

NATIONAL GAMBLING IMPACT AND POLICY COMMISSION
ACT

DECEMBER 21, 1995.—Ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 497]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 497) to create the National Gambling Impact and Policy Commission, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Gambling Impact and Policy Commission Act”.

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Gambling Impact and Policy Commission (in this Act referred to as the “Commission”).

SEC. 3. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—

(1) **GENERALLY.**—The Commission shall be composed of 9 members, appointed from persons specially qualified by training and experience to perform the duties of the Commission, as follows:

(A) three appointed by the Speaker of the House of Representatives;

(B) three appointed by the majority leader of the Senate; and

(C) three appointed by the President of the United States.

(2) **CONSULTATION BEFORE APPOINTMENT.**—Before the appointment of members of the Commission (including to any vacancies), the appointing authorities shall consult with each other to assure that the overall membership of the Commission reflects a fair and equitable representation of various points of view.

(3) **TIMING OF APPOINTMENTS.**—The appointing authorities shall make their appointments to the Commission not later than 60 days after the date of the enactment of this Act.

(b) **DESIGNATION OF THE CHAIRMAN.**—The Speaker of the House of Representatives and majority leader of the Senate shall designate a Chairman and Vice Chairman from among the members of the Commission.

(c) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **INITIAL MEETING.**—No later than 60 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) **MEETINGS.**—The Commission shall meet at the call of the Chairman.

(f) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 4. DUTIES OF THE COMMISSION.

(a) **STUDY.**—

(1) **IN GENERAL.**—It shall be the duty of the Commission to conduct a comprehensive legal and factual study of—

(A) gambling in the United States, including State-sponsored lotteries, casino gambling, pari-mutuel betting, and sports betting; and

(B) existing Federal, State, and local policy and practices with respect to the legislation or prohibition of gambling activities and to formulate and propose such changes in those policies and practices as the Commission shall deem appropriate.

(2) **MATTERS STUDIED.**—The matters studied by the Commission shall include—

(A) the economic impact of gambling on the United States, States, political subdivisions of States, and Indian tribes, both in its positive and negative aspects;

(B) the economic impact of gambling on other businesses;

(C) an assessment and review of political contributions and their influence on the development of public policy regulating gambling;

(D) an assessment of the relationship between gambling and crime;

(E) an assessment of the impact of pathological, or problem gambling on individuals, families, social institutions, criminal activity and the economy;

(F) a review of the demographics of gamblers;

(G) a review of the effectiveness of existing practices in law enforcement, judicial administration, and corrections to combat and deter illegal gambling and illegal activities related to gambling;

(H) a review of the costs and effectiveness of State and Federal gambling regulatory polity, including as it relates to Indian gambling;

(I) an assessment of the effects of advertising concerning gambling, including—

(i) whether advertising has increased participation in gambling activity;

(ii) the effects of various types of advertising, including the sponsorship of sporting events;

(iii) the relationship between advertising and the amount of the prize to be awarded; and

(iv) an examination of State lottery advertising practices, including the process by which States award lottery advertising contracts;

(J) a review of gambling that uses interactive technology, including the Internet;

(K) a review of the extent to which casino gambling provides economic opportunity to residents of economically depressed regions and to Indian tribes;

(L) a review of the effect of revenues derived from State-sponsored gambling on State budgets; and

(M) such other relevant issues and topics as considered appropriate by the Chairman of the Commission

(b) REPORT.—No later than 2 years after the Commission first meets, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS AND SUBPOENAS.—

(1) The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, receive such evidence, and require by subpoena the attendance and testimony of such witnesses and the production of such materials as the Commission considers advisable to carry out the purposes of this Act.

(2) ATTENDANCE OF WITNESSES.—The attendance of witnesses and the production of evidence may be required from any place within the United States.

