

HB 1556-FN – AS INTRODUCED

2014 SESSION

14-2169  
08/10

HOUSE BILL            ***1556-FN***

AN ACT                defining poker as a game of skill.

SPONSORS:            Rep. O'Flaherty, Hills 12; Rep. Warden, Hills 39; Rep. Keith Murphy, Hills 7;  
Rep. Michael Garcia, Hills 34

COMMITTEE:          Ways and Means

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ANALYSIS

This bill defines poker as a game of skill.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT defining poker as a game of skill.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Poker. Amend RSA 647:2, II(d) to read as follows:

2 (d) “Gambling” means to risk something of value upon a future contingent event not  
3 under one’s control or influence, upon an agreement or understanding that something of value will be  
4 received in the event of a certain outcome. For the purposes of this subparagraph, the phrase  
5 “something of value” shall include a sweepstakes ticket or other item obtained in conjunction with  
6 the purchase of goods or services that entitles the holder to a share or chance in a sweepstakes  
7 where, but for the opportunity to enter the sweepstakes, the value of purchased goods or services is  
8 insufficient to justify the purchase or the inducement to purchase the goods or services is the  
9 opportunity to play on a gambling machine. ***For purposes of this section, card games of poker***  
10 ***shall not be considered gambling and shall be considered a game of skill, meaning the***  
11 ***influence of a player’s skill on the outcome of the game is greater than the influence of***  
12 ***chance.***

13 2 Effective Date. This act shall take effect upon its passage.

**HB 1556-FN - FISCAL NOTE**

AN ACT defining poker as a game of skill.

**FISCAL IMPACT:**

The Racing and Charitable Gaming Commission, Judicial Branch, Department of Corrections, and New Hampshire Association of Counties state this bill, **as introduced**, may decrease state general fund revenue by an indeterminable amount in FY 2014 and by \$981,328 in FY 2015 and each year thereafter, and decrease state and county expenditures by an indeterminable amount in FY 2014 and each year thereafter. There will be no impact on local expenditures, or county and local revenue.

**METHODOLOGY:**

The Racing and Charitable Gaming Commission states this bill changes the definition of gambling under RSA 647:2, II(d) to exclude poker. For purposes of charitable gaming, RSA 287-D:1, II defines “game of chance” as gambling under RSA 647:2, II. Therefore, designating poker as a game of skill may exclude poker from the regulatory jurisdiction of the Racing and Charitable Gaming Commission. In FY 2013, charitable gaming generated \$1,533,325 for the state, of which approximately 64 percent, or \$981,328, was attributable to poker. Accordingly, the Commission projects the bill will decrease state general fund revenue by \$981,328 each full year the bill is in effect.

The Judicial Branch states that since violations of the gambling prohibition found in RSA 647:2 can be either misdemeanors or class B felonies, the bill may result in a savings to the Branch due to fewer charges being brought as a result of the definitional change. The Branch projects the average cost of processing a class A misdemeanor will be \$66.17 in FY 2015, and \$67.64 in FY 2016, and the average cost of processing a class B misdemeanor will be \$46.99 in FY 2015, and \$48.08 in FY 2016. All felony offenses are classified as routine criminal cases in the superior court; the Branch projects that the cost of prosecuting an average routine criminal case in the superior court will be \$425.27 in FY 2015, and \$433.34 in FY 2016. These numbers do not consider the cost of any appeals that may be undertaken following trial. All costs are estimated based on case weight information from the Branch’s last needs assessment completed in 2005.

The Department of Corrections states that, due to the elimination of poker as a felony offense, the bill may decrease expenditures by an indeterminable amount. The Department states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent fewer individuals are charged, convicted, and sentenced to incarceration in a county correctional facility as a result of the bill, the counties may have decreased expenditures. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice and Judicial Council state this bill will have no fiscal impact.