

# OPEN ACCESS:

## WHAT ROLES DO GOVERNMENTS PLAY?

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# The Feds

Federal Depository Library Program—The ultimate in Open Access for government information and research



- Long before the term “Open Access” was popular, the federal government was dedicated to providing non-classified government publications to all citizens.
- The concept being that an informed citizenry is necessary to a democracy **AND** that taxpayer dollars were funding the publications—so taxpayers should have access to what they are “buying.”
- This program is, of course, the Federal Depository Library Program (FDLP).

- ⌘ In 1813, the U.S. Congress passed joint resolution to ensure distribution of printed legislative materials to select state and university libraries as well as to some historical societies.
- ⌘ In 1814, the American Antiquarian Society became first non-government location receiving official government publications.
- ⌘ Printing Act of 1852 created a Superintendent of Public Printing (Documents) who reported to Secretary of the Interior.
- ⌘ By 1859, twelve designated depository libraries existed.
- ⌘ In 1895, the General Printing Act (GPA) transferred the Superintendent's position, along with the responsibilities of administering the depository library program, to the Government Printing Office.
- ⌘ Part of that legislation mandated a monthly catalog—the origin of the Monthly Catalog of United States Government Publications (MOCAT).

# Earliest History

- ⌘ In 1923, concept of selective depositories introduced.
- ⌘ In 1962, concept of regional depositories introduced, allowing Selectives to discard unwanted materials after 5 years with permission from the regional.
- ⌘ Also in 1962, two new categories of libraries were allowed to be depositories: highest appellate court of each state and all accredited law schools in each state.
- ⌘ Beginning in 1977, distribution of microfilm and then CD-ROMs began.
- ⌘ 1993 marked the passage of the GPO Electronic Information Access Enhancement Act, paving the way for the first authorized portal to electronic federal government information—GPO Access.
- ⌘ Between 1993 and 1996, an explosion of government information in digital format prompted Congress to include in its Appropriations Act of 1996 suggestions to GPO for increasing electronic publishing and dissemination of documents.

# 20<sup>th</sup> Century History

- ⌘ In 2002, the “E-Government Act” steps up the pace to further electronic retrieval of government information:
  - ⌘ “An Act To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes,” 116 Stat. 2899, December 17, 2002.
  
- ⌘ As of 2009, more than 97% of new government documents were available electronically, and over three-fourths of them were only available digitally (per Ithaka S+R study).

# 21<sup>st</sup> Century

# The Feds

- Even with the FDLP in place, some basic government-funded research is not published for free:
  - Two *infamous* examples:
    - **Primarily** for the physical sciences/technology/business--National Technical Information Service (NTIS):
      - “The National Technical Information Service serves as the largest central resource for government-funded scientific, technical, engineering, and business related information available today.”
      - <http://www.ntis.gov/about/>
    - **Primarily** for the social sciences—Congressional Research Service (CRS).
      - “CRS employs more than 400 policy analysts, attorneys and information professionals across a variety of disciplines in five research divisions. The breadth and depth of this expertise — from law, economics and foreign affairs to defense and homeland security, public administration, education, health care, immigration, energy, environmental protection, science and technology — enables CRS quickly to mobilize flexible groups that provide integrated analyses of complex issues facing the Congress.”
      - <http://www.loc.gov/crsinfo/about/>

# More research funded by the feds

In the world of academe, most research is funded by government grants. Examples of governmental agencies that fund research are the following:

- NSF
- EPA
- NIH
- USDA
- NASA

Read the following CRS report on federal funding of research:

<http://www.fas.org/sgp/crs/misc/R41895.pdf>

And, below, from: The American Association of Universities, “University Research: The Role of Federal Funding,” Jan. 2011:

- University research is a vital building block of the nation's research and development (R&D) enterprise. While U.S. universities perform just 13 percent of total national R&D, they perform 31 percent of the nation's total research—basic and applied—and 56 percent of the nation's basic research.
- Because there is broad consensus that university research is a long-term national investment in the future, the federal government supports about 60 percent of the research performed at universities. In 2009, that amounted to the federal government supporting about \$33 billion of universities' total annual R&D spending of \$55 billion.
- Along with creating new knowledge and the foundation for new products and processes, U.S. universities use their research activities to educate students who will become the next generation's scientists and engineers, teachers, and leaders in government and industry.

