



March 17, 2015

By E-Mail

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Representative John Payne
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Pennsylvania House of Representatives
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Harrisburg, PA 17120-3780

Re: Proposed Gaming Related Legislation

Dear Honorable Senators and Representatives:

We are writing on behalf of the six (6) Category 1 racinos and four (4) Category 2 casinos currently operating in the Commonwealth. In light of the various pieces of gaming related legislation that are currently under consideration in the General Assembly, we have joined together through this correspondence to share with you our collective position on several important issues.¹

Background

The Pennsylvania General Assembly can be justifiably proud of the robust economic engine that it helped create in 2004 with the passage of the Pennsylvania Race Horse Development and

¹ You will note that this correspondence does not address the issue of internet gaming. Such an omission was deliberate inasmuch as the signatories to this letter were unable to reach a consensus position. Certain casinos are enthusiastic supporters of internet gaming, some are firmly opposed and others are neutral. We are confident that all three positions will be presented to each of you and your Senate and House colleagues in the weeks and months ahead.

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Gaming Act (the "Gaming Act"). The General Assembly set lofty goals for the economic impact of casinos in the Commonwealth and working together, the Commonwealth and gaming industry have met and in some cases, exceeded those goals. Pennsylvania's first casinos opened in 2006, and in just eight years the gaming industry has accomplished the following noteworthy achievements:

- Directly employed 17,768 people across the Commonwealth, of which 31% are minorities and 43% are women (2014).²
- Contributed \$9.2 billion in gaming tax revenues during the period 2006 through February 2015.³
- Attained the highest amount of gaming tax revenue as compared to any other state in the nation with legalized gaming. For example, in 2012, Pennsylvania's casinos generated \$1.4 billion in gaming tax revenue. Nevada was second with \$868 million.⁴
- Attained the second highest amount of combined (slot and table) gaming revenue nationally: \$3.16 billion (2012). Only Nevada had a greater amount of combined gaming revenue: \$10.86 billion (2012).⁵
- Spent more than \$1.18 billion on non-construction goods and services during the period July 1, 2011 through June 30, 2014, including more than \$602 million (50.91%) paid to local businesses located in the same county as or a contiguous county to the casino.⁶

² Pennsylvania Gaming Control Board, *Gaming Diversity Report: 2013-2014*, page 4 (reported figures are current as of June 30, 2014).

³ Pennsylvania Gaming Control Board, *Fiscal Year Revenue Summaries*: <http://gamingcontrolboard.pa.gov/?p=222>.

⁴ *State of the States, the American Gaming Association Survey of Casino Entertainment*, page 6 (2013).

⁵ Ferris, R. (2014, April 27). *These 13 states raked in \$34B in gaming revenue*. Retrieved March 9, 2015 from www.usatoday.com/story/money/business/2014/04/27/top-gambling-states/8168681/.

⁶ Pennsylvania Gaming Control Board, *Gaming Diversity Report: 2013-2014*, page 4 (reported figures are current as of June 30, 2014).

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Despite these impressive statistics, the continued success of Pennsylvania's gaming industry is at significant risk. While the Commonwealth was a beneficiary of an unsaturated regional market in 2006, the competitive landscape in 2015 is very different. Every state with a border adjacent to Pennsylvania – Delaware, Maryland, New Jersey, New York, Ohio and West Virginia – has legalized and/or expanded gaming since 2006. The result of this increased competition is predictable: decreasing gaming tax revenue over the past two years. Since achieving a record high total of more than \$1.4 billion in gaming tax revenue in 2012, gaming tax revenue slipped to \$1.38 billion in 2013 and \$1.32 billion in 2014.⁷

Declining gaming revenue – with consequent effects on gaming tax revenue – can be attributed to two factors: (i) a near full-recapture of Pennsylvania gamers who previously had been traveling to out-of-state casinos (i.e. Atlantic City); and (ii) the loss of out-of-state gaming patrons from neighboring states (i.e. Ohio and Maryland) who previously had been providing significant revenue at Commonwealth casinos.⁸

In order to reverse the Pennsylvania gaming industry's negative trend, it is imperative that the General Assembly only take such actions that will protect the Commonwealth's casinos from further competition and increase the attractiveness of the Commonwealth's casinos to both in and out-of-state gaming patrons alike. Our recommendations to achieve such an outcome are as follows.

Threats to the Industry⁹

Video Gaming Terminals (VGTs): We urge the General Assembly to firmly reject any expansion of casino-like gaming that is not done through existing casinos. Adding supply of casino-like games to the market through non-casino participants will only result in the cannibalization of existing gaming revenue and weaken the financial condition of the Commonwealth's casinos. In addition, such an initiative will discourage existing casinos from making future capital investments in their facilities.

⁷ Pennsylvania Gaming Control Board, *Fiscal Year Revenue Summaries*: <http://gamingcontrolboard.pa.gov/?p=222>.

⁸ *The Current Condition and Future Viability of Casino Gaming in Pennsylvania*, report submitted to the Pennsylvania Legislative Budget and Finance Committee by Econsult Solutions, page 6 (May 2014).

⁹ In addition to the major threats discussed below, we note that every legislative session includes the introduction of numerous "anti-gaming" bills. While individually these bills may seem inconsequential, together they are capable of causing serious harm to the gaming industry's health. We therefore urge the General Assembly to proceed cautiously when considering such legislation and to seek gaming industry input where appropriate.

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The authorization of VGTs at bars, taverns and other locations in Illinois is particularly instructive. Gaming revenue at the original nine (9) Illinois casinos has fallen 43% from \$1.9 billion in 2007 to \$1.1 billion in 2013. In addition, employment at the nine (9) original Illinois casinos has fallen 29% from 8,253 employees in 2007 to 5,894 employees in 2013. A roll-out of VGTs in Pennsylvania will almost certainly result in casino-like games on every Main Street in every town across the Commonwealth and threaten thousands of living wage jobs currently filled at our casino facilities. We also note that VGT patrons would have none of the "problem gaming" protections and resources available to casino patrons.

For additional information regarding VGT's in Illinois, please see Attachment "A" hereto.¹⁰

Smoking: We urge the General Assembly to reject any legislation that would prohibit smoking at casinos. As an initial matter, we note that the Clean Indoor Air Act already provides a sufficient balance between smoking and non-smoking areas on the gaming floor. We also note that casino facilities are under strict PGCB oversight with respect to the approval and maintenance of air handling systems and smoking mitigation measures. Finally, we note that the experience of casinos in jurisdictions with smoking bans clearly establishes that the elimination of smoking results in dramatically decreased gaming revenues and taxes.

Issuance of Additional Category 3 License: We urge the General Assembly to reject any effort to accelerate the issuance of a third Category 3 Resort Gaming License (from 2017 to 2015) and instead consider elimination of the license.

Relaxation of Category 3 Conditions: For Category 3 Licenses, we urge the General Assembly to reject any legislation that would remove existing gaming area access restrictions and/or increase the number of permitted slot machines and/or table games. Given the significant capital investments and licensing fees that the signatories to this correspondence have committed, it would not be fair for the General Assembly to grant Category 3 Licensees the change in conditions they seek.

¹⁰ We note that in 2013 the General Assembly passed legislation (Act 90 of 2013) to authorize small games of chance at taverns and certain other alcoholic beverage licensees. While this legislative initiative has not met expectations in terms of the number of tavern gaming license holders and revenue generation, we respectfully submit that the response to such outcome should not be the further expansion of gaming (i.e. the authorization of VGT's). Instead, efforts should be focused on improving the tavern gaming licensing process and other aspects of Act 90.

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Initiatives to Maintain and Enhance Competitiveness

Promotional Play: Promotional Play is a valuable marketing tool that is key to Pennsylvania's casinos being competitive with their counterparts in neighboring states. This is particularly true in light of the Commonwealth's high gaming tax rate. Given that Promotional Play wagers are not real patron dollars received by casinos, both common sense and their continued vitality as a marketing tool dictate that such wagers should not be regarded as taxable gross revenue consistent with current law and practice.

