SEC. 524. REPEAL OF TIME-IN-SERVICE REQUIREMENT FOR FUNDED LEGAL EDUCATION PROGRAM.

Section 2004(b) of title 10, United States Code, is amended—

(1) by striking "and must—" and all that follows through "(2) sign" and inserting "and must sign";

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by realigning those paragraphs, as so redesignated, so as to be two ems from the left margin.

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would remove the time-in-service limits on eligibility for the Funded Legal Education Program (FLEP) under section 2004 of title 10, United States Code, and would thus allow The Judge Advocate Generals (TJAGs) within each military department and the Staff Judge Advocate (SJA) to the Commandant of the Marine Corps flexibility to select the best candidates for the limited spaces in the program. The proposal seeks to modify the eligibility requirements so that a graduate of a service academy who has less than two years on active duty and officers with more than six years on active duty could pursue the program.

Currently, the statute limits eligibility for FLEP to commissioned officers who have served between two and six years on active duty. Specifically, in order to be eligible to attend law school to obtain a juris doctorate funded by the military, commissioned officers must serve between two and six years on active duty by the time training is to begin through FLEP. This eligibility requirement arbitrarily limits the ability of all services' JAG Corps to select some of the most competitive candidates for FLEP.

The proposal would affect all of the services, as each service has a FLEP program. Repealing the specific subsection of the statute would authorize TJAGs, and the SJA to the Commandant of the Marine Corps, to competitively select a limited number of applicants to enter the FLEP immediately upon graduation from the service academies. For an Air Force example, cadets at the United States Air Force Academy (USAFA) may graduate with a legal studies degree, but are not given the option of attending law school funded by the military upon graduation from USAFA because they must spend at least two years in another career field first. After two years (or more) in another career field, those officers must compete at a board to be

selected as a FLEP student and must also be released from their initial career field. The statutory provision serves as a limitation on top USAFA graduates becoming members of the Air Force Judge Advocate General's Corps (AFJAGC). Once entered on active duty in a different career field, it becomes more difficult to join the AFJAGC. The officer learns an entirely different specialty and begins to gain seniority, experience, and a good reputation in that field. By the time the officer is eligible to compete for FLEP, the officer frequently fails to obtain release from that career field. With the proposal, top cadets from USAFA would no longer be discouraged from participating in the legal studies major, knowing they could compete for a funded legal education seat immediately upon graduation, and the opportunity to become a judge advocate upon graduation from law school. Currently, USAFA cadets may presently compete for a medical, dental, nursing, engineering, scientific, or other post-graduate education, but the statute forecloses a similar opportunity in the field of law. In addition, the AFJAGC would be able to potentially utilize these officers for a longer period, since they would be committing to the AFJAGC at an earlier point in their career than currently possible—plus it would eliminate the time and cost of training for two career fields. Establishing a direct route to the AFJAGC would greatly motivate interested cadets to excel academically and send a strong message to the service academy that AFJAGC is a vital career field with a critical war fighting role. The proposal would also apply to officers commissioned through Officer Training School and Reserve Officer Training Corps (ROTC), with less than 2 years of active duty service. The educational delay program would still remain the primary means for ROTC graduates seeking to go to law school after graduation and prior to entering active duty. The focus is on service academies and could be limited by policy to academy graduates. This would give the services the ability to structure the programs to best suit the needs of that service.

In addition to denying TJAGs and the SJA to the Commandant of the Marine Corps the ability to select outstanding officers with no time in service directly from the service academies, the statute as written creates anomalies for commissioned officers with prior enlisted service. Currently, officers in pay grades O-1 to O-3 with two to six years of commissioned service may be ineligible to apply simply because they also have several years of prior enlisted service. Conversely, an O-1 with less than a year of commissioned service may be eligible to apply because he has two to six years of prior enlisted service. The proposal would also increase the applicant pool of junior officers who have prior enlisted active duty service. Repealing the time-in-service requirements would remove the anomaly that exists for commissioned officers with prior enlisted time and open the applicant pool to qualified officers who bring additional experience as enlisted leaders.

