# Constitutional Law I

Spring 2025 Course Report

Prof. Pi

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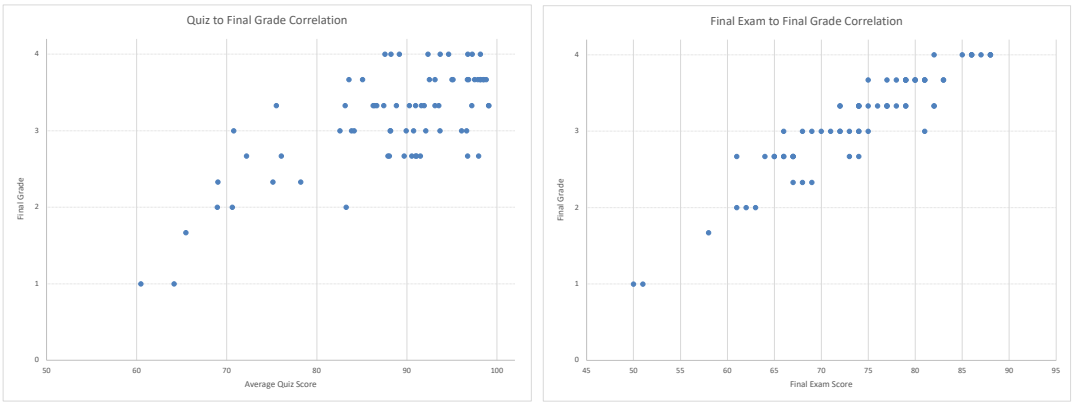
## Contents

# 1 Exam Statistics

First, some statistics you may find edifying.

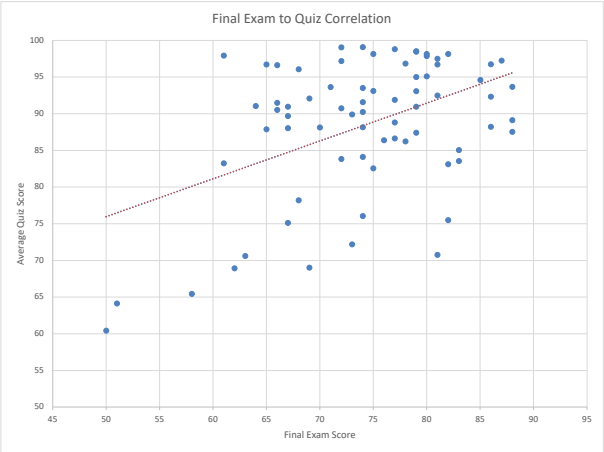
| | |
|---|---|
| Highest *average quiz* score | 99.08 |
| Average average quiz score | 88.45 |
| Lowest average quiz score | 60.45 |
| Highest *final exam* score | 88 |
| Average final exam score | 74.19 |
| Lowest final exam score | 50 |
| Highest course score | 88.86 |
| Average course score | 78.55 |
| Lowest course score | 56.11 |
| Average final grade | 3.144 |

In the following two charts,[1] you can see the correlation between average quiz scores and final grades (left), and average exam scores and final grades (right). Since the final exam was worth 65% of the final grade, and the quizzes were cumulatively worth 25%, both metrics correlate strongly with final grades.

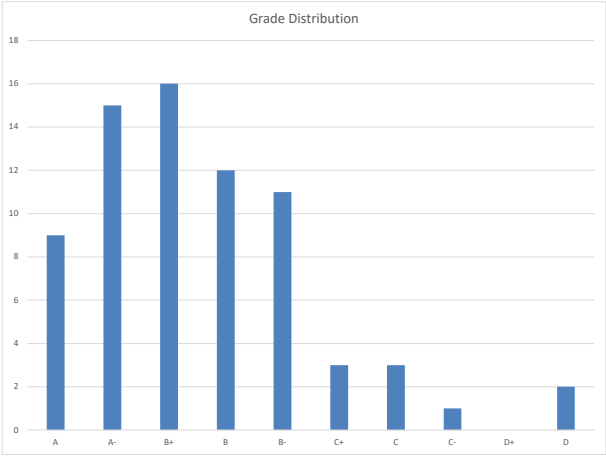



[1]The charts are rendered in vector graphics, so you can zoom into it infinitely closely if you're viewing it on a screen and have difficulty reading the small text.

Interestingly, there was also a moderately strong correlation between final exam scores and quiz scores. *I.e.*, people who performed better on the quizzes also tended to do better on the final exam.




The final grade distribution is given in the chart below.



