

GAMING REGULATORY SYSTEMS: HOW EMERGING JURISDICTIONS CAN USE THE THREE MAJOR PLAYERS AS A GUIDE IN CREATING A TAILORED SYSTEM FOR THEMSELVES

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Gaming has existed for thousands of years;¹ however, sophisticated gaming regulatory systems are modern additions.² Jurisdictions that have opened their borders to more unrestricted forms of gaming, such as large scale casinos and table games, have developed complicated gaming control systems to ensure the industry grows in a safe and secure manner.³

For nearly eighty years, the state of Nevada, and specifically Las Vegas, enjoyed the title of the most profitable gaming area in the world.⁴ As the only state with legalized private casino gaming for more than forty years,⁵ Nevada was able to develop the first advanced gaming control system in the United States.⁶ However, within the last four years, Las Vegas has not only been rivaled by two emerging foreign gaming markets, but has been overtaken as the number one gaming revenue jurisdiction.⁷ It is also predicted that by the end of

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I would like to thank Bob Faiss for the invaluable insight and guidance he provided in helping develop this Note. I would also like to acknowledge the *UNLV Gaming Law Journal* staff for their continued patience and efforts in revising and editing this Note. Most importantly, I would like to thank my mother, father and sister for their unceasing support throughout my law school career. I would not be where I am without my family's love and encouragement.

¹ See *Macau Gaming Summary*, UNIV. OF NEV., LAS VEGAS, CTR. FOR GAMING RESEARCH, <http://gaming.unlv.edu/abstract/macau.html> (last visited Aug. 27, 2012); see also *Early History of Gaming*, AM. GAMING ASS'N, <http://www.americangaming.org/industry-resources/research/fact-sheets/early-history-gaming> (last visited Aug. 27, 2012).

² See *Macau Gaming Summary*, *supra* note 1; see also *Nevada Gaming Summary*, UNIV. OF NEV., LAS VEGAS, CTR. FOR GAMING RESEARCH, http://gaming.unlv.edu/abstract/nv_main.html (last visited Aug. 27, 2012).

³ See *Gaming Regulation in Nevada: An Update*, NEV. GAMING COMM'N AND STATE GAMING CONTROL BD., 4 (July 2006), available at http://web.archive.org/web/20110721061452/http://gaming.nv.gov/documents/pdf/gaming_regulation_nevada.pdf; see also *Macau Gaming History*, GAMING INSPECTION AND COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/history/index.html> (last visited Aug. 27, 2012).

⁴ *Nevada Gaming Summary*, *supra* note 2.

⁵ See *U.S. Commercial Casino Industry: Facts at Your Fingertips*, AM. GAMING ASS'N, 4 (2009), http://www.americangaming.org/files/aga/uploads/docs/facts_at_your_fingertips_12022010.pdf.

⁶ *Id.*

⁷ *Macau Gaming Summary*, *supra* note 1.

2012, Las Vegas will slip to the third most profitable gaming market in the world.⁸ So where are these two new emerging markets? The answer may surprise those who are not familiar with gaming: Macau⁹ and Singapore.¹⁰ These Asian jurisdictions have emerged as the two new leading super powers in gaming. Macau eclipsed Las Vegas in gaming revenue in 2009¹¹ and Singapore is poised to do the same by the end of 2012.¹²

While all three jurisdictions have established gaming control systems, each jurisdiction's control is somewhat different from the others.¹³ With Macau and Singapore's almost overnight success in the gaming industry, several other Asian jurisdictions are considering opening their borders to larger scale gaming.¹⁴ Specifically, Taiwan is in the midst of drafting gaming regulations.¹⁵ Other United States jurisdictions, including Florida, have also expressed interest in allowing privately-owned casinos to open and operate in their states.¹⁶ How should these jurisdictions set up their gaming control systems? Is there an existing model that should be used or should pieces from several jurisdictions be melded together to create a system more customized for the new jurisdiction? This note will first examine the existing gaming control systems in the three most prominent jurisdictions: Nevada, Macau, and Singapore. The second portion of the note will suggest what features of these existing gaming control systems should be implemented into emerging gaming jurisdictions, with Nevada as the primary model, and what additional features the new jurisdictions will want to consider.

I. CURRENT GAMING CONTROL SYSTEMS

A. Nevada

Nevada first legalized gaming in 1869; however, legalized gaming did not last long and was effectively outlawed on October 1, 1910.¹⁷ In 1931, partially

⁸ Thomas Cho, *S'pore to Become World's Second-Biggest Gaming Hub This Year?*, CHANNELNEWSASIA.COM, May 2, 2012, <http://www.channelnewsasia.com/stories/singaporebusinessnews/view/1198720/1.html>.

⁹ *Macau Gaming Summary*, *supra* note 1.

¹⁰ Cho, *supra* note 8.

¹¹ *See Macau Gaming Summary*, *supra* note 1; *see also Annual Gaming Revenue*, UNIV. OF NEV., LAS VEGAS, CTR. FOR GAMING RESEARCH, http://gaming.unlv.edu/abstract/nvstate_revenues.html (last visited Aug. 27, 2012).

¹² Cho, *supra* note 8.

¹³ *Compare* GAMING INSPECTION AND COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/history/index.html> (last visited Aug. 27, 2012), *with* SING. CASINO REGULATORY AUTH., <http://app.cra.gov.sg/public/www/content.aspx?sid=13> (last visited Aug. 17, 2012), *with* NEV. GAMING COMM'N AND STATE CONTROL BD., <http://gaming.nv.gov/index.aspx?page=4> (last visited Aug. 27, 2012).

¹⁴ *Singapore Gaming Model to Lead Way for Other Asian Nations: Analyst*, CNBC.COM, June 10, 2011, http://www.cnbc.com/id/43349507/Singapore_Gaming_Model_to_Lead_Way_for_Other_Asian_Nations_Analyst.

¹⁵ Lee Seok Hwai, *Islands Keen for Piece of Gaming Pie*, STRAITS TIMES (Sing.), Mar. 23, 2011.

¹⁶ Lizette Alvarez, *In Florida Battle, Casino Cash vs. Disney Image*, N.Y. TIMES, Oct. 29, 2011, at A1.

¹⁷ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 2.

in response to continued illegal gambling, Nevada legalized gaming again “when Governor Balzar signed Assemblyman Tobin’s so-called ‘wide open gambling’ bill.”¹⁸ Nevada was looking for a way to bring in more revenue and, along with the passage of more liberal divorce statutes, hoping that gaming would provide additional sources of tax revenue.¹⁹ Nevada enjoyed the title of the only state in the United States with legalized gaming until 1976 when New Jersey voters approved casino gambling in Atlantic City.²⁰ Although Nevada has a long history of legal casino gaming, the Nevada Constitution has long outlawed any form of lottery.²¹ Nevada has also long allowed pari-mutuel betting, but does not have actual horse or greyhound tracks in the state.²²

Gaming was slow to grow in the early years, but with the building of The Flamingo in 1946, Las Vegas began to establish itself as the leading gaming destination.²³ In 1955, the Nevada Gaming Control Board was created by the legislature.²⁴ The legislature looked to the newly created agency to create policy to eliminate the undesirable element in Nevada gaming and generate regulations to license and operate gaming.²⁵ Since its inception, the Governor has appointed three full-time members to the Board who serve four-year terms.²⁶ The Nevada Gaming Commission was created in 1959 with the passage of the Nevada Gaming Control Act.²⁷ The Commission consists of five part-time members appointed by the Governor to serve four-year terms.²⁸ The Act has remained the primary legislation controlling gaming in Nevada. In 1961, the Gaming Policy Committee was created, which consists of the Governor and ten members.²⁹ The Committee meets exclusively at the request of the Governor to discuss matters of gaming policy.³⁰ Recommendations made by the Committee are only advisory for the Commission and Board and are not binding.³¹

The Gaming Control Act created a unique two-tier gaming control system under which the responsibilities and powers are divided between the Commission and Board.³² The Commission’s primary task is to respond to the recommendations of the Board in licensing matters.³³ If the Board finds it is necessary to impose sanctions against a licensee, it acts in the prosecutorial capacity and the Commission acts in the judiciary capacity.³⁴ The Commission

¹⁸ *Id.*

¹⁹ *Id.* at 3.

