federal government \$68 million during the April 2005 through March 2006 period. OPM estimated that providing FERS employees with service credit for unused sick leave would increase costs to the retirement fund by about \$180 million annually, and would increase the retirement fund liability by about \$2 billion, amortization of which would require annual payments of about \$137 million over 40 years. In total, OPM said “to pay for future costs and to amortize the cost of benefits based upon past service would have an annual cost of about \$317 million.” Therefore, OPM concluded that “to make sick leave creditable under FERS would cost several times more than the potential savings.”

Analysis of the OPM Study

Several elements of the OPM study could have affected OPM’s conclusions.³¹ First, the reasons that OPM suggested as alternative explanations to why FERS employees are using more sick leave than CSRS employees can be questioned. OPM said one such reason could be the differences in the demographic characteristics of employees in the two retirement systems (e.g., age differences between FERS and CSRS employees). However, these hypothesized effects can be tested statistically, and the results of such tests in one federal organization do not appear to support OPM’s conclusions. As noted earlier in this report, a 2005 study of employees at the Federal Bureau of Prisons concluded that demographic differences between FERS and CSRS employees could not explain differences in sick leave use rates between employees in the two retirement systems.³² Instead, the authors concluded that differences in sick leave use were directly attributable to differences in how unused sick leave is treated in the two retirement systems. Another reason that OPM said could cause the FERS-CSRS difference in sick leave use was the increased number of ways that sick leave can be used (e.g., for adoption of a child or to care for a sick family member, up to specified limits). However, this seems an unlikely explanation for FERS-CSRS differences in leave usage within the same time period, particularly since both FERS and CSRS employees could use their sick leave for all of these purposes.

³⁰ It is not clear how OPM determined an annual rate of sick leave usage for employees who retired in the first few months of this one-year period.

³¹ CRS raised these and other issues with officials in both the OPM pay group that did the study and OPM’s office of congressional relations in October 2006. CRS also requested the leave usage data that OPM used in its study to verify the results of the study. Despite this and several other subsequent inquiries, as of March 2008, CRS has not received a response from OPM.

³² Scott D. Camp, and Eric G. Lambert, “The Influence of Organizational Incentives on Absenteeism: Sick Leave Use Among Correctional Workers.”

Second, at least some of the data that OPM used in the study appear to be of questionable validity. For example, OPM said that CSRS employees who had retired between April 2005 and March 2006 used 26.1 hours of sick leave per pay period, while FERS employees who retired during this period used 22.8 hours per pay period. Because each federal pay period is 80 hours, OPM's data suggest that CSRS retirees were on sick leave nearly one-third of the time that they worked during their last year of service, and FERS retirees were on sick leave nearly as much. While these levels of sick leave use are possible, the levels seem unusually high (i.e., nearly 600 to 700 hours per year on an annual basis), and are about three times higher than the DFAS data that were provided to CRS just two years earlier. Also, the OPM data indicated that CSRS employees (who receive significant value for their unused sick leave) used more sick leave per pay period than FERS employees (who receive nothing for unused sick leave)—again, counter to what the DFAS data indicated in the CRS study, and counter to what one would expect given the current incentive structure.

Also, OPM did not explain in any detail how it arrived at its estimates of the cost of lost productivity, or its estimate of the cost of providing FERS employees with service credit for their unused sick leave balances. For the lost productivity estimate, OPM said that it was a function of the number of FERS employees eligible or nearly eligible to retire times the employees' average salary times the difference in the number of hours of sick leave used. OPM identified the number of employees in each retirement system who were eligible or nearly eligible to retire, as well as the average differences in sick leave use for each group, but did not indicate what value(s) it used for the average salary of these employees. Based on its \$68 million productivity cost estimate and knowing the other variables, though, it appears OPM assumed an average salary of nearly \$54 per hour, or about \$112,000 per year. However, OPM data on the federal workforce as a whole in March 2006 indicate that the average salary for full-time, permanent employees was less than \$66,000 per year (or less than \$32 per hour). For such employees who were ages 50 to 54 with 25 to 29 years of service (i.e., those close to retirement eligibility), the average salary was less than \$77,000 per year (or less than \$37 per hour). Therefore, assuming all other factors in the equation stayed the same (number of FERS employees eligible and nearly eligible to retire, and leave usage patterns for employees in those groups), OPM's estimate of the annual cost of lost productivity for these FERS employees may be accurate.

