

A federal statute provides that the President must expend all funds appropriated by Congress, and that appropriated funds must be used only for the purposes named in the relevant appropriations act.

An appropriations statute directs that \$300 million be spent on planting wildflowers along public highways. Considering the statute to be a waste of money, the President has announced two decisions. First, he will spend half of the money to train troops. Second, he will retain the remaining funds in the federal treasury and not spend them at all.

Are the President's decisions constitutional?

- A. Both decisions are constitutional. (3%)
- B. Only the decision to spend the funds to train troops is constitutional. (4%)
- C. Only the decision to retain the remaining funds is constitutional. (6%)
- D. Neither decision is constitutional. (86%)

Correct

86% Answered correctly

22 secs Time Spent

2023 Version

Explanation:

Congress's spending power

Recipient of federal funds	Valid congressional conditions	Invalid congressional conditions
Executive branch	Requiring funds be spent as explicitly directed	Reducing President's salary
Judicial branch	Requiring funds be spent as explicitly directed	Directing outcome of cases Reducing judges' salaries
State/local government	Imposing conditions on receipt of funds that: are clearly stated & unambiguous are reasonably related to funds' purpose do not require unconstitutional activity <i>and</i> are not unduly coercive	Requiring states to either: enact state law enforce federal law
Private person/entity	Restricting conduct related to funds' purpose	Restricting protected conduct unrelated to funds' purpose

The **taxing and spending clause** grants **Congress** extensive power to **appropriate (ie, spend) federal funds**. When Congress appropriates funds, it **can require** that the **President** and federal agencies **spend the funds as explicitly directed** in a federal statute. And since Article II obligates the President to faithfully execute the laws, the President cannot unilaterally alter how the appropriated funds will be spent or suspend the distribution of those funds.

Here, the federal appropriations statute appropriated \$300 million to plant wildflowers along public highways. The President then announced that he would spend half of that money to train troops and not spend the remaining half. But the President cannot unilaterally alter how these funds will be spent or suspend the distribution of these funds, because Congress explicitly directed that all of the \$300 million be spent on planting wildflowers along public highways. Therefore, neither of the President's decisions is constitutional **(Choices A, B & C)**.*

*Additionally, the President's decision to spend half of the money to train troops likely violated the appropriations clause, which prohibits the spending of federal funds for a particular purpose unless authorized by an act of Congress.

Educational objective:

The taxing and spending clause grants Congress extensive power to appropriate federal funds. Congress can then require that the President and federal agencies spend the funds as explicitly directed in a federal statute.

References

U.S. Const. art. II, § 3 (take care clause).

Train v. New York, 420 U.S. 35, 41 (1975) (holding that the executive branch cannot refuse to withhold funds authorized by a congressional statute).

63C Am. Jur. 2d Public Funds § 36 (2022) (explaining that congressional funds must be used for the purposes designated by Congress).

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