²⁰ *See Reports: Atlantic City Casino Gambling 1976-77*, N.J. STATE COMM’N OF INVESTIGATION, <http://www.state.nj.us/sci/casino.shtm> (last visited Aug. 27, 2012).

²¹ NEV. CONST. art. IV, § 24.

²² *Racetracks*, NEV. PARI-MUTUEL ASS’N, <http://nevadapari-mutuel.com/racetracks/> (last visited Aug. 27, 2012).

²³ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 4.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 5.

²⁸ NEV. REV. STAT. §§ 463.022-024 (2011).

²⁹ *Id.* § 463.021(1).

³⁰ *Id.*

³¹ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 5.

³² *See id.*

³³ *Id.* at 6.

³⁴ *Id.*

has the final say on licensing matters and the authority to approve, deny, restrict, revoke, or suspend any gaming license.³⁵ The Commission is also responsible for adopting and amending Nevada's gaming regulations.³⁶ The Commission has the ability to promulgate gaming regulations,³⁷ which is especially useful for Nevada because the legislature meets only every two years.³⁸

The Board is divided into six separate divisions: Administration, Investigations, Technology, Audit, Enforcement, and Tax and License.³⁹ The Administration Division handles the day-to-day operations of the Board, including personnel and budget matters.⁴⁰

The Investigations Division is charged with investigating all potential gaming licensees and key employees of licensees.⁴¹ The potential licensee must pay all expenses associated with the investigation process.⁴² A potential licensee must also apply for a separate license for each gaming location.⁴³ The Investigations Division also encompasses the Corporate Securities Section, which "monitors, investigates, and analyzes activities of registered, publicly traded corporations and their subsidiaries" involved in gaming in Nevada.⁴⁴

The Technology Division is responsible for examining, testing, and recommending gaming devices for approval or denial from the Board and Commission for use in Nevada.⁴⁵ Historically, the state of Nevada operated its own laboratory that tested each game; however, as of July 2012, the state stopped performing pre-approval inspection of gaming devices.⁴⁶ Instead, manufacturers submit their new gaming devices to private laboratories that perform the testing and forward the results to the Board for approval or denial.⁴⁷

The Audit Division is responsible for ensuring all revenue from licensees has been properly reported and remitted.⁴⁸ It audits casinos with more than approximately 5.87 million dollars in annual revenue.⁴⁹ It also periodically reviews the operations of companies that are required to be licensed but do not

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Facts about the Nevada Legislature*, NEV. LEG., http://www.leg.state.nv.us/General/AboutLeg/General_Short.cfm (last visited Aug. 27, 2012).

³⁹ *GCB Divisions*, NEV. GAMING COMM'N AND STATE GAMING CONTROL BD., <http://gaming.nv.gov/index.aspx?page=4> (last visited Aug. 27, 2012).

⁴⁰ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 9.

⁴¹ NEV. REV. STAT. § 463.1405 (2011); *Investigations Division*, NEV. GAMING COMM'N AND STATE GAMING CONTROL BD., <http://gaming.nv.gov/index.aspx?page=4> (last visited Aug. 27, 2012).

⁴² Nev. Gaming Comm'n Reg. 4.070 (2011).

⁴³ *Id.* § 4.050.

⁴⁴ *Investigations Division*, *supra* note 41.

⁴⁵ *Technology Division*, NEV. GAMING COMM'N AND STATE GAMING CONTROL BD., <http://gaming.nv.gov/index.aspx?page=15> (last visited Aug. 27, 2012).

⁴⁶ Industry Notice from Mark A. Lipparelli, Chairman, Nev. Gaming Control Bd., to All Licensees and Interested Parties, (May 2, 2012) [hereinafter Industry Notice], available at <http://gaming.nv.gov/modules/showdocument.aspx?documentid=3461>.

⁴⁷ *Id.*

⁴⁸ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 8.

⁴⁹ *Audit Division Overview*, NEV. STATE GAMING CONTROL BD. AND GAMING COMM'N, <http://gaming.nv.gov/index.aspx?page=54> (last visited Aug. 27, 2012).

necessarily operate gaming, such as slot route operators or gaming device manufacturers.⁵⁰

The Enforcement Division investigates and criminally prosecutes all potential violations of gaming regulations by licensees.⁵¹ It is also responsible for all patron disputes with licensees.⁵² All patron disputes over \$500 must be reported by the licensee to the Board immediately.⁵³ If the disputed amount is less than \$500, the licensee must notify the patron that he has the option of reporting the dispute to the Board.⁵⁴ The Enforcement Division also makes recommendations for potential candidates to be included on the “List of Excluded Persons.”⁵⁵

The Tax and License Division reviews the financial performance of smaller gaming licensees.⁵⁶ It is also in charge of the administration of all tax and licensing matters for the Board, such as issuing licenses.⁵⁷ Tribal gaming in Nevada is monitored by the Tax and License Division.⁵⁸

The ability to operate gaming in Nevada is deemed a privilege and not a right.⁵⁹ The Commission has the power to deny a license for any reasonable cause.⁶⁰ The Commission may consider any evidence when considering denial or revocation of a license.⁶¹

Any person or business that wishes to participate in the gaming industry in Nevada must be licensed⁶² or registered with the Board.⁶³ Gaming employees are required to register with the Board but are not necessarily required to go through the entire licensing process.⁶⁴ Nevada requires gaming employees, who actively engage in the administration or supervision of, or have significant involvement with, the gaming activities of the company, to be licensed.⁶⁵

Nevada has two types of licenses: restricted⁶⁶ and non-restricted.⁶⁷ A restricted licensee may operate up to fifteen slot machines, which are incidental to the primary business of the establishment.⁶⁸ Within the restricted license category, there are also limitations on the number of machines allowed based

⁵⁰ *Id.*

⁵¹ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 8.

⁵² *Id.*

⁵³ NEV. REV. STAT. § 463.362(2)(a) (2009).

⁵⁴ *Id.* at § 463.362 (2)(b).

⁵⁵ NEV. REV. STAT. § 463.151(2) (2011); *see also Authority and Implementation*, NEV. STATE GAMING CONTROL BD. AND GAMING COMM’N, <http://gaming.nv.gov/index.aspx?page=75> (last visited Aug. 27, 2012).

⁵⁶ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 8.

⁵⁷ *Tax and License Division*, NEV. STATE GAMING CONTROL BD. AND GAMING COMM’N, <http://gaming.nv.gov/index.aspx?page=48> (last visited Aug. 27, 2012).

⁵⁸ *Id.*

⁵⁹ *State v. Rosenthal*, 559 P.2d 830, 833 (1977).

⁶⁰ *Id.* at 835.

⁶¹ *See id.*

⁶² Nev. Gaming Comm’n Reg. 4.010 (2011); NEV. REV. STAT. § 463.165(1) (2007).

⁶³ NEV. REV. STAT. § 463.335(2) (2009).

⁶⁴ *See id.*

⁶⁵ NEV. REV. STAT. § 463.637(1) (2011).

⁶⁶ *Id.* § 463.0189.

⁶⁷ *Id.* § 463.0177.

