44th Legislature SB 0193/01

1	SENATE BILL NO. 193
2	INTRODUCED BY NORMAN
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET
5	PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE
6	COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET
7	PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS
8	WHERE DESIRED; INCREASING PERMISSIBLE GROUND FLOOR AREA OF
9	PARKING BUILDINGS FOR INCIDENTAL USES; DELETING REQUIREMENT
10	OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS
11	ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701,
12	11-3704, 11-3707, AND 11-3708, R.C.M. 1947.
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. The chapter heading of Title II, chapter 37
16	is hereby amended to read as follows:
17	*OFF-STREET PARKING FACILITIES"
18	Section 2. Section 11-3701, R.C.M. 1947, is amended to
19	read as follows:
20	*11-3701. Purpose of act. It is hereby determined and
21	declared that excessive curb parking of motor vehicles in
22	urban and metropolitan areas, and the lack of adequate
23	off-street parking facilities in some cities, is against the
24	public interest; and the purpose of this act is to provide

means whereby cities, in which additional off-street parking

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same, and whereby such cities may regulate on-street and 3 off-street parking in a coordinated manner." Section 3. Section 11-3704, R.C.M. 1947, is amended to read as follows: "11-3704. Members of commission--appointment-qualifications--vesting of commission powers--expenses and compensation -- term of office -- chairman -- removal. When the legislative body of a city first adopts a resolution 10 declaring need for a parking commission to function, the mayor, with the approval of the legislative body, shall 11 12 appoint not less than five (5) nor more than seven (7) 13 electors of the city as members of the commission. 14 number of members of such commission, once established, may 15 be changed within these limits from time to time as desired 16 by subsequent resolutions of the legislative body of the 17 city, provided, however, that a resolution to reduce shall 18 not require resignation of any member prior to completion of 19 his appointed term. The powers of each commission shall be 20 vested in the members thereof then in office. Members shall 21 receive their actual and necessary expenses, including 22 traveling expenses and may receive such other compensation 23 as the legislative body may prescribe. 24 Three of the members who are first appointed shall be

facilities is considered necessary, may obtain and provide

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designated to serve for terms of one, two, and three years,

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1 respectively, from the date of their appointments, and two 2 shall be designated to serve for terms of four years from 3 the date of their appointments, except that for a seven (7) 4 member commission there shall be two additional appointments of two (2) years and three (3) years respectively. 5 Thereafter members shall be appointed as aforesaid for a term of office of four years, except that all vacancies 7 occurring during a term shall be filled for the unexpired 8 9 term. A member shall hold office until his successor has

been appointed and has qualified.

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The appointing officer shall designate which of the members of the commission shall be the first chairman, but when the office of chairman of the commission becomes vacant thereafter, the commission shall elect a chairman from among its members. The term of office as chairman of the commission, unless otherwise prescribed by the legislative body of the city, shall be for the calendar year, or for that portion thereof remaining after each such chairman is designated or elected.

20 A member of a commission may be removed by the mayor 21 with the consent of the legislative body of the city."

22 Section 4. Section 11-3707, R.C.M. 1947, is amended to 23 read as follows:

"11-3707. Commission a public body--powers specified. 24 Each commission shall constitute a public body, corporate 2.5

and politic. exercising public and essential governmental 1 function, and subject to the limitations imposed by this 2 act, shall have the following powers in addition to the others herein granted:

- (a) To sue and be sued; to have a seal; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- (b) To make, and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this act to carry into effect the powers and purposes thereof.
- 11 (c) To select and appoint or remove such officers, 12 agents, counsel and employees, permanent and temporary, as it may require, and to determine their qualifications, 13 duties and compensation. The powers of the commission under 14 this subsection (c) shall be subject to all limitations and 15 rights applicable to similar employment by the city, unless 16 the legislative body, by resolution, shall otherwise 17 18 determine.
- (d) For the purpose of off-street parking, to purchase, lease, obtain option upon, acquire by gift, grant, bequest, 21 devise or otherwise, any real or personal property, or any interest therein, together with any improvements thereon; to acquire by the exercise of the power of eminent domain any property in accordance with the applicable provisions of the 25 law of eminent domain, except that no property of a state