# 2 Final Exam Point-Value Table

| Question Number | A | B | C | D | E | F | G | H | I | J | K |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 3 (2.8%) | 8 (12.5%) | 6 (2.8%) | 3 (1.4%) | 4 (0%) | 5 (1.4%) | 8 (22.2%) | 7 (1.4%) | 4 (45.8%) | 2 (9.7%) | 1 (0%) |
| 2 | 1 (0%) | 8 (48.6%) | 3 (2.8%) | 3 (2.8%) | 8 (12.5%) | 4 (2.8%) | 5 (22.2%) | 5 (8.3%) | | | |
| 3 | 9 (43.1%) | 7 (34.7%) | 6 (9.7%) | 6 (1.4%) | 6 (2.8%) | 4 (0%) | 1 (0%) | 1 (0%) | 3 (8.3%) | | |
| 4 | 7 (36.1%) | 3 (8.3%) | 1 (1.4%) | 2 (1.4%) | 1 (0%) | 3 (0%) | 2 (6.9%) | 7 (45.8%) | | | |
| 5 | 1 (2.8%) | 2 (1.4%) | 5 (0%) | 5 (2.8%) | 10 (59.7%) | 7 (19.4%) | 2 (6.9%) | 4 (1.4%) | 2 (4.2%) | | |
| 6 | 6 (4.2%) | 6 (5.6%) | 1 (4.2%) | 2 (4.2%) | 8 (36.1%) | 6 (5.6%) | 1 (5.6%) | 10 (33.3%) | | | |
| 7 | 8 (25.0%) | 6 (13.9%) | 5 (33.3%) | 3 (0%) | 3 (22.2%) | 3 (2.8%) | 2 (2.8%) | 1 (0%) | | | |
| 8 | 6 (20.8%) | 4 (37.5%) | 1 (0%) | 1 (15.3%) | 8 (26.4%) | | | | | | |
| 9 | 6 (16.7%) | 9 (13.9%) | 8 (4.2%) | 4 (4.2%) | 7 (5.6%) | 7 (19.4%) | 4 (0%) | 3 (1.4%) | 2 (0%) | 1 (0%) | 7 (34.7%) |
| 10 | 3 (0%) | 3 (0%) | 10 (36.1%) | 9 (12.5%) | 4 (4.2%) | 7 (15.3%) | 10 (30.6%) | 1 (0%) | 1 (0%) | 4 (0%) | |
| 11 | 7 (37.5%) | 5 (4.2%) | 9 (40.3%) | 3 (2.8%) | 6 (4.2%) | 2 (8.3%) | | | | | |

Answer Option

# 3 Exam Answer Explanations

## Question 1: Retailer Justiciability

(a) *3 points.* This answer treats ripeness as if a plaintiff must wait for concrete enforcement (e.g., rebate payments or penalties) before suing. That is not the law. Article III requires a concrete injury, but it does not require that the injury take the form of a completed governmental act. Once LEAN took effect, the 2.5 % tax and the prospect that consumers would re-order their purchases were built-in economic disadvantages that hit the retailers immediately. An insistence on "actual enforcement" therefore mistakes the timing requirement and collapses standing into a ripeness hurdle the Constitution does not impose.

(b) *8 points.* This response centers on the most straightforward injury: every sale made after the statute's effective date is subject to a new tax. A monetary loss of that sort is the textbook example of a "concrete and particularized" harm, and it is directly traceable to the challenged law. Because a judgment invalidating LEAN would lift the tax, the harm is also redressable.

(c) *6 points.* Ripeness is a real concern—courts avoid deciding abstract questions—but here the statute is self-executing. The competitive incentives are locked in from day one, so the legal issues are fit for judicial review and the

retailers are already suffering marketplace consequences. By insisting on an evidentiary record that documents consumer reactions, the answer understates how the legal structure itself can inflict present injuries.

(d) *3 points.* Invoking the political-question doctrine is misplaced. The Dormant Commerce Clause routinely requires courts to balance local benefits against burdens on interstate trade, and that balance was reaffirmed—rather than foreclosed—by the plurality in *National Pork*. Treating moral or civic interests as "unmeasurable" does not convert the dispute into one textually committed to another branch.

(e) *4 points.* Correctly observes that interstate-commerce controversies normally do not trigger the political-question bar, but it never pins down an injury that satisfies Article III. Without articulating how the tax or the incentive structure harms the plaintiffs, the argument leaves the core justiciability requirement under-developed.

(f) *5 points.* The case is plainly not moot—LEAN continues to operate—but the option at least recognizes that ongoing harm matters to justiciability. It is still weaker than the top-scoring explanations because mootness is the wrong doctrine for an injury that was live from the outset and remains unresolved.

(g) *8 points.* A strong answer. Competitive injury arises the moment a statute predictably tilts demand toward favored firms. The injury is economic, particular to the firms excluded from the advantage, and redressable by striking the law.

(h) *7 points.* Accurately frames the statute as self-executing and therefore fit for immediate review, which answers ripeness. It does not spell out the monetary or competitive harm with the same clarity as options (b) and (g), so it lands just below them.

(i) *4 points.* Relies on *Clapper*'s warning against speculative future harm, but the chain of causation here is not speculative. The state has already imposed a tax and created statutorily defined incentives. That makes consumer response sufficiently predictable for standing purposes. The answer understates the immediacy of the injury.

(j) *2 points.* Incorrectly assumes that because LEAN nominally "regulates" consumers, retailers cannot sue. The Constitution cares about injury, not formal

regulatory targets. Retailers face both the new tax and competitive disadvantages. Their harm is neither "indirect" nor "speculative."

(k) *1 point.* Asserts that the Commerce Clause limits Congress alone and that states may freely enact local-favoring laws. That position is squarely foreclosed by well-settled Dormant Commerce Clause doctrine, which by definition constrains state legislation even in the absence of congressional action.

## Question 2: Preemption

(a) *1 point.* The answer pivots to the Privileges and Immunities Clause, but that clause governs discrimination against *natural persons* traveling or working across state lines. Preemption analysis, by contrast, turns on the Supremacy Clause and the relationship between a state statute and an act of Congress. Because the retailers' claim rises or falls on whether Congress has displaced state law through the FCGFTA, invoking a different constitutional provision entirely misses the doctrinal target and offers no reason to reject or uphold LEAN.

