PROPOSED
SENATE AMENDMENTS TO S.B. 1163
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:
2 "Section 1. Title 5, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:
4
5 CHAPTER 10
6 SPORTS BETTING
7
8 ARTICLE 1. GENERAL PROVISIONS
9 5-1201. Sports betting; authority to contract with licensed
10 liquor establishments; requirements; definitions
11
12 A. EACH FEDERALLY RECOGNIZED INDIAN TRIBE THAT HAS ENTERED INTO A
13 TRIBAL-STATE GAMING COMPACT PURSUANT TO CHAPTER 6 OF THIS TITLE MAY OPERATE
14 SPORTS BETTING AS DEFINED IN SUBSECTION B OF THIS SECTION. NO OTHER PERSON
15 OR ENTITY MAY OPERATE SPORTS BETTING; PROVIDED, THAT A WHOLLY OWNED ENTITY
16 OF AN INDIAN TRIBE SHALL BE CONSIDERED THE SAME AS AN INDIAN TRIBE AND
17 ENJOY THE SAME RIGHTS UNDER THIS CHAPTER.
18
19 B. AN INDIAN TRIBE THAT IS AUTHORIZED TO OPERATE SPORTS BETTING
20 PURSUANT TO THIS SECTION MAY OPERATE SPORTS BETTING THROUGH KIOSKS OR
21 SIMILAR MACHINES THAT ARE LOCATED AT ONE OR MORE PREMISES THAT HAVE A BAR
22 LICENSE, BEER AND WINE BAR LICENSE OR A PRIVATE CLUB LICENSE THAT IS ISSUED
23 PURSUANT TO TITLE 4. THIS SUBSECTION DOES NOT ALLOW AN INDIAN TRIBE TO
24 OPERATE MORE GAMING DEVICES THAN OTHERWISE ALLOCATED UNDER EITHER SECTION
25 5-601.02 OR ANY SUCCESSOR TRIBAL-STATE GAMING COMPACT, WHICHEVER IS THEN
26 CURRENTLY APPLICABLE TO THE TRIBE.
27
28 C. NOTHING HEREIN SHALL PROHIBIT AN INDIAN TRIBE FROM ENTERING ANY
29 CONTRACT OR AGREEMENT FOR RENT, LEASE OR LICENSING OR FOR THE PROVISION OF
30 MARKETING, TECHNICAL, ADMINISTRATIVE OR MANAGEMENT SERVICES REGARDING
SPORTS BETTING. THESE AGREEMENTS SHALL AFFIRM THAT THE INDIAN TRIBE IS THE
SOLE AND EXCLUSIVE OPERATOR OF ALL SPORTS BETTING ACTIVITY THAT IS
AUTHORIZED UNDER THIS CHAPTER. ANY AGREEMENT THAT DOES NOT COMPLY WITH
THIS SUBSECTION IS OF NO FORCE AND EFFECT.

D. THE GOVERNOR IS HEREBY AUTHORIZED TO NEGOTIATE AND CONCLUDE A
TRIBAL-STATE GAMING COMPACT OR AMENDMENT TO A TRIBAL-STATE GAMING COMPACT
TO PROVIDE FOR THE OPERATION OF SPORTS BETTING BY INDIAN TRIBES CONSISTENT
WITH THIS CHAPTER.

E. THIS CHAPTER DOES NOT AMEND ANY TRIBAL-STATE GAMING COMPACT
EXECUTED PURSUANT TO SECTION 5-601.02.

F. FOR THE PURPOSES OF THIS CHAPTER "SPORTS BETTING" MEANS THE
PLACEMENT OF A WAGER ON THE OUTCOME OF A SPORTING EVENT WHERE A WINNING
OUTCOME IS BASED ON THE SCORE, POINT TOTAL, POINT SPREAD OR PERFORMANCE OF
A TEAM IN A TEAM SPORT OR ON THE SCORE, POINT TOTAL, POINT SPREAD OR
PERFORMANCE OF AN INDIVIDUAL ATHLETE IN A NON-TEAM SPORT.