public body may be acquired without its consent, upon 1 approval of the city council; to sell, lease, exchange, 2 transfer, assign, or otherwise dispose of any real or 3 personal property or any interest therein, provided such 4 5 transactions are for off-street parking purposes; to lay out. open, extend, widen, straighten, establish, or change 6 the grade, in whole or in part, of public parking facilities 7 and public rights of way necessary or convenient therefor; 8 to insure or provide for the insurance of any real or 9 personal property or operations of the commission against 10 risks or hazards; to acquire, construct, rent, lease, 11 maintain, and repair, such real and personal property, or 12 any portion thereof either on behalf of the commission or as 13 an agent of the city, including the leasing of the operation 14 thereof, the leasing for incidental commercial purposes of 15 surplus space or space which it is not economical to use for 16 parking purposes, and as an incident to the operation of any 17 parking facility, when in the judgment of the commission it 18 is convenient or necessary to permit such use in order to 19 utilize properly such land as a parking facility, provided 20 that the city or parking commission shall be prohibited from 21 operating any such additional, secondary and incidental 22 facilities; provided, however, that such incidental use or 23 uses must be secondary to the primary use as a parking 24 facility, and-in-any-event-the-portion-of-the--land--devoted 25

1 to-such-incidental-use-or-uses-shall-not-exceed-ten-per-cent of--the--surface-area-of-such-property; and if a building is 2 3 erected on such property for the purpose of parking motor vehicles, then such incidental use or uses of such building shall not-occupy-more-than-ten-per-cent-of-the-ficor-area be 5 confined to the street level and/or below street level of such building, and such incidental use or uses at street 7 level may occupy the entire surface area of the property 8 9 less that area required for vehicular and pedestrian 10 movement if at least two higher levels each of equal or greater area are devoted entirely to parking purposes; 11 provided that other provisions notwithstanding, 12 commission or the city may lease air rights above such 13 building; provided, further, that the commission or the city 14 15 shall lease such space to private operators at rates 16 comparable to the existing market rate for similar taxable 17 space at the location; to receive, control, and order the 18 expenditure of, any and all moneys and funds pertaining to 19 parking facilities or related properties, including, without limiting the generality of this provision, (i) all revenues 20 derived from operations of the commission, (ii) all money 21 22 appropriated or made available by the city pursuant to 23 section 11-3707, or otherwise, (iii) the proceeds of all 24 financial aid or assistance by the city, federal or state governments, (iv) the proceeds of assessments levied. (v) 25

- the proceeds of all revenue bonds issued pursuant to this

 act by the city for parking facilities.
- (e) To regulate on-street parking where it remains in use, in coordination with off-street parking, subject to traffic regulations imposed by the state; such parking regulations may include, without limiting the generality of this provision, the determination of (i) parking locations, (ii) variable parking durations, (iii) variable parking rate schedules, and (iv) enforcement policies and procedures.

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- (e) (f) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement in property or securities in which cities may legally invest funds subject to their control, but no such investment shall be made in contravention of any covenant or agreement made with the holders of any revenue bonds of the commission theretofore issued and then outstanding.
- 17 (f) (g) To exercise all or any part or combination of the powers herein granted.
- 19 (g) (h) To do and perform any and all other acts and
 20 things necessary, convenient, desirable or appropriate to
 21 carry out the provisions of this act."
- 22 Section 5. Section 11-3708, R.C.M. 1947, is amended to read as follows:
- 24 "11-3708. Acquisition of existing parking facilities.
 25 --limitation. No existing parking facility shall be acquired

1 by the exercise of the power of eminent domain by a commission or the city except after public hearing following 2 3 notice of the date, time, place, and purpose of such hearing published once not less than ten nor more than twenty days prior to the date of such hearing. 7-provided 7-however 7-- that 5 no--property--being-used-as-a-fasility-or-fasilities-for-the 6 parking-and/or-storing-of-motor-vehicles-shall--be--acquired 7 by--a--commission-as-heretofore-provided-by-this-acty-unless 8 the-project-to-be-furnished-or-constructed-by--a--commission 9 which--necessitates-the-acquisition-of-such-parking-facility 10 11 or-facilities-will-encompass-an-area--of--land--and--parking area--not--less--than--three--{3}-times-the-area-of-land-and 12 parking-area-encompassed-by-the-existing-parking--facility+* 13 -End-

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Approved by Comm. on Local Government

