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April 12, 2013

The Honorable Jim Frazier Chair, Assembly Accountability and Administrative Review Committee 1020 N Street, Room 357 Sacramento, CA 95814

RE: AB 609 (Nestande), as amended April 1, 2013

Scheduled for hearing in Assembly Accountability and Administrative Review

Committee on April 17, 2013

Position: SUPPORT IF AMENDED

## Dear Assemblyman Frazier:

The University of California (UC) supports, if amended, AB 609 (Nestande), which would enact the California Taxpayer Access to Publicly Funded Research Act. Overall the University is supportive of the legislation's intent to create a public access policy for research funded by grants from state agencies; however, certain aspects of the legislation, as currently drafted, raise concerns for UC.

Scholars at the University of California have a vested interest in ensuring that their work reaches the widest possible audience, including members of the public whose tax dollars support the University's research. Unfortunately the increasing cost of journal subscriptions in recent years often acts to restrict access to research results. This increasing restriction on the dissemination of research results runs counter to the spirit in which UC faculty, researchers and students undertake their scholarly activity.

UC is supportive of public access policies in principle; however, we do have some concerns about certain aspects of AB 609 as currently drafted. Our goal in raising these concerns is to ensure that the bill ultimately adopted by the state is both workable and effective.

## **Publication Embargo Period**

The University recommends that the bill's six month publication embargo period be amended to conform to federal public access policies. The National Institutes of Health (NIH) Public Access Policy and the recent public access policy direction to federal agencies from the Office of Science and Technology Policy (OSTP) both permit a twelve month embargo period for published manuscripts. We believe that consistency between the different public access policies to which our researchers must comply will help avoid confusion and promote compliance with

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the law. A twelve month embargo period will also allow publishers, including small publishers and scholarly societies, to meet their needs for revenue while ensuring long-term public access to published research. UC believes that a twelve month embargo period will facilitate publication in leading scholarly journals, which may reject manuscripts for which the permissible embargo is only six months.

## **State Agency Definition**

The definition of "state agencies" that would be required to develop public access policies under AB 609 is very broad, as it encompasses any "entity within the executive branch, including, but not limited to, all departments, boards, bureaus, commissions, councils, and offices." Although the University of California is not typically classified as an entity within the executive branch, we are concerned that AB 609's definition of "state agency" could be broadly interpreted as including all public postsecondary institutions. The University of California administers a number of its own research grant programs, which are part of the University's core academic function over which the University has full powers of organization and government under article IX, section 9 of the California Constitution. UC establishes the criteria and terms governing its own research grant programs, and wishes to clarify that the requirements of Section 13989.4 would not apply to the University's own research grant programs. Therefore, we request that the bill be amended to explicitly exclude the University of California from the definition of state agencies contained in the bill. UC researchers would still be subject to the public access policies of the state agencies from which they receive grant awards. We look forward to working with the author to determine how best to craft such an amendment.

In closing, UC is supportive of public access policies and we look forward to working with the author to address our concerns with the bill. Should you have any questions on the University's position on AB 609, please do not hesitate to contact me at (916) 327-3299.

Sincerely,

Adrian Diaz

Legislative Director

cc: Assembly Member Brian Nestande

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