⁶⁸ *Id.*

on the type of primary business.⁶⁹ A non-restricted licensee may operate sixteen or more slot machines or any combination of slot machines, table games, or a race and sports book.⁷⁰ Non-restricted licenses, granted in counties with populations of more than 700,000 people, will only be issued to establishments located in a gaming enterprise district.⁷¹ The limitation of gaming locations is a reflection of the gaming policy adopted by Nevada.⁷² The Nevada statutes set forth the state's public policy on gaming, which stresses the importance of gaming regulation.⁷³ Manufacturers, sellers, or distributors of gaming devices⁷⁴ and slot route operators must also acquire a license.⁷⁵

Gaming debts were unenforceable for the majority of Nevada's legalized gaming history.⁷⁶ After New Jersey passed legislation allowing the enforcement of certain gaming debts in 1976, Nevada subsequently followed suit.⁷⁷ Nevada needed to take steps to prevent people, who were gambling in both New Jersey and Nevada, from paying New Jersey debts first. In 1983, as a way to protect its gaming licensees, Nevada passed a law that all gaming debts could be enforced through criminal action.⁷⁸

Restricted licensees are assessed an annual and quarterly tax for each machine operated.⁷⁹ Non-restricted licensees are assessed annual and quarterly taxes for each machine and table game operated, as well as a tax on their gaming gross revenue.⁸⁰ Nevada has one of the lowest gross revenue taxation rates in the United States at 6.75%.⁸¹ The Board publishes monthly and annual financial reports for non-restricted licensees.⁸²

In Nevada, casinos, as well as the state, may exclude patrons. Licensees have the ability to exclude patrons from their properties through a trespassing statute.⁸³ The state may exclude patrons, through its police power, from non-restricted establishments by adding them to the "List of Excluded Persons."⁸⁴ Patrons can be added to the list based on a prior felony conviction, failure to disclose an interest in a gaming establishment, tax evasion, or an unsavory

⁶⁹ Nev. Gaming Comm'n Reg. 3.015(1)-(2) (2011).

⁷⁰ NEV. REV. STAT. § 463.0177(1)-(2) (2011).

⁷¹ *Id.* § 463.308(1).

⁷² *See id.* § 463.0129.

⁷³ *Id.* § 463.0129(1)(c).

⁷⁴ *Id.* § 463.650(1).

⁷⁵ *Id.* § 463.1599.

⁷⁶ *See Gaming Regulation in Nevada: An Update*, *supra* note 3, at 2; *see* NEV. REV. STAT. § 463.368 (2010).

⁷⁷ Peter Larson, *Is the CGCC Taking an Unnecessary Gamble?*, CASINO ENTER. MGMT, Feb. 1, 2010 available at <http://www.casinoenterprisemanagement.com/articles/february-2010/cgcc-taking-unnecessary-gamble>; *see* N.J. STAT. § 5:12-101 (2011); *see* NEV. REV. STAT. § 463.368 (2010).

⁷⁸ NEV. REV. STAT. § 463.368(1) (2011); *see* 71 Am. Jur. Proof of Facts 3d 193 (Originally published in 2003).

⁷⁹ *Gaming Regulation in Nevada: An Update*, *supra* note 3, at 11.

⁸⁰ *Id.*

⁸¹ *Id.*; *see* American Gaming Association, *State of the States 2012*, available at http://www.americangaming.org/files/aga/uploads/docs/sos/aga_sos_2012_web.pdf.

⁸² *Id.*

⁸³ *See* NEV. REV. STAT. § 207.200 (2009).

⁸⁴ NEV. REV. STAT. § 463.151(1) (2011).

reputation which would affect public confidence in the gaming industry.⁸⁵ Once a patron has been added to the list, they may petition to be removed;⁸⁶ however, thus far, death has been the only way a patron's name has been removed.⁸⁷

B. Macau

A large amount of success in Macau can be attributed to "robust investment by entrepreneurs and the preference for gaming by the Chinese."⁸⁸ However, the policy support by the governments of the People's Republic of China and Macau SAR⁸⁹ is arguably the most critical component of the success. Without the liberalization of gaming policy, the "Las Vegas of the East" would not have been possible.⁹⁰ Macau is also currently the only portion of China with legalized gaming,⁹¹ which has added to its success, because it is the only gaming outlet for the more than 1.3 billion Chinese citizens.⁹²

While gaming has been part of the Macanese culture since the sixteenth century, it was not legalized until 1847.⁹³ Historically, the Macau government awarded the right to operate gaming only to one company.⁹⁴ But, in 2002, the government expanded the right to operate gaming to up to three companies.⁹⁵ The major event that began the liberalization of gaming was in 1999 when Macau returned to Chinese sovereignty after 442 years of Portuguese control.⁹⁶ Like Hong Kong, Macau has benefited from the "one country, two-systems" way of governing.⁹⁷ Macau is officially part of China, but has its own capitalist economy and political system separate from mainland China's communist government.⁹⁸ The two system approach allowed gaming to remain legal in Macau even though it is illegal in The People's Republic of China.⁹⁹ In 2000, the newly formed government of Macau SAR established the Macau Gaming Com-

⁸⁵ *Id.* at § 463.151(3)(a)-(c).

⁸⁶ Nev. Gaming Comm'n Reg. 28.080(1) (2011).

⁸⁷ *List of Excluded Persons*, LIONEL SAWYER & COLLINS, <http://www.lionelsawyer.com/pdfs/excluded-persons.pdf> (last visited Sept. 30, 2012).

⁸⁸ *Macau Gaming History*, *supra* note 3.

⁸⁹ Central Intelligence Agency, *Macau*, THE WORLD FACTBOOK, <http://cia.gov/library/publications/the-world-factbook/geos/ch.html> (last visited Aug. 27, 2012) (SAR stands for special administrative region).

⁹⁰ *See Macau Gaming History*, *supra* note 3.

⁹¹ *Macau Gaming Summary*, *supra* note 1.

⁹² *See* Central Intelligence Agency, *China*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> (last visited Aug. 27, 2012).

⁹³ *Macau Gaming Summary*, *supra* note 1.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*; Judith R. Krebs, *One Country, Three Systems? Judicial Review in Macau After Ng Ka Ling*, 10 PAC. RIM L. & POL'Y J. 111 (2000).

⁹⁷ *About Macau*, MACAU GOV'T TOURIST OFFICE, <http://www.macautourism.gov.mo/en/info/info.php> (last visited Aug. 27, 2012).

⁹⁸ Central Intelligence Agency, *China*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> (last visited Sept. 30, 2012).

⁹⁹ *Macau Gaming Summary*, *supra* note 1.

mittee to determine the development, legal, administrative, and policy issues related to gaming.¹⁰⁰

In August 2001, the Legislative Assembly of Macau passed Law No. 16/2001 "Legal Framework for the Operations of Casino Games of Fortune."¹⁰¹ The new legislation set casino operation requirements, eligibility of major shareholders, management of casinos, and gaming tax.¹⁰² The law also set the legal gaming age at 18 years old.¹⁰³ The legislation spelled out restrictions for companies who would be granted gaming concessions.¹⁰⁴ The concession, given by the government to operate a casino, could last no longer than 20 years.¹⁰⁵ The potential operators would have to pay for the government to conduct an investigation regarding their suitability including their experience, financial capacity, and reputation.¹⁰⁶ The potential concessionaires were also required to operate with no less than 200 million patacas (about 24 million dollars), which would have to be deposited into a credit institution authorized to operate in Macau.¹⁰⁷ The legislation also required that management of the casinos be handled by a deputy director who permanently resided in Macau.¹⁰⁸

Concessionaires would be required to pay a flat, yearly license fee of 30 million patacas (about 3.7 million dollars).¹⁰⁹ The excise duty, or gaming tax, was set at thirty-five percent of gross operating revenue.¹¹⁰ The legislation also sought to help improve the region by imposing a levy of no more than two percent of annual revenue, which would be donated to public foundations that promoted social, educational, or philanthropic activities.¹¹¹ There was an additional levy instituted that required no more than three percent of annual revenue be given for urban development, tourism, and social security.¹¹² The concessionaires would also be required to annually publish their balance sheet in the official Macau Gazette and two of the most publically read newspapers in the region.¹¹³ Additionally, the concessionaires would be subjected to external audits and inspections of their finances.¹¹⁴

In October 2001, Chief Executive Edmund Ho Hau Wah, signed Administrative Regulation No. 26/2001, which set up the Casino Concession Committee and stipulated to open the bidding process for casinos interested in

¹⁰⁰ *Macau Gaming History*, *supra* note 3.

¹⁰¹ *Id.*

¹⁰² Legal Framework for the Operations of Casino Games of Fortune, Law No. 16 art. 1 (2001) (Mac.), *available at* http://www.dicj.gov.mo/web/pt/legislation/FortunaAzar/lei_01_016.html.

¹⁰³ *Id.* at art. 2.

¹⁰⁴ *Id.* at art. 10-11.

¹⁰⁵ *Id.* at art. 13.