# Where is *this* research published?

- The answer, of course, is that academic research is published in academic journals—either in print or **online**.
- Academic journals are, generally, owned by commercial publishers and are often exorbitantly priced.
  - Another model is the journal published by a specific “society”—e.g., American Society of Animal Science—which requires membership.
- Therefore, most federally-funded research done by academics is NOT free to the public.
  - Libraries can subscribe. In a public university, print materials can be used by non-affiliated patrons—even checked out if they purchase a community card. However, non-affiliated patrons cannot access online materials from off-campus because of licensing restrictions.
  - Individuals can subscribe.



# Buzz-Phrase: Open Access--OA

- Although Peter Suber, the Guru of OA, starts his [timeline for OA](#) at 1966 with the launching of ERIC (Educational Resources Information Center), the serious buzz did not begin until the early 2000's.
  - Side note: In March of 1998, a **Declaration of San José** was signed in Costa Rica at the IV Pan American Congress on Health Sciences Information. This Declaration “asserts that ‘access to information’ is one of the ‘essential elements’ of health, well-being, equity of living conditions, and development. The signatories pledged to create the Virtual Health Library” (Suber, 2004).

# By 2013, The Buzz Becomes a Roar

- The Executive Branch shows commitment and leadership:
  - **February 22, 2013:** memo from Director of Office of Science and Technology Policy John P. Holdren sets forth plan and implementation strategies for Public Access to Gov Research.
    - From the memo, section 2—"Agency Public Access Plan":
      - The Office of Science and Technology Policy (OSTP) hereby directs each Federal agency with over \$100 million in annual conduct of research and development expenditures to develop a plan to support increased public access to the results of research funded by the Federal Government. This includes any results published in peer-reviewed scholarly publications that are based on research that directly arises from Federal funds. . . .
        - **AND**
      - Each agency shall submit its draft plan to OSTP within six months of publication of this memorandum. OSTP, in coordination with the Office of Management and Budget (OMB), will review the draft agency plans and provide guidance to facilitate the development of final plans that are consistent with the objectives of this memorandum and, where possible, compatible with the plans of other Federal agencies subject to this memorandum. In devising its final plan, each agency should use a transparent process for soliciting views from stakeholders, including federally funded researchers, **universities, libraries**, publishers, users of federally funded research results, and civil society groups, and take such views into account.

# Library Associations Show Support

- ARL Commends Obama Administration for Historic Action Opening up Access to Federally Funded Research (<http://www.arl.org/news/arl-news/2632>):  
“As noted by Elliott Shore, Executive Director of ARL, ‘this memorandum builds on years of investment by the government, research libraries, and the academy to advance the nation’s innovation agenda. ARL looks forward to working with federal agencies to ensure that their policies work well for research institutions and the public.’”

# Other Notable Associations Weigh In

- SLA Supports Open Access to Federally Funded Research - See more at: <http://www.sla.org/sla-supports-open-access-to-federally-funded-research/#sthash.g1K0nxx0.dpuf>
- AALL, ASERL, and, of course, ALA /ACRL provide support.
- SPARC= Scholarly Publishing and Academic Resources Coalition
  - The site: [www.sparc.arl.org](http://www.sparc.arl.org) is where all of the academic supporters connect for information and education on OA.

## MORE FROM THE EXECUTIVE BRANCH

- June 20, 2013—White House hosts “Champions of Change” event, “to highlight outstanding individuals, organizations, or research projects promoting and using open scientific data and publications to accelerate progress and improve our world” (Deogirikar, A. & Stebbins, M. White House Blog, May 7, 2013).

# LEGISLATIVE ACTION

- FASTR—Fair Access to Science and Technology Research Act.
- Bi-partisan legislative initiative introduced 2/14/13 by Senators Cornyn (R-TX) and Wyden (D-OR) + Reps. Doyle (D-PA), Yoder (R-KS), & Lofgren (D-CA).