Finally, and most notably, the only policy option that OPM appears to have considered in its study was to give FERS employees full service credit for unused sick leave—an option that was characterized by one retirement expert as the “most obvious—and most expensive” option.³³ However, as the discussion of non-federal sick leave policies earlier in this report makes clear, a number of other, less expensive policy options are potentially available to encourage FERS employees to save their sick leave, including partial service credit, lump sum payments for a portion of unused sick leave (based on either the cash value of the sick leave or the value of the service credit), or applying all or a portion of the value of an employee's sick leave balance to the cost of the employee's retirement health care premium. Had OPM considered these other options, its conclusions regarding the economic feasibility of providing value for unused sick leave may have been different. Different approaches and formulas might be tested with focus groups of federal employees to determine which method yields the greatest incentive at the least cost to the government.

³³ Reg Jones, “Study compares use of sick leave under CSRS, FERS,” *Federal Times*, February 21, 2005.

On the other hand, and as suggested earlier, a completely different way to reduce sick leave use by FERS (and CSRS) employees is to impose more stringent management policies and controls on the use of sick leave. Or, perhaps some combination of “carrot” and “stick” approaches could be tried. The first step, though, may be to have OPM or some other entity conduct a comprehensive, transparent, and methodologically defensible study of federal sick leave usage trends, with defensible estimates of the costs associated with various policy options that Congress could consider.

Treasury Inspector General Report

On April 24, 2008, the Treasury Inspector General for Tax Administration (TIGTA) issued a report concluding that Internal Revenue Service (IRS) employees in FERS were more likely to use sick leave than CSRS employees, especially as they approached retirement.³⁴ TIGTA said it believed that “the lack of compensation for unused sick leave at retirement has contributed to the higher amount of sick leave used by FERS employees,” and recommended that the IRS Chief Human Capital Officer ensure that all IRS managers receive training on leave policies to increase awareness of sick leave abuse and improve sick leave administration. The Chief Human Capital Officer agreed with the findings, but questioned how training would resolve the issue of increased sick leave use by FERS employees. Overall, TIGTA reported that 97,000 IRS employees took more than 15 million hours of sick leave in 2005 and 2006, costing IRS \$450 million in salary plus lost productivity.

Sick Leave Policies in Other Organizations

According to the Bureau of Labor Statistics (BLS), 57% of workers in private industry received paid sick leave in March 2007.³⁵ That figure rose to 68% for full-time workers, and to 80% for employees in management, professional, and related occupations. On the other hand, only 39% of employees in service occupations had access to paid sick leave in 2007, and only 23% of part-time workers. Large employers were more likely to offer sick leave; 67% of employers with at least 100 workers offered the benefit, compared with 48% of employers with fewer than 100 workers. Other studies have indicated that the absence of sick leave can have a wide range of negative effects on family members and coworkers.³⁶

Other BLS data indicated that 53% of full-time employees with paid sick leave in medium and large private establishments in 1997 were allowed to carry over unused sick leave from year to year.³⁷ Seventeen percent were allowed to obtain cash in exchange for unused sick days at the end

³⁴ Treasury Inspector General For Tax Administration, “Lack of Compensation for Unused Sick Leave at Retirement Has Contributed to Higher Use by Employees in the Federal Employees Retirement System,” Report Number 2008-30-093, April 24, 2008, available at <http://www.treas.gov/tigta/auditreports/2008reports/200830093fr.html>.

³⁵ U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in Private Industry in the United States, March 2007*, Summary 07-05 (August 2007).

³⁶ Institute for Women’s Policy Research, *No Time to Be Sick: Why Everyone Suffers When Workers Don’t Have Paid Sick Leave*, Washington, DC, June 2004.

³⁷ U.S. Department of Labor, Bureau of Labor Statistics, *Employee Benefits in Medium and Large Private Establishments, 1997*, Bulletin 2517 (September 1999). Of the employees who were allowed to carry over unused leave, nearly 80% faced some type of limit on the amount of leave that could be carried over, with the precise amount varying from fewer than 10 days to more than 130 days.

of the year. Where a cash-in provision was provided, roughly half (9%) also had a provision in their plan allowing leave to be carried over from year to year. For 36% of employees, neither carrying over nor cashing in of unused sick leave was allowed; any leave not used in the year it was earned was forfeited.

