



**STATEMENT FROM CHAIRMAN STEVE NASS REGARDING AB 729
UW System Research and the Open Records Law
February 10, 2014**

This bill has two separate components dealing with issues relating to research in the UW System. The bill does the following:

Section 1 – Provides an extremely broad exception to the Open Records Law for materials directly and indirectly related to research in the UW System until such research is publicly released, published, or patented.

Section 2 (3) – Encourages the UW System to expand its participation in classified research relating to issues of national security. It also requires the UW System to issue an annual report on classified research.

While I did agree to schedule AB 729 for a public hearing, I have from the beginning been very clear regarding my opposition to Section 1 of this legislation. I believe strongly in the importance of the Wisconsin Open Records Law in providing the public with the ability to know what government is doing in this state. This law is also a fundamentally important tool for the Legislature in carrying out its constitutional duty of oversight.

As the Assembly Colleges and Universities Committee considers AB 729 today, I wanted to notify the members and the public that after discussions with Rep. Kuglitsch, the author, and Speaker Vos, this bill will be amended to remove the exception to the Open Records Law. The existing law provides reasonable and adequate protections for research.

“In God We Trust”

Mike Kuglitsch

STATE REPRESENTATIVE • 84TH ASSEMBLY DISTRICT

DATE: February 10, 2014
RE: **Testimony on 2013 Assembly Bill 729**
TO: The Assembly Committee on Colleges and Universities
FROM: Office of Representative Mike Kuglitsch

Thank you Mr. Speaker, and Committee members for allowing me to testify on Assembly Bill 729.

Throughout the UW System, all research conducted on a UW campus must be published. While we can all agree transparency is especially important, the UW System is missing out on millions of grant dollars and contracts from the federal government and private industry. Cyber security is especially important at this time, and there are many minds at our universities that can assist our national and economic defense and increase dollars brought into our state.

In the past 16 years, the Pentagon has more than doubled the number of its University Affiliated Research Centers, which give partner institutions exclusivity for research grants in their field of specialty. In the upcoming years, it is expected that there will be more added to the UARC. While hard budget numbers on classified research are hard to pin-point, it is no secret that the potential rewards of a successful operation are promising.

Our legislation creates a process for which faculty throughout the UW System can conduct classified research. Though the research they are conducting will be kept secret, it will give Chancellors the authority to allow classified research to be conducted on campus or at a private establishment off campus. In order for classified research to be conducted it must benefit our national security interests. Let me repeat, this is specifically to better our nation's defense and the security of our citizens.

AB 729 will attract federal dollars for research in fields such as cyber security and national defense. It is expected that the Department of Defense will allocate \$13 billion for cyber security research alone. The University of Wisconsin-Madison is one of the top information and technology schools in the country. However, due to the current climate in Wisconsin, our leading university will see none of this money.

Real opportunities have been passed over in recent years. Wisconsin has a number of great public universities, especially UW-Madison. AB 729 will grow our universities, expand our research portfolio and over time, the technology that is being created in these settings will spin off to create business and high paying jobs for Wisconsinites.

Recently, a private secure facility was created to conduct classified research. There will be speakers that follow me to further discuss the atmosphere of classified research in Wisconsin, along with the other University Affiliated Research Centers.

I hope we can all agree that more research, more funding, and the potential of spin-off companies is a good thing for the state of Wisconsin. Thank you for allowing me to testify today and I ask for your support of this legislation moving forward.



Wisconsin Freedom of Information Council

DEVOTED TO PROTECTING WISCONSIN'S TRADITION OF OPEN GOVERNMENT

Rep. Steve Nass, chairman
Assembly Committee on Colleges and Universities
Room 12 West, State Capitol
P.O. Box 8953
Madison, WI 53708

Feb. 10, 2014

Dear Chairman Nass, members of the committee,

Thank you for this opportunity to testify on AB 729. I represent the Wisconsin Freedom of Information Council, a nonprofit, nonpartisan group that seeks to protect access to public meetings and records. Our sponsoring organizations include the Wisconsin Newspaper Association, the Wisconsin Broadcasters Association and the Wisconsin Associated Press.