¹⁰⁶ *Id.* at art. 14-15.

¹⁰⁷ *Id.* at art. 17.

¹⁰⁸ *Id.* at art. 19.

¹⁰⁹ Dispatch of the Chief Executive, Law No. 215 (2001) (Mac.), *available at* http://www.dicj.gov.mo/web/pt/legislation/FortunaAzar/despChExec_01_215.html.

¹¹⁰ *Legal Framework*, *supra* note 102, at art. 27.

¹¹¹ *Id.* at art. 22.

¹¹² *Id.*

¹¹³ *Id.* at art. 31.

¹¹⁴ *Id.* at art. 33-34.

obtaining a concession to operate gaming in Macau.¹¹⁵ Macau received twenty-one bids from potential concessionaires.¹¹⁶ On February 8, 2002, the Macau SAR announced concessions would be granted to Sociedade de Jogos de Macau (SJM), Galaxy Casino, and Wynn Resorts.¹¹⁷ Galaxy, a partnership between Galaxy Entertainment and Las Vegas Sands, was then allowed to split its concession between the two companies.¹¹⁸ As a result of the Galaxy split, the other two concessionaires were each allowed to sell one sub-concession to another company.¹¹⁹ SJM sold its sub-concession to a partnership between Pansy Ho and MGM while Wynn sold its sub-concession to Melco, an Australian casino operator.¹²⁰ In Macau, once a company is granted a concession, that concession is used to operate all of the company's casinos in Macau.¹²¹

In May 2004, Sands Macau opened, marking the first gaming investment project developed by a United States company in Asia.¹²² The concessionaires have since developed casinos on both the Macau Peninsula and Taipa Island.¹²³ At the end of 2011, there were thirty-four casinos operating in Macau including Wynn Macau, Encore Macau, Venetian Macau, and MGM Grand Macau.¹²⁴

In Macau, the Gaming Inspection and Coordination Bureau, known by the Portuguese acronym DIJC, is the definitive authority on all gaming activity.¹²⁵ The DIJC is responsible for everything from monitoring the concessionaires to authorizing gaming equipment to supervising junket promoters.¹²⁶ The DIJC has adopted a policy of "moderate supervision, monitoring and control and healthy growth."¹²⁷ The DIJC is run by a director followed by a deputy director.¹²⁸ The two positions oversee five separate departments: Inspections of Games of Fortune, Inspections of Pari-Mutuel, Audit, Research and Investigation, and Administrative and Finance.¹²⁹

The Inspections of Games of Fortune Department monitors the physical gaming facilities and imposes penalties for gaming occurring outside of sanctioned facilities.¹³⁰ Macau allows table games, slot machines, a lottery, and sports betting.¹³¹ The Games of Fortune Department is responsible for monitor-

¹¹⁵ *Macau Gaming History*, *supra* note 3.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Macau Gaming Summary*, *supra* note 1.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Law No. 16 art 1, *supra* note 102.

¹²² *Macau Gaming History*, *supra* note 3.

¹²³ *Id.*

¹²⁴ *Id.*; *Corporate Profile*, WYNN MACAU, <http://en.wynnmacaulimited.com/phoenix.zhtml?c=231614&p=irol-homeProfile&t=&id=&> (last visited Oct. 16, 2012).

¹²⁵ GAMING INSPECTION AND COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/introduction/index.html> (last visited Aug. 27, 2012).

¹²⁶ *Id.*

¹²⁷ *Macau Gaming History*, *supra* note 3.

¹²⁸ *Organization*, GAMING INSPECTION AND COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/organization/index.html> (last visited Aug. 27, 2012).

¹²⁹ *Id.*

¹³⁰ The Organization and Operation of the Gaming Inspection and Coordination Bureau, Admin. Reg. No. 34, art. 6 (2003) (Mac.), *available at* http://www.dicj.gov.mo/web/cn/legislation/regAdm_03_034.html.

¹³¹ *See Macau Gaming Summary*, *supra* note 1.

ing all forms of gaming.¹³² Table games are the most popular form of gaming, especially baccarat, which produces more revenue in Macau than all other forms of gaming combined.¹³³ Sports betting and the lottery account for only a minuscule fraction of gaming revenue.¹³⁴ The department is also responsible for monitoring the activities of junket promoters.¹³⁵ Junket promoters bring high rollers to the casinos, where they often provide credit to their clients.¹³⁶ The casinos pay the promoters a commission in exchange for bringing in the high rollers.¹³⁷ Macau requires junket promoters to be licensed.¹³⁸

The Inspection of Pari-Mutuel Department has similar functions to the Inspection of Games of Fortune Department, except its focus is on pari-mutuel games.¹³⁹ Macau has a small pari-mutuel industry and allows greyhound and horse racing.¹⁴⁰ Bets for greyhound and horse races must be placed at the tracks in Macau and not at the casinos.¹⁴¹ Although both of these forms of gaming have been legal in Macau for over eighty years, their revenue accounts for just a tiny fraction of overall gaming revenue.¹⁴²

The Audit Department monitors the financial capacity and bookkeeping of concessionaires, their management companies, and junket promoters.¹⁴³ The Research and Investigation Department forecasts the economic activity of gaming and continues to monitor the eligibility of promoters, management companies, and concessionaires.¹⁴⁴ The Research Department also monitors international gaming activities and systems for developments that could potentially be used to assist the DIJC in its monitoring and control of gaming.¹⁴⁵ The Administration and Finance Department is broken down into three sections: accounting, general support, and administrative.¹⁴⁶ The three sections work together as the clerical arm to manage the internal and daily functions of the DIJC, such as preparing the annual budget and maintaining proper records.¹⁴⁷

¹³² *Organization: Inspection of Games of Fortune Department*, GAMING INSPECTION AND COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/organization/dijfa.html> (last visited Aug. 27, 2012).

¹³³ See *Macau Gaming Summary*, *supra* note 1.

¹³⁴ *Id.*

¹³⁵ *Organization: Inspection of Games of Fortune Department*, *supra* note 132.

¹³⁶ Farah Master, *Factbox: How Macau's Casino Junket System Works*, REUTERS, Oct. 21, 2011, <http://www.reuters.com/article/2011/10/21/us-macau-junkets-factbox-idUSTRE79K2DS20111021>.

¹³⁷ *Id.*

¹³⁸ *Set the Qualifications and Rules of Casino Bingo Intermediary Business*, Admin. Reg. No. 6/2002 (2002), available at http://www.dicj.gov.mo/web/cn/legislation/FortunaAzar/regAdm_02_006.html (Mac.).

¹³⁹ Admin. Reg. No. 34, *supra* note 130, at art. 7.

¹⁴⁰ *Macau Gaming Summary*, *supra* note 1.

¹⁴¹ *Id.*; *Pari-Mutuels Under Pressure*, INSIDE ASIAN GAMING, Jan. 1, 2007, http://www.asgam.com/article.php?id_article=1203.

¹⁴² *Id.*

¹⁴³ Admin. Reg. No. 34, *supra* note 130, at art. 8.

¹⁴⁴ See *id.* at art. 9.

¹⁴⁵ *Id.*

¹⁴⁶ See *id.* at art. 10.

