

In order to reduce the federal deficit, Congress passed, and the President signed into law, a statute that grants the President line-item veto power. Pursuant to this power, the President has the authority to cancel specific spending and tax-benefit measures that have been enacted into law.

Several members of Congress who voted against the legislation have sued the appropriate federal officials in a federal district court. The members of Congress claim that the statute is unconstitutional because it violates the requirements of the federal legislative process. The federal officials move to dismiss the suit.

Which of the following is the most appropriate basis for the court to dismiss this suit?

- A. The Eleventh Amendment bars suits of this kind in federal court.
- B. The members of Congress do not have standing.
- C. The suit presents a nonjusticiable political question.
- D. The U.S. Supreme Court has exclusive jurisdiction over the action.

Explanation:

Article III standing

(suing on one's own behalf)

General rule	Plaintiff must prove: <ul style="list-style-type: none">• injury-in-fact – concrete & particularized harm (actual or imminent)• causation – harm traceable to defendant's conduct AND• redressability – favorable judicial decision can remedy harm
Citizen	No standing as mere citizen
Legislator	Must prove personal stake in dispute & concrete injury to challenge constitutionality of government action
Taxpayer	Standing to challenge taxes owed—but not government spending unless: <ul style="list-style-type: none">• challenging legislation enacted under taxing & spending power AND• legislation exceeds limits imposed by establishment clause

Federal courts can only hear suits in which the plaintiff has **standing**—ie, a personal stake in the outcome of the case. A **federal or state legislator** has standing to challenge the constitutionality of government action in the rare instance that the action caused the legislator **personal and concrete harm**—eg, by nullifying the legislator's vote. Institutional, abstract harm shared equally by all legislators in that respective body does not confer standing.

Here, several members of Congress have challenged the constitutionality of the federal statute. However, the statute has not caused the members to suffer personal and concrete injuries since they were able to vote against the statute and can vote to repeal it in the future. Instead, they are asserting institutional, abstract harm that is shared equally by all other members of Congress. Therefore, the most appropriate basis to dismiss the suit is that the members of Congress lack standing.*

*In *Clinton v. City of New York*, the U.S. Supreme Court held that plaintiffs who would lose funding or tax benefits have standing to challenge line-item veto power, which was subsequently found unconstitutional as a violation of the [federal legislative process](#).

(Choice A) The [Eleventh Amendment](#) generally prohibits suits in federal court against state governments—not federal officials (as seen here).

(Choice C) The [political-question doctrine](#) prevents federal courts from adjudicating issues that (1) are reserved to the executive or legislative branch or (2) lack judicially manageable standards for resolution. But since federal courts regularly determine the constitutionality of federal laws, this doctrine does not apply here.

(Choice D) The U.S. Supreme Court has exclusive jurisdiction over suits between states (not seen here).

Educational objective:

A legislator has standing to challenge the constitutionality of government action when that action causes the legislator personal and concrete harm—not institutional, abstract harm shared equally by all legislators in that respective body.

References

- U.S. Const. art. III, § 2 (case-or-controversy requirement).
- *Raines v. Byrd*, 521 U.S. 811, 829–30 (1997) (holding that members of Congress lack standing when the challenged government action causes an institutional and abstract harm instead of personal and concrete harm).
- 32 Am. Jur. 2d Constitutional Law § 153 (2020) (explaining legislator standing requirements).