(3) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(4) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(5) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency may furnish such information to the Commission.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(A) COMPENSATION OF MEMBERS.—Subject to the limitation provided in subsection (e), each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States

shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—Subject to the limitation provided in subsection (e), the members of the Commission shall be allowed travel expenses, including per diem in lieu of substance, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes of regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—Subject to the requirements of subsection (e), the executive director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, the Chairman of the Commission may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) LIMITATION.—No payment may be made under the authority of this section except to the extent provided for in advance in an appropriation for this purpose.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 4.

PURPOSE AND SUMMARY

H.R. 497 would establish a national commission to study the impact of gambling. The nine-member commission would conduct the study over a two-year period. The bill specifies a number of topics that the Commission will study encompassing many aspects of gambling. At the conclusion of its study, the Commission will make recommendations as to any appropriate changes to gambling policy. After completing its study, the Commission will terminate its existence.

BACKGROUND AND NEED FOR THE LEGISLATION

Background

The Commission on the Review of the National Policy Toward Gambling published the federal government's last national study of gambling in 1976. Since that time, legalized gambling has grown exponentially. According to the American Gaming Association (AGA), some form of legalized gambling now exists in 48 of the 50 states. Thirty-six states and the District of Columbia now have state lotteries—rapid growth from the one state lottery begun by New Hampshire in 1963. The AGA reports that in 1994, Americans made more than 125 million visits to casinos. In short, legalized gambling is now a significant social and economic force in this country.

Under current law, most gambling operations are regulated by state law, either through state-sponsored gambling like lotteries or through state regulation of private gambling operations. The opponents of gambling claim that in legislative battles in the states,

those who gambling have vast amounts of money to spend on lobbying, whereas the opponents usually do not. As a result, the opponents say, the voices of those favoring gambling drown out those who oppose gambling. In these forums, supporters of gambling typically argue that legalized gambling will provide jobs and generate tax revenues. These claims of painless revenue generation can be attractive politically.

Legalized gambling may have negative effects. These effects include increased crime in the areas around gambling establishments and increased incidence of compulsive gambling. At its hearing on H.R. 497, the Committee heard testimony about the human costs resulting from problem gambling. All of these problems have ripple effects—for example, negative effects on family members and family life, increased criminal justice costs, increased welfare costs, and lost productivity. The Committee also heard economic analysis about the negative effects of gambling on other businesses. For example, gambling opponents argue that the number of restaurants in Atlantic City, New Jersey dropped dramatically after the advent of casino gambling because the casinos drew money out of those businesses. All of this testimony revealed the social costs of gambling that may go uncounted.

At the hearing, gambling proponents countered that any increased crime surrounding gambling operations is nothing more than the natural result of the increased number of people in the area. They argued that a similar effect occurs around other entertainment attractions. Likewise, they contended that gambling operations do not draw dollars out of surrounding businesses more than any other entertainment business does. Finally, supporters of gambling acknowledged the existence of problem gambling, but contended that the industry is making efforts to address it.

Debates over whether to legalize various forms of gambling in the states do not end the issue—other facets of gambling also contribute to the overall picture. Gambling operations run by Indian tribes have grown rapidly since the passage of the Indian Gaming Regulatory Act, a federal law passed in 1988. Many state government officials feel that, under this law, they do not have sufficient control over Indian gambling operations within their states and that Indian gambling operations have negative side effects on surrounding areas. On the other hand, the Indian tribes that have decided to undertake gambling operations generally feel that those operations have provided unprecedented economic opportunity to their members. Indian tribes, for example, have used gambling revenues to build houses, schools, roads, water and sewer systems, and health care facilities for their people.

Illegal gambling operations also exist on a remarkable scale. At its hearing, the Committee listened to testimony from a former mob bookmaker from Chicago now turned government informant. This informant testified about the vast size of illegal gambling operations. He also testified that illegal gambling operations welcome new forms of legalized gambling because they teach more and more people to gamble thereby increasing the number of illegal gamblers. Given that testimony, illegal gambling must be treated, along with legalized gambling, as part of one large interrelated issue.