(b) *8 points.* This is a paradigmatic frustration-of-purpose argument. Congress declared in the FCGFTA that its goal is to keep trade among the states "open and unfettered," and LEAN predictably pulls consumer demand inward by rewarding in-state purchases. The rebate's practical effect undermines the federal objective even though literal compliance with both statutes is possible. Under established Supremacy Clause principles, a state law that substantially obstructs the aim of a federal statute is pre-empted, so the reasoning here cleanly maps the facts onto the governing doctrinal test.

(c) *3 points.* The answer treats the Dormant Commerce Clause as if it were itself a source of statutory preemption, declaring that any violation of the dormant doctrine is "therefore" pre-empted. But conflict or frustration preemption presupposes a *federal statute* that displaces state law. The dormant doctrine operates directly under the Constitution. Conflating the two frameworks shows confusion about the hierarchy of norms.

(d) *3 points.* This response asserts there is no conflict because LEAN "complies" with the Dormant Commerce Clause. Even if the neutrality claim is accepted, preemption can still occur when a state measure frustrates a federal purpose. By ignoring that second pathway it leaves half of the inquiry untouched and therefore cannot earn more than minimal credit.

(e) *8 points.* The mirror-image of option (b). This option argues that because the FCGFTA offers only an aspirational purpose clause and sets no operative commands, it does not create an "obstacle" that LEAN could possibly thwart. Without an operative federal standard, a state program that merely nudges consumer preferences does not stand as an impediment to any federal right or requirement, so preemption fails. This tracks frustration-of-purpose doctrine as carefully as option (b) but from the opposite side, and therefore receives the same high score.

(f) *4 points.* This answer recasts the dispute as an impossibility-of-compliance case, insisting that LEAN "contradicts" federal policy. The problem is that nothing in the FCGFTA *forbids* states from encouraging local commerce, nor does it impose duties on retailers that are incompatible with Vermont's scheme. Because it overstates the direct conflict, the analysis is plausible yet materially weaker than a true frustration argument.

(g) *5 points.* This option sees that literal compliance with both laws is feasible and therefore rejects impossibility preemption. That is sound as far as it goes, but it overlooks the frustration doctrine entirely. Since frustration is the stronger hook for invalidation and the response is silent about it, the answer lands in the middle of the scoring range.

(h) *5 points.* Field preemption requires evidence that Congress meant to regulate an area so pervasively that it left no room for the states. The FCGFTA is a single, purpose-oriented statute. Nothing in its text or structure suggests exclusive federal governance of consumer-incentive schemes. The answer correctly states that premise and therefore avoids the doctrinal misfires seen in options (a) and (c), but because frustration preemption could still apply, the explanation is incomplete and earns only mid-level credit.

## Question 3: Facial Dormant-Commerce-Clause Challenge

(a) *9 points.* The rebate threshold is triggered exclusively by geography. A resident must source 85% of purchases from Vermont producers to capture the subsidy. Functionally that operates like a tariff or bounty—economic advantage turns on whether a good crossed a state line. Under *Philadelphia v. New Jersey* such facially protectionist devices are "virtually per se" invalid unless the state clears strict scrutiny. Vermont's civic-minded objectives could be pursued through less discriminatory means, such as a universally available consumption credit

or direct grants to small farms, so the statute fails the narrow-tailoring prong. Because the discrimination is baked into the text rather than emerging only in application, the court need not engage in *Pike* balancing. Strict scrutiny is both the correct test and fatal to LEAN.

(b) *7 points.* The response leans on *Exxon v. Maryland*, arguing that the tax component applies evenhandedly to all sellers. That neutral frame carries weight. *Exxon* tells us that the dormant doctrine is not offended simply because a statute burdens some out-of-state firms more heavily in fact. Still, once the analysis moves beyond the tax to the rebate, competitive neutrality evaporates—only Vermont producers can supply the quota that unlocks a cash reward. Because the argument never squarely confronts how the rebate replicates a tariff's protective effect, it is solid but not decisive.

(c) *6 points.* Invoking the market-participant doctrine from *Reeves v. Stake*, the option contends Vermont is merely spending its own money. The problem is conceptual fit. Market-participant immunity protects a state when it is buying or selling in commerce as a private actor would—e.g., purchasing cement in *Reeves*. Here Vermont uses the tax power to coerce private transactions and conditions a public subsidy on intrastate sourcing. It is regulating market structure, not acting as a private buyer. Because the doctrine's boundary is crossed, the defense dulls but does not disable dormant scrutiny.

(d) *6 points.* By stressing purpose—"civic trust" and "community cohesion"—this answer echoes the non-protectionist justification that saved the baitfish ban in *Maine v. Taylor*. Yet *Taylor* also required that the state prove no reasonably available nondiscriminatory alternative could serve the same end. Vermont has not even attempted that showing. Ample policy tools foster civic engagement without conditioning benefits on geography. Good framing of the state's motive earns some credit, but stopping the analysis there leaves the strict-scrutiny obstacle standing.

(e) *6 points.* This answer option stresses that the dormant doctrine guards against economic protectionism, not every parochial value judgment, and therefore casts LEAN as a permissible appeal to localism. It is correct that the Constitution does not forbid an interest in community resilience, but it underestimates how aggressively the Court polices explicit geographic triggers. A statute that conditions cash benefits on in-state sourcing is exactly the kind of economic nationalism the dormant doctrine is meant to suppress, regardless of the sincerity of civic aspirations.