¹⁴⁷ See *id.*

In 2004, Macau passed legislation to regulate gaming credit, which the DIJC oversees.¹⁴⁸ Macau allows credit to be granted in three situations: a concessionaire or sub-concessionaire may grant credit to a patron, a concessionaire or sub-concessionaire may provide credit to an authorized gaming promoter, or an authorized gaming promoter (junket promoter) may extend credit to a borrower.¹⁴⁹ No credit transactions may be conducted through a third party.¹⁵⁰ The law requires creditors to grant credit “prudently and carefully, with integrity and respect for laws, regulations and rules of professional conduct.”¹⁵¹ Creditors must also keep all patron information related to the granting of credit confidential.¹⁵² However, credit debts are only enforceable as civil obligations.¹⁵³

Macau allows three forms of exclusion from casinos: government, casinos, and patrons.¹⁵⁴ Law No. 16/2001, the modern gaming legislation, provides that casinos, especially in gaming areas, have the right to refuse admission.¹⁵⁵ Under the same legislation, the government also excludes public servants, children, intoxicated individuals, and those carrying weapons or recording devices from gaming areas.¹⁵⁶ An individual can be charged with civil disobedience if they are ordered to leave a gaming area and refuse.¹⁵⁷ Macau also allows individuals to exclude themselves from casinos.¹⁵⁸ Under the self-exclusion program, relatives and non-government organizations can also have individuals excluded from casinos.¹⁵⁹

C. Singapore

Singapore was founded as a British colony in 1819 and did not become an independent nation until 1965.¹⁶⁰ Singapore allowed some forms of gaming before the recent legalization of large scale gaming.¹⁶¹ Legislation permitted betting by members and officers of racing clubs or associations.¹⁶² The only two legal operators under this legislation were Singapore Turf Club, where

¹⁴⁸ Casino Gaming or Betting Credit, Law No. 5 (2004), available at http://www.dicj.gov.mo/web/cn/legislation/FortunaAzar/lei_04_005.html (Mac.); *Audit Department*, GAMING INSPECTION AND COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/organization/dijfa.html> (last visited Sept. 30, 2012).

¹⁴⁹ *Id.* at art. 3.

¹⁵⁰ *Id.* at art. 5.

¹⁵¹ *Id.* at art. 9.

¹⁵² *Id.* at art. 10.

¹⁵³ *Id.* at art. 4.

¹⁵⁴ Law No. 16 art 1, *supra* note 102, at art. 24-26.

¹⁵⁵ *Id.* at art. 26.

¹⁵⁶ *Id.* at art. 24.

¹⁵⁷ *Id.* at art. 25.

¹⁵⁸ *Government Bets on New Responsible Gaming Action*, CASINO WATCH, Apr. 30, 2010, available at casinowatch.org/this_weeks_news_briefs/news_5-1-10/international_news_5-1-10.html.

¹⁵⁹ *Id.*

¹⁶⁰ Central Intelligence Agency, *Singapore*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/sn.html> (last visited Aug. 27, 2012).

¹⁶¹ Betting Act, Ch. 21, § 22 (2011) (Sing.); Common Gaming Houses Act, Ch. 49, § 24 (1987) (Sing.).

¹⁶² Wu Wenyu, *Virtual Vice*, SING. L. REV., Oct. 4, 2010, <http://www.singaporelawreview.org/2010/10/virtual-vice/>.

members could wager on horse racing, and Singapore Pools, where members were able to wager on sports and play the lottery.¹⁶³

On April 18, 2005, the Singapore Prime Minister, Lee Hsien Loong, announced Parliament was allowing two resort-casinos to be developed.¹⁶⁴ Singapore hoped to boost revenue with the addition of legalized gaming.¹⁶⁵ Gaming was seen as a way for Singapore to be more competitive in the tourism industry,¹⁶⁶ especially with Macau's announcement of legalizing gaming in 2001.¹⁶⁷ The development of the casinos was also intended to create jobs for unskilled workers as assembly line manufacturing moved to China.¹⁶⁸

However, the Prime Minister stressed that the country was not just legalizing gaming but creating two integrated resorts, which would provide entertainment, lodging, shopping, and restaurants in addition to gaming.¹⁶⁹ The government received nineteen proposals from companies to build the original two resorts, which were to be built on sites pre-selected by the government.¹⁷⁰ The government selected the Bayfront site in New Downtown, and limited the total gaming area to less than three percent of the total floor area of the resort.¹⁷¹ The other location, Sentosa, would be aimed at attracting families and tourists.¹⁷² The gaming area at Sentosa would be limited to less than five percent of the total floor space.¹⁷³

Marina Bay Sands, at the Bayfront site, was developed by Las Vegas Sands.¹⁷⁴ Resorts World Sentosa, at the Sentosa site, was developed by Genting Singapore.¹⁷⁵ Marina Bay Sands, which boasts more than 2,500 guest rooms, an infinity pool on top of its fifty-five story frame, and an indoor canal, is billed as the world's most expensive hotel.¹⁷⁶ The two resorts remain the

¹⁶³ *Id.*; SING. TURF CLUB, <http://www.turfclub.com.sg/Pages/Homepage.aspx> (last visited Aug. 27, 2012); SING. POOLS, <http://www.singaporepools.com.sg/en/index.html> (last visited Aug. 27, 2012).

¹⁶⁴ John Burton, *Singapore Gambles on Casinos to Revitalize its Economy*, FIN. TIMES, April 19, 2005, <http://www.ft.com/intl/csm/s/0/cc309af0-b073-11-d9-ab98-00000e2511c8.html#axzz23jxEyX1B>.

¹⁶⁵ Frederik Balfour, *Singapore Bets on Casino Gambling*, BUS. WK., Oct. 23, 2009, http://www.businessweek.com/globalbiz/content/oct2009/gb20091023_733471.htm.

¹⁶⁶ Statement on Integrated Resort at Parliament House from Lee Hsien Loong, Prime Minister (Apr. 18, 2005), available at <http://www.mti.gov.sg/MTIInsights/Documents/PM%20lee%20Hsien%20Loong-Parliament-18Apr2005.pdf>.

¹⁶⁷ *Macau Gaming History*, *supra* note 3.

¹⁶⁸ Burton, *supra* note 164.

¹⁶⁹ Loong, *supra* note 166.

¹⁷⁰ *Id.*; Burton, *supra* note 164.

¹⁷¹ Loong, *supra* note 166.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ Sheldon G. Adelson, *About Marina Bay Sands*, MARINA BAY SANDS (SING.), <http://www.marinabaysands.com/Company-Information/About-Singapore/>.

¹⁷⁵ RESORTS WORLD SENTOSA SING., <http://www.rwsentosa.com/language/en-US/AboutUs> (last visited Aug. 22, 2012).

¹⁷⁶ Lucy Ballinger, *Don't go off the VERY Deep End*, DAILY MAIL ONLINE, June 24, 2010, <http://www.dailymail.co.uk/news/article-1289194/Marina-Bay-Sands-resort-opens-Singapore.html>.

only licensed gaming establishments in Singapore and are considered to be the world's most profitable casinos.¹⁷⁷

In 2006, the Casino Control Act was passed and it remains the main legislation that controls gaming in Singapore.¹⁷⁸ The Act established the Casino Regulatory Authority of Singapore (CRA)¹⁷⁹ and set the legal gaming age at twenty-one years old.¹⁸⁰ The CRA is composed of a chairman and no less than four but no more than sixteen additional members, as determined by the Prime Minister.¹⁸¹ The objectives of the CRA are to ensure the casinos remain free of criminal influence, to confirm that gaming is conducted honestly, and to control the potential harm to society caused by casinos.¹⁸²

The CRA is divided into eight divisions in addition to a separate internal audit unit.¹⁸³ The divisions include: Inspection and Compliance, Gaming Technology and ICT Systems, Investigations, Leasing, Legal, Human Resource, Administrative and Finance, and Planning and Policy.¹⁸⁴ The CRA has a wide range of authority: it advises the Prime Minister on gaming policy, supervises the operation of casinos, adjudicates patron disputes with casinos, investigates the suitability of potential licensees, and inspects and approves gaming equipment.¹⁸⁵ The CRA also has the authority to make gaming regulations, which have the force of law.¹⁸⁶ The regulations contain detailed requirements for casino operators, employees, vendors, and patrons.¹⁸⁷

The Casino Control Act limited the number of licenses to two for the first ten years following the designation of the second casino site.¹⁸⁸ In granting a license, the CRA considers the character, financial resources, business ability, and associations of the applicant, and each person associated with the applicant.¹⁸⁹ Before granting a license, the CRA investigates the applicant and any person associated with the applicant deemed relevant to the application.¹⁹⁰ After the investigation, the CRA will either grant or deny the license.¹⁹¹ The license itself sets out the boundaries for the location of the casino.¹⁹²

In an effort to control problem gambling, the government imposed an entrance fee for all Singaporeans of 100 Singaporean dollars a day or 2,000

¹⁷⁷ Muhammad Cohen, *Singapore Casinos Defy Odds*, ONLINE ASIA TIMES, June 28, 2011, http://www.atimes.com/atimes/Southeast_Asia/MF28Ae01.html.

