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Statement to Joint Legislative Audit Committee regarding Audit Report 14-14:
Government Accountability Board
January 14, 2015

The Government Accountability Board was created in 2007 with nearly unanimous, bipartisan legislative support to enforce the state's elections, campaign finance, ethics and lobbying laws. It has done so in a bipartisan fashion, protecting the public's interests over partisan interests, despite a stormy political environment in recent years.

Despite these challenges the GAB has been recognized as a national model with a structure designed to insulate it from partisan politics like no other. "...No other state has a chief election administration authority with the same degree of insulation from partisan politics," according to a University of California-Irvine Law Review.* Like any other state agency in the past that has been under the microscope of a Legislative Audit Bureau review, the GAB is not perfect. But the agency is a far more responsive and attentive law enforcement tool than its predecessor – the partisan State Elections Board – which was hand-selected by the very elected officials it was charged to oversee and reprimand.

Polls past and present have consistently shown that a majority of Wisconsinites believe elected officials do a better job of representing special interests rather than the public's interest. To radically change GAB's makeup or reduce GAB's duties, oversight and authority would be a blow to the board's efforts to ensure state government is accountable and the people who are elected to run it are held to the highest standards.

The GAB has made decisions that have drawn criticism from elected officials in both parties. That is a sign that the board is doing its job in a thoughtful, balanced and impartial way. As Judge Barland recently stated in his GAB response to the Legislative Audit Bureau's report, the report importantly points out that the GAB staff and board members are fulfilling almost all of their statutory duties, and that the recommendations involved just a small segment of them. Their duties are broad and complex, while the resources made available to them remain one of their biggest challenges.

One of the most important of those duties is the handling of suspected voter fraud. Judge Barland noted: "Out of 16 elections, 110 suspected cases of felon voting were found and referred to district attorneys — an average of nearly seven possible instances per election. All those cases have been referred for prosecution within the time mandated by the statute of limitations. To put this number in perspective, there were more than 16 million votes cast during the same period."

Since the audit was released the GAB has said it has already addressed many of the points in the report and appears on top of rectifying the remaining items. A legislative response at this point to radically change the board or its duties would be premature and reckless.

In the years leading up to GAB's creation, questionable campaign-related activities had become more or less an open secret. Enforcement authorities too often found themselves under the thumb of the very partisans whose activities they were supposed to oversee. Too often they looked the other way when confronted with evidence of ethical trespasses. The resulting damage to Wisconsin's reputation for clean, open and accountable government made it clear that the state needs a politically independent enforcement agency under the direction of a nonpartisan board.

Instead of a punishment approach to enforcement, we had simply an "education" approach that really amounted to accommodation and appeasement, which led to more and more brazen behavior and even more disrespect for the law. This created a downward spiral into a political cesspool that necessitated criminal probes culminating in a parade of top political leaders into courtrooms and, in some cases, into jail cells – no thanks, by the way, to either the Elections Board or Ethics Board, neither of which conducted investigations when alerted to apparent wrongdoing.

GAB's creation was the result of the willingness of the governor and a bipartisan legislature to work in a spirit of bipartisanship to restore Wisconsin's reputation for clean and open government.

The current legislature and governor ought to support this highly recognized state agency and provide it with the resources it needs to do its job, not tear it apart.

* Tokaji, Daniel P. "America's Top Model: The Wisconsin Government Accountability Board" (2013), *UC IRVINE LAW REVIEW*, Vol. 3:576.