5-1202. Department of gaming; sports betting licensing; rules

A. TO ENSURE HONESTY AND INTEGRITY IN THE GAMBLING ACTIVITY, THE
DEPARTMENT OF GAMING SHALL REGULATE SPORTS BETTING UNDER THIS CHAPTER IN A
MANNER THAT IS CONSISTENT WITH THE REGULATION OF TRIBAL GAMING PURSUANT TO
SECTION 5-602. AN INDIAN TRIBE MAY OPERATE SPORTS BETTING THROUGH A WHOLLY
OWNED ENTITY OF A TRIBE. THE WHOLLY OWNED ENTITY OF A TRIBE IS SUBJECT TO
LICENSURE.

B. FOR THE PURPOSES OF LICENSURE, THE OWNER, SHAREHOLDERS OR
BENEFICIARIES OF THE WHOLLY OWNED ENTITY OF A TRIBE DO NOT INCLUDE THE
MEMBERS OR GOVERNMENT OFFICIALS OF AN INDIAN TRIBE.

C. THE DEPARTMENT OF GAMING MAY ADOPT RULES TO CARRY OUT THE
PURPOSES OF THIS SECTION.

Sec. 2. Section 13-3302, Arizona Revised Statutes, is amended to
read:

13-3302. Exclusions

A. The following conduct is not unlawful under this chapter:

1. Amusement gambling.
2. Social gambling.

3. Regulated gambling if the gambling is conducted in accordance with the statutes, rules or orders governing the gambling.

4. Gambling that is conducted at state, county or district fairs and that complies with section 13-3301, paragraph 1, subdivision (d).

5. SPORTS BETTING THAT IS CONDUCTED PURSUANT TO TITLE 5, CHAPTER 10.

B. An organization that has qualified for an exemption from taxation of income under section 501 of the internal revenue code may conduct a raffle that is subject to the following restrictions:

1. The nonprofit organization shall maintain this status and no member, director, officer, employee or agent of the nonprofit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. The nonprofit organization has been in existence continuously in this state for a five-year period immediately before conducting the raffle.

3. A person, except FOR a bona fide local member of the sponsoring organization, may NOT participate directly or indirectly in the management, sales or operation of the raffle.

4. Paragraph 1 or 3 of this subsection does not prohibit:

   (a) A licensed general hospital, a licensed special hospital or a foundation established to support cardiovascular medical research that is exempt from taxation of income under section 501(c)(3) of the internal revenue code from contracting with an outside agent who participates in the management, sales or operation of the raffle if the proceeds of the raffle are used to fund medical research, graduate medical education or indigent care and the raffles are conducted no more than three times per calendar year. The maximum fee for an outside agent shall not exceed fifteen percent of the net proceeds of the raffle.

   (b) An entity that is exempt from taxation of income under section 501(c)(3) of the internal revenue code and that has at least a twenty-year history of providing comprehensive services to prevent child abuse and to provide services and advocacy for victims of child abuse from contracting...
with an outside agent who participates in the management, sales or operation of the raffle if the proceeds of the raffle are used to provide comprehensive services to prevent child abuse and to provide services and advocacy for victims of child abuse and the raffles are conducted no more than three times per calendar year. The maximum fee for an outside agent shall not exceed fifteen percent of the net proceeds of the raffle.

C. A state, county or local historical society designated by this state or a county, city or town to conduct a raffle may conduct the raffle subject to the following conditions:

1. A member, director, officer, employee or agent of the historical society may not receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. The historical society must have been in existence continuously in this state for a five-year period immediately before conducting the raffle.

3. A person, except for a bona fide local member of the sponsoring historical society, may not participate directly or indirectly in the management, sales or operation of the raffle.