¹⁷⁸ Casino Control Act, Ch. 33A (2007) (Sing.).

¹⁷⁹ *Id.* at § 5.

¹⁸⁰ *Id.* at § 130.

¹⁸¹ *Id.* at § 7.

¹⁸² *Id.* at Part II, § 8.

¹⁸³ *About Us: Organization Structure*, SING. CASINO REGULATORY AUTH., <http://app.cra.gov.sg/public/www/content.aspx?sid=13> (updated Aug. 17, 2011).

¹⁸⁴ *Id.*

¹⁸⁵ Casino Control Act, Ch. 33A § 9.

¹⁸⁶ *Regulations*, SING. CASINO REGULATORY AUTH., <http://app.cra.gov.sg/public/www/content.aspx?sid=39> (last visited Aug. 24, 2012).

¹⁸⁷ *Id.*

¹⁸⁸ Casino Control Act, Ch. 33A § 41.

¹⁸⁹ *Id.* at § 45.

¹⁹⁰ *Id.* § 46(1), (2)(a).

¹⁹¹ *Id.* § 49(1).

¹⁹² *Id.* § 51(1).

Singaporean dollars a year.¹⁹³ The levy must be paid for each casino the resident wishes to enter.¹⁹⁴ The entry levy is remitted to the Singapore Totalisator Board for social or charitable purposes.¹⁹⁵ Foreign patrons are required to show documentation attesting to their foreign residency to gain entry into the casino.¹⁹⁶

In an additional effort to combat problem gaming, casinos and junket promoters are not allowed to extend credit to local residents.¹⁹⁷ However, credit can be extended to non-residents.¹⁹⁸ Residents are able to establish deposit accounts with casinos and withdraw funds from the account for use in the casino rather than carry large amounts of cash.¹⁹⁹ A “premium player” is considered a patron who maintains a deposit account with the casino with a balance of not less than \$100,000.²⁰⁰

Casinos are required to pay taxes, overseen by the Minister of Finance, on a monthly basis.²⁰¹ Gross revenue on premium players is taxed at five percent and revenue from any other player is taxed at fifteen percent.²⁰² These tax rates were locked in for the first fifteen years after the designation of the second casino site.²⁰³

Patron disputes over winnings, losses, or how a game was played are handled by investigators from the CRA.²⁰⁴ If the dispute is over \$1,000, the casino operator must notify the CRA immediately.²⁰⁵ If the dispute is less than \$1,000, the casino operator must notify the patron they have the right to contact the CRA for an investigation.²⁰⁶ The aggrieved party has the right to appeal the investigator’s decision, first to an independent committee appointed by the CRA and then directly to the CRA, who has final authority over the matter.²⁰⁷

In Singapore, certain casino employees must be licensed by the CRA.²⁰⁸ Persons who have significant influence over casino operations or by reason of their remuneration or authority in relation to casino operations are required to be licensed as special employees.²⁰⁹ The CRA investigates the suitability and integrity of the potential employees.²¹⁰ An employee can have his license suspended, varied, or cancelled for providing false or misleading information, for

¹⁹³ Loong, *supra* note 166.

¹⁹⁴ See Casino Control Act § 116(1).

¹⁹⁵ *Id.* § 116(2).

¹⁹⁶ *Casino Entry Levy FAQ*, OFFICIAL SITE MARINA BAY SANDS SING., <http://www.marinabaysands.com/Singapore-Casino/Casino-Entry-Levy/FAQs/> (last visited Aug. 15, 2012).

¹⁹⁷ Loong, *supra* note 166.

¹⁹⁸ Casino Control Act § 108(7).

¹⁹⁹ *Id.* § 108(2)-(3).

²⁰⁰ *Id.* § 2(1).

²⁰¹ *Id.* § 146(1), (4).

²⁰² *Id.* § 146(2).

²⁰³ *Id.* § 146(3).

²⁰⁴ *Id.* § 111(1).

²⁰⁵ *Id.* § 111(a).

²⁰⁶ *Id.* § 111(1)(b).

²⁰⁷ *Id.* §§ 112, 114.

²⁰⁸ *Id.* § 80(1).

²⁰⁹ *Id.* § 82(1)(a), (b).

²¹⁰ *Id.* § 85(1)(a), (c).

being found guilty of a crime involving dishonesty or moral turpitude, or for filing for bankruptcy.²¹¹ In addition to casino employees, junket promoters or organizers must also be licensed by the CRA.²¹²

The National Council for Problem Gaming (NCPG) was created in response to Singapore's legalization of gaming.²¹³ The NCPG executes casino exclusions.²¹⁴ Patrons, both residents and visitors, may exclude themselves from the casinos.²¹⁵ Casinos are also able to exclude patrons either through an oral exclusion, which expires after fourteen days, or through a written exclusion.²¹⁶ Families are also able to exclude immediate family members, defined as spouses, children, parents, and siblings.²¹⁷ Family members are able to apply to the NCPG to have a family member excluded from casinos if it can be shown that, over a period of no less than three months, the person has "engaged in gambling activities irresponsibly having regard to the needs and welfare of the family members."²¹⁸ Another form of casino exclusion is the third party exclusion.²¹⁹ Third party exclusions automatically exclude residents with undischarged bankruptcies and those receiving assistance from the government.²²⁰

II. FUTURE GAMING CONTROL

The adoption of legalized gaming has provided massive revenues for jurisdictions around the world.²²¹ Jurisdictions have seen how gaming revenue can help vitalize an economy. Additional jurisdictions in the United States and abroad are currently considering legalizing gaming on a larger scale.²²² The key to a successful gaming industry is a strong gaming control system. A strong system sets the proper footing for gaming to begin and sets a structure within which gaming can grow responsibly and prosperously. Nevada, Macau, and Singapore all stand as current models of gaming control. Each system is unique, with strengths and weaknesses, but they all have similar features, which have proven successful, such as strenuous licensing processes and auditing the financials of licensees. Ultimately, jurisdictions considering the legalization of

²¹¹ *Id.* § 93.

²¹² *Id.* § 110(1).

²¹³ See *NCPG - About the Council*, NAT'L COUNCIL ON PROBLEM GAMBLING, <http://www.ncpg.org.sg/about-ncpg/about-the-council.html> (last visited Aug. 27, 2012).

²¹⁴ *Id.*

²¹⁵ *NCPG - Casino Exclusion Measures*, NAT'L COUNCIL ON PROBLEM GAMBLING, <http://www.ncpg.org.sg/draw-the-line/casino-exclusion-measures.html> (last visited Aug. 15, 2012).

²¹⁶ Casino Control Act §§ 121.

²¹⁷ *Id.* §§ 153, 159(1).

²¹⁸ *Id.* § 162(1)-(2).

²¹⁹ *NCPG - Casino Exclusion Measures*, *supra* note 215.

²²⁰ Casino Control Act § 165A(1)-(2).

²²¹ See *Nevada Annual Comparison: Revenue Statistics*, UNIV. OF NEV., LAS VEGAS, CTR. FOR GAMING RESEARCH, http://gaming.unlv.edu/abstract/lv_revenues.html (last visited Sept. 30, 2012); *Macau Gaming Summary*, *supra* note 1.

²²² Lizette Alvarez, *In Florida, Lawmakers Consider Gambling Bill*, N.Y. TIMES, Jan. 8, 2012, at A21; Sofia Wu, *Casino Fever Back in Vogue*, CENT. NEWS AGENCY (Taiwan), Apr. 11, 2011, http://focustaiwan.tw/ShowNews/WebNews_Detail.aspx?ID=201104110032&Type=aTOD.

gaming should look to the current gaming control models for guidance. However, there is not a gaming control model that can be wholly adopted without revision because each jurisdiction needs to consider its individual goals, needs, and challenges.

