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3 ALLEN FLOOR SUBSTITUTE FOR SB60  
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8 SYNOPSIS: This bill would establish the Alabama  
9 Memorial Preservation Act of 2017.

10 This bill would prohibit the relocation,  
11 removal, alteration, renaming, or other disturbance  
12 of monuments located on public property which have  
13 been in place for 50 or more years.

14 This bill would prohibit, and provide a  
15 mechanism for, the relocation, removal, alteration,  
16 renaming, or other disturbance of monuments located  
17 on public property and which have been in place for  
18 less than 50 years.

19 This bill would provide a mechanism for the  
20 renaming of certain memorial streets.

21 This bill would provide a mechanism for the  
22 renaming of certain architecturally significant  
23 buildings and memorial buildings.

24 This bill would prohibit any person from  
25 preventing the governmental entity responsible for  
26 maintaining a monument, memorial street,  
27 architecturally significant building, or memorial

1 building from taking proper measures to protect,  
2 preserve, care for, repair, or restore the  
3 monuments, streets, or buildings.

4 This bill would create the Committee on  
5 Alabama Monument Protection and would provide for  
6 the membership and duties of the committee,  
7 including the granting of waivers.

8 This bill would provide for the levy of  
9 fines for violations of the waiver process.

10 This bill would also provide for exemptions.

11 Amendment 621 of the Constitution of Alabama  
12 of 1901 prohibits a general law whose purpose or  
13 effect would be to require a new or increased  
14 expenditure of local funds from becoming effective  
15 with regard to a local governmental entity without  
16 enactment by a 2/3 vote unless: it comes within one  
17 of a number of specified exceptions; it is approved  
18 by the affected entity; or the Legislature  
19 appropriates funds, or provides a local source of  
20 revenue, to the entity for the purpose.

21 The purpose or effect of this bill would be  
22 to require a new or increased expenditure of local  
23 funds within the meaning of Amendment 621.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

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2           To create the Alabama Memorial Preservation Act of  
3 2017; to prohibit the relocation, removal, alteration,  
4 renaming, or other disturbance of monuments located on public  
5 property which have been in place for 50 or more years; to  
6 provide a mechanism for the relocation, removal, alteration,  
7 renaming, or other disturbance of monuments located on public  
8 property which have been in place for less than 50 years; to  
9 provide a mechanism for the renaming of certain memorial  
10 streets; to provide a mechanism for the renaming of certain  
11 architecturally significant buildings and memorial buildings;  
12 to prohibit any person from preventing the governmental entity  
13 responsible for maintaining the monuments, memorial streets,  
14 architecturally significant buildings, and memorial buildings  
15 from taking proper measures to protect, preserve, care for,  
16 repair, or restore the monuments, streets, or buildings; to  
17 create the Committee on Alabama Monument Protection; to  
18 provide for the membership of the committee; to provide for  
19 the duties of the committee; to authorize the committee to  
20 grant waivers; to provide for the levy of fines for violations  
21 of the waiver process; to exempt certain art and artifacts,  
22 the Department of Transportation, local governments,  
23 universities, and utilities under certain limited  
24 circumstances; and in connection therewith would have as its  
25 purpose or effect the requirement of a new or increased  
26 expenditure of local funds within the meaning of Amendment 621  
27 of the Constitution of Alabama of 1901.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall be known and may be cited  
3 as the Alabama Memorial Preservation Act of 2017.

4 Section 2. For the purposes of this act, the  
5 following terms shall have the following meanings:

6 (1) ARCHITECTURALLY SIGNIFICANT BUILDING. A building  
7 located on public property that by its very nature, inherent  
8 design, or structure constitutes a monument.

9 (2) COMMITTEE. The Committee on Alabama Monument  
10 Protection created by this act.

11 (3) MEMORIAL BUILDING. A building that is located on  
12 public property and has been erected for, or named or  
13 dedicated in honor of, an event, a person, a group, a  
14 movement, or military service.

15 (4) MEMORIAL STREET. A street that is located on  
16 public property and has been constructed for, or named or  
17 dedicated in honor of, an event, a person, a group, a  
18 movement, or military service.

19 (5) MONUMENT. A statue, portrait, or marker intended  
20 at the time of dedication to be a permanent memorial to an  
21 event, a person, a group, a movement, or military service that  
22 is part of the history of the state. The term does not include  
23 signage bearing historical or interpretive text, commonly  
24 known as a historical marker or wayside exhibit, or portraits  
25 or plaques installed by temporary means and not intended to be  
26 permanent at the time of installation.