D. A nonprofit organization that is a booster club, a civic club or a political club or political organization that is formally affiliated with and recognized by a political party in this state may conduct a raffle that is subject to the following restrictions:

1. A member, director, officer, employee or agent of the club or organization may not receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. A person, except for a bona fide local member of the sponsoring club or organization, may not participate directly or indirectly in the management, sales or operation of the raffle.

3. The maximum annual benefit that the club or organization receives for all raffles is ten thousand dollars $10,000.
4. The club or organization is organized and operated exclusively for pleasure, recreation or other nonprofit purposes and no part of the club's or organization's net earnings inures to the personal benefit of any member, director, officer, employee or agent of the club or organization.

Sec. 3. Section 13-3305, Arizona Revised Statutes, is amended to read:

13-3305. **Betting and wagering: classification**

A. Subject to the exceptions contained in section SECTIONS 5-112 AND 5-1201, no person may engage for a fee, property, salary or reward in the business of accepting, recording or registering any bet, purported bet, wager or purported wager or engage for a fee, property, salary or reward in the business of selling wagering pools or purported wagering pools with respect to the result or purported result of any race, sporting-event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever.

B. A person shall not directly or indirectly knowingly accept for a fee, property, salary or reward anything of value from another to be transmitted or delivered for wagering or betting on the results of a race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever conducted within or without this state or anything of value as reimbursement for the prior making of such a wager or bet on behalf of another person.

C. A person who violates this section is guilty of a class 1 misdemeanor.

Sec. 4. Section 42-5073, Arizona Revised Statutes, is amended to read:

42-5073. **Amusement classification**

A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, THE NET PROCEEDS FROM SPORTS BETTING THAT IS CONDUCTED OUTSIDE A TRIBAL CASINO, billiard or pool
parlors, bowling alleys, public dances, dance halls, boxing and wrestling
matches, skating rinks, tennis courts, except as provided in subsection B
of this section, video games, pinball machines or sports events or any
other business charging admission or user fees for exhibition, amusement or
entertainment, including the operation or sponsorship of events by a
tourism and sports authority under title 5, chapter 8. For the purposes of
this section, admission or user fees include, but are not limited to, any
revenues derived from any form of contractual agreement for rights to or
use of premium or special seating facilities or arrangements. The
amusement classification does not include:

1. Activities or projects of bona fide religious or educational
institutions.

2. Private or group instructional activities. For the purposes of
this paragraph, "private or group instructional activities" includes, but
is not limited to, performing arts, martial arts, gymnastics and aerobic
instruction.

3. The operation or sponsorship of events by the Arizona exposition
and state fair board or county fair commissions.

4. A musical, dramatic or dance group or a botanical garden, museum
or zoo that is qualified as a nonprofit charitable organization under
section 501(c)(3) of the United States internal revenue code if no part of
its net income inures to the benefit of any private shareholder or
individual.

5. Exhibition events in this state sponsored, conducted or operated
by a nonprofit organization that is exempt from taxation under section
501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
organization is associated with major league baseball teams or a national
touring professional golfing association and no part of the organization's
net earnings inures to the benefit of any private shareholder or
individual. This paragraph does not apply to an organization that is
owned, managed or controlled, in whole or in part, by a major league
baseball team, or its owners, officers, employees or agents, or by a major
league baseball association or professional golfing association, or its
owners, officers, employees or agents, unless the organization conducted or
operated exhibition events in this state before January 1, 2018 that were
exempt from taxation under this section.

6. Operating or sponsoring rodeos that feature primarily farm and
ranch animals in this state and that are sponsored, conducted or operated
by a nonprofit organization that is exempt from taxation under section
501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
revenue code if no part of the organization's net earnings inures to the
benefit of any private shareholder or individual.