(f) *4 points.* The extraterritoriality critique misfires. Vermont is not dictating how retailers behave in other states. It is incentivising resident consumption choices at home. Extraterritoriality cases typically involve statutes that control transactions completed wholly outside the regulating state. LEAN's reach stops at Vermont's borders, so the argument claims a doctrine that does not neatly apply, leaving the deeper discrimination problem unanswered.

(g) *1 point.* Collapses dormant-clause doctrine into Supremacy-Clause pre-emption, suggesting any conflict with the Clause is automatically pre-empted. The reasoning reverses the hierarchy: dormant-commerce limits bind the state directly through the Constitution. They are not derivative of a federal statute. Consequently the option misses the core analytic structure and earns minimal credit.

(h) *1 point.* Declares that the dormant doctrine constrains only Congress. That premise is the opposite of the law.

(i) *3 points.* Moves immediately to *Pike* balancing, contending that any incidental burden is outweighed by local benefits. Balancing is the correct test only when a statute is *not* discriminatory on its face or in purpose. If LEAN is protectionist—as options (a) and, to a lesser extent, (b) show—strict scrutiny applies and the statute falls without reaching *Pike*. Skipping that threshold step signals doctrinal confusion and keeps the score low.

## Question 4: As-Applied Dormant-Commerce Analysis

(a) *7 points.* This is the strongest invalidation argument. Once the facial claim is off the table, the court turns to the *Pike* balancing test. A nondiscriminatory statute survives unless the burden it imposes on interstate commerce is "clearly excessive in relation to the putative local benefits." Here the burden is substantial because the rebate predictably tilts consumer demand toward Vermont producers, depressing out-of-state sales in a way that can be quantified by market share and price effects. Vermont's cited benefits—civic trust, community cohesion, and democratic engagement—are diffuse and can be pursued by measures that do not distort interstate competition, such as grants to small farms or community-education campaigns. When a concrete economic burden is stacked against broad, non-economic interests that admit of obvious alternatives, *Pike* balancing should come out against the state.

(b) *3 points.* This option re-asserts "express discrimination," but that issue was settled in Question 3. After the facial claim is rejected, the inquiry no longer

focuses on overt geographic triggers. It centers on whether practical effects are disproportionate to local gains. By insisting that rebate incentives are the same thing as textual discrimination, the answer both repeats an argument already lost and fails to engage *Pike*'s cost–benefit framework, so it earns only minimal credit.

(c) *1 point.* Mentions the Supremacy Clause but never applies a recognized preemption test (impossibility, conflict-obstacle, or field). It cites only FCGFTA's purpose clause—"open and unfettered trade"—and supplies no operative provision that actually conflicts with LEAN or makes simultaneous compliance impossible. The response also overlooks Congress's later, more specific FAT. Because it identifies a relevant clause yet provides no coherent statutory-conflict analysis and ignores the controlling chronology, the answer earns the minimum non-zero score.

(d) *2 points.* Invoking a "uniform competition" principle, this answer gestures at the dormant-commerce ideal of a single national market, but it overstates the standard as an absolute rule. *Pike* balancing accepts some disparate commercial impacts so long as they are incidental and justified. Uniformity is a goal, not an on/off switch. The option's failure to weigh Vermont's asserted interests keeps it weak.

(e) *1 point.* This argument says local police-power objectives place the statute beyond dormant-commerce review. Yet the dormant doctrine *is itself* a constraint on state police power. Because the reasoning denies the controlling doctrine outright, it receives the lowest credit.

(f) *3 points.* Here the court is urged to grant rational-basis deference. But *Pike* is more demanding than rational-basis review. It requires the court to weigh interstate burdens against putative benefits. Conflating the two standards reveals doctrinal confusion. Still, the answer at least acknowledges a legitimate state interest, so it earns slightly more than the Tenth-Amendment reprise.

(g) *2 points.* The answer says any burden that "alters interstate competition" is automatically fatal. That overstates *Pike* from the opposite direction. Incidental burdens are tolerated if the benefits are weighty and there is no obvious less-restrictive means. By treating every competitive ripple as dispositive, the option misreads the balancing test and therefore ranks low.

(h) *7 points.* This is the mirror-image high score, defending LEAN under *Pike*. The burden, it argues, is modest because consumers remain free to buy whatever they like. Any market shift is a product of voluntary choices rather than coercive barriers. Meanwhile Vermont's interest in democratic engagement, though intangible, is substantial. The state ties economic behavior to civic participation in a way it claims strengthens local self-government. If the court credits those benefits and views the competitive impact as incidental, the balance tilts toward upholding the law. The analysis squarely applies *Pike* and gives a coherent account of why benefits might outweigh costs, so it receives the same score as option (a) but landing on the opposite side.

## Question 5: Does FAT Authorize LEAN?

(a) *1 point.* Delegation doctrine is largely beside the point. Whether Congress may hand discretion to the states under *Gundy* has no bearing on the separate constitutional requirement that congressional permission to burden interstate commerce be "unmistakably clear." The answer therefore addresses a different constitutional problem and fails to meet the Dormant-Commerce Clause override test.

(b) *2 points.* The Major Questions Doctrine polices agency power, not federal permission for state protectionism. Even if FAT's diction is broad, the override standard comes from Dormant-Commerce cases such as *Western & Southern* and *Prudential Insurance*. MQD plays no role. Recognizing some textual vagueness earns minimal credit, but the analysis misapplies the wrong doctrine.

