

HOW TO KEEP THE PROMISE TO REINVENT GOVERNMENT: ABOLISH THE ICC

In an attempt to help the Clinton Administration follow through on last year's promised "reinvention" of government, Representatives John Kasich (R-OH), Joel Hefley (R-CO), Gary Condit (D-CA), Christopher Cox (R-CA), and Tom DeLay (R-TX) are proposing an amendment to H.R. 4556, the Transportation Appropriation Bill of 1995 that will abolish the Interstate Commerce Commission (ICC). The amendment, which could be voted on as early as tomorrow, is based loosely on a proposal originally rumored to be part of the Administration's first draft of the National Performance Review, although it was not contained in the final version. An identical version of the amendment fell just eleven votes short of passage in the House of Representatives and received 39 votes in the Senate last year.

The amendment would begin a two-step process that eliminates all Fiscal Year 1995 funding for the ICC and then transfers the agency's remaining responsibilities to the Department of Transportation (DOT). The Congressional Budget Office has estimated that the transfer would save between \$15 million and \$45 million the first year and between approximately \$30 million and \$50 million in following years. Although the ICC disputes the need for reform and the level of the resulting budgetary savings, even the Commission itself acknowledges that at least \$2 million would be saved in the first year with \$37 million in savings to follow over the next five years. The transfer of authority would not increase the DOT's operating expenses, however, since the DOT would not be allowed to expand their workforce in response to the amendment. Therefore, net savings to taxpayers would be substantial.

Long and Less-Than-Successful History. Created by the Interstate Commerce Act of 1887 to oversee the nation's rapidly expanding railroad industry, the ICC is the nation's oldest federal regulatory agency. Over the next half century of its existence, and especially with the enactment of the Motor Carrier Act of 1935, the ICC's powers were greatly expanded to include trucking, barges, buses, freight forwarders, and express companies, in addition to railroads. The ICC's primary responsibility was the control of how firms move into and out of the regulated sectors, and the regulation of rates charged by those firms to ensure they were "just and reasonable." This meant firms regulated by the ICC could service only specific areas, and could be required to continue service even if it was unprofitable. For example, a trucking firm might have been required to provide service from City A to City C by going well out of their way to service City B in route, regardless of how unprofitable it was to do so. Businesses were also required to file rate schedules or "tariffs" detailing their service charges, which the ICC had the power to reject.

The effect of these ICC regulations was the creation of transportation cartels, limited consumer choice, and reduced service quality. Because of these problems, in 1980, with President Jimmy Carter's encouragement, Congress passed three bills that greatly deregulated the trucking, railroad, and moving industries. The Motor Carrier Act of 1980, the Staggers Rail Act of 1980, and the Household Goods Transportation Act of 1980, provided those sectors with rate-making flexibility and allowed easier market entry and exit. Two years later, the Bus Regulatory Reform Act of 1982 did the same for the bus industry. Thomas Gale Moore, senior fellow with the Hoover Institution in California, notes of motor carrier deregulation: "It has been highly successful. Rates have decreased; service has improved; shippers are pleased with the results."¹ Likewise, Tim W. Ferguson of *The Wall Street Journal* notes, "Trucking, indeed the whole interstate freight industry, has been made razor sharp by federal deregulation.... Extraordinary gains for shippers and therefore consumers have resulted, not only in price but performance."²

In effect, deregulation has made the ICC's job nearly obsolete, since the agency no longer has the explicit authority to set rates or determine market entry and exit. Accordingly, staffing has fallen from approximately 2,000 in 1980 to just over 600 today. Yet, a handful of administrative regulations remain in force, including the requirements that carriers receive formal permission to operate and that they file rate tariffs with the ICC. Since the ICC now has little power to deny entry or regulate rates, its only function today seems to be to impose a paperwork burden.

Consolidating the ICC into the DOT. Recognizing that the remaining ICC tasks do not require the existence of a separate bureaucracy, the amendment before Congress would transfer these responsibilities to the DOT. But to ensure the DOT cannot use the consolidation as an excuse to increase the size of its own bureaucracy, the amendment would force them to handle their modest new responsibilities with existing resources.

This would be a wise move since the ICC's remaining tasks are primarily administrative and could easily be carried out by the DOT. In addition, since the amendment requires that the DOT administer its new responsibilities with existing resources, it would encourage the agency to eliminate inefficient regulations that no longer serve a purpose, such as the current rate-filing provisions. The General Accounting Office (GAO) has stated that such regulations are merely formalities. If the motor carrier rate and entry regulations were abolished, the GAO has estimated it would save the ICC approximately \$17 million per year.³ Even ICC Vice Chairman Karen Borlaug Phillips has testified to Congress that economic regulation of the trucking industry is inefficient and should be reduced.⁴ Finally, Thomas Gale Moore estimates that the complete elimination of all remaining federal and state motor carrier regulation would result in approximately \$12 billion in savings for the economy each year.⁵

Chance to Keep Reinvention Promise. Congress and President Clinton now have an opportunity to make good on the promise of serious government reform by abolishing the Interstate Commerce Commission and transferring its remaining functions to the Department of Transportation. Its mission is now redundant and a waste of taxpayer dollars. Consumers and the commercial sector would both benefit from the eventual elimination of the agency's inefficient and costly regulations. If the ICC remains, only bureaucrats will benefit.

Adam D. Thierer
Policy Analyst

-
- 1 Thomas Gale Moore, "Unfinished Business in Motor Carrier Deregulation," *Regulation*, Summer 1991, p. 52.
 - 2 Tim W. Ferguson, "Deregulation Delivers the Goods," *The Wall Street Journal*, June 29, 1993, p. A19.
 - 3 Kenneth M. Mead, *Interstate Commerce Commission: Transferring the ICC's Rail Regulatory Responsibilities May Not Achieve Desired Effects*, U.S. General Accounting Office, GAO/RCED-94-222, June 9, 1994, p. 10.
 - 4 Karen Borlaug Phillips, Testimony Before the U.S. House of Representatives Surface Transportation Subcommittee of the Committee on Public Works and Transportation and Subcommittee on Transportation and Hazardous Materials Committee of the Committee on Energy and Commerce, June 9, 1994.
 - 5 Moore, *op. cit.*, p. 54.