Repealing this subsection of the statute would provide each service TJAG, as well as the SJA to the Commandant of the Marines, flexibility with the six-year requirement contained in the statute. Repealing this subsection would allow the service TJAGs, and the SJA to the Commandant of the Marines, the flexibility to allow Excess Leave Program (ELP) students to be competitively selected for FLEP. Some students who are not selected for FLEP initially due may be selected instead to start law school under ELP and apply for FLEP after the first or second year of law school. If a student starts law school before the six-year statutory cap, but passes that cap while in law school, the statute prohibits that student from moving into FLEP no matter how competitive he/she is for the program. Therefore, even if a student is competitively selected to attend law school under ELP, which the student funds, and later applies for FLEP, the student

will be denied entry into FLEP if the student is past the six-year cap of commissioned service no matter how competitive the student's application package.

Budgetary Implications: Because FLEP already exists, there would be no additional resources expended under this proposal by any of the services. Subsection (a) of the subject statute, 10 U.S.C. 2004, sets the maximum number of officers that may be selected for FLEP at 25. The proposal does not amend that maximum. The number of personnel affected reflects the current plans for total number of officers who will be selected for FLEP, and this planned amount will not change if the proposal is adopted.

($M)	FY16	FY17	FY 18	FY19	FY20	Total
Air Force	0.0	0.0	0.0	0.0	0.0	0.0
Army	0.0	0.0	0.0	0.0	0.0	0.0
Marine Corps	0.0	0.0	0.0	0.0	0.0	0.0
Navy	0.0	0.0	0.0	0.0	0.0	0.0
Coast Guard	0.0	0.0	0.0	0.0	0.0	0.0

NUMBER OF PERSONNEL AFFECTED							
	FY 2016	**FY 2017**	**FY 2018**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Air Force	2	2	2	2	MILPERS	BA01	05
Army	25	25	25	25	OMA	032C	323752000
Marine Corps	N/A	N/A	N/A	N/A	MILPERS	N/A	N/A
Navy	0	0	0	0	N/A	N/A	N/A
Total	27	27	27	27			

Changes to Existing Law: This proposal would make the following changes to section 2004 of title 10, United States Code:

§ 2004. Detail of commissioned officers as students at law schools

(a) The Secretary of each military department may, under regulations prescribed by the Secretary of Defense, detail commissioned officers of the armed forces as students at accredited law schools, located in the United States, for a period of training leading to the degree of bachelor of laws or juris doctor. No more than twenty-five officers from each military department may commence such training in any single fiscal year.

(b) To be eligible for detail under subsection (a), an officer must be a citizen of the United States and must

~~(1) have served on active duty for a period of not less than two years nor more than six years and be in the pay grade O-3 or below as of the time the training is to begin; and~~

~~(2)~~ sign an agreement that unless sooner separated he will—

~~(A)~~ (1) complete the educational course of legal training;

~~(B)~~ (2) accept transfer or detail as a judge advocate or law specialist within the department concerned when his legal training is completed; and

~~(C)~~ (3) agree to serve on active duty following completion or other termination of training for a period of two years for each year or part thereof of his legal training under subsection (a).

(c) Officers detailed for legal training under subsection (a) shall be selected on a competitive basis by the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense. Any service obligation incurred by an officer under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by any such officer under any other provision of law or agreement.

(d) Expenses incident to the detail of officers under this section shall be paid from any funds appropriated for the military department concerned.

(e) An officer who, under regulations prescribed by the Secretary of Defense, is dropped from the program of legal training authorized by subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by regulations issued by the Secretary of Defense, except that in no case shall any such member be required to serve on active duty for any period in excess of one year for each year or part thereof he participated in the program.

(f) No agreement detailing any officer of the armed forces to an accredited law school may be entered into during any period that the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces.