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Tribal Gaming Regulator Agency Roles and Surveillance Training

March 8, 2021

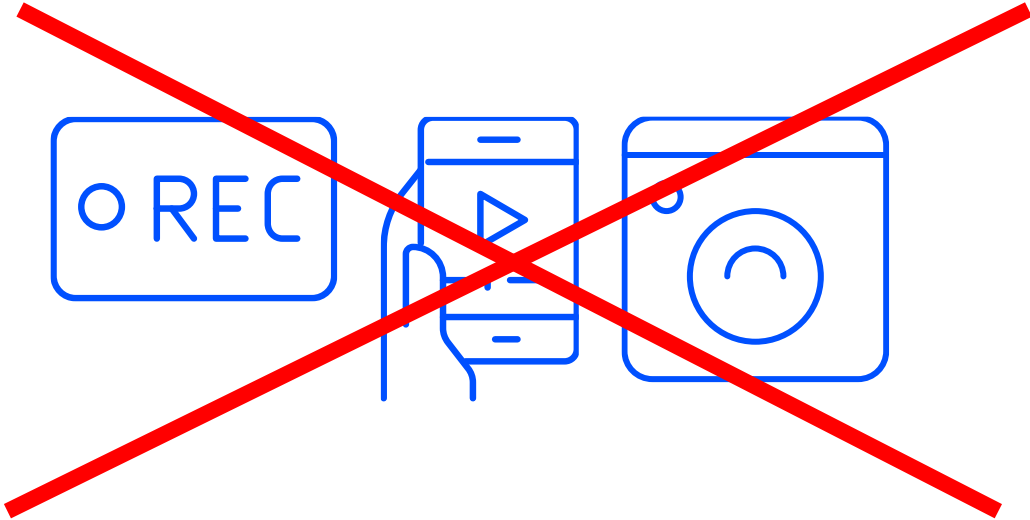
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WIPFLI

No recording of any kind



This includes any video or audio images on your smart devices.

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- For questions, please contact Sophia Thompson at sophia.thompson@wipfli.com.

Agenda

- About Wipfli
- State of the Industry
- Basic TGRA/Gaming Commission Roles
- Surveillance roles and training
- Open Q&A

Poll Question 1



About Wipfli

- Number of states with Gaming and Tribal clients – 28
- Perform a variety of services
- Number of Tribal entities we work with each year – 120 to 140
- Members of the AICPA, ACFE, and AICPA Forensic Services

WE ARE A LEADER IN INDIAN COUNTRY	Tribal services is our niche.	Our highly trained professionals serve our clients’ needs as efficiently as possible.
	Highest quality and timely professional services.	We stay ahead of the game as the industry continuously faces unique challenges, as new markets emerge, and new regulations and laws are implemented.



Wipfli fast facts



19th
Largest CPA firm in the U.S.
(Source: Accounting Today)

2,200+
Number of associates





270+
Number of partners

47
Number of locations in the U.S. and India





5,000+
Hours volunteered on Community Day 2018

81
Organizations served on Community Day 2018





30+
Communities benefitted on Community Day 2018

About Wipfli

Gaming Services

- Casino Audits
- Construction Monitoring
- Cyber-security
- Internal Audit
- MICS AUPs
- Forensic Investigations
- Profitability Evaluations
- Title 31/AML Risk Assessments
- Casino Knowledge Hub
- Accounting Services
- System Implementations

Non-Gaming Services

- Financial Audits
 - Tribal governments
 - Uniform Guidance Single Audits of federal programs
 - Tribal colleges and schools
 - Tribal component units
 - Housing authorities
 - 401 (k) audits
- Forensic investigations
- Indirect cost proposals- Tribal Governments

