

**Statement on Signing the
Department of Homeland Security
Appropriations Act, 2006**

October 18, 2005

Today, I have signed into law H.R. 2360, the “Department of Homeland Security Appropriations Act, 2006.” The Act provides funds to protect the United States against terrorism, assist those adversely affected by natural disasters such as hurricanes, and carry out other departmental functions such as securing our Nation’s borders and enforcing our immigration laws.

The executive branch shall construe as calling solely for notification the provisions of the Act that purport to require congressional committee approval for the execution of a law. Any other construction would be inconsistent with the principles enunciated by the Supreme Court of the United States in *INS v. Chadha*. These provisions include: “United States Visitor and Immigrant Status Indicator Technology;” “Automation Modernization, Customs and Border Protection;” “Air and Marine Interdiction, Operations, Maintenance, and Procurement, Customs and Border Protection;” “Automation Modernization, Immigration and Customs Enforcement;” “Salaries and Expenses, United States Secret Service;” “Research, Development, Acquisition, and Operations, Science and Technology for the Domestic Nuclear Detection Office;” and sections 504, 505, 509, 511, 526, and 538.

Under the heading “Customs and Border Protection,” the Act purports to require the Bureau of Customs and Border Protection to relocate its tactical checkpoints in the Tucson, Arizona, sector at least once every 7 days. Decisions on deployment and redeployment of law enforcement officers in the execution of the laws are a part of the executive power vested in the President by Article II of the Constitution. Accordingly, the executive branch shall construe the relocation provision as advisory rather than mandatory.

Section 516 of the Act purports to direct the conduct of security and suitability investigations. To the extent that section 516 relates to access to classified national security information, the executive branch shall construe this provision in a manner consistent

with the President’s exclusive constitutional authority, as head of the unitary executive branch and as Commander in Chief, to classify and control access to national security information and to determine whether an individual is suitable to occupy a position in the executive branch with access to such information.

To the extent that section 518 of the Act purports to allow an agent of the legislative branch to prevent implementation of the law unless the legislative agent reports to the Congress that the executive branch has met certain conditions, the executive branch shall construe such section as advisory, in accordance with the constitutional principles enumerated in the *Chadha* decision.

As is consistent with the text of the Act, the executive branch shall construe section 521 as relating to the integrity and supervision of the United States Secret Service only within the Department of Homeland Security. The executive branch therefore shall construe section 521 to neither affect the functions and supervision of personnel of the Secret Service assigned or detailed to duty outside the Department of Homeland Security, nor limit participation by the Secret Service in cooperative command and other arrangements with other governmental entities for the conduct of particular operations.

Section 527 refers to joint explanatory statements of managers accompanying conference reports on specified acts. Such statements do not satisfy the constitutional requirements of bicameral approval and presentment to the President needed to give them the force of law.

The executive branch shall construe section 529 of the Act, relating to privacy officer reports, in a manner consistent with the President’s constitutional authority to supervise the unitary executive branch.

George W. Bush

The White House,
October 18, 2005.

NOTE: H.R. 2360, approved October 18, was assigned Public Law No. 109–90.