March 26, 2014

The Honorable Nathan Deal
Office of the Governor
206 Washington Street
Atlanta, GA 30334

Re: Veto HB 702, Which Would Create Another Ten Commandments Display at the Georgia State Capitol.

Dear Governor Deal:

On behalf of Americans United for Separation of Church and State and its Georgia members and chapters, I write to urge you to veto HB 702, which would permit the government to display the Ten Commandments on state capitol grounds. Posting a religious creed on government property is constitutionally suspect and divisive. Rather than erecting a second Ten Commandments display at the Capitol, the state should create a display that represents and unifies all Georgians.

The Ten Commandments Are Already on Display at the State Capitol

Just two years ago, the State of Georgia hung the Ten Commandments on the basement floor of the capitol building, which is where most legislators and visitors enter the General Assembly building. Nonetheless, the General Assembly is calling for a second posting of the Ten Commandments either inside the building or on the capitol grounds. Regardless of whether you believe the posting of the Ten Commandments at the Capitol is appropriate, surely having two separate displays of the Ten Commandments at the Capitol is excessive and unnecessary. There are so many historical events and leaders that deserve recognition in the limited space at the statehouse and whose representation could unite rather than divide the citizens of Georgia. There is no need for yet another Ten Commandments display and, thus, this bill should be rejected.

The Ten Commandments Are a Religious Text And Posting the Document is Divisive

The Ten Commandments are “a sacred text in the Jewish and Christian faiths.” The Supreme Court has described the Ten Commandments as:

- a central point of reference in the religious and moral history of Jews and Christians. They proclaim the existence of a monotheistic god (no other gods). They regulate details of religious obligation (no graven images, no

sabbath breaking, no vain oath swearing). And they unmistakably rest even the universally accepted prohibitions (as against murder, theft, and the like) on the sanction of the divinity proclaimed at the beginning of the text.\textsuperscript{2}

And, adherents to this religious creed have significant disagreements about the Commandments’ text and meaning. The disagreements lie not only among Jews and Christians, but also among Catholics, Lutherans, and other Protestants. In addition, the Ten Commandments do not hold religious meaning for Muslims, Hindus, Buddhists, Sikhs, or the many Georgians who practice other religious or no religion at all.

Thus, in posting the Ten Commandments, the state would be both promoting a particular religious creed and taking a position in the theological debate about which version of the Ten Commandments is correct. This would send a message that those who are non-believers or believers in a different version of the Commandments “are outsiders, not full members of the … community, and an accompanying message to adherents [particularly Jews and Christians] that they are insiders, favored members of the … community.”\textsuperscript{3} This is not only divisive, but is fraught with constitutional risk.

The Federal Constitution Prohibits Placement of the Ten Commandments

HB 702 attempts to skirt potential constitutionality issues by including the preamble to the Georgia Constitution and a passage from the Declaration of Independence. But the addition of these two documents does not cure its constitutional defects.

The Constitutionality of a Ten Commandments display depends on the overall context of the display and the message conveyed. In \textit{Van Orden v. Perry}, Justice Breyer (whose concurrence is the controlling opinion in the case) looked at the physical setting of the monument, finding that the Texas monument “sits in a large park containing 17 monuments and 21 historical markers, all designed to illustrate the “ideals” of those who settled in Texas.”\textsuperscript{4} Justice Breyer also emphasized that the Ten Commandments monument on the grounds of the Texas Capitol was historic and had a forty-year history.\textsuperscript{5} He explained that “in today’s world, in a Nation [and State] of so many different religious and comparable non-religious fundamental beliefs, a more contemporary state effort to focus attention upon a religious text is certainly likely to prove divisive in a way that” the longstanding Texas monument did not.\textsuperscript{6} HB 702 is precisely the “contemporary state effort” to which Justice Breyer alluded.

The context of this bill more resembles that in \textit{McCreary County v. ACLU of Kentucky}.\textsuperscript{7} Decided the same day as \textit{Van Orden}, the Supreme Court in \textit{McCreary} struck down a display of the Ten Commandments because its purpose was clearly religious—their actions made

\textsuperscript{2}McCreary County v. ACLU of Ky., 545 U.S. 844, 868 (2005).
\textsuperscript{4}545 U.S. 677, 701-02 (2005)(controlling concurring opinion of Breyer, J.).
\textsuperscript{5}Van Orden, 545 U.S. at 701-04.
\textsuperscript{6}Id. at 703.
\textsuperscript{7}McCreary, 545 U.S. at 867-74.
clear that they their goal was not to post a historical display, but rather to mask their real
goal of posting the Ten Commandments. Here too, we see the same improper religious
motivation. It is clear to all those who have watched this bill wind its way through the
legislature that the goal of HB 702 is not to create another “historical display” at the
Capitol, but to find a way to establish a second Ten Commandments display.

If HB 702 is enacted, the likely result will be costly taxpayer-funded litigation. Further, if
the state loses the suit, the taxpayer will also have to pay the plaintiff’s attorneys’ fees,
which are not insignificant. Indeed, in Glassroth v. Moore, the case holding Judge Roy
Moore’s Ten Commandments monument in the Alabama Supreme Court unconstitutional,
the State of Alabama paid approximately $850,000 in attorneys’ fees.

**Government Posting of the Ten Commandments Trivializes and Harms Religion**
Although some may try to claim that posting the Ten Commandments at the statehouse
honors religion, it actually harms religion. The Ten Commandments are a revered religious
code. Jews and Christians believe that Ten Commandments were “inscribed by the finger of
God” and represent a covenant between God and his people. Describing and treating the
creed as a secular code demeans and trivializes the Commandments.

Perhaps even worse, the bill represents another example of using religion for political gain
and purposes. Although passage might be politically expedient, it harms religion, making it
yet another pawn in the political process. This is exactly the type of behavior that our
founders were trying to prevent when they drafted the Establishment Clause.

**Conclusion**
There is no justification for posting a second Ten Commandments display at the Georgia
State Capitol. Such government-sponsored displays are constitutionally suspect, divisive,
and harmful to religion. Rather than erecting another Ten Commandments display, the
General Assembly should erect displays that represent and unite Georgians. Accordingly,
we urge you to protect religious freedom in Georgia by vetoing this bill.

Sincerely,

Maggie Garrett
Legislative Director