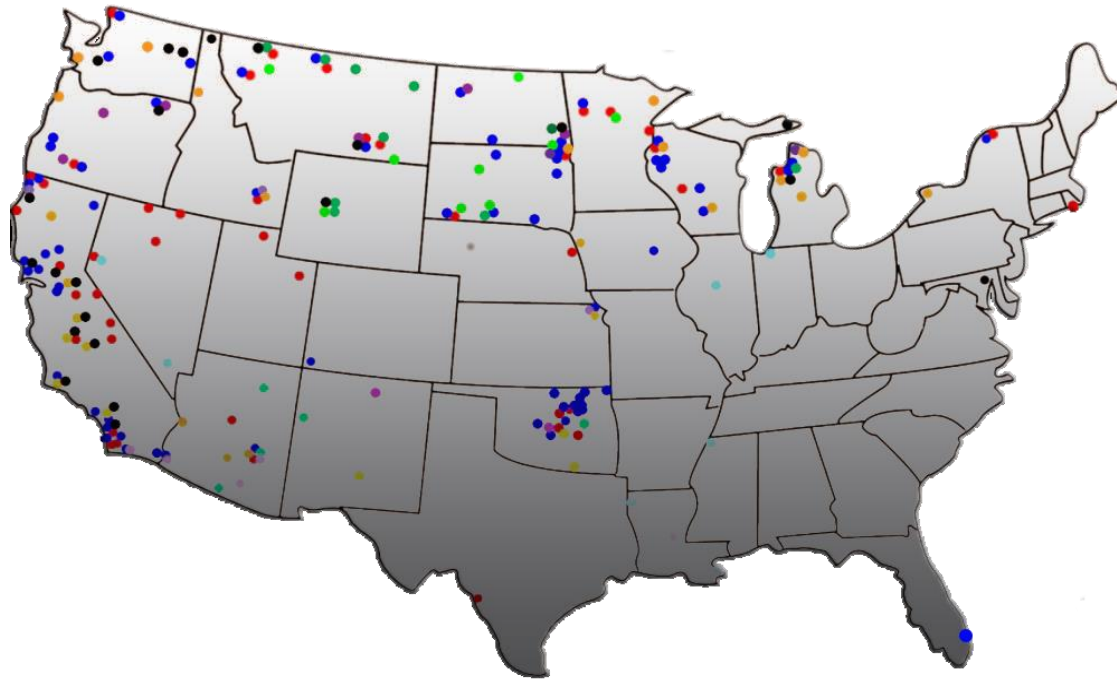
National Seminars

- Title 31 Compliance Training/Suspicious Activity Reporting
- AICPA Audit and Accounting Gaming Guide
- Class II NIGC MICS 543
- Casino Fraud
- Accounting and Regulatory Issues for Casinos
- Casino Internal Controls – Best Practices
- Budgeting



Current Gaming Clients

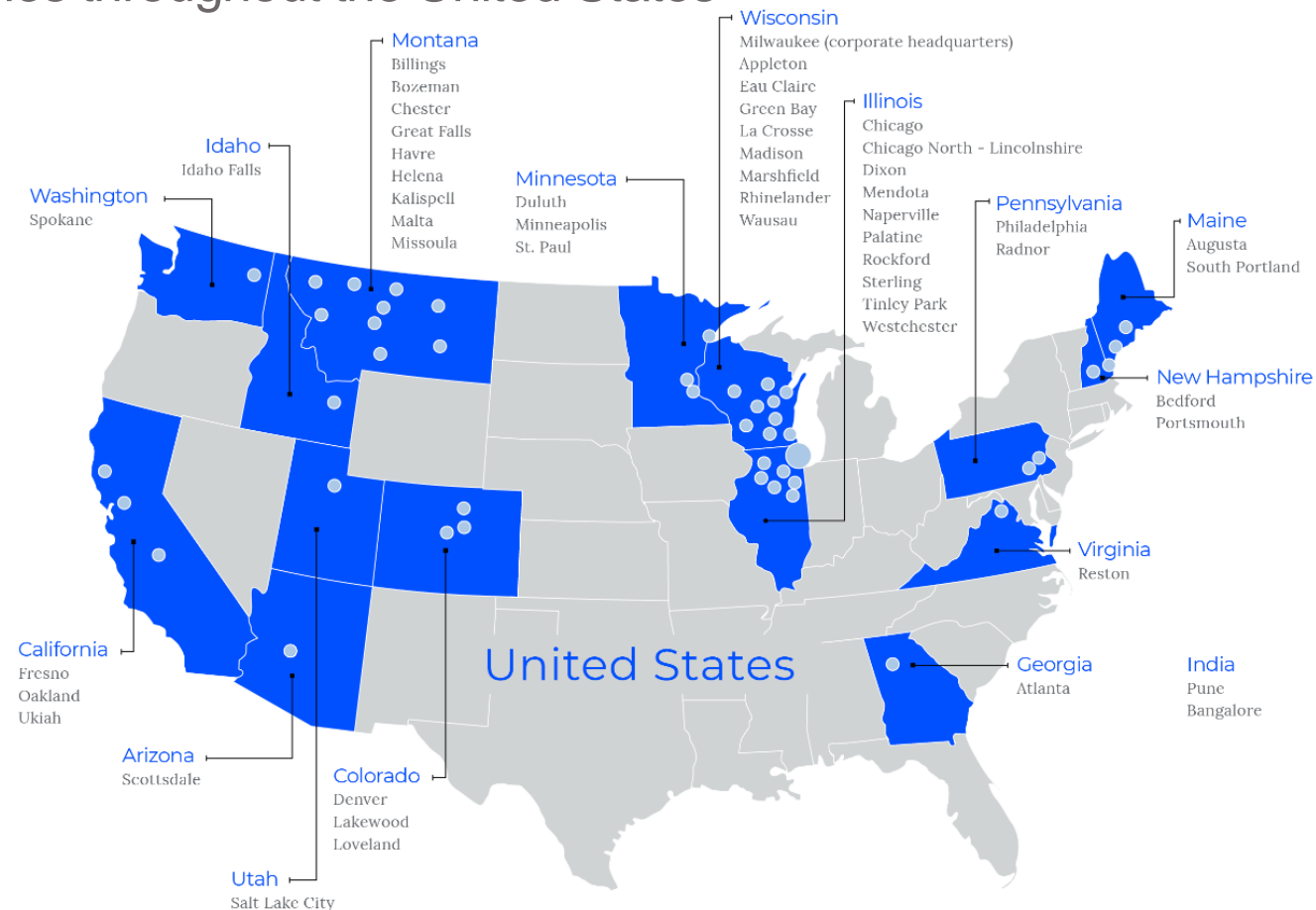
- Member of National Indian Gaming Association
 - **Current Auditor**
- Past and Current Tribal and Gaming Experience



- Tribal Audit
- Gaming
- Housing Authority
- Internal Audit
- Gaming Seminar
- Tribal Consulting
- College Audit

About Wipfli

- Over 2,500 associates
- Over 50 offices in the United States and 2 in India
- Serving 15 industries throughout the United States



Your Presenters



Grant Eve, CPA, CFE

Partner, National Gaming Leader

- Grant Eve is the National Gaming Leader for Wipfli. He has several years of experience working with tribal governments, tribal enterprises, tribal and commercial casinos.
- 2017 Class of 40 Under 40 for being a leader in the casino and gaming industry (the only CPA to make the list) - Global Gaming Business Magazine.
- Wipfli Board of Directors
- Member of the AICPA
- Member of the ACFE
- Member of ACAMS

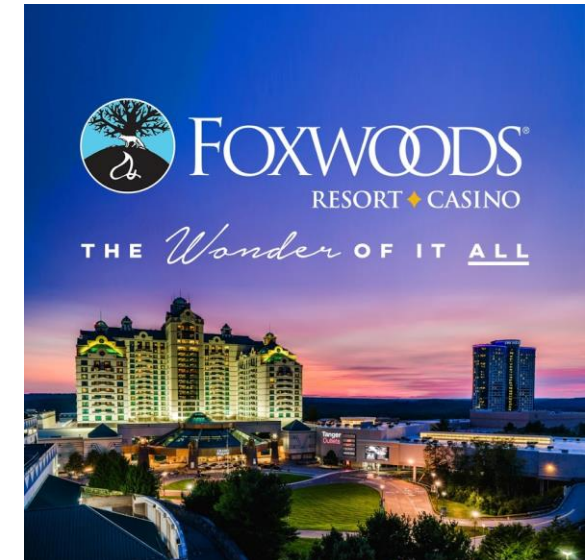
Your Presenters



Joseph Busby, CIA, CFE, ACAMS

*Chief Compliance Officer
Foxwoods Resort Casino*

- Joe has 15 years of experience in the gaming industry having worked in both commercial and Tribal gaming in multiple jurisdictions domestically and internationally. His experience has primarily been in regulatory compliance; including internal and external audit, anti-money laundering, and risk assessments. He also has a background in surveillance, law enforcement and public accounting.



Poll Question 2



Industry Update

- General Economic Conditions
 - Gaming is use of discretionary funds

UPDATED TRIBAL ECONOMIC PROGNOSIS SUMMARY 02/04/21

<u>YEAR:</u>	<u>2020(ACTUAL/ESTIMATED)</u>	<u>2021</u>	<u>2022</u>
U.S. GDP:			
YEAR-TO-YEAR CHANGE	-3.5%	5.4%	2.5%
PERCENT OF 2019 TOTAL	96.5%	101.7%	104.3%
U.S. UNEMPLOYMENT RATE			
	8.1%	6.7%	5.9%
U.S. INFLATION RATE			
	1.4%	2.5%	3.2%
TRIBAL ECONOMIC OUTPUT BY SECTOR:			
INDIAN GAMING:			
YEAR-TO-YEAR CHANGE	-27.7%	32.3%	8.1%
PERCENT OF 2019 TOTAL	72.3%	94.3%	101.9%