The testimony about the social costs and problems associated with gambling operations, as well as the testimony about the positive effects of gambling raise serious questions that should be thoroughly examined by an unbiased body. As a result, the Committee believes that there should be a comprehensive study of the impact of gambling nationwide. The tremendous growth of all forms of gambling is a national issue. Once the Commission completes its study, policymakers at all levels of government will have access to a broad array of information so that they can make the best possible judgments.

The Hyde substitute

Notwithstanding the demonstrated need for a study, a number of groups raised concerns about the language of H.R. 497 as introduced. In an effort to improve the bill, Chairman Hyde drafted an amendment in the nature of a substitute which addressed several of the issues raised by critics. At the markup on November 8, 1995, the Committee adopted the Hyde substitute by voice vote and rejected all other amendments to the substitute.

Initially, H.R. 497 established a nine-member Commission, with one member required to be a Governor of a State. This requirement caused some concern among various groups who felt that they, too, should have a specific Commissioner appointed to safeguard their respective interest. The Hyde substitute deletes the language that specifies that a Governor must be on the Commission. The appointing authorities may choose any nine members whom they believe will do the best and most effective job. Rather than dictate the actual makeup of the Commission, the Hyde substitute adds language requiring the appointing authorities to consult with one another to guarantee that the overall makeup of the Commission will reflect a fair and equitable representation of various points of view.

The Hyde substitute modifies several areas of study included in the original bill to assure the most thorough results possible. For example, some Committee members expressed concern that some types of gambling would not be part of the Commission's study. The substitute clarifies that the Commission is to study all forms of commercial gambling, including state lotteries, casino gambling, pari-mutuel betting, and sports betting. The substitute also adds language to focus the Commission's attention on the effect revenues derived from State-sponsored gambling may have on State budgets.

Other critics of the bill, especially representatives of Indian gambling, feared that the Commission would not study positive economic effects of gambling. Although they do not object to a careful review of the overall economic impact, these groups believe that gambling generates substantial revenue and many positive effects for Indian tribes. The Hyde substitute adds language to ensure that both the positive and negative economic aspects of gambling will be considered. It also adds language to further guarantee that the Commission will study the extent to which casino gambling provides economic opportunity for economically depressed regions and Indian tribes.

The section of the bill directing the Commission to study whether the States, rather than the Federal government, should regulate Indian gambling also trouble Indian gambling operators. These

groups relied on the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §2701 et seq., as well as the Supreme Court's decision in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), to bolster their claim that the regulation of Indian gambling is a matter exclusively within the jurisdiction of the Federal government. The Hyde substitute narrows the language, but takes into account both the States' interests and the Indians' concerns. Specifically, it directs the Commission to review the costs and effectiveness of State and Federal gambling regulatory policy, including as they may relate to Indian gambling.

Critics also questioned the requirement that the Commission only study the political contributions of gambling businesses and promoters. The Hyde substitute clarifies that the study of political contributions will include all contributions that influence public policy on gambling, not just those of gambling operators.

Members of the Committee expressed particular concern about the issue of advertising about gambling activities. The Hyde substitute adds detailed language directing the Commission to assess the impact gambling advertising may have including: whether participation in gambling has increased due to advertising, the effects of various types of gambling advertising, the relationship between advertising and the amount of the prize to be awarded, and an examination of state lottery advertising practices.

Witnesses at the hearing expressed interest in the spread of gambling through interactive technologies. The Hyde substitute adds language requiring the Commission to review interactive gambling, specifically gambling on the Internet.

The Hyde substitute shortens the period for the Commission's study. The substitute makes the report due two years after the Commission's initial meeting, rather than three. The Committee believes this is a much needed study, and this modification will expedite the Commission's efforts. Moreover, shortening the time period for the study will reduce the costs involved.

Finally, the Hyde substitute adds section 6(e) and related language, to clarify that the salaries and travel expenses authorized in H.R. 497 should not be construed as entitlements. This change assures that the Committee's responsibilities under the budget resolution are not altered because of this bill. Other technical and conforming changes were also made in the Hyde substitute.