1           (6) PUBLIC PROPERTY. All property owned or leased by  
2 the State of Alabama; any county, municipal, or metropolitan  
3 government in the state; or any other entity created by act of  
4 the Legislature to perform any public function.

5           Section 3. (a) (1) No monument which is located on  
6 public property and has been so situated for 50 or more years  
7 may be relocated, removed, altered, renamed, or otherwise  
8 disturbed without permission granted by a court of competent  
9 jurisdiction.

10           (2) No monument which is located on public property  
11 and has been so situated for less than 50 years may be  
12 relocated, removed, altered, renamed, or otherwise disturbed  
13 except as provided in Section 6.

14           (b) No memorial street which has held such status  
15 for 15 or more years may be renamed, except as provided in  
16 Section 6.

17           (c) (1) An architecturally significant building which  
18 has held such status for 50 or more years may not be  
19 relocated, removed, altered, renamed, or otherwise disturbed  
20 without permission granted by a court of competent  
21 jurisdiction.

22           (2) An architecturally significant building which  
23 has held such status for less than 50 years may not be  
24 relocated, removed, altered, renamed, or otherwise disturbed  
25 except as provided in Section 6.

26           (d) A memorial building may be improved, renovated,  
27 rebuilt, relocated, or otherwise maintained; however, the name

1 of the memorial building may not be changed except as provided  
2 in Section 6.

3 Section 4. No person may prevent the governmental  
4 entity having responsibility for maintaining any monument,  
5 memorial street, architecturally significant building, or  
6 memorial building from taking proper and appropriate measures,  
7 and exercising proper and appropriate means, for the  
8 protection, preservation, care, repair, or restoration of  
9 those monuments, streets, or buildings.

10 Section 5. (a) There is created the Committee on  
11 Alabama Monument Protection.

12 (b) The legislative members of the committee shall  
13 be appointed and reappointed at the beginning of each  
14 legislative quadrennium. The members of the committee  
15 appointed pursuant to subdivisions (3) to (7), inclusive,  
16 shall serve for terms of four years, with the exception of  
17 their initial terms, which shall be staggered as provided in  
18 subsection (c). Each term of a member appointed pursuant to  
19 subdivisions (3) to (7), inclusive, shall expire on September  
20 30. The actively serving officials appointed pursuant to  
21 subdivisions (8), (9), and (10) shall serve terms concurrent  
22 with their terms of office. The appointing authorities shall  
23 coordinate their appointments to assure committee membership  
24 is inclusive and reflects the racial, gender, geographic,  
25 urban, rural, and economic diversity of the state. The  
26 membership of the committee shall include all of the  
27 following:

1           (1) Two members of the House of Representatives, one  
2 from the majority party and one from the minority party,  
3 appointed by the Speaker of the House of Representatives.

4           (2) Two members of the Senate, one from the majority  
5 party and one from the minority party, appointed by the  
6 President Pro Tempore of the Senate.

7           (3) One member appointed by the Director of the  
8 Department of Archives and History.

9           (4) One member appointed by the Director of the  
10 Alabama Historical Commission.

11           (5) One member appointed by the President of the  
12 Alabama Historical Association.

13           (6) One member appointed by the President of the  
14 Alabama Trust for Historic Preservation.

15           (7) One member appointed by the Chair of the Black  
16 Heritage Council.

17           (8) One actively serving county commissioner  
18 appointed by the Governor.

19           (9) One actively serving mayor or member of the  
20 municipal governing body of a Class 1, Class 2, or Class 3  
21 municipality appointed by the Governor.

22           (10) One actively serving mayor or member of the  
23 municipal governing body of a Class 4 to Class 8, inclusive,  
24 municipality appointed by the Governor.

25           (c) The initial members of the committee shall be  
26 appointed before September 1, 2017, and shall hold an  
27 organizational meeting of the committee before October 1,

1 2017. At the organizational meeting of the committee, the  
2 membership of the committee shall select a chair and a vice  
3 chair, who shall serve in that position for one year, and the  
4 members appointed pursuant to subdivisions (3) to (7),  
5 inclusive, of subsection (b) shall draw lots to determine  
6 which one of those members shall serve an initial term of two  
7 years expiring on September 30, 2019, which two of those  
8 members shall serve an initial term of three years expiring on  
9 September 30, 2020, and which two of those members shall serve  
10 an initial term of four years expiring on September 30, 2021.  
11 The committee shall meet at least once each year, during the  
12 month of October, to select a chair and vice chair to serve  
13 for the following year. Thereafter, the committee shall meet  
14 at the call of the chair or any majority of the members of the  
15 committee. The committee shall have a continuing existence and  
16 may meet, act, and conduct committee business at any place  
17 within this state.