Data from:

HEALING TRIBAL ECONOMIES

FINAL UPDATED PROGNOSIS FOR
ECONOMIC RECOVERY FROM COVID-19
IN INDIAN COUNTRY

FEBRUARY 2021



Industry Update

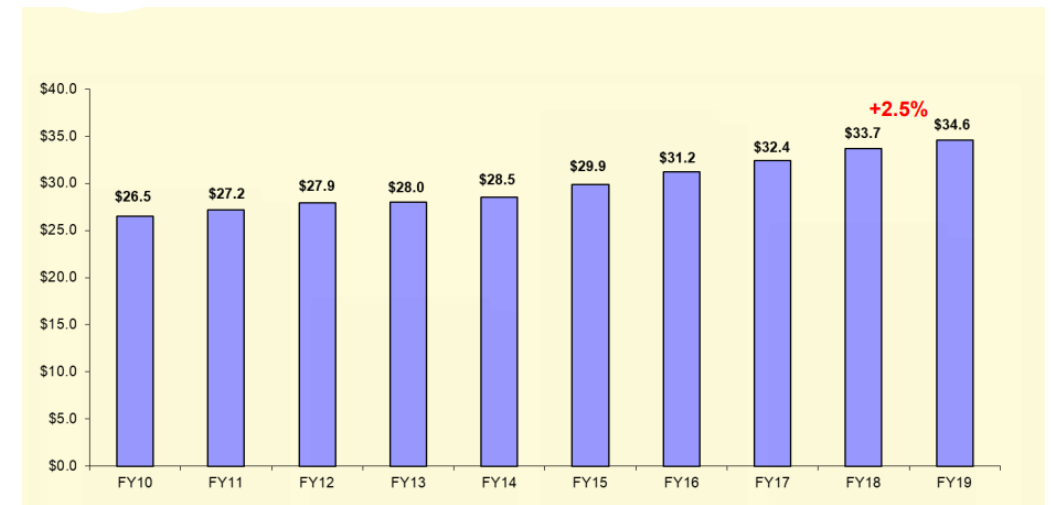
- Unknowns that need to be monitored
 - Impact of vaccines
 - New strands or mutations of the virus
 - Government intervention
 - Pandemic related restrictions (international or domestic)
 - Unemployment rates
 - Inflation

Industry Update

- 923 of 993 Casinos open in the US
- Solid profits near Urban areas
- A lot of rural casinos still struggling
- Significant expense reductions
- CARES Act funding and compliance strategy
 - COVID Related Tax Act of 2020
- Significant system upgrades
 - HVAC, IT, ERP, Financial Management Systems, Surveillance
- Closely following the next bill in Congress

Industry Update

- National Indian Gaming Commission issued 2019 Revenue of \$34.6B which is a 2.5% increase (12/8/20)
- OKC Region highest growth at 7.7%
- 2020 Reality will be much different with COVID 19



NIGC Numbers by Region

- 33 Facilities make up 45% of tribal gaming revenue
- 119 facilities are less than \$3M in revenue

NIGC Tribal Gaming Revenues

Gaming Revenue Range	Number of Submissions	Revenues (in thousands)	Percentage of		Mean (in thousands)	Median (in thousands)
			Submissions	Revenues		
Submissions with fiscal years ending in 2019						
\$250 million and over	33	15,629,916	6.3%	45.2%	\$473,634	\$386,381
\$100 million to \$250 million	62	10,444,602	11.9%	30.2%	\$168,461	\$165,864
\$50 million to \$100 million	54	3,798,391	10.3%	11.0%	\$70,341	\$66,958
\$25 million to \$50 million	67	2,360,435	12.8%	6.8%	\$35,230	\$34,292
\$10 million to \$25 million	97	1,630,332	18.6%	4.7%	\$16,808	\$16,185
\$3 million to \$10 million	90	594,918	17.2%	1.7%	\$6,610	\$6,824
Under \$3 million	119	119,948	22.8%	0.3%	\$1,008	\$721
Total	522	34,578,542				
Submissions with fiscal years ending in 2018						

Industry Update

- American Gaming Association announced 31% decrease in 2020
- AGA research shows data are ready to return
- 1 in 3 adults plan to visit a casino in the next year
- Commercial casinos lost 27% of normal operating days
- Sports betting increase 69% to \$1.5B
- Sports betting and iGaming made up more than 10% of GGR

COVID-19 Resource Center-Specific for Tribes and Tribal Entities

The rapid spread of COVID-19 has impacted every component of your business. And the uncertainty can be overwhelming as circumstances are constantly shifting. One of our highest priority is helping you navigate the turmoil of today and continue to strengthen your tomorrow.