## Most Current Actions

- H.R. 708—Still in committee
- S. 350—Still in committee
- For full text of bills, CRS analyses, Congressional Record text, see *Thomas.gov*

# STATE GOVERNMENT OPEN ACCESS

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# STATE GOVERNMENT LIBRARY DEPOSITORY PROGRAMS

## CALIFORNIA PROGRAM ~ State Government Library Depository Act

- Since 1850, the California State Library has collected publications of the legislative, executive, and judicial branches, commissions, public authorities, and other agencies of state government. The Library is the official California State Document Depository and houses the largest collection of California state documents in the United States.
- In 1945, the California Legislature passed the Library Distribution Act (Government Code 14900 – 14912), which established the depository library program to make California state documents readily available to the citizens of the state. The California State Library is responsible for carrying out the provisions of the Act by developing and maintaining standards for depository libraries, granting depository status to libraries, and administering the depository program. Today a total of 108 libraries statewide participate in this program.
- Libraries designated below as "full" depositories receive copies of each state publication as defined in Government Code section 14902. The other libraries on the list are selective depositories that receive copies of each publication distributed by the Office of State Publishing, and may request other state documents distributed directly by the issuing agencies.
- Link: [http://www.library.ca.gov/gps/gps\\_cal1.html](http://www.library.ca.gov/gps/gps_cal1.html)
- Link: <http://www.library.ca.gov/gps/index.html>



# CALIFORNIA DIGITAL LIBRARY

- The UC Libraries are pleased to announce new campus-based open access fund pilots to support UC faculty members who wish to make their research findings immediately and freely available to the public. Funded in part by the California Digital Library, these new open access funds will help pay the article processing charges for UC authors who want to make their articles available via open access publishing.
- About Open Access: Open Access (OA) literature is free, online, and available to anyone. An open-access article has limited copyright and licensing restrictions which means anyone, anywhere, with access to the Internet may read, download, copy, and distribute that article. The business models for some open access journals shifts the cost of publication from subscriptions to authors by charging the author an article processing fee. In many fields, particularly the sciences, that fee is then charged to a research grant. Recognizing that not all scholars have grant monies to draw on, the California Digital Library has collaborated with UC campus libraries to develop this pilot program.

## **UC Libraries Announce Open Access Publishing Fund Pilot**

**January 31, 2013 (Posted by Joanne Miller, Senior Analyst, Strategic and Project Planning)**

**Link: <http://www.cdlib.org/cdlinfo/2013/01/31/uc-libraries-announce-open-access-publishing-fund-pilot/>**

# CALIFORNIA STATE PUBLICATIONS (CSP)

- California State Publications (CSP) is a monthly listing of official publications received by the State Library from California governmental agencies. Published since 1947, each issue includes three parts: an introductory section, a register (consisting of the catalog records produced for new state publications for that month), and an index. The print version ceased publication in May 2003; CSP has been issued in PDF format from vol. 57, no. 6 (June 2003) forward.
- The catalog records for each issue of CSP from January 2001 forward may also be retrieved from the State Library's main catalog. The records may also be displayed cumulatively by year or from January 2001 to the present.
- The publications listed in CSP are distributed free of charge, either by the Office of State Publishing or by the issuing agency, to California state document depository libraries. Other organizations and individuals should contact the issuing agency to obtain copies.
- Link: <http://www.library.ca.gov/publications/csp/>