Specific issues

Federal jurisdiction

Some critics of H.R. 497 have argued that because of the Tenth Amendment, Congress has no power to establish the Commission. This argument fails for several reasons. The critics based this argument on the premise that this Commission would regulate gambling and that the regulation of gambling has traditionally been a state matter. H.R. 497 empowers the Commission to conduct a study—it does not empower the Commission to regulate gambling in any way. Federal regulation of gambling is not in issue at this time.

The nationwide phenomenon of gambling involves many aspects of interstate commerce. For example, many gamblers cross state

lines to travel to gambling operations. That alone is enough to bring gambling within the interstate commerce clause. In addition, insofar as the bill relates to Indian gambling, it falls within the power of Congress to regulate commerce with the Indian tribes.

Gambling, and the public corruption that has come with it in some instances, implicate a variety of federal criminal statutes. Moreover, Congress has enacted numerous criminal and civil statutes directed specifically at gambling, including gambling ships, 18 U.S.C. §§ 1081–84; Indian gambling operations, 18 U.S.C. §§ 1166–68; lotteries, 18 U.S.C. §§ 1301–07; obstruction of state investigations of gambling, 18 U.S.C. § 1511; interstate transportation of wagering paraphernalia, 18 U.S.C. § 1953; racketeering, 18 U.S.C. § 1961 (including state crimes relating to gambling within the definition of “racketeering activity”); and the Interstate Horse Racing Act, 15 U.S.C. §§ 3001–07. The Committee is not aware of any instance in which any of these statutes has been held to exceed the power of Congress to regulate interstate commerce. In short, gambling is within the legislative jurisdiction of Congress under Article I of the Constitution.

Even if gambling were not so clearly within the interstate commerce power, Congress would have the authority to pursue a study. Given its broad oversight authority, Congress can look into any matter least for the limited purpose of determining whether it is properly within its legislative powers.

Appointment of the Commission

As discussed above, the Hyde substitute adds language that requires the appointing authorities (i.e., the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives) to consult together to ensure that the overall makeup of the Commission reflects as fair and equitable representation of various points of view. In doing so, the Committee expects that the authorities may consider for appointment representatives of various interested groups including, gambling proponents and opponents, state gambling regulators, federal and state prosecutors, Indian gambling operators, professionals who treat compulsive gamblers, casino operators, activists who have opposed gambling referenda, state lottery officials, and representatives of non-gambling businesses in areas around gambling operations. The foregoing list is meant to be illustrative of the types of people who might be appointed. Inclusion in the list does not mean that a member of that group must be appointed, nor does the failure to mention a particular interest group mean that its representatives should not be considered. In short, the appointing authorities should use their best judgment to bring about a fair and equitable commission.

In addition, the Committee hopes and expects that in making their appointments to the Commission, the Majority Leader of the Senate and the Speaker of the House of Representatives will follow the longstanding custom of allowing the respective Minority Leaders to make one of the three appointments allotted to each body.

Information gathering

Section 5(a) of the Hyde substitute provides for a general subpoena power. As with all such general subpoena powers, normal re-

strictions on the subpoena power, including privileges, shall apply. See, e.g., *United States v. Calandra*, 414 U.S. 338, 346 (1974) (“the grand jury’s subpoena is not unlimited * * * [the grand jury] may not itself violate a valid privilege, whether established by the Constitution, statutes, or the common law.”) If the recipient raises objections to the subpoena, the Commission may litigate them in federal district court in a civil enforcement proceeding.

Section 5(b) of the Hyde substitute provides that the Commission may seek relevant information from federal agencies and that the agencies “may” provide such information. The bill is introduced provided that the agencies “shall” provide the information. The Department of Justice was concerned that the mandatory language might require it to turn over sensitive law enforcement information to the Commission. See Agency Views Section, below. For that reason, the Hyde substitute changed the wording from “shall” to “may.” However, the Committee intends that federal agencies should fully cooperate in providing relevant information to the Commission except for the law enforcement information described and other categories of information protected by law.