The Wisconsin Freedom of Information Council strongly opposes this attempt to carve out a new exemption from the state's Open Records Law for the University of Wisconsin. We object on several grounds.

First, this legislation, like a previous attempt to include similar language in the state budget, is being advanced with blazing speed. It was introduced last Wednesday and scheduled for a hearing today, less than a week later, in an apparent attempt to ram it through the legislative process before the defenders of the state's tradition of open and accountable government have a chance to react.

You should not let that happen. AB 729 would not only shield university research projects related to national security, it would create a blanket exemption for virtually all university research. According to the Legislative Reference Bureau's analysis, the new exemption would apply to all "information, data, or records produced or collected by or for faculty or staff of such institutions as a result of study or research on commercial, scientific, or technical subjects."

Current law already allows state universities, like any state or local public authority, to deny access to records if they can make the case that the harm from release outweighs the presumed good that comes from public access. This bill would eviscerate that standard for the University of Wisconsin. No longer would it need a good reason, or any reason, to deny access.

The Council is less concerned about the part of the bill dealing with classified national security research, although it believes that, even here, the UW already has ample ability to restrict access in appropriate cases. More egregious is the notion that all research would be exempt, unless or until the research is publicly released, published, or patented.

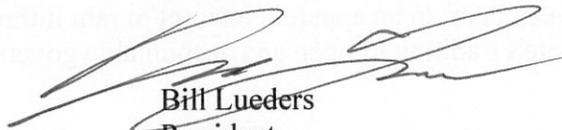
A research project that was deemed to be such a disastrous failure or such an embarrassing misuse of state resources that the university would prefer no one learn of its existence could be forever shielded from public scrutiny.

The initial memo to lawmakers seeking similar legislation last summer expressly acknowledged the university's desire to avoid the expense and bother of dealing with records requests from animal rights activists. Let there be no mistake: This exemption would also allow university officials to deny access to records sought by media, outside investigators, and members of the Legislature.

Please do not allow this to happen. Please insist that the supporters provide specific, concrete examples of problems that are now occurring because of the state's openness laws and insist that any remedy be precisely tailored to address these problems, without affecting the ability of the public or the Legislature to obtain other records.

The state's tradition of openness has served it well. Wisconsin and certainly the University of Wisconsin System are both better off because of the laws that require most records to be public, absent a good and defensible reason. It is a tradition that should be treasured, not abandoned.

Best,

A handwritten signature in black ink, appearing to read "Bill Lueders", written over a horizontal line.

Bill Lueders
President



WISCONSIN
UNIVERSITY OF WISCONSIN-MADISON

TO: Assembly Committee on Colleges and Universities

FROM: Don Nelson, Director of State Relations, University of Wisconsin – Madison

SUBJECT: Support for Assembly Bill 729

The University of Wisconsin-Madison welcomes any opportunity to improve on our research performance. While UW-Madison, by most measures, remains one of the world's top-performing research institutions, we understand the need to continue to improve our game and seek new avenues of support and to protect the process of research.

The proposed legislation helps accomplish both of those goals. At present, UW-Madison researchers can and do conduct classified research under the auspices of entities that have the infrastructure to support such activities. These include national laboratories, private companies, and private university affiliated labs such as the Hopkins Applied Physics Laboratory. The proposed legislation will make it easier for those who wish to engage in such research by providing a policy path through the UW System. This could well bolster our research portfolio and help foster new economic development in our state. By enabling the Board of Regents to accept grants and contracts funding such work, researchers can more seamlessly perform those kinds of research activities. The advent of the Wisconsin Security Research Consortium is another development that will afford those with an interest in pursuing classified research the opportunity to do so as it begins to put in place the required infrastructure.

That the legislation is crafted to protect the legitimate educational interests of our students, including their ability to publish, is important. We are, first of all, an educational institution with responsibilities to our students and their academic needs. The measure also provides for administrative oversight in consultation with the faculty, which will help us ensure that any activity in this area is consistent with established policies and procedures.

Office of University Relations

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February 10, 2014

TO: Assembly Committee on Colleges and Universities

FROM: Tom Still, president, Wisconsin Technology Council; secretary-treasurer, Wisconsin Security Research Consortium

RE: Assembly Bill 729

Committee Chairperson Nass and committee members:

Thank you for allowing me to speak today on this important bill.