Liquor: In order to make our facilities more attractive to gaming patrons, we seek adjustments to the Liquor Code. Specifically, we seek authorization that allows for either 24 hour service or extended / flexible hours of service. In addition, we seek authorization to provide complimentary drinks to patrons regardless of whether they are engaged in gaming.¹¹

Gaming Labs: To maintain an optimal level of competitiveness, it is important that the Commonwealth's casinos be able to quickly offer patrons the newest slot machines and electronic table games. Accordingly, we seek regulatory changes that would allow for immediate installation of new slot machines and electronic table games so long as the same have already been approved by another state gaming oversight authority or a recognized third-party testing lab. Such new equipment should be automatically deemed acceptable unless subsequent PGCB Gaming Lab testing determines otherwise.¹²

Tax Credits: The General Assembly should consider the authorization of reinvestment tax credits and/or other incentives that are designed to: (i) encourage casino operators to update and invest in their facilities and equipment, and (ii) attract and retain gaming patrons (particularly out-of-state gaming patrons) to Pennsylvania casinos.¹³ We note that competitor states (i.e West Virginia) already have such programs in place.

¹¹ *The Current Condition and Future Viability of Casino Gaming in Pennsylvania*, report submitted to the Pennsylvania Legislative Budget and Finance Committee by Econsult Solutions, page 122 (May 2014).

¹² *Id.*

¹³ *Id.* at pages 126-127 ("it is in Pennsylvania's interest to provide its casinos incentives to make significant investments in their physical plants, for both enhanced casino operations and non-gaming amenities. This investment is necessary for competitive purposes and to maintain positive local economic development and employment impacts").

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Regulatory Complexity and Cost: Pennsylvania's casinos are regulated by four (4) separate agencies (PGCB, Department of Revenue, State Police and Attorney General). For racinos, the list of agencies increases to five (5) if either the Horse or Harness Racing Commissions are included. As such, it is no surprise that Pennsylvania's rate of coverage by regulators is close to highest in the nation.¹⁴ While such level of oversight may have been appropriate when the Commonwealth's gaming industry was new and growing, we respectfully submit that is no longer the case. We therefore urge the General Assembly to enact legislation designed to: (i) eliminate redundancy and increase efficiency among and within the various agencies, and (ii) ease some of the strict regulatory requirements (i.e. mandatory minimum casino staffing), thereby reducing the regulatory cost burden carried by Pennsylvania's casinos.

Underage Sanctions: The General Assembly should consider implementing serious sanctions designed to deter underage persons from gambling at Pennsylvania's casinos. New Jersey, for example, imposes fines and suspends for six (6) months the driver's license of any underage person caught gambling in Atlantic City (and elsewhere), and this has proven to be a real deterrent.¹⁵

In concluding this letter, we wish to emphasize our belief that Pennsylvania's gaming industry is at a critical juncture. Over the last nine years, the industry has delivered and the Commonwealth has enjoyed an impressive track record of billions in tax revenue, billions in facility investment and associated economic development spin off, and thousands of jobs. The advent of intense competition in every direction, however, necessitates that the Commonwealth and the industry do things differently and more efficiently if success is to continue. One need only look at Atlantic City to see what can occur when market changes and increased competition are ignored.

¹⁴ Id. at pages 123-126 .

¹⁵ The New Jersey Casino Control Act (N.J.S.A. 5:12-119) prohibits anyone under the age of 21 from gambling in an Atlantic City casino or any simulcast facility. If an individual is convicted of underage gambling the penalty is a disorderly persons offense which is a criminal charge that becomes part of underage person's criminal record. A conviction for underage gambling will also result in a fine of between \$500 and \$1,000 and the individual's driver's license will be suspended for six months. If the individual is under 17 and has not yet obtained a driver's license, the issuance of that person's driver's license will be postponed for six months. If a parent or a person who has custody or control of a person under the age of 21 allows an underage individual to gamble, that person can be charged with a disorderly persons offense. N.J.S.A. 5:12-119(c).

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Thank you for your attention to and consideration of these important issues. We look forward to addressing any questions that you may have.