18 (d) Initial committee members appointed pursuant to  
19 subdivisions (3) to (10), inclusive, of subsection (b), shall  
20 begin serving immediately upon appointment. Each committee  
21 member appointed pursuant to subdivisions (3) to (10),  
22 inclusive, of subsection (b), is subject to confirmation by  
23 the Senate during the legislative session in which the  
24 appointment is made or, if the appointment is made when the  
25 Legislature is not in session, during the next special or  
26 regular session. An appointee may serve in the position  
27 pending confirmation by the Senate. Failure of the Senate to

1 act on the appointment during the session in which the  
2 appointment is made or, if the appointment is made while the  
3 Legislature is not in session, during the next special or  
4 regular session, shall constitute confirmation by the Senate.  
5 Each member of the committee shall serve after the expiration  
6 of his or her term until his or her successor is appointed and  
7 may be appointed to more than one term.

8 (e) The committee shall perform all duties  
9 prescribed by this act. The chair of the committee may create  
10 advisory subcommittees and appoint members thereto, which may  
11 include members of the committee, representatives from  
12 governmental agencies, and members of the public with interest  
13 and expertise in the objectives of the committee. The  
14 committee shall create no more than two active advisory  
15 subcommittees at any given time unless the committee votes  
16 unanimously for additional subcommittees.

17 (f) Each legislative member of the committee or any  
18 subcommittee, if created, shall be entitled to the legislative  
19 compensation, per diem, and travel as provided in Amendment  
20 871 to the Constitution of Alabama of 1901, now appearing as  
21 Section 49.01 of the Official Recompilation of the  
22 Constitution of Alabama of 1901, as amended. Each  
23 nonlegislative member of the committee or any subcommittee, if  
24 created, may be reimbursed for meetings according to the  
25 policies and procedures of the respective entity they are  
26 appointed to represent.

1           Section 6. (a) (1) Any entity exercising control of  
2 public property on which a monument is located may petition  
3 the committee for a waiver from subdivision (2) of subsection  
4 (a) of Section 3 through an application including, at a  
5 minimum, all of the following:

6           a. A resolution by the controlling entity seeking a  
7 waiver for the relocation, removal, alteration, renaming, or  
8 other disturbance of the monument, and the reasons therefor.

9           b. Written documentation of the origin of the  
10 monument, the intent of the sponsoring entity at the time of  
11 dedication, and any subsequent alteration, renaming, or other  
12 disturbance of the monument.

13           c. Written commentary from any heritage, historical,  
14 genealogical, or preservation organizations with interest in  
15 the decision of the controlling entity, and from the general  
16 public.

17           d. A written statement of any facts that were not  
18 known at the time of the origin of the monument but are known  
19 now that the committee should consider in granting the waiver.  
20 The absence of such facts should serve as a presumption  
21 against the granting of a waiver by the committee.

22           (2) If the committee grants a waiver, the committee  
23 may provide reasonable conditions and instructions to ensure  
24 that the monument is restored or preserved to the greatest  
25 extent possible.

26           (b) Any entity exercising control of public property  
27 on which a memorial street is located may petition the

1 committee for a waiver from subdivision (1) of subsection (b)  
2 of Section 3 through an application including, at a minimum,  
3 all of the following:

4 (1) A resolution by the controlling entity seeking a  
5 waiver for the renaming of the memorial street and the reasons  
6 therefor.

7 (2) Written documentation of the circumstances of  
8 the prior naming or dedication of the memorial street.

9 (3) Written commentary from any heritage,  
10 historical, genealogical, or preservation organizations with  
11 interest in the decision of the controlling entity, and from  
12 the general public.

13 (4) A written statement of any facts that were not  
14 known at the time of the origin of the memorial street, but  
15 are known now, that the committee should consider in granting  
16 the waiver. The absence of such facts should serve as a  
17 presumption against the granting of a waiver by the committee.

18 (c) (1) Any entity exercising control of public  
19 property on which an architecturally significant building is  
20 located may petition the committee for a waiver from  
21 subdivision (2) of subsection (c) of Section 3 through an  
22 application including, at a minimum, all of the following:

23 a. A resolution by the controlling entity seeking a  
24 waiver for the relocation, removal, alteration, renaming, or  
25 other disturbance of the architecturally significant building  
26 and the reasons therefor.