- Tribal CFO Exchange Group
- National Indian Gaming Association COVID-19 Task Force
- COVID-19 Online Resource Center

Poll Question 3



Authority of Tribal Gaming Commissions/TGRA

■ Roles and Responsibilities

- Internal Audit
- Compliance
- Surveillance
- External Audit
- Patron Disputes
- Background Investigations
- Licensing- vendor and employee
- Public Health and Safety

Gaming Ordinance

- Gaming ordinance - the “Holy Grail”
 - Purpose
 - Authorization
 - Applicability
 - Definitions
 - NIGC revised model gaming ordinance

Gaming Ordinance

■ Gaming ordinance *(continued)*

- Provides a general framework for regulation
- Part of IGRA's regulatory scheme for tribes
- Includes specific procedures and standards that must be followed

Gaming Ordinance

■ Gaming ordinance *(continued)*

- Tribes must have an NIGC approved gaming ordinance in place
- Fundamental legal requirements

Gaming Ordinance

■ Gaming ordinance *(continued)*

- Adopted by the tribal governing body
- Contains all provisions required by IGRA
- Provisions must not conflict with IGRA or NIGC regulations
- Must be submitted to NIGC for approval

Gaming Ordinance

- Gaming ordinance amendments

- Why amend an ordinance?

- ✓ Update
- ✓ Conform with new NIGC regulations
- ✓ Incorporate new best practices

- Gaming ordinance amendments

- Amendments must be submitted NIGC within 15 days of passage

Gaming Ordinance

- **Model gaming ordinance**

- Created to help tribes develop a new gaming ordinance, or update or amend an existing ordinance
- Created to provide tribes with a blueprint to create a strong tribal gaming ordinance

Gaming Ordinance

- Model gaming ordinance *(continued)*

- Provides guidance on:

- ✓ What is required by IGRA and NIGC regulations
- ✓ What is not required, but may be included
- ✓ What is recommended for strong regulation

Gaming Ordinance

- Model gaming ordinance *(continued)*
 - Must contain provisions with color coded text that are:
 - ✓ Requirements by IGRA and NIGC regulations to be included in a tribe's gaming ordinance – certain text must be word-for-word;
 - ✓ **Must be included in ordinance or submitted separately;**
 - ✓ **Not required can be included, but if included, must be consistent with IGRA and NIGC regulations, and;**
 - ✓ Recommended, but not required.

Poll Question 4



Authority of Tribal Governments

- The establishment of Regulatory Agencies comes within the inherent governmental authority of tribal governments
- With respect to gaming, the Indian Gaming Regulatory Act (IGRA) mandates that a tribal governments must provide an adequate system for the regulation of tribal gaming activities. 25 U.S.C § 2710 (b)(F).

Slides provided by:



Step 1: Structure

- Designing a structure that:
 - Balances and harmonizes competing interest
 - Regulatory structure
 - Enterprise structure
 - Fosters accountability and profitability
 - Works within the overall institutional framework of the Tribal Government

Slides provided by:



Step 1: Making the System Work

- Understanding the system
- Respecting the system
- Committing to the system
- Complying with the law
- Operating within the system
- Respecting the respective roles of each component of the system

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Tribal Gaming Regulatory Agencies

- Instrumentalities of Tribal Government
- Possess and exercise powers delegated by the legislative body of the tribal government
- Typically, are delegated broad regulatory powers, including the authority to:
 - Promulgate rules and regulation
 - License
 - Enforce and sanction violations
 - Adjudicate

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Tribal Gaming Regulatory Agencies

- Indian tribes have the exclusive right to regulate gaming activities on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not prohibit such gaming activity.
- Congressional findings and Statement of Policy, Indian Regulatory Act, 25 U.S.C. § 2701; see also, *Cabazon Band of Mission Indians v. National Indian Gaming Comm'n*, 827 F. Supp. 26, 31 (D.D.C. 1993); *aff'd*, 14 F.3d 633, 635-36 (D.C. Cir. 1994).

