

**ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016**  
**COMMITTEE STATEMENT**  
**LB862**

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**Hearing Date:** Monday January 25, 2016  
**Committee On:** General Affairs  
**Introducer:** Larson  
**One Liner:** Permit conducting or participating in a fantasy contest as prescribed

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 5 Senators Coash, Hansen, Hughes, Larson, Schilz  
**Nay:** 3 Senators Riepe, McCollister, Kolterman  
**Absent:**  
**Present Not Voting:**

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**Verbal Testimony:**

**Proponents:**  
Joshua Eickmeier  
Paul Charchian  
Derek Hein

**Representing:**  
Senator Tyson Larson  
Fantasy Sports Trade Association  
DraftKings

**Opponents:**  
Glen Andersen  
Pat Loontjer  
Nate Grasz

**Representing:**  
Self  
Gambling with the Good Life  
Nebraska Family Alliance

**Neutral:**  
David Geier

**Representing:**  
Commission on Problem Gambling

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**Summary of purpose and/or changes:**

LB 862 codifies in statute that fantasy contests are allowed in Nebraska. Examples of fantasy sports contest corporations include DraftKings and FanDuel. A typical contest involves a participant competing against other participants. Each participant selects players to form a fantasy team. As the selected players finish their respective games, their game statistics are converted into points. The participant with the most team points wins the contest.

LB 862 states the following:

(5) Fantasy contest means any fantasy or simulated game or contest in which:

(a) Winning participants are eligible to receive cash or any other item of value;

(b) The value of all prizes and awards offered are established and publicized to the participants prior to the game or contest;

(c) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical

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results of the performance of individuals, including athletes in the case of sports events; and

(d) No winning outcome is based on the score, the point spread, or any performance or performance of any single actual team or combination of such teams or based solely on any single performance of an individual athlete or player in any single actual event.

In 2006, Congress passed the Uniform Internet Gambling Enforcement Act (UIGEA) in an effort to modernize the Wire Act of 1961. The UIGEA specifically exempts fantasy sports games that meet the following criteria:

(ix) participation in any fantasy or simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

(II) 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 (athletes in the case of sports events) in multiple real-world sporting or other events.

(III) No winning outcome is based--

(aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or

(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

31 U.S. Code Sec. 5362

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**Explanation of amendments:**

The committee amendment clarifies the intent of the bill, which is to only apply to fantasy contest operators who offer fantasy contests for cash prizes to the general public upon the payment of an entry fee. It is not intended to apply to

private contests such as those conducted by a group of friends or coworkers.

The committee amendment also includes the following consumer protection provisions:

- 1.Requires fantasy contest operators to be licensed in Nebraska by registering with the Department of Revenue and paying a \$50,000 registration fee and an annual fee of \$10,000, but not to exceed ten percent of the total entry fees minus prizes.
- 2.Prohibits the fantasy contest operator, any relative living with the fantasy contest operator, employees of the fantasy contest operator, or any relative living with an employee from of the fantasy contest operator from participating in that operator's fantasy contest.
- 3.Verify that participants are at least 18 years old.
- 4.Ensure that a person who plays or officiates in a game or contest that is the subject of any fantasy contest is restricted from participating in such fantasy contest that is determined on the accumulated statistical results of a team of players in a game or contest in which such person is a player or an official.
- 5.The operator will take reasonable steps to restrict a person's participation if the person requests that their access to play fantasy contests be restricted.
- 6.The operator will disclose the number of entries that a participant in a fantasy contest may submit and take reasonable steps to prevent the participant from submitting more than the allowed number.
- 7.The operator will protect the participants' funds buy segregating the fantasy contest funds of participants from the operator's operational funds and maintain an adequate reserve.
- 8.The operator will contract with a third party to perform an annual audit to ensure compliance with the provisions in LB 862. The audit results will be submitted to the Department of Revenue.

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Tyson Larson, Chairperson