My name is Tom Still and I am president of the Wisconsin Technology Council, as well as a member of the board of directors for the Wisconsin Security Research Consortium.

I will give you a bit of history about who we are, and then discuss why we strongly support this legislation.

The Wisconsin Technology Council was formed in 2001 to serve as the science and technology advisers to the governor and the Legislature, a role we continue to play in addition to our hands'-on work with investors, entrepreneurs and the startup economy.

The Wisconsin Security Research Consortium was formally created in 2007 to enhance Wisconsin's position to attract and retain R&D grants and contracts from federal agencies and private sub-contractors for the purpose of conducting

sensitive or classified academic research and related development work. This research will contribute to the health, safety and security of citizens of the United States, regardless of where they live, but it will leverage assets, talents and technologies available in Wisconsin.

Both organizations support Assembly Bill 729 introduced by Reps. Kuglitsch and Kahl, which I believe is the legislation before you today.

Almost from the outset, the Security Research Consortium was focused on the need for greater cybersecurity research. We recognized in 2007 there was an emerging threat to national security and our nation's economic well-being. We also knew there was an opportunity to help through research that could be conducted in Wisconsin, if the process for doing so was clarified.

This bill helps lay out a procedure by which UW System campuses, through their faculty and staff, may pursue opportunities to conduct classified research. In the process, it will help Wisconsin's economy by attracting work that currently "flies over" the state, and create more high-paying jobs.

Here's some background: In the bad old days of the Cold War, people worried about missile silos in the Soviet Union.

In the emerging world of cyber-warfare, the biggest threats may come from nests of sophisticated computer hackers in Shanghai, Pyongyang or Damascus.

Enhancing cybersecurity to protect against threats from abroad, as well as close to home, is a national priority that touches just about everyone in our digital age. The risks can range from breaches of department store credit card data to attacks on America's lifelines – including its energy grid, its water supply, its health-care institutions and its financial institutions.

It is estimated that the U.S. economy loses billions of dollars each year to foreign and domestic competitors who target flourishing industries and technologies. Much of that occurs through cyber-attacks.

Though many companies choose to lose millions of dollars in revenue rather than to admit failures in their systems caused by hackers – a small number of well-established U.S. companies such as Facebook, Coca-Cola and Apple have admitted to their systems being compromised.

Assembly Bill 729 addresses removes obstacles currently faced by UW researchers. Currently the university misses opportunities for grants and contracts. On the other hand, Johns Hopkins University in Baltimore, Md., is the nation's No. 1 research university in terms of its annual budget, simply because it has made the conscious decision to establish a system to attract, maintain, and protect research.

This bill would be good for the university in other ways:

- ✓ It would expand the ability of the state's Research and Development universities to attract classified research at a time when federal research dollars are either stagnant or declining.

- ✓ It expands the ability of federal private contractors, both within and outside Wisconsin, to form R&D partnerships with state campuses to help meet classified research and development needs.
- ✓ It furthers the growth of a cyber-security industry in Wisconsin by providing training and internships for students who are now forced to go outside Wisconsin to pursue such careers. That's vital in a state with a large health care and financial services base."

Before closing, I want to address one question we've heard: What are the potential sources of classified research? Who can ask that it be done?

By definition, the only source of classified research – meaning primarily secret or top secret – is the federal government itself, through agencies such as the Departments of Defense, Homeland Security and Energy, or through private contractors and/or sub-contractors specifically cleared to conduct such work in a secure environment. Those private contractors only conduct such research at the behest of the federal government on very tight, specific "need-to-know" conditions.

I would like commend Representatives Kuglitsch and Kahl for their bipartisan approach to addressing this vital issue — and I urge the committee to move swiftly in passage of this proposal.

Thank you.

