AS PASSED BY COMMITTEE

AMENDED

ARIZONA STATE SENATE

RESEARCH STAFF

TO: MEMBERS OF THE SENATE

DATE: February 22, 2016

SUBJECT: Strike everything amendment to S.B. 1515, relating to fantasy sports league competitions; definitions

ALEXANDRIA SAQUELLA
LEGISLATIVE RESEARCH INTERN
AMBER WITTER
LEGISLATIVE RESEARCH ANALYST
JUDICIARY COMMITTEE
Telephone: (602) 926 -3171

Purpose

Defines *fantasy sports league competitions* and exempts them from the definition of gambling. Conditionally repeals these provisions if they trigger the *poison pill*.

Background

Gambling is the act of risking or giving something of value for the opportunity to obtain a benefit from a game or contest of chance or skill or a future contingent event. Gambling does not include a bona fide business transaction that is otherwise valid under contract law (A.R.S. § 13-3301). Some types of gambling that are illegal include placing a bet or entering into a wagering pool for any race, sporting event, contest or other game of skill or chance. Betting or wagering is a class 1 misdemeanor charge while promotion of gambling is a class 5 felony (A.R.S. §§ 13-3303 and 13-3305). Specified conduct is excluded from the definition of gambling if it meets a statutory exclusion. Statutory exclusions to gambling include amusement and social gambling, regulated gambling and gambling that is conducted at state, county and district fairs (A.R.S. § 13-3302).

As required by federal law, gambling is permitted on Indian reservations through Tribal-State Gaming Compacts (compacts) signed between the state and the tribes. The voters authorized these gambling compacts by passing Proposition 202 in 2002. Each compact places limits on the tribal casinos, including the number of facilities, slot machines, and game tables. The compacts include a *poison pill* provision that removes the limits on tribal casinos and reduces their one to eight percent contribution into the Arizona Benefits Fund if Arizona allows anyone other than Indian tribes to offer gambling or allows any form of gambling that was unlawful before May 1, 2002 (A.R.S. § 5-601.02).

The federal Unlawful Internet Gambling Enforcement Act (UIGEA) of 2006 excludes fantasy sports from being a form of gambling by distinguishing it from games of chance. The UIGEA requires fantasy sports games to meet certain criteria, one of these elements being that the winning outcomes must reflect the relative knowledge and skill of the participants. According to a 1998 Attorney General opinion, sports pools, fantasy football and card and dice games involving a wager are gambling and are not eligible for the amusement, regulated or social gambling exclusions. However, that conclusion was made in connection to an analysis of activities conducted at establishments that hold liquor licenses and may not apply. Websites such as Draft Kings and Fan

Duel, which offer a wide variety of fantasy "head-to-head" contests, specifically prohibit Arizona residents from registering to play on their sites. Fan Duel's website states "the states where our lawyers believe the law is unclear or questionable about the legality of fantasy sports are Arizona, Iowa, Louisiana, or Montana. Therefore we do not offer paid entry games to residents of those states."

For FY 2017 the state is estimated to receive approximately $92,350,000 from the Arizona Benefits Fund (Fund). The purpose of this Fund is to provide monies to programs for problem gaming, classroom size reduction, teacher salary increases, dropout prevention, instructional improvement, trauma and emergency services, wildlife conservation, tourism and local government programs benefiting the general public.

Provisions

1. Excludes fantasy sports league competitions from the definition of *gambling*.

2. Defines *fantasy sports league competitions* as any fantasy or simulated sports game or educational game or contest that involves a fantasy team that is not based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:
   a) all prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and the value of the prizes and awards is not determined by the number of participants or the amount of any fees paid by those participants;
   b) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals in multiple real world sporting or other events; and
   c) a winning outcome is not based on the score, point spread or performance of any single real world team or any combination of teams or solely on any single performance of an individual athlete in any single real world sporting or other event.

3. Requires the state to submit a dispute to dispute resolution and request arbitration under the Tribal-State Gaming Compacts if the state receives a notice that alleges these provisions constitute a change in state law that permit a gambling activity by law that is not authorized before May 1, 2002.

4. Contains a conditional enactment that eliminates these provisions if a court of competent jurisdiction or an arbitrator, on or before December 31, 2026, finds that this legislation constitutes a change in state law that permits a gambling activity that was not authorized by law before May 1, 2002.

5. Requires the Attorney General to notify in writing the Arizona Legislative Council of the date on which the condition was met or if the condition was not met, by January 15, 2027.
6. Declares legislative findings.

7. Makes conforming changes.

8. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Adopted the strike everything amendment.

Senate Action

JUD	02/18/16	DPA/SE	5-2-0

AW/AS/rf