

# SB 6106

- Closes a loophole in Washington's employee inventor protection law
  - Saves millions in costs at UW and WSU
  - Frees university faculty to innovate
  - Benefits us all
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# PROTECT EMPLOYEE INVENTORS

- Washington has been a leader in protecting the rights of employee inventors
- RCW 49.44.140, enacted in 1979
- Seven other states have similar laws

California, Delaware, Illinois, Kansas,

Minnesota, North Carolina, and Utah

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# RCW 49.44.140

- An employer's interest in employee inventions must relate
  - Directly to the employer's business
  - To employer's research or development
  - To work performed for the employer
  - Use the employer's equipment, supplies, facilities, or trade secrets
- Any other requirement to assign as a condition of employment is against public policy and void

# THE LOOPHOLE

- A university can avoid RCW 49.44.140 by creating an invention licensing operation
  - Then the “business of the employer” is always “whatever an employee invents”
  - So a university can claim all employee inventions, without regard for the law
  - Precisely what the law was created to prevent
  - The only thing the law then requires is that the university notify employees of the law!
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# UNIVERSITIES IGNORE THE LAW

- Overbroad Scope of Employment

Claim a faculty member's scope of employment is anything within the faculty member's professional expertise

- Overbroad Scope of University Business

Claim the business of the university is to seek profits from whatever a faculty member invents or discovers

- Overbroad Scope of University Resources

Claim that resources paid for by research sponsors are also the university's resources

# PUBLIC UNIVERSITY PATENTING

- Public universities
  - Attempt to license patents for profit
  - Leave most patented inventions unlicensed
  - Refuse to return unlicensed inventions to inventors
- The cost to the state is enormous
  - \$100M in six years at UW trying to profit on inventions
  - Miniscule economic impact for the state
  - Inventions are blocked from use—even by faculty and students

# FACULTY INVENTIONS ARE DIFFERENT

- Academic Freedom
    - Faculty are not employees of the state for their research and scholarship
  - State Control Counters Curiosity
    - The state gains nothing by controlling faculty curiosity
  - The High Cost of Bureaucracy
    - Claiming everything wastes resources
  - Institutional Conflict of Interest
    - Public universities cannot threaten patent infringement and promote open research
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# RESTORING INVENTOR RIGHTS

- SB 6106 restores university faculty and student inventor rights
- These inventors should decide what to do with their inventions
  - Release to the public domain
  - Make broadly available to industry
  - Seek private investment to create new products
- SB 6106 is fully compliant with federal contracting regulations and the Bayh-Dole Act

# PRIVATE INVENTIONS, STATE SUPPORT

- Faculty are paid so they can teach and study
  - Faculty may discover and invent, and may create books, articles, photographs, artwork, websites, software, and data sets
  - Faculty are known for what they publish, not for what gets withheld
  - Faculty may voluntarily contribute inventions for university benefit—as they did successfully for over sixty years at UW and WSU
  - SB 6106 opens up community colleges to be innovation zones
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# FACULTY OWNERSHIP IS BETTER

- Faculty ownership of inventions
  - Is the historical basis for America's university innovations
  - And the foundation for UW's most successful patents
  - Creates selective focus on important inventions
  - Matches inventions with the best management expertise
  - Reduces state costs and liabilities

# UNIVERSITY CONFLICT OF INTEREST

- A public university demanding ownership of faculty inventions to try to make money selling monopoly positions to speculators cannot serve its primary public mission.
  - If a university claims ownership of rights in faculty work, it creates for itself an immediate conflict of interest
  - The university must try to make money from each invention, and the university must also encourage public use of scholarship
  - The university under federal funding regulations must serve as a trustee on behalf of the beneficiaries of federally supported research

# SUPPORT SB 6106

- When university faculty and students are free to innovate, we all benefit
  - Give RCW 49.44.140 the power it originally had to limit state interest in faculty and student inventions
  - Reduce tens of millions in wasteful university expenditures to make a show of economic impact—all the while faking the metrics
  - Get bureaucrats' thumbs out of the university innovation pie.
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