BLS data indicate that all (100%) full-time employees in state and local government were provided sick leave in 1998.³⁸ These employees generally received a fixed number of days per year, most commonly between 10 days and 15 days. State and local employees with sick leave were much more likely than their private sector counterparts to be able to carry over unused sick leave from year to year (94% versus 53% in medium and large private sector establishments), with about 12% of state and local employees able to both carry over sick leave and receive cash payments (compared to 9% in medium-to-large private sector firms). Only 3% of state and local employees forfeited any unused sick leave at the end of the leave year (compared to 36% in the private sector).

Unused Sick Leave

The BLS data did not include specific information on how unused sick leave was treated at retirement in either the public or private sectors. However, some surveys of public sector organizations' personnel policies did contain that information. For example, according to a 2002 survey of 428 agency members of the International Personnel Management Association, 58% of the agencies cashed out sick leave at retirement, 45% offered cash for unused sick leave, 11% converted sick leave to vacation time, 9% converted sick leave to insurance at retirement, and 3% converted sick leave to disability insurance.³⁹ In some cases, though, the agencies limited the amount of sick leave that employees could carry over from year to year or limited the amount payable at retirement.⁴⁰

Federal regulations sometimes provide compensation for unused sick leave at retirement for non-federal employees. For example, employees in federal Fishery Management Councils may accumulate unused sick leave without limit (with Council approval), and "distributions of accumulated funds for unused sick leave may be made to employees upon his or her retirement, or to his or her estate upon his or her death, as established by the Council."⁴¹ Police officers, firefighters, and teachers in the District of Columbia who retire on an immediate annuity receive service credit for unused sick leave.⁴²

³⁸ U.S. Department of Labor, Bureau of Labor Statistics, *Employee Benefits in State and Local Governments, 1998*, Bulletin 2531 (December 2000).

³⁹ Reported in "Sick Leave Abuse: A Chronic Workplace Ill?," *Public Management*, 84 (June 1, 2002), p. 32.

⁴⁰ Surveys conducted by other organizations confirm these findings. For example, a 1995 survey of more than 2,600 cities and nearly 900 counties conducted by the International City-County Management Association indicated that nearly half of the local governments (49.6%) paid employees for unused sick leave, and 13.3% permitted conversion of sick leave to vacation leave. See E.R. Moulder and G. Hall, *Employee Benefits in Local Government, Special Data Issue* (Washington, D.C.: International City and County Management Association, 1995), reported by Soonhee Kim, "Administering Family Leave Benefits and New Challenges for Public Personnel Management: The New York State Experience," *Review of Public Personnel Administration*, 18 (Summer 1998), pp. 42-57.

⁴¹ 50 CFR 600.120(d). Fishery Management Councils were created by the Magnuson-Stevens Fishery Conservation and Management Act to manage living marine resources up to 200 miles offshore.

⁴² Department of the Treasury, "Federal Benefit Payments Under Certain District of Columbia Retirement Plans," 65 *Federal Register* 77500, 77503, December 12, 2000.

Sick Leave Policies in State Governments

In one of the most comprehensive assessments of employee benefits in state governments, Workplace Economics, Inc., reported that as of January 1, 2004, most states provided their employees with a fixed number of sick days per year (most commonly between 12 and 15 days), but in several states the amount of sick leave accrual was tied to years of service, date of hire, or both. For example, in Hawaii, state employees hired before July 2, 2001, accrue 21 days of sick leave per year, but employees hired after that date accrue 15 days per year for the first nine years of employment and 21 days per year thereafter. Most states placed no limit on the amount of sick leave that could be accumulated; those that did (nine states) most often limited accumulated leave to between 90 and 150 days.

The Workplace Economics, Inc., study also indicated that 45 states provided some form of compensation for unused sick leave at retirement.⁴³ However, in May 2009, CRS determined that one additional state (Maine) also provided compensation for unused sick leave. These 46 states' compensation plans generally fell into three categories:

- states that provided employees with a cash payment for some portion of their unused sick leave,
- states that provided service credit for the leave in the computation of retirement annuity, or
- states that used the unused sick leave to fund some type of health or life insurance for retirees.