Budget considerations

Section 5(c) provides that federal government employees may be temporarily detailed to work for the Commission. In the same spirit of cooperation, the Committee considered placing language in the substitute that would have allowed federal agencies to provide to the Commission office space, technical assistance, and the like. Because of fears that such language might be construed as creating new budget authority, the Committee did not add it. However, to the extent that it is feasible within the existing budgetary framework, the Committee intends that federal agencies should provide such assistance to the Commission, particularly when such assistance can save money for the government as a whole.

Likewise, the Committee inserted section 6(e) and related language into the substitute to clarify that the salaries and travel expenses authorized are not entitlements for budget purposes. Rather, they are subject to appropriations being made in subsequent appropriations acts.

HEARING

The full Judiciary Committee held a hearing on H.R. 497 on September 29, 1995. Testimony was received from 15 witnesses, including eight members of Congress. The Committee received additional material submitted by 15 individuals and organizations.

At the September 29 hearing, the first panel of witnesses consisted of the eight members of the Senate and House of Representatives, including Congressman Frank Wolf of Virginia, the principal sponsor of H.R. 497 in the House. Congressman Wolf testified about the rapid proliferation of gambling in the United States and the harmful side effects associated with this growth. He explained that he believed an objective study by a national commission would benefit all citizens.

The Nevada delegation, Congressman John Ensign, Congresswoman Barbara Vucanovich, Senator Richard Bryan and Senator Harry Reid, testified regarding the positive effects the gambling in-

dustry has had on the State of Nevada and other states. They expressed the view that a federal study is an unnecessary waste of government resources because the states can conduct their own studies. Congressman Frank LoBiondo, whose district includes Atlantic City, New Jersey, testified concerning the strict controls his state places on the gambling industry and argued that the individual states are the best entities to conduct gambling studies.

Senator Richard Lugar of Indiana, a sponsor of the companion Senate legislation, testified that he believed communities embrace gambling as a quick fix to budget problems without having all the necessary facts, and he further noted that the recent growth of gambling via the Internet has broad federal implications. Senator Paul Simon of Illinois, also a sponsor of the Senate legislation, testified as to the negative effects gambling has had on states, including the corruption of some state legislatures.

The second panel consisted of one person, Mr. William Jahoda, a former member of the Chicago mob turned Federal informant. He testified as to the involvement of organized crime in illegal gambling operations and contended that any expansion of State-controlled gambling inevitably results in an increase in the market share of illegal gambling operations because such expansions teach more people to gamble. However, Mr. Jahoda also noted that, to the best of his knowledge, organized crime does not control legalized gambling operations.

The third panel consisted of representatives of six interested parties. The first to speak was Mr. Paul Ashe, President of the National Council on Problem Gambling. He testified as to the prevalence and demographics of compulsive or problem gambling, as well as the treatment and support services which are available. He stated that the American Medical Association, American Psychiatric Association, and other medical groups, all recognize pathological gambling as a health issue. Mr. Frank Fahrenkopf, Jr., President and Chief Executive Officer of the American Gaming Association, testified that he felt that regulation and studies of gambling should be left to the states and contended that the Federal government had no jurisdiction over this issue. Mr. Fahrenkopf acknowledged the issue of problem gambling and stated that the industry is making efforts to address the problem through public education and corporate training programs. Mr. Tom Grey, Executive Director of the National Coalition Against Legalized Gambling, testified as to his group's grassroots efforts to halt the spread of gambling throughout the country. Economics Professor Earl L. Grinols of the University of Illinois summarized the main economic issues involved in gambling, including employment rates, revenue shares, social costs, and other externalities. Mr. Richard G. Hill, Chairman of the National Indian Gaming Association, testified about positive effects gambling operations have had for Indian tribes, including economic development, job creation and tribal self-sufficiency. He stated that his group does not object to a fairly conducted study, provided that all forms of commercial gambling are studied, not just Indian gambling. The final witness was Mr. Jeremy Margolis of Altheimer & Gray, a former federal prosecutor and the former director of the Illinois State Police Department during the enactment of the Riverboat Gambling Act in Illinois. Mr. Margolis testi-

fied that he believes there is no relationship between casino gambling and street crime.

