

Sec. 435. DEFENSE INTELLIGENCE AGENCY EXPENDITURE AUTHORITY

PROPOSED TEXT:

Section 105(b)(5) of the National Security Act of 1947 (50 U.S.C. 403-5(b)(5)) is amended by inserting “and counterintelligence” after “..human intelligence...” of this section and adding at the end the following new paragraph:

` (A) the sums made available to the Defense Intelligence Agency for human intelligence and counterintelligence activities may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency in nature, such expenditures to be accounted for solely on the certificate of the Director, Defense Intelligence Agency and every such certificate shall be deemed a sufficient voucher for the amount therein certified.'

SECTIONAL ANALYSIS:

The Defense Intelligence Agency (DIA) currently uses 10 U.S.C. 127 authorities (Extraordinary and Emergency Expenses/E&EE) to expend funds for confidential military purposes, including critical intelligence gathering functions. The current E&EE authorities, allocated to DIA by the Secretary of Defense, are limited by an overall amount of E&EE authority provided to the Department by Congress. In recent years, the authority provided to DIA has been inadequate to meet current mission requirements.

Since 2001, DIA’s human intelligence controlled and overt collection activities have increased significantly. These activities and the Defense Attaché program are core DIA missions, prescribed both in Title 50 and Executive Order 12333, and should not be limited in scope by special funding authorities. In addition, while some of these expenditures are properly characterized as “extraordinary” they are predictable and therefore not “emergency” in nature.

This amendment would provide DIA’s National Intelligence Program activities similar authority under Title 50 as the Central Intelligence Agency. It would allow DIA to use funds available for human intelligence and counterintelligence activities and the Defense Attaché program without regard to the provisions of law and regulations relating to the expenditure of Government funds in instances where it is imperative for DIA not to disclose the methods for intelligence collection or the sources of intelligence information. The amendment also requires the Director of DIA to verify amounts used for such purposes.