(c) *5 points.* This answer argues Congress lacks the power because LEAN is "moral, not economic," activity. That line can matter to Commerce-Clause *regulation*, yet an unmistakable-authorization case rests on whether Congress intended to lift dormant constraints, not on how far the commerce power itself stretches. The point is plausible—if LEAN were truly non-economic, the Dormant-Commerce Clause might be irrelevant—but the option never ties that premise back to the override question, leaving the explanation half-finished.

(d) *5 points.* Similar to (c), it claims LEAN is purely intrastate and therefore beyond Congress's commerce power. That observation could undermine the need for an override, but it stops short of assessing the *clarity* of congressional intent, which is what the override doctrine demands. The analysis is coherent but incomplete and thus earns only five points.

(e) *10 points.* FAT speaks in unmistakably clear terms: § 1 announces that "States may adopt community-centric economic incentive programs," while § 3 declares that no such program "shall be deemed to violate any dormant structural inference." The combination of an explicit permission and a disclaimer directed at the Dormant-Commerce Clause tracks the formulation the Court accepted in *Western & Southern*, where Congress expressly lifted dormant limits for certain insurance taxes. Because FAT's language singles out the precise category—rebate incentives tied to local purchases—and negates dormant-clause objections in those very words, it satisfies the clarity standard and fully authorizes LEAN.

(f) *7 points.* Drawing on *South-Central Timber v. Wunnicke*, this answer claims Congress must authorize the *specific* state measure, not a broad class. *Wunnicke* involved a state acting as a market participant, where the Court required "clear and express" permission for the exact restraint imposed. FAT arguably does just that. It names rebate programs rewarding in-state purchasing and disclaims dormant objections. Because there is at least room to debate whether FAT's words are specific enough, the option is plausible but weaker than (e).

(g) *2 points.* Re-labels the override as "federal pre-emption." Pre-emption doctrine asks whether a federal statute displaces state law, but here Congress is *inviting* state regulation that would otherwise violate the Constitution. Calling it pre-emption reverses the logic and fails to engage the clarity inquiry.

(h) *4 points.* Appropriations can signal congressional approval, yet money alone seldom meets the "unmistakably clear" standard. FAT § 3—not § 2's appropriation—is the operative text. Funding merely reinforces that authorization. The answer identifies a relevant fact but overstates its legal sufficiency.

(i) *2 points.* Declares that states need no permission because the Tenth Amendment preserves local authority. That ignores the bedrock doctrine that the Dormant-Commerce Clause limits state measures even within the police power.

## Question 6: Constitutionality of FAT § 2

(a) *6 points.* Congress plainly may regulate activities whose aggregate local effects alter interstate markets. FAT § 2 fits that theory by seeking to offset the nationwide competitive impact of rebate schemes. The answer earns solid credit because it tracks the "substantial-effects" logic that survives *Lopez* and *Morrison*. It stops short of addressing whether encouraging local purchasing

is itself a commercial effect of the necessary magnitude, leaving the argument persuasive but not conclusive.

(b) *6 points.* Relying on *Gibbons v. Ogden*, the option argues that channels and instrumentalities of commerce—including the retail distribution chain—fall within Article I power. That is true as a general proposition, yet FAT § 2 does not regulate shipping lanes or sales logistics. It funds state incentives that may influence where consumers shop. The channels theory only loosely maps onto the statute. The answer is cogent but no stronger than (a).

(c) *1 point.* Announcing that Congress "cannot override the Dormant Commerce Clause" misapprehends the doctrine. The dormant limitation constrains the states. Congress may expressly authorize burdens on interstate trade. The option contradicts the bedrock principle.

(d) *2 points.* Invoking the Tenth Amendment, this answer contends that Congress may not touch "purely local" consumption. Yet *Lopez* and *Morrison* left room for federal regulation when intrastate activity substantially affects interstate commerce, and consumer demand for goods indisputably does so. The objection is noted but seriously underplays established Commerce-Clause reach.

(e) *8 points.* By framing rebate programs as part of a broader economic scheme whose intrastate elements ripple across state lines, the answer tracks the substantial-effects test with precision. Altered consumer incentives can shift supply chains, pricing, and competitive equilibrium nationwide. Congress may rationally determine that those cumulative impacts justify federal involvement. The reasoning is doctrinally tight and nearly complete, falling short of a perfect score only because it omits the independent Spending-Clause ground captured in option (h).

(f) *6 points.* The option stresses that FAT pursues "civic and moral" goals, echoing *Lopez/Morrison* language about noneconomic motives. That point carries weight: a federal law that targets expressive or moral conduct can raise Commerce-Clause doubts. Still, shopping behavior—why and where people buy goods—remains economic activity, and Congress may regulate it when nationwide effects are substantial.

(g) *1 point.* Declaring that the Constitution forbids Congress to support programs with moral or civic objectives ignores the Spending Clause. Article I expressly empowers Congress to "provide for the common Defense and general Welfare,"

and the Court has long viewed that grant as capacious. The argument flatly denies an authority the text supplies.

(h) *10 points.* The Spending Clause offers an independent and fully sufficient basis for § 2. Congress may appropriate funds to advance any objective it reasonably regards as serving the general welfare, even where it could not regulate directly under the Commerce Clause. By setting aside regulatory power and locating constitutional authority in the purse, the answer sidesteps the *Lopez*-line debate altogether and tracks settled doctrine that affirms broad fiscal discretion. It therefore earns the maximum score.