Sincerely,

Michael Bean
President & CEO
Mohegan Sun Pocono

Ron Baumann
VP & General Manager
Harrah's Philadelphia Casino and Racetrack

Sean Sullivan
VP & General Manager
Meadows Racetrack & Casino

Bill Hayles
General Manager
Hollywood Casino at Penn National Race Course

Craig Clark
General Manager
Rivers Casino

Tony Ricci
CEO
Parx Casino

Joseph Billhimer
EVP & COO
Presque Isle Downs & Casino

John Culetsu
EVP & General Manager
Mount Airy Casino Resort

Mark Juliano
President
Sands Casino Resort

Wendy Hamilton
General Manager
Sugar House Casino

Attachment

Copies to: Governor Tom Wolf
Mary Isenhour, Secretary of Legislative Affairs

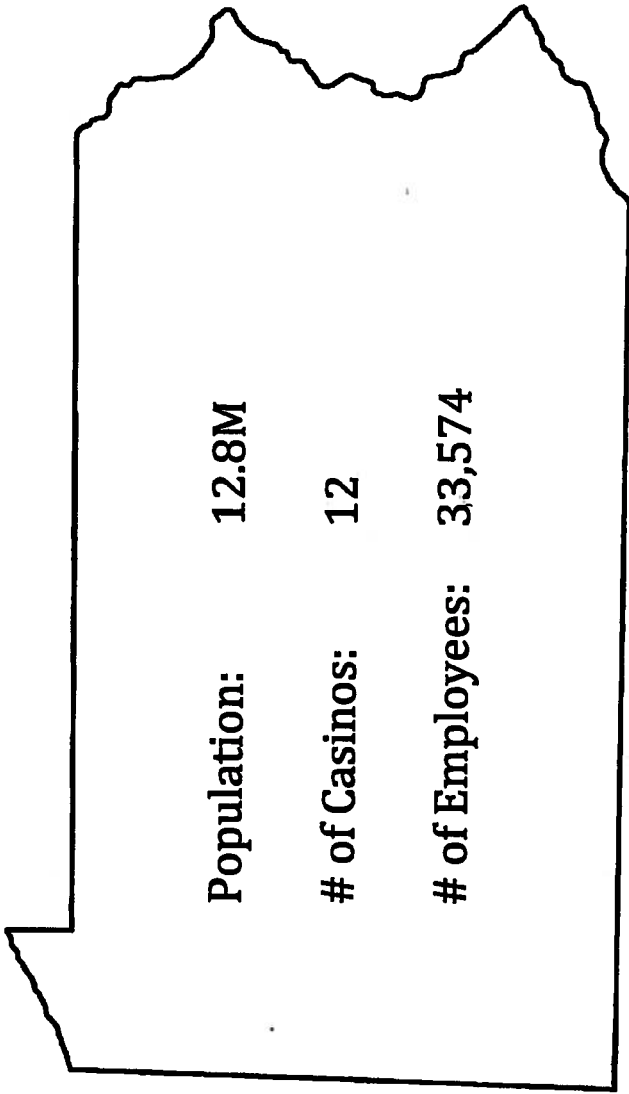
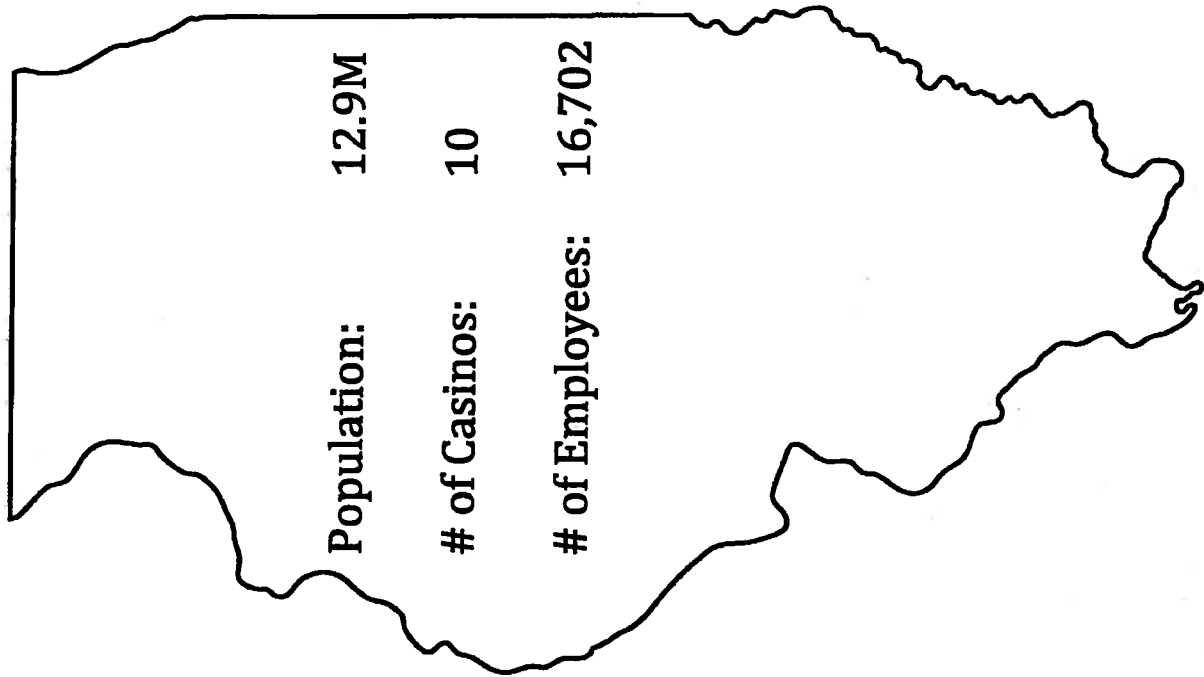
ATTACHMENT "A"