The type and amount of compensation provided varied substantially within these three categories, and in some cases the states provided employees with options across the categories (e.g., allowing employees to choose either service credit for annuities or health insurance payments), or provided more than one form of compensation. For example, in Nevada, employees were paid for unused sick leave of more than 30 days to a maximum of \$8,000. In addition, Nevada state employees could receive compensation for 50% of the hours in a special sick leave account as either a lump sum payment, advanced payment of an insurance premium, or to purchase additional service credit.⁴⁴

Cash Payment Plans

In 28 states, retirees were provided a cash payment for a portion of their unused sick leave. In each of these states, the size of the payment was limited in some way—for example, paying employees for a percentage of their final sick leave balance (most commonly 25% or 50%), capping the number of days or hours of sick leave payable or the size of the payment itself, or calculating the size of the payment based on a formula. In many cases, the states used a combination of these or other factors in determining the amount payable. For example:

⁴³ The five states that the study said provided no compensation for unused sick leave were Alaska, Indiana, Maine, Oregon, and Vermont. In Vermont, though, a limited number of employees are covered by a retirement plan in which 50% of unused sick leave is added to an employee's average final compensation. Also, CRS determined in May 2009 that Maine provides up to three months of service credit for unused sick leave at the time of retirement.

⁴⁴ After accruing 90 days of sick leave, Nevada state employees could carry over 50% of unused sick leave each year in a special account to be used for long-term illnesses.

- In Virginia state employees were paid for 25% of their unused sick leave with the amount of the payment capped at \$5,000.
- In New Hampshire employees were paid for 33% of their unused sick leave up to 40 days.
- Arkansas used a combination of a formula and a cap on the size of the payment: employees with less than 50 days of unused sick leave on the date at retirement received no payment, employees with 50 to 59 days were paid for 50% of their sick days at 50% of their salary, with the scale gradually rising to where employees with 80 to 120 days of unused sick leave received payment for 80% of their sick days at 80% of their salary. The maximum payment for unused sick leave was \$7,500.

In some states, other limits were placed on whether and, if so, how much compensation would be provided to their employees for unused sick leave. For example, in Illinois, unused sick leave earned by state employees from January 1, 1984, through December 31, 1997, was paid at 50% of its value at separation. In Michigan, only retiring employees hired before October 1, 1980, were compensated; they received payment for 50% of their unused sick leave based on their last rate of pay.

Service Credit Plans

In 15 states, employees received service credit for unused sick leave in computing retirement benefits (as is currently done for CSRS employees in the federal government), but several states placed conditions or limits on the use of sick leave in this manner. For example, in Georgia, unused sick leave could be used to compute retirement benefits only if the combined balance of sick and annual leave at retirement totaled 120 hours. In Oklahoma, a maximum of one year service credit was allowed, but any credited service of six months or more was rounded up to a full year. In South Carolina, employees could convert up to 90 days of sick leave to retirement service credits, thereby adding up to 4.5 months of service time in calculating the size of their annuity. In Maine, retiring employees could receive up to three months of service credit for unused sick leave.

Insurance Plans

In seven states, the value of some portion of unused sick leave could be credited toward retiree health or life insurance premiums. For example, in Utah, retirees could use unused sick leave to purchase health insurance, with eight hours of sick leave equal to one month of individual coverage. As in the previous categories of compensation, states often placed limits on the use of sick leave in this manner. For example, in Idaho, half of the monetary value of unused sick leave earned since July 1, 1976, or 600 hours (whichever is smaller), could be used to pay the retiree's premiums for group health programs.

Legislative Developments

110th Congress

On March 10, 2008, Representative Jim Moran introduced H.R. 5573, which would have compensated employees under FERS and the Foreign Service Retirement System for a portion of their unused sick leave at the time of retirement. Specifically, the legislation would have permitted employees⁴⁵ who satisfied the age and service requirements for immediate or early retirement in those systems to receive a lump-sum payment equal to 15% of the hourly rate of their basic pay for each hour of unused sick leave balance over 500 hours, with the total payment capped at \$10,000. For example, an employee with a salary of \$75,000 (i.e., \$35.90 per hour) and a sick leave balance of 1,250 hours at the time of retirement could have received about \$4,000 for her unused sick leave in excess of 500 hours (i.e., 750 hours times \$35.90 per hour times 0.15 = \$4,039). The legislation indicated that the payment “shall be payable by the agency from which the employee was separated,” and “shall be considered pay for taxation purposes only” (e.g., not for purposes of calculating an employee’s “high three” average salary in determining her pension). H.R. 5573 was referred to the House Committee on Oversight and Government Reform’s Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, but saw no further action during the 110th Congress.