## Question 7: FAT § 5 Delegation?

(a) *8 points.* This option embraces the modern "intelligible-principle" test. FAT tells the Treasury Secretary to support state programs that "reward in-state commercial engagement" and enhance "economic resilience" and "civic participation," then cabins discretion further by capping the funding pool and by requiring alignment with § 3's express statement of purpose. That combination—policy goal, targeted subject matter, and finite budget—mirrors the breadth upheld in *Gundy*, where "feasible" and "appropriate" were enough guidance for the Attorney General. Because the agencies here must aim at a narrow band of programs and spend within a fixed appropriation, the delegation is comfortably within contemporary limits, even if critics regard those limits as lax.

(b) *6 points.* Pointing to *Panama Refining* and *Schechter Poultry*, this argument stresses that Congress may not hand over "broad discretionary authority without limiting principles." FAT's operative phrase—"aligns with the statute's purpose"—is undeniably open-textured, and the Secretary could, in theory, deny every application or approve wildly inconsistent criteria. Still, those early New-Deal cases have not been used to strike down a statute for ninety years, and FAT at least supplies thematic boundaries plus an appropriation ceiling. The critique is forceful in principle but less so in today's doctrinal climate, yielding a solid yet not top score.

(c) *5 points.* This option refines the prior critique: Congress must do more than state aspirations, it must supply "concrete standards or rules." By demanding specific benchmarks—minimum local-purchase percentages, eligibility formulas, or objective scoring—the answer exposes a real vulnerability. Agencies

could evaluate programs in inconsistent, politicized ways. Yet the intelligible-principle test has tolerated far broader mandates, and FAT's cross-reference to § 1's definition of "community-centric economic incentive" narrows the field substantially. The objection is well-framed but doctrinally incomplete.

(d) *3 points.* Framing § 5 as an incursion on executive rather than legislative power flips the usual delegation concern. Congress does direct the Secretary to respect statutory purposes, but that is no more "micromanagement" than countless spending statutes specifying program goals. Because the claim misidentifies which branch is supposedly aggrandized, the explanation is coherent but weak.

(e) *3 points.* Invoking the Major Questions Doctrine, this answer claims Congress must speak with extra clarity when delegating on matters of "vast economic and political significance." FAT's $2 billion pool is sizable but modest by federal-budget standards, and the statute does not transform an entire regulatory field. It parcels out grants. MQD arguments thus seem exaggerated, and without a hook like "carbon regulation" or "student-loan forgiveness" the doctrine's heightened-clarity trigger is doubtful. The critique earns some credit but remains under-persuasive.

(f) *3 points.* The absolute anti-delegation stance—Congress "cannot" delegate legislative power at all—conflicts with every modern case from *J. W. Hampton* forward. Some credit for recognizing the theoretical principle against delegation of legislative power.

(g) *2 points.* The Appropriations Clause requires that money be drawn "in consequence of appropriations made by law," but it has never been read to forbid agencies from making eligibility determinations once Congress sets a spending ceiling and clarifies objectives. Treasury routinely administers discretionary grant programs. § 5 follows the same model. The claim therefore misunderstands the Clause's purpose.

(h) *1 point.* Declaring delegation questions "non-justiciable political questions" misreads *Baker v. Carr*, which treats outer limits on delegation as fully justiciable. Courts have repeatedly reviewed—and sometimes invalidated—federal delegations. Nothing in § 5 places the issue beyond judicial competence. Because the premise is facially incorrect, the answer receives the lowest score.

## Question 8: FAT § 4 Jurisdiction Stripping

(a) *6 points.* Congress enjoys broad Article III power to define and limit federal-court jurisdiction. Under the Exceptions Clause, it may withhold particular categories of appellate review so long as some judicial forum remains, and *Ex parte McCardle* confirms that withdrawing a route to Supreme Court review, even in a pending case, is generally permissible. FAT § 4 leaves state courts open, so litigants are not left remediless. The weakness is that the provision also denies the Supreme Court any avenue to ensure national uniformity on a federal question. *Martin v. Hunter's Lessee* suggests Congress may not entirely cut the Court out where a constitutional issue is at stake. This answer recognizes the core of congressional authority yet understates that limitation.

(b) *4 points.* Citing *United States v. Klein*, the answer argues that FAT § 4 effectively directs outcomes by shielding a favored class of state laws from review. *Klein* stands for the rule that Congress may not prescribe a rule of decision in pending cases or manipulate jurisdiction as a means of dictating results. FAT § 4, however, does not command courts to decide a case one way or another. It merely removes federal fora. Because the *Klein* analogy is debatable—there is no explicit rule of decision—the objection has some bite but lands below the strongest explanations.

(c) *1 point.* The response claims that Congress may limit review because the Dormant Commerce Clause is "only" a judicial inference, not an express constitutional text. Yet Article VI makes no distinction between textual and structural provisions—both are "supreme law." Stripping jurisdiction over a live constitutional claim is not automatically valid merely because the doctrine arises by inference. The argument therefore misses the real constraints on jurisdiction stripping.

(d) *1 point.* This option treats congressional control over jurisdiction as nearly plenary, asserting that courts are creatures of statute and that judicial supremacy is "tradition, not a requirement." While Congress can shape jurisdiction, *Martin v. Hunter's Lessee* and the Supremacy Clause together establish that some federal forum must remain to ensure uniform interpretation of federal law. By denying any constitutional floor for Supreme Court review of federal questions, the answer contradicts that bedrock principle.