AB 729

On Behalf of:

SPJ Region 6

SPJ Madison Pro Chapter

SPJ UW-Madison Campus Chapter

To:

Rep. Steve Nass, Chairman
Assembly Committee on Colleges and Universities
Room 12 West, State Capitol
P.O. Box 8953
Madison, WI 53708

Representative Steve Nass,

On behalf of the Society of Professional Journalists Region 6, Madison Pro Chapter and UW-Madison Campus Chapter, we respectfully request that AB 729 be removed from consideration. We believe that current law covers the bills concerns for the release of information that could cause harm.

According to the Wisconsin Freedom of Information Council current law exists that already allows state universities, like any state of local public authority, to deny access to records if they can make the case that the harm from release outweighs the presumption that the public is entitled to access.

We oppose AB 729 and ask that the Assembly Committee on Colleges and Universities vote in opposition of the bill.

Sincerely,

Joseph Radske

SPJ Region 6 Director



Committee Chairperson Nass and committee members,

Thank you for allowing me to speak today on this very important piece of legislation.

My name is Steve Lyons and I am the President of the Wisconsin Growth Capital Coalition. I will give a brief history of who we are, and then discuss why we strongly support this legislation.

The Wisconsin Growth Capital Coalition was formally created in 2013 to promote, support, and facilitate economic growth by enhancing the availability of early stage capital in Wisconsin.

The WGCC is a group of early stage investors, emerging companies and service professionals who work with the state's high-growth economy. The coalition's goal is to see the adoption of legislative initiatives that help this sector, help the economy and create jobs in Wisconsin.

The WGCC supports Assembly Bill 729 and we ask that final language passed includes the language that is included in this bipartisan legislation introduced by Representatives Kuglitsch, and Kahl.

The reasons for our support are many.

The current policy is **Outdated and antiquated**

"If it cannot be published, you can't do it here." Whether it's classified research, proprietary research or restricted research, the current climate for conducting important research through University of Wisconsin faculty is out of step with the times. This is particularly true for research around defense and homeland security issues.



Research is being done – but unfortunately not in Wisconsin

Johns Hopkins University is the No. 1 R&D University in the nation, due in large part to its emphasis on classified research. Such research pays directly in federal grants and contracting opportunities and indirectly through corporate spinoffs, faculty recruitment and other economic benefits over time. Virginia, Colorado, Michigan are among many states that benefit from research allowed through their faculty.

Such research need not violate the principle of academic freedom

University of Wisconsin researchers depend on financial and infrastructure support from federal, state and private sector sponsors. Sponsored research is critical to fulfilling the university's mission to acquire knowledge and disseminate it widely. In order to protect the ability of UW faculty, staff and students to support its mission, the university must enact specific policies and procedures that will ensure compliance with university procedures, publication restrictions and the requirements of research sponsors themselves. This legislation calls for an updated policy.

Cybersecurity is a national, bipartisan priority for government and the private sector

“Economic espionage” costs the United States billions of dollars a year, according to the FBI. If there is an area of the federal budget that is less likely to be cut than others, it’s cybersecurity.

A revised approach would be good for the university in more ways than one...

- It expands the ability of the state’s R&D universities to attract classified research at a time when time when over sources of competitive federal research dollars are stagnant or declining.



- It expands the ability of federal private contractors, both within and outside Wisconsin, to form R&D partnerships with state campuses to help meet classified research and development needs.
- It furthers the growth of a cyber-security industry in Wisconsin and providing training and internship/job opportunities for students who are now forced to go outside Wisconsin to pursue such careers.

Cyber security is a serious concern with investors, including those who are members of the WI Growth Capital Coalition

Over the past 12 months, huge infusions of cash have gone to a wide array of technology security vendors: Companies such as Cylance, \$15 million; FireEye, \$50 million; Endgame, \$23 million; AnchorFree, \$50 million; Bit9, \$35 million; Bromium, \$27 million; CipherCloud, \$30 million; Nok Nok Labs, \$15 million; PerspecSys, \$12 million; Veracode \$30 million. Wisconsin can build and attract those kinds of companies.

The WGCC believes it is a balanced approach

This legislation allows for the UW to approve or deny research. The research is classified and does not have to be published unless the researcher wishes to make it so.

I want to commend Representatives Kuglitsch and Kahl for their bipartisan approach to this serious issue-and I urge the committee to support this legislation.

Thank you.