Representatives from the Federal Managers Association supported the measure, saying it would discourage many federal employees from taking unnecessary sick days.⁴⁶ The bill was also supported by the National Treasury Employees Union as “a reasonable and welcome step to correct some of the disparity in treatment for FERS retirees.”⁴⁷ However, one FMA local president said the bill did not go far enough, and that “People are going to keep burning their leave until [Congress] provides a better program.”⁴⁸ An OPM official reportedly remained cautious about whether differences in sick leave usage rates between FERS and CSRS employees would be addressed by the legislation.⁴⁹

On July 30, 2008, the House of Representatives passed the Family Smoking Prevention and Tobacco Control Act (H.R. 1108), and the legislation was referred to the Senate on August 1, 2008. Section 407 of the bill, as amended, would have permitted FERS employees to receive service credit in the computation of their annuities for any unused sick leave they had at the time of retirement—just as CSRS employees are currently able to do (although FERS employees

⁴⁵ The bill defines “employee” to mean an employee as defined in 5 U.S.C. 2105, and also includes employees of the U.S. Postal Service and the Postal Regulatory Commission, but does not include a congressional employee as defined in 5 U.S.C. 2107.

⁴⁶ Stephen Losey, “FMA praises bill to credit unused sick leave at retirement,” *Federal Times*, Mar. 11, 2008, available at <http://www.federaltimes.com/index.php?S=3417468>.

⁴⁷ See <http://www.nteu.org/PressKits/PressRelease/PressRelease.aspx?ID=1231> for the NTEU press release.

⁴⁸ Brittany Ballenstedt, “Legislation would allow more feds to cash out sick leave at retirement,” *Government Executive*, Mar. 10, 2008, available at

http://www.governmentexecutive.com/story_page.cfm?articleid=39484&dcn=todays_most_popular.

⁴⁹ For example, she said FERS has more women than CSRS, and women may use more sick leave than men because of family responsibilities. Stephen Barr, “Bill Would Give Retirees Partial Pay for Unused Sick Leave,” *Washington Post*, Mar. 11, p. D04, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/03/10/AR2008031002708.html>.

would have received only a 1% increase in their annuities for each additional year of service, not the 2% that CSRS employees receive). To phase in the program, those who retired in the first three years after the bill was enacted would have received credit for only 75% of their unused sick leave. Representative Moran reportedly said that the bill would cost \$70 million in the first five years, and \$337 million in the first 10 years.⁵⁰ The Federal Managers Association and the National Treasury Employees Union expressed support for the bill.⁵¹ However, neither H.R. 1108 nor the related Senate bill (S. 625, which did not contain the sick leave provision) was enacted before the end of the 110th Congress.

111th Congress

On February 10, 2009, Representative Moran introduced H.R. 958, which would permit FERS employees to receive service credit in the computation of their annuities for any unused sick leave they had at the time of retirement. Although similar in that respect to Section 407 of H.R. 1108 in the 110th Congress, H.R. 958 does not have the phase-in provision that was in the previous legislation. The proposed legislation, which was referred to the House Committee on Oversight and Government Reform, would apply to any FERS employee who retires under a basic or early retirement annuity after the date of enactment. Several federal employee organizations (e.g., the American Federation of Government Employees, Federally Employed Women, and the National Association of Active and Retired Federal Employees) immediately announced their support for the legislation.

Similar provisions were included in H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, which was introduced by Representative Henry Waxman on March 3, 2009, and was reported by both the House Committee on Energy and Commerce and the House Committee on Oversight and Government Reform on March 26, 2009. In the Energy and Commerce committee report on the legislation, the Congressional Budget Office estimated that an average of about three months would be added to employees' length of service, which was estimated to increase the average retirement benefit by about \$150 per year. As a result, aggregate spending was estimated to increase over the 2010 through 2019 period by about \$600 million.⁵² On April 2, 2009, H.R. 1256 was passed by the House and received in the Senate. The next day it was placed on the Senate legislative calendar. However, the FERS sick leave provisions were not included in the final legislation (P.L. 111-31).

National Defense Authorization Act

The House-passed version of the National Defense Authorization Act for FY2010 (H.R. 2647) contained the FERS sick leave provisions, but the Senate-passed version (S. 1390) did not. According to press accounts, on October 7, 2009, House and Senate conferees agreed to include the sick leave provisions in the final legislation, but to phase in the service credit over four years (with 50% credit for unused sick leave until December 31, 2013, and 100% credit starting on

⁵⁰ Stephen Losey, "Credit for Unused Sick Leave May Be On the Way," *Federal Times*, August 3, 2008.