(e) *8 points.* FAT § 4's blanket bar on "any claim" challenging rebate programs eliminates every federal pathway—including Supreme Court review—for a cat-

egory of constitutional questions. That complete divestiture collides with *Martin v. Hunter's Lessee*, which held that Congress may channel but not entirely foreclose Supreme Court oversight of federal issues decided in state courts. The provision therefore does more than create an exception. It insulates state decisions from national correction, undermining uniformity and the supremacy of federal law. Because the analysis pinpoints the dispositive limit on Congress's Exceptions-Clause power, it earns the highest score.

## Question 9: Impoundment

(a) *6 points.* The answer leans on *Humphrey's Executor*. When Congress vests officials with quasi-legislative or quasi-adjudicative duties, those officers exercise independent judgment that the President may not dictate in detail. Because § 5 assigns eligibility decisions to the Treasury Secretary and OMB Director, presidential power ostensibly shrinks. The analysis captures a genuine separation-of-powers limit yet underplays two countervailing facts—both officials are removable at will, and FAT leaves the ultimate spending decision to executive discretion—so the suspension is not necessarily *ultra vires*. Sound but not decisive.

(b) *9 points.* The strongest objection. By signing FAT the President converted it into "the Law," triggering his Take-Care duty. Under *Youngstown* Category III, the President's authority is at its "lowest ebb" when he acts contrary to a congressional command. Refusing to release appropriated funds squarely conflicts with § 2's mandate that money "shall be available" to qualifying states. Unless a court first holds FAT unconstitutional, faithful execution requires disbursement. A presidential belief—however sincere—that the statute offends the Dormant Commerce Clause does not license unilateral nullification.

(c) *8 points.* The President's oath obliges him to defend the Constitution, and signing statements can reserve objections. However, *Youngstown* holds that courts, not the President, have the last word on statutory validity once Congress has spoken. The option earns high credit for articulating the constitutional-duty theory but falls short of (b) because it fails to acknowledge judicial supremacy.

(d) *4 points.* The claim that the signing statement *itself* justifies suspension weakens the legal analysis. A signing statement may inform interpretation but cannot override an enacted statute. Congress neither amended nor accepted the President's reservations. Because the argument rests almost entirely on the statement's supposed legal force, it receives limited credit.

(e) *7 points.* Here the pause is cast as permissible supervision of agency discretion. FAT does not compel immediate payment. § 5 conditions release on an eligibility determination, and § 2 lacks a hard deadline. Directing subordinates to freeze disbursements pending constitutional review therefore looks like case-by-case management, not flat refusal. The reasoning is persuasive so long as the pause remains temporary and tethered to the statute's built-in discretion.

(f) *7 points.* Option (f) echoes (e) but emphasizes that the Secretary and OMB already enjoy broad latitude. The President, as head of the executive branch, may provide guidance on how to deploy that latitude—including the tempo of payments. Because the distinction between a "pause" and an outright refusal is well drawn, the option earns the same strong score as (e).

(g) *4 points.* Invoking the unitary-executive thesis, this answer asserts the President may override any subordinate at will. Article II does grant removal power, yet it does not follow that the President may countermand statutory duties Congress has assigned. *Youngstown* still governs when presidential directives collide with clear legislative instructions. The theory therefore provides only partial support.

(h) *3 points.* The claim that the President may choose which laws to enforce conflates prosecutorial discretion with wholesale suspension. Selective non-enforcement of individual cases is one thing—freezing an entire appropriations program Congress has funded is another. By glossing over that distinction, the answer weakens its doctrinal footing.

(i) *2 points.* Labeling the signing statement a "line-item veto" misstates constitutional procedure. The Supreme Court struck down actual line-item vetoes, and a signing statement cannot resurrect that authority.

(j) *1 point.* Asserting that the President's constitutional interpretations bind all branches contradicts *Marbury v. Madison.* Judicial review, not executive fiat, supplies the final word on constitutionality. The option therefore receives the lowest score.

(k) *7 points.* This answer notes that FAT leaves meaningful gaps. Neither timing nor methodology of disbursement is fixed. In areas of concurrent authority the President may guide implementation unless Congress unmistakably forecloses his policy. A court could therefore sustain a temporary hold—especially one framed as careful constitutional vetting—while still rejecting a permanent refusal. The nuanced assessment merits a high but not top score.

## Question 10: President Justiciability

(a) *3 points.* This answer assumes any breach of the Take-Care Clause automatically supplies standing. But Article III injury turns on a concrete, court-remediable harm. The President already wields supervision and removal authority over the defendants. If those tools suffice, a decree adds nothing the courts can meaningfully redress. The explanation nods toward enforcement duty yet fails to engage the twin barriers of redressability (unitary frame) and injury-in-fact (non-unitary frame), so it earns only modest credit.

(b) *3 points.* Reserving objections in a signing statement does not, by itself, create a personal stake. A "reserved" viewpoint is intangible. Courts do not police internal disagreements absent a legal consequence such as lost power, salary, or property. Because the statement neither changed the statute nor stripped the President of authority, the alleged injury remains abstract and the argument weak.