A. *Nevada as the Primary Model*

Nevada's gaming control system should serve as a strong example because the current system has proven to be successful for over fifty years, longer than any other major jurisdiction's system. One of the key features contributing to the success of Nevada's gaming control is its fluidity. Nevada has allowed its gaming control to change over time so that it is better able to meet the evolving needs of the gaming industry. For example, Nevada recognized that the state alone could not handle the volume of new gaming device testing. In response to the growth of the industry, Nevada outsourced gaming testing to the private sector. Recognition of the need for change will allow the gaming industry to continue to grow without delay. New jurisdictions need to be aware that the regulations they adopt today may not suit the needs of the country and industry in ten years. The means for change should be flexible enough to allow for the quick and efficient evolution of the system.

Nevada's gaming control system is primarily governed by legislation, which provides the perfect means to change the system as needed, as legislation can be amended and repealed, and can be done in a relatively easy and expeditious manner. Jurisdictions should create their gaming control systems by legislation, as long as their legislation is relatively easy to amend. Like Nevada, jurisdictions should use one primary act to establish gaming controls so it is easier for citizens and potential licensees to find and understand the control system. Further, the primary gaming control entity should promulgate regulations to provide clarification and detail to the gaming statutes.

The gaming legislation should establish a government entity to oversee gaming. The entity's sole purpose should be gaming control, like Nevada's Gaming Commission and Gaming Control Board. Nevada's two-tiered system provides additional structure. The Board is able to handle the day-to-day gaming operations, allowing the Commission to focus on decision-making. Divisions within the day-to-day operational entity should be created so that employees are able to specialize and become experts in one particular area of gaming. At a minimum, divisions within the organization should include licensing, taxation, enforcement, and approval of new games.

Nevada has taken the stance that gaming regulators also act as consultants to the licensees. It is important to establish a cooperative, working relationship with licensees. Regulators should not only enforce gaming regulations, but should help licensees find solutions and plan ahead. Encouraging licensees and regulators to work closely together benefits both parties. Licensees will be able to use regulators as a resource and will be better able to avoid possible infractions. Regulators will be able to counsel licensees in the best courses of action, and therefore will be less likely to expend resources on disciplining licensees.

Regulators must require licenses for all individuals and companies who wish to operate gaming in new jurisdictions. Licensing allows the jurisdiction

to control who operates gaming and, therefore, will help to keep out undesirable elements and individuals. A separate license for each gaming location should be required because each location is unique and should be found suitable before a license is issued. The gaming agency should have the ability to grant, deny, suspend, revoke, or condition any license or license renewal. Giving the agency power to do more than simply grant or deny a license allows for disciplinary action to be taken without completely shutting out a licensee. Under this scheme, the licensee is also given the ability to correct wrongful actions.

Different categories of gaming licenses should be used; however, like Nevada, the number of licenses offered should not be limited. Having different types of licenses allows smaller operations to offer gaming because those operations may not have the money, manpower, or desire to operate a large gaming establishment. With lower level gaming licenses, more venues would be able to operate gaming and patrons would have more choices on where they would like to gamble.

Like Nevada, licenses should be offered solely to operate “slot machines,” or gaming machines. Machines should be the only type of gaming allowed with a lower level license because machines are easier to monitor and regulate. Machines do not involve the unpredictability of table games because they remove the human element.

Moreover, a less restrictive license should be offered so larger operations can be developed. Larger operations allow patrons to play a variety of games while also having access to more amenities. The less-restricted licensees should be able to operate whichever games they see fit without limitation on variety or number of games operated. However, with the greater freedom offered by a higher level license, more government requirements should be imposed. For example, Nevada has more stringent surveillance system requirements for restricted licensees than non-restricted.²²³

Licensing of owners and key employees should also be required. Like Nevada, individuals with a small percentage ownership interest should be exempt from the licensing, but should be required to register with the gaming agency.²²⁴ Licensing of employees should be based on the amount of control the employee exhibits over company operations. All employees who are not required to be licensed should be required to register with the gaming agency. Registered employees should only be required to pass a background check because their ability to influence the decisions of the company is far less than employees in positions that require licensure.

All potential licensees and key employees should be investigated prior to receiving a license. The investigation process is critical because it keeps out individuals who may be involved with criminal activity or who are looking to cheat the system. The cost of the investigation should be borne by the potential licensee, because governments cannot afford to pay for every investigation. The investigators should look at the proposed financing and business structure of

²²³ Nev. Gaming Comm’n Reg. 5.160 (2011).

²²⁴ *Id.* Reg. 15.530-1(3).

the operation and the character, financial, and criminal history of the owners and directors.

The Supreme Court of Nevada determined that a gaming license is not a right, but a privilege determined by the individual states.²²⁵ Likewise, new jurisdictions should take the privilege approach to gaming because the privilege approach allows the government greater ability to reject potential licensees and revoke licenses from existing licensees. Proclaiming that a gaming license is a privilege and not a right will prevent potentially massive amounts of litigation and will simplify the judicial process that can sometimes accompany licensing.

The location of a gaming establishment should be restricted. Large scale gaming operations should be confined to areas that will not interfere with the daily life of residents. Depending on the geography and development of the jurisdiction, it may be necessary to create gaming districts for larger casinos, as Nevada has. Creating a gaming district would allow the less-restricted licensed establishments to be approved more quickly because investigation of the suitability of the proposed site would require less investigation into how the proposed operation would affect the surrounding community. Licensees that are more restricted should be allowed further options on location based on the intended number of machines to be operated, with operators of just a few machines being allowed the greatest freedom.

All proposed new games, both table and machine, should be approved by the gaming agency before being introduced into gaming establishments. The individual or company submitting the game should be responsible for the costs of testing. Everyone should be allowed to submit a game for testing. New games need to be tested to ensure they function correctly and produce their proclaimed probability of winning, which helps keep patron confidence in the gaming industry.

Each jurisdiction should strive to have as varied a gaming industry as possible. All forms of gaming—casinos, sports books, racetracks, and lotteries—should be allowed. Additionally, in the United States, states should allow gaming to be conducted by Native American tribes. Having a wide variety of gaming allows the industry to capture a larger portion of the population since not all forms of gaming appeal everyone. A varied industry also benefits the jurisdiction's economy, because money coming in due to gaming is spread over a wider area rather than concentrated in one segment.

It is also important to set regulations that require larger gaming operations to provide amenities beyond gaming. Nevada requires non-restricted licensees in more developed counties²²⁶ to provide sleeping accommodations, a bar, and a restaurant.²²⁷ Amenities not only draw patrons to the gaming establishments, but create a more comfortable environment for patrons. Additional development requirements also help to spread money and jobs outside of the gaming industry.

Credit should be extended to patrons who are able to demonstrate they have the collateral. Extension of credit should be limited to less-restricted licen-

²²⁵ *State v. Rosenthal*, 559 P.2d 830, 833 (1977).

²²⁶ NEV. REV. STAT. § 463.1605(1) (2010).

²²⁷ *See id.* § 463.01865.

sees because the proper control of credit requires additional resources that smaller operations would not be able to properly provide. All gaming debt should be evidenced in writing, be enforceable in court, and, similar to Nevada, subject to criminal prosecution. Debts need to be enforceable in the court system; otherwise, casinos would be unfairly exposed to a large amount of risk. Also, enforcement of debts in courts prevents casinos from taking the law into their own hands and attempting to collect the debt by unlawful means. Credit should not be dischargeable in bankruptcy. Licensees should make this readily known before extending credit. Gambling debt should not be dischargeable because assuming the debt was a willful choice by the person and gambling is not a necessity in life.

Junkets should be allowed to operate. In some jurisdictions, revenue from patrons brought in through junkets represents a substantial percentage of overall revenue.²²⁸ Similar to Nevada, junket operators should be required to register with the gaming agency.²²⁹ Licensing of junket promoters would allow a jurisdiction to receive the economic benefit of junkets while being able to control and monitor the industry.

A vital feature for any gaming control system is the ability to exclude patrons from gaming establishments. A trespassing statute similar to Nevada's would be a useful tool for an emerging jurisdiction to adopt. A trespassing statute allows licensees to open their business to the public without the fear they will not be able to control their premises. A list of people excluded from all gaming establishments should be maintained by the central gaming control agency. The agency should be able to add people to the list for major crimes involving gaming such as cheating or stealing from a gaming employer.