⁵¹ Louis C. LaBrecque, "Federal Employees Would Receive Credit for Unused Sick Leave Under House-Passed Bill," *Government Employee Relations Report*, August 5, 2008, p. 875.

⁵² U.S. Congress, House Committee on Energy and Commerce, *Family Smoking Prevention and Tobacco Control Act*, report to accompany H.R. 1256, 111th Cong., 1st sess., H.Rept. 111-58, part 1 (Washington: GPO, 2009), p. 23.

January 1, 2014).⁵³ On October 8, 2009, the House of Representatives agreed to the conference report (H.Rept. 111-288) to H.R. 2647, which contained the FERS sick leave provision in Section 1901 of the General Provisions.⁵⁴ The Senate agreed to the conference report on October 22, 2009, and the President signed the legislation on October 28, 2009 (P.L. 111-84).

Effects of the Change in Policy on FERS Annuities

The amount of increased annuity that FERS employees will receive as a result of this change in policy depends on three factors: (1) the amount of unused sick leave they have at the time of retirement, (2) their “high-three” average salary at the time of retirement, and (3) whether they retire before or after January 1, 2014. **Table 5** below provides estimates of the increase in annuity at various high-three average salaries for employees who retire before 2014. For example, a FERS employee with a high-three average salary of \$80,000 and a sick leave balance at retirement of 1,000 hours would receive an increase in his or her annuity of about \$192 per year.⁵⁵ With a FERS annuity of \$24,000 per year (\$80,000 times 0.1 times 30),⁵⁶ the \$192 represents an annuity increase of about 0.8%. Over a 20-year retirement, the 1,000 hours of unused sick leave represents at least \$3,840 in additional income (\$192 per year times 20 years).⁵⁷

Table 5. Estimates of Increase in Annuities at Various Salary and Sick Leave Levels
(retirement before 2014)

High-Three Average Salary	500 Hours of Unused Sick Leave	1,000 Hours of Unused Sick Leave	1,500 Hours of Unused Sick Leave	2,000 Hours of Unused Sick Leave
\$40,000	\$48	\$96	\$144	\$192
\$60,000	\$72	\$144	\$216	\$288
\$80,000	\$96	\$192	\$288	\$384
\$100,000	\$120	\$240	\$360	\$479
\$120,000	\$144	\$288	\$431	\$575
\$140,000	\$168	\$336	\$503	\$671
\$160,000	\$192	\$384	\$575	\$767

Source: CRS.

Notes: Service credit for unused sick leave is provided only for full months, but employees may add to their sick leave service credit through regular service to reach an additional month. For example, an employee with 500 hours of sick leave would be eligible for two months and 26 days of service credit, but the employee could work an additional four days to reach three months. The estimates in the table assume employees will do so.

⁵³ Alex M. Parker and Alyssa Rosenberg, “Compromise Defense policy measure advances retirement reforms,” *Government Executive*, October 7, 2009, available at <http://www.govexec.com/dailyfed/1009/100709ar1.htm>.

⁵⁴ See [http://www.congress.gov/cgi-lis/cpquery/R?cp111:FLD010:@1\(hr288\)](http://www.congress.gov/cgi-lis/cpquery/R?cp111:FLD010:@1(hr288)).

⁵⁵ This estimate is derived by multiplying the high-three average salary of \$80,000 times 0.01 (until age 62, FERS employees earn an additional 1% of their high-three average salary for each additional year of service) times 0.479 (the proportion that 1,000 hours is of a full work year of 2,087 hours) times 0.5 (the 50% credit for unused sick leave until 2014).

⁵⁶ This estimate assumes that the employee has exactly 30 years of service under FERS and retires before the age of 62.

⁵⁷ This figure does not include any cost of living adjustments that may be provided during the retirement period.