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Agency Authority & Functions, Duties, and Responsibilities

- Typically, a Tribal Gaming Regulatory Agency is delegated broad authority to:
 - Interpret and implement the law through the promulgation of regulations (quasi-legislative power)
 - Monitor compliance and enforce the law (quasi-executive power)
 - Apply the law to facts to determine whether the law has been offended and assess sanctions (quasi-judicial power)

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Tribal Gaming Regulatory Agencies

- Promulgate regulations
- Issue opinions, guidelines and policy statements
- Develop and implement plans
- Issue licenses & permits
- Prepare technical documents and reports
- Conduct studies, fact findings and investigations
- Bring enforcement actions
- Adjudicate and make decisions
- Assess fines and other sanctions

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Tribal Gaming Regulatory Agencies

- Interpret, implement, administer, monitor, and enforce statutory law within the limits of its delegated authority – the scope of this authority will vary from one tribal government to another.

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Tribal Gaming Enterprises

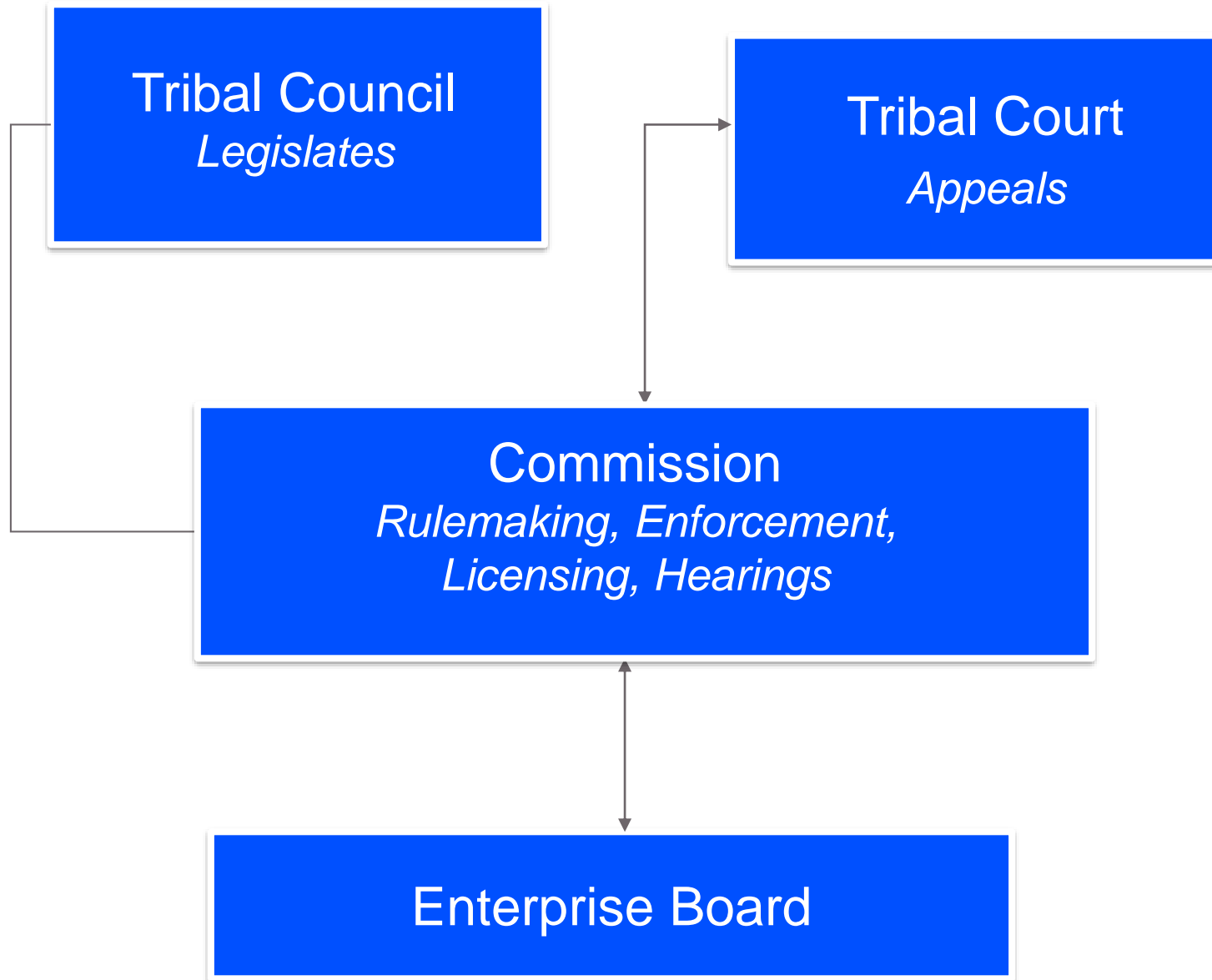
- Own, operate and manage
- Make business decisions
- Supervise staff
- Allocate resources
- Operate collateral business activities
- Act in best interest of the Tribe