ILLINOIS

Video Gaming Terminals (VGTs):
A Tale of Casinos on Every Corner
and Unintended Consequences

Similar in Size = Similar Consequences?



The Consequences of VGTs in Illinois

Job Losses

Hurts Local Economies

Deters Capital Investment

No Oversight of Problem Gaming

Illinois Casinos

Job Losses

- State gaming tax revenue may be up approximately 20% since VGTs came online in 2012, but casino attendance and revenue are down 17% and 16%, respectively.* The loss in business cost approximately 1,000 jobs statewide, or roughly \$35M in lost wages annually..

Hurts Local Economies

- Casino tax payments statewide have declined \$73.7M (13%) since the first VGTs were installed. Host community tax share loss has ranged from 8% to 17%.*

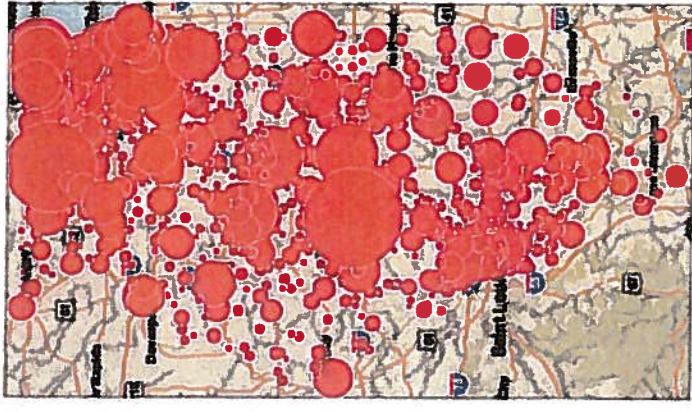
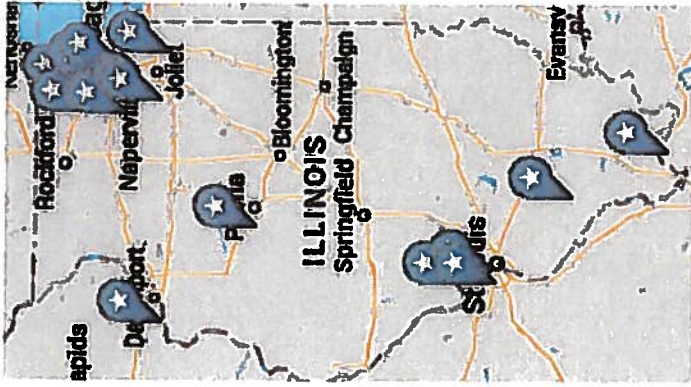
Deters Capital Investment

- Pennsylvania's current operators will have no incentive to reinvest in their properties to enhance offerings to compete for new customers.

No Oversight of Problem Gaming

- Illinois now has 4,675 locations where anyone can gamble with no safety net.