COMMITTEE CONSIDERATION

On November 8, 1995, the full Committee met in open session and ordered H.R. 497 favorably reported, as amended, by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

The following roll calls occurred during Committee deliberations on H.R. 497 (November 8, 1995):

1. An amendment by Mr. Frank to the Hyde amendment in the nature of substitute to add additional items to be studied by the Commission. The amendment was defeated by a vote of 4 to 25. [See attached Rollcall No. 1]

ROLLCALL NO. 1

Subject: H.R. 497, National Gambling Impact and Policy Commission Act—Frank amendment to the Hyde substitute adding additional items to be studied and reported on by the Commission. Defeated: 4 to 25.

	Ayes	Nays	Present
Mr. Moorhead		X	
Mr. Sensenbrenner		X	
Mr. McCollum		X	
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff		X	
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Hoke		X	
Mr. Bono		X	
Mr. Heineman		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Flanagan		X	
Mr. Barr		X	
Mr. Conyers		X	
Mrs. Schroeder			
Mr. Frank	X		
Mr. Schumer			
Mr. Berman			
Mr. Boucher		X	
Mr. Bryant (TX)		X	
Mr. Reed		X	
Mr. Nadler	X		
Mr. Scott		X	
Mr. Watt			
Mr. Becerra			
Mr. Serrano	X		
Ms. Lofgren	X		
Ms. Jackson Lee		X	
Mr. Hyde, Chairman		X	
Total	4	25	

2. An amendment by Mr. Frank to the Hyde amendment in the nature of substitute to strike the compensation provision for the members of the Commission. The amendment was defeated by a vote of 6 to 24. [See attached Rollcall No. 2]

ROLLCALL NO. 2

Subject: H.R. 497, National Gambling Impact and Policy Commission Act—Frank Amendment to strike the compensation provision for the commissioners. Defeated: 6 to 24.

	Ayes	Nays	Present
Mr. Moorhead		X	
Mr. Sensenbrenner		X	
Mr. McCollum		X	
Mr. Gekas		X	
Mr. Coble	X		
Mr. Smith (TX)		X	
Mr. Schiff		X	
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Hoke		X	
Mr. Bono		X	
Mr. Heineman		X	
Mr. Bryant (TN)		X	
Mr. Chabot	X		
Mr. Flanagan	X		
Mr. Barr		X	
Mr. Conyers		X	
Mrs. Schroeder	X		
Mr. Frank	X		
Mr. Schumer			
Mr. Berman			
Mr. Boucher		X	
Mr. Bryant (TX)		X	
Mr. Reed		X	
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt			
Mr. Becerra			
Mr. Serrano		X	
Ms. Lofgren	X		
Ms. Jackson Lee		X	
Mr. Hyde, Chairman		X	
Total	6	24	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 497, the following estimate and comparison prepared by the director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 17, 1995.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 497, the National Gambling Impact and Policy Commission Act.

Enacting H.R. 497 would not affect direct spending and receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

PAUL VAN DE WATER
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 497.
2. Bill title: National Gambling Impact and Policy Commission Act.
3. Bill status: As ordered reported by the House Committee on the Judiciary on November 8, 1995.
4. Bill purpose: This bill would establish a commission to study the impact of gambling in the United States. The study would cover many issues related to gambling, including the relationship between gambling and crime and the cost and effectiveness of state and federal gambling regulatory policy on Indian gambling. The commission, consisting of nine members, would have two years after it first meets to conduct the study and to present its findings to Congress. In addition, the chairman of the commission would have the authority to appoint an executive director and other personnel to assist the commission in the performance of its duties. The commission could hold hearings and subpoena witnesses.
5. Estimated cost to the Federal Government: Enacting H.R. 497 would increase discretionary spending by about \$4 million over the next three years, assuming appropriations of the necessary funds.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Spending subject to appropriations action:					
Estimated authorization level	2	2			
Estimated outlays	1	2	1		

The costs of this bill fall within budget function 750.