Table 6 provides estimates of the increase in annuity at various high-three average salaries for employees who retire after 2014. For example, a FERS employee with a high-three average salary of \$80,000 and a sick leave balance at retirement of 1,000 hours would receive an increase in his or her annuity of about \$383 per year.⁵⁸ With a FERS annuity of \$24,000 per year (\$80,000 times 0.1 times 30),⁵⁹ the \$383 represents an annuity increase of about 1.6%. Over a 20-year retirement, the 1,000 hours of unused sick leave represents at least \$7,660 in additional income (\$383 per year times 20 years).⁶⁰

Table 6. Estimates of Increase in Annuities at Various Salary and Sick Leave Levels
(retirement after 2014)

High-Three Average Salary	500 Hours of Unused Sick Leave	1,000 Hours of Unused Sick Leave	1,500 Hours of Unused Sick Leave	2,000 Hours of Unused Sick Leave
\$40,000	\$96	\$192	\$287	\$388
\$60,000	\$144	\$288	\$431	\$575
\$80,000	\$192	\$383	\$575	\$767
\$100,000	\$240	\$479	\$719	\$958
\$120,000	\$288	\$575	\$862	\$1,150
\$140,000	\$335	\$671	\$1,006	\$1,342
\$160,000	\$383	\$767	\$1,149	\$1,533

Source: CRS.

Notes: Service credit for unused sick leave is provided only for full months, but employees may add to their sick leave service credit through regular service to reach an additional month. For example, an employee with 500 hours of sick leave would be eligible for two months and 26 days of service credit, but the employee could work an additional four days to reach three months. The estimates in the table assume employees will do so.

⁵⁸ This estimate is derived by multiplying the high-three average salary of \$80,000 times 0.01 (until age 62, FERS employees earn an additional 1% of their high-three average salary for each additional year of service) times 0.479 (the proportion that 1,000 hours is of a full work year of 2,087 hours).

⁵⁹ This estimate assumes that the employee has exactly 30 years of service under FERS and retires before the age of 62.

⁶⁰ This figure does not include any cost of living adjustments that may be provided during the retirement period.

Appendix. State Sick Leave Policies

Unless otherwise indicated, the following information on sick leave policies in state government is drawn from the *2004 State Employee Benefits Survey*, published by Workplace Economics, Inc. The data are as of January 1, 2004. Where more than one accrual rate or maximum accumulation is listed, the rate depends on length of service or other factors. An asterisk (*) indicates that there are additional or qualifying details in the survey. For example, in Colorado, employees are generally limited to 45 days maximum leave accumulation, but employees hired before July 1, 1988, are limited to their accrual as of that date plus 45 days.

Table A-1. Sick Leave Policies in State Governments

State	Annual Accrual Rate	Maximum Accumulation	Payment for Unused Sick Leave at Retirement
Alabama	13 days	150 days	Cash payment for 50% of leave balance.
Alaska	15 days	No limit	None.
Arizona	12 days	No limit	Retiree may select cash payment or deposit funds into fund to pay future health premiums as follows: 25% of hourly rate for 500 to 749 hours; 33% of hourly rate for 750 to 999 hours; 50% hourly rate for 1,000 to 1,500 hours.
Arkansas	12 days	120 days	Cash payment, to a maximum of \$7,500, as follows: less than 50 days, no payment; 50-59 days, 50% of days at 50% of salary; 60-69 days, 60% of days at 60% of salary; 70-79 days, 70% of days at 70% of salary; 80-120 days, 80% of days at 80% of salary.
California	12 days	No limit	Service credit used to determine retirement benefits.
Colorado	80 hours	45 days*	Cash payment for 25% of leave balance.
Connecticut	15 days	No limit	Cash payment for 25% of leave balance, not to exceed 60 days' pay.
Delaware	15 days	No limit	Cash payment for 50% of leave balance, up to 90 days.
Florida	13 days	No limit	Cash payment for 25% of leave balance.
Georgia	15 days	90 days	Service credit used to determine retirement benefits, but only if 120 days of combined unused sick leave and forfeited sick and annual leave.
Hawaii	15 days/ 21 days*	No limit	Service credit used to determine retirement benefits.
Idaho	12 days	No limit	Value of 50% of sick leave used to pay retiree's premiums for group health insurance.
Illinois	12 days	No limit	Cash payment for 50% of sick leave, but only if earned from 1/1/84 through 12/31/97.
Indiana	9 days	No limit	None.
Iowa	18 days	No limit	Cash payment to maximum of \$2,000.
Kansas	12 days	No limit	Cash payment as follows: 8 years of service and 100 days accumulated, 30 days pay; 15 years and 125 days, 45 days pay; 25 years and 150 days, 60 days pay.