# CALIFORNIA OPEN DATA WEBSITE

- The State of California was one of the first states to launch an open data repository. Data.CA.gov was designed to provide a single source of raw data in the state. By posting state government data in raw, machine-readable formats, it can be reformatted and reused in different ways, allowing the public greater access to build custom applications in order to analyze and display the information. Data.CA.gov provides information and raw data on the economy, public health, transportation, environment, and more on this single website.
- The centralized data repository allows the public to find, use, and repackage the volumes of data generated by the State. Prior to the advent of Data.CA.gov it was difficult to find raw data in various places throughout government. By publishing the data in different formats, the public is empowered to use government data in creative ways.
- Link: <http://data.ca.gov/about/>
- The growing demand for transparency in government prompted the State to create an open data mine to help citizens access raw data quickly and easily. Locating data is one of the most popular tasks on CA.gov, so the goal was to create a single source of information in one place. Prior to the creation of California's open data mine, individuals had to visit multiple state agency websites to find data, and it was not always in an open format (e.g., PDF, Word). Many clicks were required to get to this information.
- Due to the vast number of open data records the State discovered through the creation of Data.CA.gov, which holds more than 100 million data records, the State plans to expand the site to encourage reuse of government data. The State is continuing to improve its Data.CA.gov website, making state government data available in easy to find and usable formats. The new version of Data.CA.gov launched in May 2010, and it includes a powerful search, featured datasets, charts, graphs, and a more user-friendly interface.

# PENNSYLVANIA'S OPEN DATA / PUBLIC RECORDS LAW

- “In 2008, Pennsylvania bolstered its public-records law with language that “presumed” government records were open unless the records fell under a specific exemption. ‘The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.’
- Two phrases stand out here: ‘burden of proving’ and ‘preponderance of the evidence.’ That’s an order to make records open by default. It’s also a warning: Government agencies better be able to defend their decision to withhold information in civil court.” (Joel Hoffman @ Voice of San Diego ~ Aug. 28, 2013)
- PENNSYLVANIA'S NEW RIGHT TO KNOW LAW (2009)
- Link:  
[https://www.dced.state.pa.us/public/oor/pa\\_righttoknowlaw.pdf](https://www.dced.state.pa.us/public/oor/pa_righttoknowlaw.pdf)

# COLORADO PROGRAM ~ State Government Library Depository

- The collections of the University Libraries support the teaching and research needs of the faculty and students. Government publications became part of the James A. Michener Library's collections well before the university was designated as a selective federal depository in 1966.
- As a federal depository, University of Northern Colorado, UNC, provides free access to government information to residents of the Fourth Congressional District. In 1980 UNC was also designated as a depository for Colorado state publications in accordance with CRS (Colorado Revised Statutes) 24-90-201 through 208, et.al. As a state depository, UNC provides access to state publications selected in accordance with the Libraries' collection development policy for government publications.

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- Colorado state print publications are received automatically from the state library. Selection decisions are made after receipt by the Government Publications Librarian. For state documents issued electronically, selection decisions are made by reviewing files of records prior to loading the records into the University Libraries' online catalog.
- Link: <http://library.unco.edu/documents/GovDocCollectionDevelopment%20PolicyAndAppendixMay09.pdf>
- Link: <http://cospl.blogspot.com/2013/10/state-publications-library-open-house.html>

# VIRGINIA PROGRAM ~ State Publications Depository Program

- The State Document Depository Program was established in 1981 to guarantee access to government information, regardless to proximity to Richmond, and to ensure that information published by state agencies remains available to the public. In 2006, following a two year study by the General Assembly, the goals and purposes of the Depository Program were repealed, amended and recodified as the State Publications Depository Program in §42.1-92 et seq. of the Code of Virginia.
- The State Publications Depository Program act expressly defines what should be included in the program. §42.1-93 states: "Publication" means all documents, regardless of physical form or characteristics and issued by or for a state, local, or regional agency, in full or in part at government expense, that are created for the research or informational use of the public. "Publication" shall not include documents that are developed solely for the agency's administrative and internal operations.
- Complete guidelines for appropriate materials to submit to the program can be found in the State Publications Collection Policy. The Library asks that you send 15 of each of your publications. You must supply these free of charge. (Code of Virginia §2.2-609b and §42.1-94)
- The Library of Virginia keeps at least two copies for its collections, and distributes the others to geographically diverse libraries throughout the commonwealth and to the Library of Congress.
- The Library of Virginia has established a secure digital repository for electronic state publications, which became fully operational in July 2008. Like paper publications, agencies will be required to submit electronic copies to the Library. After a publication is accepted for the digital repository, the Library will distribute cataloging to depository libraries, providing long-term access to your publications. In addition, the repository is full-text searchable, and accessible from the Library's Web site.
- Link: <http://www.lva.virginia.gov/agencies/StateDocs/FAQstate.asp>
- Link: <http://www.lva.virginia.gov/agencies/statedocs/>