6. Basis of estimate: For purposes of this estimate, CBO assumes that H.R. 497 will be enacted by January 1, 1996, and that the estimated authorization amounts will be appropriated for each year. We estimated outlays based on the historical rate of spending for similar commissions.

To estimate the cost of the commission, we assumed that the commission would hire 20 support personnel and have other costs similar to the first commission established to study gambling in 1974—the Commission on the Review of the National Policy Toward Gambling. CBO estimates that the proposed commission would cost about \$4 million over the next two years. This cost would cover per diem expenses of the commission’s members, salaries of the commission staff, travel expenses and other administrative costs.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Susanne S. Mehlman.

12. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 497 will have no significant inflationary impact on prices and costs in the national economy.

SECTION-BY-SECTION ANALYSIS

Section 1.—Short title

Section 1 provides that the short title of the bill is the “National Gambling Impact and Policy Commission Act.”

Section 2.—Establishment of Commission

Section 2 provides that the National Gambling Impact and Policy Commission is established.

Section 3.—Membership

Section 3 provides that the Commission shall consist of nine persons qualified by training and experience. Three of the members are to be appointed by the Speaker of the House, three by the Majority Leader of the Senate, and three by the President. Before making their appointments, the three appointing authorities are required to consult with one another to assure that the overall membership reflects a fair and equitable representation of various points of view. These appointments are to be made not later than

60 days after the date of enactment. Section 3 further provides that members shall serve for the life of the Commission, but if a vacancy occurs, it shall be filled in the same manner as the original appointment. The Commission shall hold its first meeting within 30 days after the date on which all members are appointed.

Section 4.—Duties of the Commission

Section 4 provides that it shall be the duty of the Commission to conduct a comprehensive legal and factual study of gambling in the United States, including State-sponsored lotteries, casino gambling, pari-mutuel betting, and sports betting, and to propose any changes to the policies governing gambling that the Commission may deem appropriate. It further sets out the matters that the Commission should study including: the positive and negative aspects of the economic impact of gambling; the economic impact of gambling on other businesses; the impact of political contributions on the development of public policy regarding gambling; the relationship between gambling and crime; the impact of problem gambling; the demographics of gamblers; the effectiveness of current laws and policies in combating and deterring illegal gambling; the costs and effectiveness of State and Federal gambling regulatory policy; the effects of advertising concerning gambling; gambling that uses interactive technology; the extent to which casino gambling provides economic opportunity to residents of economically depressed regions and to Indian tribes; the effect of revenues derived from State-sponsored gambling on State budgets; and other relevant issues as determined by the Chairman. Finally, section 4 requires that the Commission must submit its report with recommendations not later than two years after its first meeting.

Section 5.—Powers of the Commission

Section 5 provides that the Commission may hold hearings and subpoena testimony and materials to carry out the purposes of the Act. This section further provides that the Commission may serve its subpoenas throughout the United States and that it may go to a United States District Court to enforce them. Section 5 also provides that the Commission may obtain information from federal agencies to carry out the purposes of the Act and that the Commission may use employees detailed from federal agencies.

Section 6.—Commission personnel matters

Section 6 provides for the payment of compensation and reimbursement of travel expenses to the members of the Commission and its staff. It further provides that the Commission may employ temporary and intermittent staff, if needed.

Section 7.—Termination of the Commission

Section 7 provides that the Commission shall terminate 30 days after its report is filed.

AGENCY VIEWS

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 7, 1995.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As the Committee prepares to mark up H.R. 497, I am writing to convey the views of the Department of Justice on this bill, the National Gambling Impact and Policy Commission Act.

One of the duties of the Commission to be established by the bill is to conduct a comprehensive study, which will include an assessment of the relationship between gambling and crime. As President Clinton recently stated in a letter to Congressman Wolf, we support the establishment of this commission. However, we have a concern about the provision relating to the manner in which information for the study may be gathered.