State	Annual Accrual Rate	Maximum Accumulation	Payment for Unused Sick Leave at Retirement
Kentucky	12 days/22 days/ 32 days	No limit	Service credit used to determine retirement benefits.
Louisiana		No limit	Partial payment based on actuarial calculation.
Maine	12 days	120 days	Service credit used to determine retirement benefits. A maximum of three months service credit is allowed. ^a
Maryland	15 days	No limit	Service credit used to determine retirement benefits.
Massachusetts	15 days	No limit	Cash payment for 20% of sick leave.
Michigan	13 days	No limit	Cash payment for 50% of sick leave, but only if hired before 10/1/80.
Minnesota	13 days	No limit	Cash payment for 40% of sick leave, but only for mandatory retirement or employees with 10 years of service or age 65 or older.
Mississippi	12 days/ 10.5 days/ 7.5 days	No limit	Service credit used to determine retirement benefits.
Missouri	15 days	No limit	Service credit used to determine retirement benefits (with every 168 hours credited as one additional month of service).
Montana	12 days	No limit	Cash payment for 25% of sick leave.
Nebraska	12 days/ 14 days/ 18 days	No limit	Cash payment for 25% of sick leave.
Nevada	15 days	No limit*	Cash payment for excess over 30 days to a maximum of \$8,000. Also, any leave in special leave account may be taken as cash payment, insurance payment, or to purchase service credit.
New Hampshire	15 days	90 days/ 105 days/ 120 days	Cash payment for 33% of sick leave, up to 40 days.
New Jersey	15 days	No limit	Cash payment for 50% of sick leave, up to \$15,000.
New Mexico	12 days	No limit	Cash payment for up to 400 hours of sick leave if hours previously cashed in on annual basis exceeds 600 hours.
New York	8 days/ 10 days/ 13 days	200 days/ 1,500 days	Up to 165 days may be used as service credit to determine retirement benefits, and up to 200 days may be used to pay for health insurance during retirement.
North Carolina	12 days	No limit	Service credit used to determine retirement benefits.
North Dakota	12 days	No limit	Cash payment for 10% of sick leave after 10 continuous years of service.
Ohio	10 days	No limit	Cash payment for 50% of sick leave.
Oklahoma	15 days	No limit	Service credit used to determine retirement benefits. A maximum of one year credit is allowed, with six months or more rounded up to one year.
Oregon	12 days	No limit	None.
Pennsylvania	13 days	300 days	Cash payment for up to 163 days of sick leave, paid

State	Annual Accrual Rate	Maximum Accumulation	Payment for Unused Sick Leave at Retirement
			under certain full retirement situations.
Rhode Island	104 hours	125 days	Cash payment for 40-hour employees as follows: 50% of total from 468 hours to 720 hours; 75% of total from 721 hours to 1,000 hours. For 35-hour or non-standard employees, 50% of total from 390 hours to 630 hours; 75% of total for 631 hours to 875 hours
South Carolina	15 days	195 days	Service credit used to determine retirement benefits. A maximum of 90 days (4.5 months service time) credit is allowed.
South Dakota	14 days	No limit	Cash payment for 25% of sick leave (for those with 7 years of service) to a maximum of 480 hours.
Tennessee	12 days	No limit	Service credit used to determine retirement benefits, with one month of service credit for every 20 days of sick leave.
Texas	12 days	No limit	Service credit used to determine retirement benefits, with one month of service credit for every 160 hours (or fraction thereof) of sick leave.
Utah	13 days	No limit	Retiree may use 25% of sick leave to purchase health insurance (eight hours sick leave buys one month of individual coverage)
Vermont	6 days/ 12 days/18 days/ 21 days	No limit	Generally none, although a limited number of employees are covered by a contributory retirement plan in which 50% of unused sick leave is added to their average final compensation.
Virginia	8 days/ 10 days/15 days	No limit	Cash payment for 25% of sick leave (for those with 5 years of service) to a maximum of \$5,000.
Washington	12 days	No limit	Cash payment for sick leave hours over 480 hours at 25% of current salary.
West Virginia	18 days	No limit	Service credit used to determine retirement benefits or converted to credit for health insurance.
Wisconsin	16.25 days	No limit	Sick leave converted to credits to pay group health insurance.
Wyoming	12 days	No limit	Cash payment for 50% of sick leave, to a maximum of 480 hours.

a. Information obtained by CRS from the Maine Bureau of Human Resources in May 2009.

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