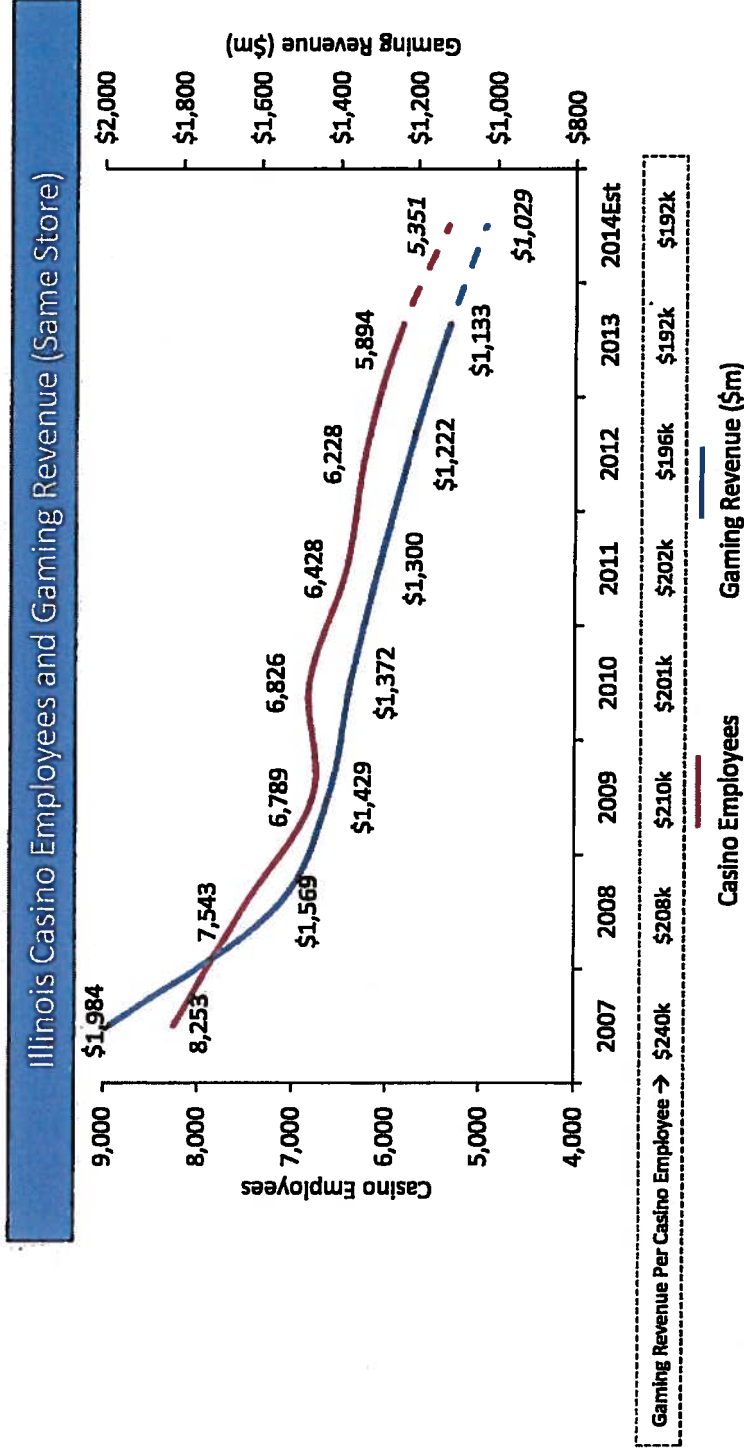
* Source: IL Gaming Board



Illinois Video Gaming Terminals

Saturation Has Resulted In Significant Cannibalization

- Gaming revenue declines at the original 9 Illinois casinos have been dramatic**
 - Gaming revenue has fallen 43% from \$1,984m in 2007 to \$1,113m in 2013
 - Oct 2014 YTD, gaming revenue is down 10% compared to prior year, resulting in a forecast of \$1,029m in gaming revenue for 2014 which represents a 48% decline from 2007
- Employment at the original 9 Illinois casinos has suffered from gaming revenue declines**
 - Casino employee counts closely track gaming revenue and have fallen 29% from 8,253 in 2007 to 5,894 in 2013
 - In 2013 there was one casino employee for every \$192k of gaming revenue. Based on Oct 2014 YTD gaming revenue, that implies a loss of over 500 casino employees from 2013 to 2014 or a 35% decline in casino employees since 2007



Casinos Included: Argosy - St. Louis, Casino Queen, Grand Victoria - Chicago, Harrah's - Metropolis, Harrah's - Joliet, Hollywood - Aurora, Hollywood - Joliet, Jammers - Rock Island, Par-a-Dice - Peoria. All data taken from Illinois Gaming Board website. Data does not include Rivers Casino or VLTs.