(c) *10 points.* This is the clearest dismissal theory. If the executive is unitary, the President can order subordinates to comply—redressability fails. If the executive is legally divided, the subordinates' discretion breaks the causal chain—injury-in-fact fails. Either way, one indispensable standing element is missing. The neat, exhaustive logic covers all analytic ground and therefore receives full marks.

(d) *9 points.* The Take-Care Clause imposes a political, not judicially enforceable, obligation. *Youngstown* and *United States v. Nixon* confirm that courts resolve rights, not intrabranch management quarrels. Asking a court to referee how vigorously executive officers heed presidential direction risks treading on separation-of-powers functions textually committed to the President. Because the answer squarely frames *Baker*-style "textual commitment" and "no judicially discoverable standards," it ranks just below the logically airtight option (c).

(e) *4 points.* Genuine adverseness can exist within one branch, but more is needed. The President must still show a personal, legally cognizable stake together with redressability. By treating opposition alone as sufficient, the explanation captures only a fragment of the standing test and earns limited credit.

(f) *7 points. Ultra vires* review of executive action is a familiar basis for jurisdiction. Courts routinely hear suits alleging officers exceeded statutory limits.

Here, however, the plaintiff is the President, not an injured private party, and the officers' discretion comes straight from a statute the President signed. The argument appreciates the historic availability of *ultra vires* actions yet understates the Article III difficulties specific to intra-executive litigation, so it receives a strong but not top score.

(g) *10 points.* The Political-Question Doctrine bars claims where a matter is textually committed to another branch and lacks manageable standards. Execution of the laws sits squarely with the President, and *Baker* factor 1 (textual commitment) together with factor 6 (potential embarrassment from judicial intervention) both apply. The answer adds that courts would be forced to grade discretionary enforcement—precisely the sort of "no law to apply" situation *Baker* warns against. Because the reasoning maps each element precisely, it earns a perfect score alongside option (c).

(h) *1 point.* The notion that executive constitutional interpretations bind the judiciary is the inverse of *Marbury v. Madison*. Judicial review resolves constitutional meaning for all parties, including the President.

(i) *1 point.* Treating the signing statement as a "constitutional veto" mischaracterizes the signing process. A statute is either signed (and thus law) or vetoed and returned. There is no middle status.

(j) *4 points.* The President's loss of "interpretative primacy" can constitute an institutional affront, but standing doctrine disfavors purely ideological injuries. Without a concrete loss of power or remedy that a court can supply, the argument struggles on injury and redressability. It is more plausible than options (h) and (i) yet well short of persuasive.

## Question 11: Vermont Justiciability?

(a) *7 points.* This argument contends that until Treasury acts there is no concrete denial and thus no certain fiscal shortfall. Ripeness doctrine guards against premature litigation by insisting on an "imminent" injury and a record sufficiently developed to permit judicial review. Because FAT leaves the Secretary broad latitude and no statutory deadline, the state's projected funding gap rests on contingencies—the President might relent, Treasury might approve in part, or Congress might amend FAT—so the harm, while plausible, remains somewhat speculative. The analysis acknowledges that planning costs and unstable budgets impose genuine pressure on the state, which is why the score is

solid rather than low, but it ultimately deems those pressures too conjectural for Article III.

(b) *5 points.* Labeling the claim a "generalized grievance" recognizes that many states could stake the same objection. All eligible jurisdictions face the same freeze. Courts do reject suits that merely contest broad policy. Yet a sovereign state can assert *parens patriae* or proprietary interests distinct from the public at large—here, depletion of its own Community Integrity Fund and disruption of state finances. Because the answer overlooks that a state may stand in a different legal posture from ordinary citizens, it captures only half the justiciability picture.

(c) *9 points.* This option pinpoints ripeness with precision. Vermont's injury hinges on several uncertain events: Treasury must either deny or unreasonably delay the application; OMB must refuse to schedule disbursements; the Community Fund must actually fall short. Without "final agency action," judicial intervention risks being an advisory opinion. The doctrine's twin tests—fitness for review and hardship to the parties—both tilt against hearing the case now. The legal issues may shift once Treasury decides, and Vermont can still revise its budget or tax policy in the interim. By mapping each contingency and applying ripeness step-by-step, the explanation earns the top score.

(d) *3 points.* Declaring the controversy "moot" misfires. Mootness presupposes that the dispute was once live but has been extinguished. The central question in this case—whether Vermont will receive federal money—has never been resolved. A funding pause does not settle the merits. If anything, it keeps the controversy alive. The doctrine invoked is therefore inapposite, yet the answer at least recognizes the continuing freeze, so it secures a few points.

(e) *6 points.* Vermont invokes a concrete fiscal injury: it has already paid out $160 million in rebates and warns of insolvency absent federal support. Budgetary depletion, borrowing costs, and the risk of scaling back statutory benefits can satisfy injury-in-fact, as *Massachusetts v. EPA* illustrates. Still, the state must show those costs are neither self-inflicted nor too speculative. Because the option presents a credible injury theory yet does not grapple fully with causation (whether the President's freeze, rather than the state's own rebate timing, caused the shortfall), it earns a strong but not leading score.

(f) *2 points.* The political-question objection treats federal-funding administration as "exclusively" committed to the political branches. But courts routinely adju-

dicate statutory claims under the Appropriations Clause and APA—particularly allegations that agencies withheld or unreasonably delayed obligated funds. Nothing in FAT suggests Congress meant to insulate eligibility disputes from judicial review (contrast § 4, which does attempt such insulation). The answer therefore misapplies *Baker* factors and receives minimal credit.