1           b. Written documentation of the origin of the  
2 architecturally significant building, the intent of the  
3 sponsoring entity at the time of dedication, and any  
4 subsequent relocation, removal, alteration, renaming, or other  
5 disturbance of the architecturally significant building.

6           c. Written commentary from any heritage, historical,  
7 genealogical, or preservation organizations with interest in  
8 the decision of the controlling entity, and from the general  
9 public.

10           d. A written statement of any facts that were not  
11 known at the time of the origin of the architecturally  
12 significant building but are known now that the committee  
13 should consider in granting the waiver. The absence of such  
14 facts should serve as a presumption against the granting of a  
15 waiver by the committee.

16           (2) If the committee grants a waiver, the committee  
17 may provide reasonable conditions and instructions to ensure  
18 that the architecturally significant building is preserved to  
19 the greatest extent possible.

20           (d) Any entity exercising control of public property  
21 on which a memorial building is located may petition the  
22 committee for a waiver from subsection (d) of Section 3  
23 through an application including, at a minimum, all of the  
24 following:

25           (1) A resolution by the controlling entity seeking a  
26 waiver for the renaming of the memorial building and the  
27 reasons therefor.

1           (2) Written documentation of the circumstances of  
2 the prior naming or dedication of the memorial building.

3           (3) Written commentary from any heritage,  
4 historical, genealogical, or preservation organizations with  
5 interest in the decision of the controlling entity, and from  
6 the general public.

7           (4) A written statement of any facts that were not  
8 known at the time of the origin of the memorial building but  
9 are known now that the committee should consider in granting  
10 the waiver. The absence of such facts should serve as a  
11 presumption against the granting of a waiver by the committee.

12           (e) If the committee fails to act on a completed  
13 application for a waiver within 90 days after the application  
14 is submitted to the committee, the waiver shall be deemed  
15 granted.

16           (f) If the Attorney General determines that an  
17 entity exercising control of public property has removed a  
18 protected monument from that public property without first  
19 obtaining a waiver from the committee or failed to comply with  
20 the conditions and instructions issued by the committee upon  
21 the grant of a waiver pursuant to this section, the entity  
22 shall be fined twenty-five thousand dollars (\$25,000) for each  
23 violation. The fine shall be collected by the Attorney  
24 General, forwarded by his or her office to the State  
25 Treasurer, and deposited into the Alabama State Historic  
26 Preservation Fund created in Section 41-9-255, Code of Alabama  
27 1975.

1 (g) Judicial review of the final decision of the  
2 committee may be sought pursuant to the Alabama Administrative  
3 Procedure Act, Chapter 22 of Title 41, Code of Alabama 1975.

4 Section 7. This act does not apply to any of the  
5 following:

6 (1) Art and artifacts in the collections of museums,  
7 archives, and libraries.

8 (2) Monuments described in Section 3 that are  
9 located on public property under the control of, or acquired  
10 by, the State Department of Transportation, which may  
11 interfere with the construction, maintenance, or operation of  
12 the public transportation system. The department shall strive  
13 to ensure that any such monuments are preserved to the  
14 greatest extent possible.

15 (3) Monuments described in Section 3 that are  
16 located on public property under the control of, or acquired  
17 by, a county or municipal body or a university, which may  
18 interfere with the construction, maintenance, or operation of  
19 the public transportation system. The governing body of the  
20 county, municipality, or university shall strive to ensure  
21 that any such monuments are preserved to the greatest extent  
22 possible.

23 (4) Monuments described in Section 3 that are  
24 located on public property operated or used by a utility,  
25 which may interfere with providing utility service. The  
26 utility shall strive to ensure that any monuments are  
27 preserved to the greatest extent possible.

1                   (5) Monuments described in Section 3 that are  
2                   located on public property under the control of, or acquired  
3                   by, the Alabama State Port Authority, which may interfere with  
4                   the construction, maintenance, or operation of the port  
5                   infrastructure or port related activities. The authority shall  
6                   strive to ensure that any such monuments are preserved to the  
7                   greatest extent possible.

8                   Section 8. The Committee on Alabama Monument  
9                   Protection, pursuant to the Alabama Administrative Procedure  
10                  Act, shall adopt rules as necessary to provide for the  
11                  implementation of this act including, but not limited to,  
12                  further defining an architecturally significant building.

13                  Section 9. This act shall become effective  
14                  immediately following its passage and approval by the  
15                  Governor, or its otherwise becoming law.