The central gaming agency should handle all disputes between patrons and licensees. The threshold amount in dispute, the point at which the agency is required to intervene, should be set by the individual jurisdiction. Patrons should also be able to contact the agency regarding any dispute. The agency needs to handle disputes so patrons will have confidence in the industry and do not feel like they are being cheated.

Both residents and visitors should be able to enter gaming establishments free of charge. Although an entry levy is seen as a way to protect residents from problem gambling, it is not necessary, as most residents would be able to gamble responsibly.²³⁰ While gambling is potentially a way to win money, it is also a form of entertainment, and residents should be able to partake in gambling without being charged an entry fee.

B. Features from Singapore and Macau

Though Nevada was the first jurisdiction with a complex gaming control system, and many jurisdictions have borrowed from Nevada's model, Singa-

²²⁸ *Macau Casino Junkets Thrive Despite China Credit Squeeze*, REUTERS.COM, Oct. 21, 2011, <http://www.reuters.com/article/2011/10/21/us-macau-junkets-idUSTRE79K2DM20111021>.

²²⁹ Nev. Gaming Comm'n Reg. 25.020(1) (2011).

²³⁰ Rachel A. Volberg, *Gambling and Problem Gambling in Nevada*, NEV. DEP'T OF HEALTH AND HUMAN SERVS., 29, 46 (Mar. 22, 2002), http://dhhs.nv.gov/PDFs/NV_Adult_Report_final.pdf.

pore and Macau both have unique features to their control systems that jurisdictions implementing new gaming should consider. For example, both Macau and Singapore have lotteries. Lotteries are important for state revenue. In the United States, revenue from state lotteries helps fund education and environmental projects.²³¹ Revenue from lotteries should be used to benefit society as a whole, like educating the youth and creating public parks and landmarks.

Both Macau and Singapore allow individuals to exclude themselves from casinos. The ability of individuals to exclude themselves from casinos is an important feature to implement into a gaming control system. If people know they cannot gamble responsibly and need help controlling themselves, the government should step up and provide the self-exclusion safeguard. Self-exclusion should last for a minimum time, like one year. There should also be an option for people to place themselves on a lifetime exclusion list. A person should be able to choose whether to exclude himself from all gaming establishments, including pari-mutuel, or to just exclude himself from less-restricted establishments, like casinos. The exclusion of anyone receiving government assistance, similar to Singapore's regulation, should also be adopted.

No one, beyond the individual, the government, and gaming establishments, should be allowed to exclude a person. Family members and third party organizations should not be allowed to place people on the exclusion list, because every person should have free choice and society should not be allowed to control people's choices, whether those choices are right or wrong. Families and third parties cannot stop people from buying alcohol or racking up credit card debt and they should not be able to stop people from gambling.

As in Singapore, the initial gaming legislation should establish a government agency to oversee the exclusion measures. This agency should keep the current list of excluded people, both by government action and by personal choice, and ensure licensees follow the proper exclusion procedures, because enforcement can be a large task. A government exclusion agency, funded by gaming tax revenue, is necessary to make sure people are actually being excluded. The agency will ensure that people who have voluntarily sought exclusion are protected from themselves and people who are excluded through action by the central gaming agency are properly kept away from gaming to ensure they cannot repeat the action that got them placed on the list in the first place. The agency will protect the citizens and the licensees.

C. Custom Features

Some features of a gaming control system need to be more specifically tailored than others. For example, the gaming age should be determined by the individual jurisdiction based on accepted social norms. Most gaming establishments also sell alcohol, so an easy way to set the gaming age would be to set it the same as the legal age to buy or consume alcohol. Another example of the minimum age would be the age a person can enter into a legally binding contract. The age needs to be high enough to encompass only those people who

²³¹ See Oliver Libaw, *Where Does Lottery Revenue Go?*, ABCNEWS.COM, Aug. 26, 2001, <http://abcnews.go.com/US/story?id=92595&page=1#.T2u3osWPmAg>.

understand the consequences of their actions and who can be held legally accountable for those actions.

The tax rate and when taxes are to be collected should also be an individual inquiry. Determining the tax rate for gaming involves many factors. As a general rule, the estimated gaming revenue from the jurisdiction as a whole and the actual revenue of the establishment should be considered when determining the rate. The lower the individual establishment's revenue, the lower the tax rate should be. Also, if the jurisdiction is predicting extremely large gaming revenues, like Macau, the licensees could afford a higher tax rate and still be profitable. However, if the predicted revenue is much smaller, a lower tax should be imposed so investors are not dissuaded from developing gaming due to fear of not being able to make a large enough profit for the amount of work it takes to correctly run a gaming establishment. One factor to consider when determining when taxes will be due is the structure of the agency in charge of collection. If the gaming agency is able to set up a division that oversees gaming tax, theoretically, taxes could be due as frequently as desired. However, if taxes are to be remitted to a central government agency, it would be better to have taxes due only a few times a year because the agency likely will not have the resources to handle gaming tax collection more frequently.

Currently, one of the most debated issues in gaming is whether to legalize online gaming.²³² Nevada has already taken steps to legalize online poker.²³³ Online gaming can be a major source of revenue,²³⁴ which can be especially appealing after the recent economic decline. The main issue to be decided when a jurisdiction considers online gaming is whether the gaming agency will be able to properly regulate and monitor the industry. If the agency is able to properly regulate and control online gaming, it should be considered because the potential revenue from online gaming could help strengthen the economy and provide an additional source of tax revenue for the jurisdiction.

Beyond looking at customized features of current gaming models, jurisdictions also need to consider new features that have not been implemented anywhere. If a jurisdiction hopes to create a strong gaming industry, it needs to recognize that innovation and creativity are necessary in gaming. Being ahead of the times and suggesting new ideas for worldwide gaming regulation will help the jurisdiction place itself in the company of Nevada, Macau, and Singapore and not just follow in their shadows.

III. CONCLUSION

The current three major gaming jurisdictions, Nevada, Macau, and Singapore, have each established gaming control systems with similarities and differ-

²³² See Michael Cooper, *As States Weigh Online Gambling, Profit May Be Small*, N.Y. TIMES, Jan. 17, 2012, <http://www.nytimes.com/2012/01/18/us/more-states-look-to-legalize-online-gambling.html>.

²³³ *State of Nevada Gaming Control Board Minimum Internal Control Standards Interactive Gaming*, NEV. GAMING CONTROL BD., 1 (Mar. 20, 2012), <http://gaming.nv.gov/modules/showdocument.aspx?documentid=4553>.

²³⁴ *Asian Online Gambling Revenues Continue to Increase*, ONLINECASINOADVICE.COM, Feb. 27, 2012, <http://www.onlinecasinoadvice.com/news/asian-online-gambling-revenues-continue-to-increase/>.

ences. The systems are all centered on a central gaming agency which is divided into specialized divisions. The agencies are responsible for overseeing the gaming industry and ensuring the industry follows the prescribed regulations and legislation. All three systems are also based on initial gaming control legislation that set out the framework and continues to be controlling. While the three systems are very similar, they reflect the unique needs and objectives of each jurisdiction.

Jurisdictions that are considering expanding their current gaming industry or legalizing gaming can look to these three control systems as models for creating their own system. Nevada has proven to be an excellent model because it has allowed for change, has implemented a unique two-tier system, and has focused on regulated growth of the industry. Nevada has also had its current system in place much longer than either Macau or Singapore, so its model has proven it can stand the test of time. Macau and Singapore have each been able to add to Nevada's model. Both have additional exclusionary measures, with Singapore's initial gaming control legislation implementing a government agency to execute the exclusions. Both have also been able to integrate additional forms of gaming, such as lotteries and horse racing.

Jurisdictions looking to create a gaming control system can look to these three models for a starting point. However, no single system can be wholly adopted because each jurisdiction has unique goals and challenges, which the system must be specifically tailored to meet. Jurisdictions also need to consider new features that none of the current jurisdictions are using. The end goal of any new system should be to control and regulate the industry while allowing the industry to thrive so the economic benefits of gaming can be fully achieved.