7. Sales of admissions to intercollegiate football contests if the
contests are both:
   (a) Operated by a nonprofit organization that is exempt from
taxation under section 501(c)(3) of the internal revenue code and no part
of the organization's net earnings inures to the benefit of any private
shareholder or individual.
   (b) Not held in a multipurpose facility that is owned or operated by
the tourism and sports authority pursuant to title 5, chapter 8.

8. Activities and events of, or fees and assessments received by, a
homeowners organization from persons who are members of the organization or
accompanied guests of members. For the purposes of this paragraph,
"homeowners organization" means a mandatory membership organization
comprised of owners of residential property within a specified residential
real estate subdivision development or similar area and established to own
property for the benefit of its members where both of the following apply:
   (a) No part of the organization's net earnings inures to the benefit
of any private shareholder or individual.
   (b) The primary purpose of the organization is to provide for the
acquisition, construction, management, maintenance or care of organization
property.

9. Activities and events of, or fees received by, a nonprofit
organization that is exempt from taxation under section 501(c)(6) of the
internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

10. Arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement personally or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third-party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

B. The tax base for the amusement classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from memberships, including initiation fees, that provide for the right to use a health or fitness establishment or a private recreational establishment, or any portion of an establishment, including tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more and fees charged for use of the health or fitness establishment or private recreational establishment by bona fide accompanied guests of members, except that this paragraph does not include additional fees, other than initiation fees, charged by a health or fitness establishment or a private recreational establishment for purposes other than memberships that provide for the right to use a health or fitness establishment or private recreational establishment, or any portion of an establishment, for participatory purposes for twenty-eight days or more and accompanied guest use fees.

2. Amounts that are exempt under section 5-111, subsection G.
3. The gross proceeds of sales or gross income derived from membership fees, including initiation fees, that provide for the right to use a transient lodging recreational establishment, including golf courses and tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more, except that this paragraph does not include additional fees, other than initiation fees, that are charged by a transient lodging recreational establishment for purposes other than memberships and that provide for the right to use a transient lodging recreational establishment or any portion of the establishment for participatory purposes for twenty-eight days or more.

4. The gross proceeds of sales or gross income derived from sales to persons engaged in the business of transient lodging classified under section 42-5070, if all of the following apply:
   (a) The persons who are engaged in the transient lodging business sell the amusement to another person for consideration.
   (b) The consideration received by the transient lodging business is equal to or greater than the amount to be deducted under this subsection.
   (c) The transient lodging business has provided an exemption certificate to the person engaging in business under this section.

5. The gross proceeds of sales or gross income derived from:
   (a) Business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.
   (b) Business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5062, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.
(c) Business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

6. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that either:

(a) Until March 1, 2017, consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

(b) Are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

7. ALL OF THE AMOUNTS RECEIVED BY AN INDIAN TRIBE FROM THE GROSS AMOUNT OF MONIES RECEIVED FOR THE CONDUCT OF SPORTS BETTING, AND ALL AMOUNTS HELD BY AN INDIAN TRIBE FOR PAYMENT OF WINNINGS TO SPORTS BETTING PATRONS. AMOUNTS SUBJECT TO THIS CHAPTER OR AMOUNTS THAT ARE SUBJECT TO ANY MUNICIPAL TAX CODE, OR BOTH, SHALL NOT RESULT IN A COMBINED STATE, COUNTY AND CITY TAX LIABILITY THAT EXCEEDS SIX AND SEVENTY-FIVE ONE HUNDREDTHS PERCENT OF ADJUSTED GROSS RECEIPTS. THE TRIBAL GAMING OPERATOR SHALL PAY AND BE RESPONSIBLE FOR PAYMENTS OF THE TRIBAL GAMING OPERATOR'S TAX LIABILITY UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS PARAGRAPH, THEOWNER, PARTNER, SHAREHOLDERS OR BENEFICIARIES OF THE TRIBAL GAMING OPERATOR DO NOT INCLUDE THE MEMBERS OR GOVERNMENT OFFICIALS OF AN INDIAN TRIBE. FOR THE PURPOSES OF THIS SUBSECTION, FOR A BUSINESS THAT IS OPERATING SPORTS BETTING PURSUANT TO TITLE 5, CHAPTER 10, "GROSS INCOME" AND "GROSS PROCEEDS OF SALES" MEANS THE RECEIPTS REMAINING AFTER DEDUCTING THE MONIES PAID FOR WINNINGS FROM GROSS RECEIPTS.