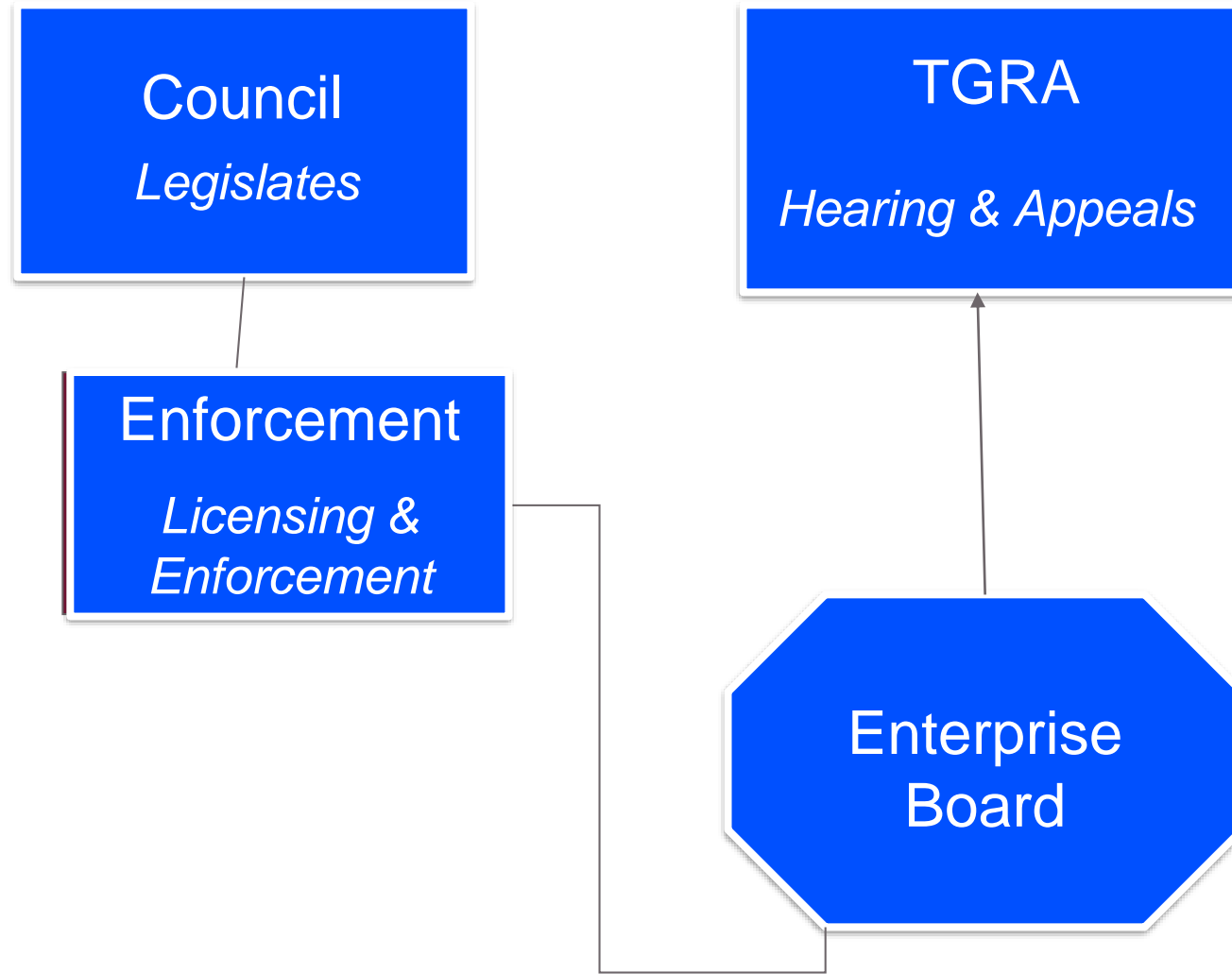
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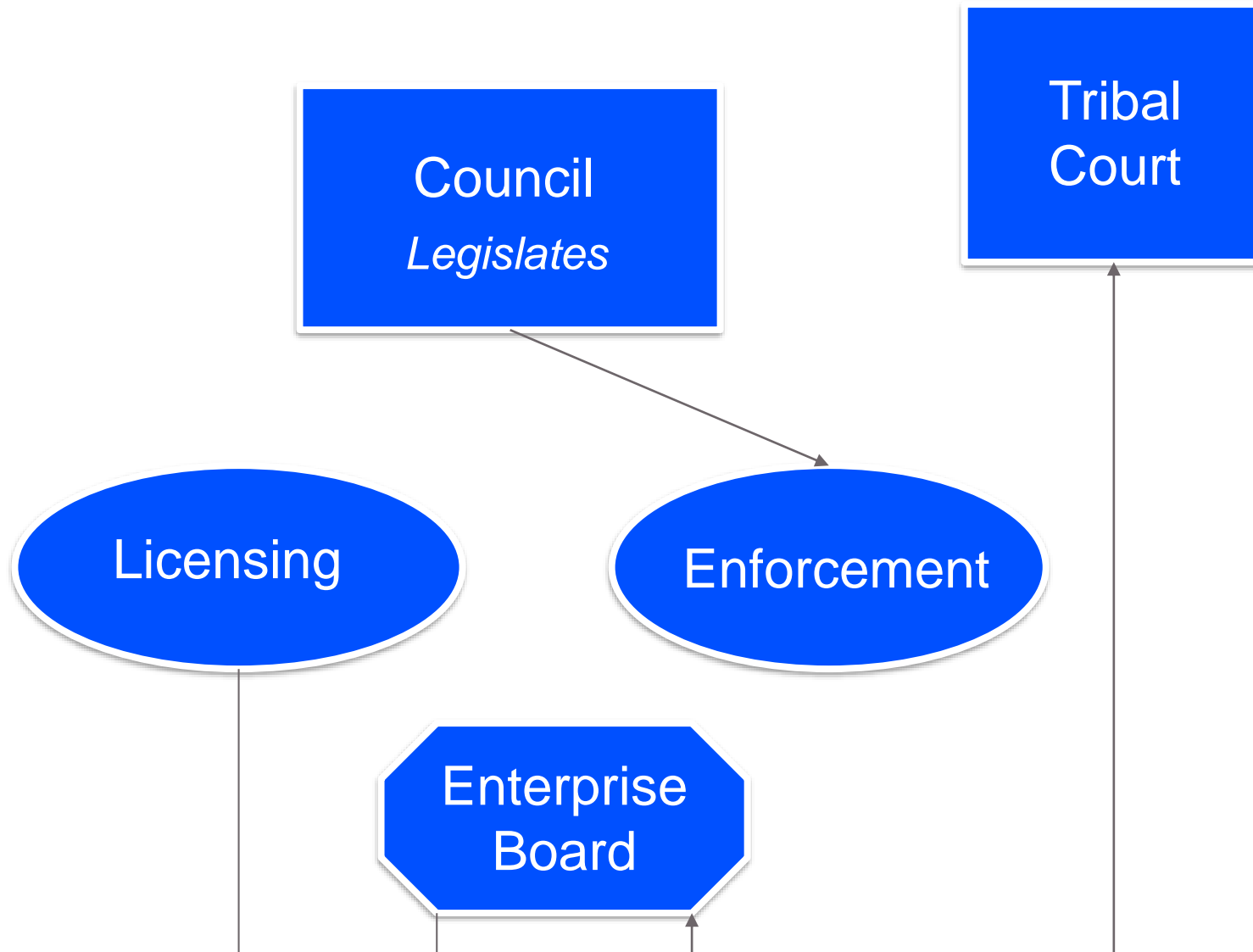


Poll Question 5









Colorado River Indian Tribe

- CRIT vs. National Indian Gaming Commission
- ***Colorado River Indian Tribes v. National Indian Gaming Commission***, 05-5402 ([D.C. Cir. 2006](#)), was a decision of the [United States Court of Appeals for the District of Columbia Circuit](#) that was handed down on October 20, 2006.
- The Indian Gaming Regulatory Act doesn't give the National Indian Gaming Commission any regulatory authority over how Class III games are conducted within Indian casinos.

Colorado River Indian Tribe

- In deciding that Congress did not intend to give the NIGC the authority to issue Minimum Internal Control Standards (MICS) for Class III gaming, U.S. District Court Judge John D. Bates expressly cautioned that "this opinion should not be read to hold that the NIGC will never be able to audit a Class III gaming operation, or that the NIGC may not penalize a tribe that resists a valid audit."

Upcoming Seminars

- Internal Audit Fundamentals - March 23
- Title 31/AML Compliance - April 13
- MICS Compliance and Frequent Problems - April 27

Visit www.wipfli.com/events

Questions?



Poll Question 6





Thank you

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WIPFLI



BREAK TIME