Specifically, Section 5(b) of the bill states that the "Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission." (emphasis added). We believe that this provision is too broad. This provision appears to empower the Commission to ask for and receive information that an agency (and specifically the Department of Justice) is not in a position to release. Several examples of such information come immediately to mind: comments on or information relating to any pending or planned investigation; grand jury materials; Title III electronic surveillance information; information falling within the executive privilege; etc.

Accordingly, we believe that this provision of the proposed bill should be drafted more narrowly to take into account the legal obligations, rights, duties, and constraints under which the various federal agencies operate. We understand that, in response to our concern, your substitute includes an amendment to the second sentence of Section 5(b) replacing the word "shall" with the word "may". We support this change.

Please do not hesitate to contact me if I may be of assistance on this or any other matter.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, the Committee reports that the bill, as reported, makes no changes in existing law.

HON. BARNEY FRANK'S DISSENTING VIEWS

Those who believe with Emerson that a foolish consistency is the hobgoblin of small minds will doubtless be reassured by this legislation that the current Republican majority is, at least in some respects, quite large minded. Few things could be more inconsistent with the professed principles that the majority has claimed as its guiding lights than this proposal.

We have here a bill which, if passed, will authorize the spending of millions of dollars by the federal government to investigate matters which are primarily within the jurisdiction of the states, and which could lead, if any action is taken, to a significant expansion of government restriction on choices made by individuals about how to spend their own money. Thus, the principles of reducing government expenditures to essentials, respect for the states, and reducing the tendency of the government to intervene in people's private economic decisions are all contravened herein.

This legislation authorizes a two year investigation by a Commission of 9 members into gambling, a subject mostly within the jurisdiction of the states. It does not reference to the subject of gambling by Indian tribes, but the resolution encompasses far more than Indian gambling, and if it were in fact restricted simply to an investigation of the federal role regarding gambling conducted by Indians, it would not have come before this committee, since jurisdiction over the Indian Gaming Regulatory Act belongs in the Committee on Natural Resources.

As to the cost, the 9 Commissioners authorized by this legislation will be compensated according to the legislation at a rate of \$115,700 dollars per year, prorated according to the number of meetings they have. The legislation calls for two years of work, and does not in any way restrict the Commissioners' ability to have meetings. Thus these individuals will be free to decide how much money they should make from the federal government up to a maximum of \$231,400 dollars. Of course the Commission will also be traveling, with members entitled to full reimbursement. It will have a staff. It will probably pay witnesses for travel, it will pay for transcripts, etc. Obviously millions of dollars will be spent by the federal government on this enterprise.

And it will be millions of dollars spent primarily to investigate matters that are now wholly within the jurisdiction of the states. State lotteries are one of the issues covered here. Another set of issues deals with legalized gambling through casinos, slot machines, etc., in the states. Part of what the Commission will investigate has to do with Indian gaming, but the larger part will be an investigation of whether or not state and local governments have acted wisely in allowing private citizens to gamble with their own money in gambling establishments run by other private citizens. I am surprised to find that my Republican colleagues think this is an appro-

priate use of federal money at a time of emphasis on balancing the budget.

In summary, not only does this authorize an expenditure of scarce federal dollars on matters primarily within the jurisdiction of the states, but the thrust of the legislation clearly reflects a view that the states have chosen unwisely by allowing their private citizens to spend too much of their own funds on gambling. The notion that the federal government should rebuke the states for allowing private citizens to gamble with their own money in privately run gambling enterprises seems to me to be the antithesis of a respect both for the rights of states and for individual choices about how they should spend their own money. For us to authorize the expenditure of millions of dollars by a federal Commission roving around the country questioning the judgment of states on matters that are wholly within state jurisdiction is a mistake in my judgment, and sufficiently at variance with what I had understood to be the Republicans' professed principles as to thoroughly acquit them of any charge they are overly committed to consistency, foolish or otherwise.

BARNEY FRANK.