C. For the purposes of subsection B of this section:
1. "Health or fitness establishment" means a facility whose primary purpose is to provide facilities, equipment, instruction or education to promote the health and fitness of its members and at least eighty percent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees that provide for the right to use the facility, or any portion of the facility, under the terms of the membership agreement for participatory purposes for twenty-eight days or more.

2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty percent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees that provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty-eight days or more.

3. "Transient lodging recreational establishment" means a facility whose primary purpose is to provide facilities for transient lodging, that is subject to taxation under this chapter and that also provides recreational facilities, such as tennis, golf and swimming, for members for a period of twenty-eight days or more.

D. Until December 31, 1988, the revenues from hayrides and other animal-drawn amusement rides, from horseback riding and riding instruction and from recreational tours using motor vehicles designed to operate on and off public highways are exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from hayrides and other animal-drawn amusement rides, from horseback riding and from recreational tours using motor vehicles designed to operate on and off public highways are subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the taxes will be returned to the customer.
E. If a person is engaged in the business of offering both exhibition, amusement or entertainment and private or group instructional activities, the person's books shall be kept to show separately the gross income from exhibition, amusement or entertainment and the gross income from instructional activities. If the books do not provide this separate accounting, the tax is imposed on the person's total gross income from the business.

F. The department shall separately account for revenues collected under the amusement classification for the purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the amusement classification from sales of admissions to:

1. Events that are held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8, including intercollegiate football contests that are operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code.

2. Professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

Sec. 5. Exemption from rulemaking

For the purposes of this act, the department of gaming is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

Sec. 6. Conditional Enactment; notice

A. This act does not become effective unless, on or before December 31, 2019, all of the following have occurred:

1. The governor has negotiated and entered into a tribal-state gaming compact or a tribal-state gaming compact amendment that is consistent with section 5-601.02, that includes at a minimum the following:
   (a) Authorization for sports betting in tribal gaming facilities.
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(b) Revenue share with the state for on-reservation sports betting activity in an amount consistent with other class III revenue share rates.

(c) Regulation of on-reservation sports betting activity in which tribal gaming regulators have primary responsibility.

(d) Limitation on the number and locations of off-reservation sports betting locations.

(e) Provision for rural and non-gaming tribes to economically benefit from the expansion of tribal gaming.

(f) Provision for the state and tribes to meet their obligations under any now-existing gaming-related settlement agreement, as may be amended by the parties.

(g) Written acknowledgment by each tribe that is a party to the new compact or compact amendment that this act does not violate the provisions of section 5-601.02 relating to both inter-tribal parity and additional changes in state law with respect to persons other than Indian tribes.

(h) Certification by the governor that the above conditions have been satisfied.

2. Signatory tribes to the compact or compact amendment referenced in subsection A, paragraph 1 of this section shall, as of December 31, 2019, include no fewer than five Indian tribes that have a gaming facility in Maricopa, Pima or Pinal counties and no fewer than one Indian tribe that has at least 100,000 tribal members who reside in this state. Population data and a determination that this condition has been satisfied shall be certified by the governor.

3. The compacts or compact amendments referenced in subsection A, paragraph 1 of this section, executed by sufficient Indian tribes to satisfy subsection A, paragraph 2, have been approved or deemed approved by the secretary of the interior and published in the federal register.

B. The governor shall notify in writing the director of the Arizona legislative council on or before January 15, 2020 of the date on which the
conditions in subsection A of this section were met."

Amend title to conform