# CALIFORNIA LEGISLATION—AB 609

## CALIFORNIA LEGISLATION ~ PUBLIC ACCESS TO SCIENTIFIC SCHOLARLY PUBLICATION

- Bill No: AB 609 ~
- BILL HISTORY / June 25 2013 ~
- In committee: Set first hearing. Failed passage. Reconsideration granted.
- LINK: [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0601-0650/ab\\_609\\_bill\\_20130625\\_history.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0601-0650/ab_609_bill_20130625_history.html)

### Partial text of bill:

- SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
- 2013-14 Regular Session / AB 609 Author: Nestande / As Amended: June 18, 2013
- SUBJECT: State-funded research

### LEGISLATION DESCRIPTION:

- Entitled the California Taxpayer Access to Publicly Funded
- Research Act, this bill requires open access publication of
- research papers when research has been funded by state
- agencies. Specifically, this bill :
- 1) Applies to all state agencies, boards, commissions, and
- the like, **except that the University of California (UC)**
- **and the California State University (CSU) are expressly**
- **excluded from the definition of a state agency for**
- **purposes of this bill.**

# CALIFORNIA LEGISLATION—AB 609, CONT.

- 2) Requires any grantee that receives funding, in whole or in part, in the form of a research grant from a state agency **to provide for free public access to any publication of a state agency-funded invention or state agency-funded technology.**
- 3) For any manuscript that is accepted for publication in a peer-reviewed journal, the grantee **must ensure that an electronic version of the final peer-reviewed manuscript is submitted** to the funding agency or to an appropriate publicly accessible database approved by the agency no later than 12 months after the official date of publication, to be made publicly available. <etc.>
- Link: [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0601-0650/ab\\_609\\_cfa\\_20130624\\_120654\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0601-0650/ab_609_cfa_20130624_120654_sen_comm.html)
- Link: [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0601-0650/ab\\_609\\_cfa\\_20130429\\_155807\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0601-0650/ab_609_cfa_20130429_155807_asm_comm.html)



# PROS & CONS

- PROS:
- Article by *Library Journal* ~ California Assembly Bill 609
  - Link: <http://lj.libraryjournal.com/2013/05/oa/california-open-access-bill-clears-committee/#>
- CONS:
- CALIFORNIA CHAMBER OF COMMERCE:
  - Unfair Restrictions on State-Funded Research. AB 609 (Nestande; R-Palm Desert) Interferes with publishers' ability to regain costs for value-added research if such research is funded in any way through state grants. Oppose.
  - LINK: [http://www.calchamber.com/governmentrelations/documents/statusreport\\_09-20-2013.pdf](http://www.calchamber.com/governmentrelations/documents/statusreport_09-20-2013.pdf)
- ASSOCIATION OF AMERICAN PUBLISHERS:
  - LINK:
  - [http://www.michaeleisen.org/blog/wp-content/uploads/2013/05/AAP\\_Opposition\\_AB609.pdf](http://www.michaeleisen.org/blog/wp-content/uploads/2013/05/AAP_Opposition_AB609.pdf)
- ELSEVIER CONNECT:
  - LINK: <http://www.elsevier.com/connect/elsevier-on-pricing-and-california-open-access-legislation>

# FULL CIRCLE---

- If we look at the definitions of OA, we feel we can justify saying that government depository programs—federal and state—are the predecessors of current OA initiatives; i.e., the “Grandparents of Open Access. “
- FDLP, around since the early 19<sup>th</sup> Century, and the various state programs—some going all the way back to 1945, as in California, fulfill the requirements of providing access to governmentally funded information.
- Some government information librarians are discussing the possibility of having GPO and/or LOC be the center point for all OA activity for the feds.
- And—at the CA state level, that recently proposed legislation includes provisions for CSL’s becoming the repository for all state OA.