

Dear Paul,

It was nice to see you last week and catch up on some things. Per your request, I have done a little research on the story behind the Coburn Amendment and I have a few thoughts. There are three main provisions in the Amendment, but I assumed that section 1503(b) prohibiting the use of NOAA funds for meetings has caused the most concern.

Section 1503(b) states that “no funds made available by the Administrator through a grant or contract may be used by the person who received such grant or contract, including any subcontractor to such person, for a banquet or conference, other than a conference related to training or a routine meeting with officers or employees of the Administration to discuss an ongoing project or training.”

First, I think the Amendment should be read in light of the scandal that led to its introduction and Senator Coburn’s larger campaign to curb federal travel spending. Information on Senator Coburn’s crusade is available at http://coburn.senate.gov/ffm/index.cfm?FuseAction=Issues.View&Issue_Id=fe1a8e42-802a-23ad-4314-b2f908805a8d .

The Amendment was introduced as a direct response to a story in the *Baltimore Sun* regarding the lack of NOAA oversight regarding the Oyster Recovery Partnership. Senator Coburn’s hackles were obviously raised by a \$46,000 annual meeting at a golf resort and spa. This is consistent with his recent attempts to curb agency travel spending.

A statement (attached) by Senator Coburn last September prior to a hearing on federal agency conference spending is enlightening. Senator Coburn stated that some conferences are legitimate, but he believes that “every conference should be readily defensible, on its face, to regular Americans in terms of topic, location and participants.” He suggests that agencies ensure that every conference attended by Federal employees passes the following tests:

- 1) Does the conference help further the Department’s mission?
- 2) Could the information be shared through another means such as a teleconference or the Internet?
- 3) Is the location appropriate and justified? What would the average American think about their tax dollars being spent on this conference in this location?
- 4) Is the number of employees attending justified?
- 5) Does participation in the conference validate or endorse ideas or values harmful to American interests and culture?
- 6) Does the conference give a platform to ideas and panelists who undermine American interests?
- 7) Is this a wise use of tax dollars when we have an \$8 trillion+ national debt?
- 8) Is it a “must-do” for efficiency and economy for the Department?

An exchange on the Floor of the Senate during the reading of the amendment provides further context. Senator Bingaman spoke against Amendment 922 on behalf of Senator

Inouye. He stated that “One of the basic activities scientists and engineers engage in is doing their research and then presenting that research at conferences so they can have reaction from their colleagues and peers and have an interchange about the validity of the work they have done. This would prohibit the use of funds for that purpose, which is one reason it would be objectionable.” (Cong. Rec. S5051 (daily ed. Apr. 25, 2007)). Senator Coburn responded that the amendment “doesn’t stop meetings. This doesn’t stop any legitimate function. This was a golf tournament and a meeting for 2 days that cost \$46,000 in federal funds.” (Cong. Rec. S5052 (daily ed. Apr. 25, 2007)).

Although the Amendment’s language is vague, it is not open-ended. In my opinion, it could be interpreted to exclude from the prohibition the vast majority of Sea Grant-funded conferences and meetings. Given Sea Grant’s mandate to conduct research, education, and outreach activities, almost all of the conferences and meeting organized by Sea Grant are “related to training” some segment of the population. I would argue that even large meetings sponsored by NOAA in wonderful locations, such as Coastal Zone and GeoTools, clearly qualify as “related to training.” There are numerous technical training sessions at Coastal Zone and most presentations relate to the dissemination of research results or management tools.

While there is always some cause to be concerned whenever there is a knee-jerk reaction to a news expose, I think there is already enough evidence in the legislative history (the Congressional Record) to exclude Sea Grant-funded activities from the prohibition. While legislative history will not be used by courts to disregard the plain meaning of a statute, it is often used by federal agencies and attorneys to determine Congressional intent of a particular law. Where the plain text is somewhat ambiguous, as with the Coburn amendment, the legislative history will be instructive if the bill passes and NOAA is required to restrict funding. It would have been a lot easier if Senator Coburn had put his eight-part test in the bill.

Thank you for bringing this matter to the Law Center’s attention. If you have any follow-up questions or would like additional information, just let me know.

Sincerely,