1	SENATE BILL NO. 193
2	INTRODUCED BY NORMAN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET
5	PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE
6	COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET
7	PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS
8	WHERE DESIRED; INCREASING PERMISSIBLE GROUND FLOOR AREA OF
9	PARKING BUILDINGS FOR INCIDENTAL USES; DELETING REQUIREMENT
10	OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS
11	ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701,
12	11-3704, 11-3707, AND 11-3703, R.C.M. 1947."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. The chapter heading of Title II, chapter 37
16	is hereby amended to read as follows:
17	"OFF-STRBBT PARKING FACILITIES"
18	Section 2. Section 11-3701, R.C.M. 1947, is amended to
19	read as follows:
20	"11-3701. Purpose of act. It is hereby determined and
21	declared that excessive curb parking of motor vehicles in
22	urban and metropolitan areas, and the lack of adequate
23	off-street parking facilities in some cities, is against the
24	public interest; and the purpose of this act is to provide
25	means whereby cities, in which additional off-street parking

1	facilities is considered necessary, may obtain and provide
2	same, and whereby such cities may regulate on-street ar
3	off-street parking in a coordinated manner."
4	Section 3. Section 11-3704, R.C.M. 1947, is amended t
5	read as follows:
6	*11-3704. Members of commissionappointment-
7	qualificationsvesting of commission powersexpenses an
3	compensationterm of officechairmanremoval. When the
9	legislative body of a city first adopts a resolution
10	declaring need for a parking commission to function, th
11	mayor, with the approval of the legislative body, shall
12	appoint not less than five (5) nor more than seven (7
13	electors of the city as members of the commission. The
14	number of members of such commission, once established, ma
15	be changed within these limits from time to time as desire
16	by subsequent resolutions of the legislative body of the
17	city, provided, however, that a resolution to reduce shall
18	not require resignation of any member prior to completion o
19	his appointed term. The powers of each commission shall be
20	vested in the members thereof then in office. Members shall
21	receive their actual and necessary expenses, including
22	traveling expenses and may receive such other compensation
23	as the legislative body may prescribe.

Three of the members who are first appointed shall be designated to serve for terms of one, two, and three years,

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1	respectively,	from	the	date of	their	appointments.	and	two

- 2 shall be designated to serve for terms of four years from
- 3 the date of their appointments, except that for a seven (7)
- 4 member commission there shall be two additional appointments
- 5 of two (2) years and three (3) years respectively.
- 6 Thereafter members shall be appointed as aforesaid for a
- 7 term of office of four years, except that all vacancies
- 8 occurring during a term shall be filled for the unexpired
- 9 term. A member shall hold office until his successor has
- 10 been appointed and has qualified.
- 11 The appointing officer shall designate which of the
- 12 members of the commission shall be the first chairman, but
- 13 when the office of chairman of the commission becomes vacant
- 14 thereafter, the commission shall elect a chairman from among
- 15 its members. The term of office as chairman of the
- 16 commission, unless otherwise prescribed by the legislative
 - body of the city, shall be for the calendar year, or for
- 18 that portion thereof remaining after each such chairman is
- 19 designated or elected.
- 20 A member of a commission may be removed by the mayor
- 21 with the consent of the legislative body of the city."
- 22 Section 4. Section 11-3707, R.C.M. 1947, is amended to
- 23 read as follows:

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- 24 "11-3707. Commission a public body--powers specified.
- 25 Each commission shall constitute a public body, corporate

- 1 and politic. exercising public and essential governmental
 - function, and subject to the limitations imposed by this
- 3 act, shall have the following powers in addition to the
- 4 others herein granted:

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- 5 (a) To sue and be sued; to have a seal; to make and
- execute contracts and other instruments necessary or
- 7 convenient to the exercise of its powers.
- 8 (b) To make, and from time to time amend and repeal
- 9 bylaws, rules and regulations not inconsistent with this act
- 10 to carry into effect the powers and purposes thereof.
- 11 (c) To select and appoint or remove such officers,
- 12 agents, counsel and employees, permanent and temporary, as
- 13 it may require, and to determine their qualifications,
- 14 duties and compensation. The powers of the commission under
- 15 this subsection (c) shall be subject to all limitations and
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- 16 rights applicable to similar employment by the city, unless
- 17 the legislative body, by resolution, shall otherwise
- 18 determine.
- 19 (d) For the purpose of off-street parking, to purchase.
- 20 lease, obtain option upon, acquire by gift, grant, bequest,
- 21 devise or otherwise, any real or personal property, or any
- 22 interest therein, together with any improvements thereon; to
- 23 acquire by the exercise of the power of eminent domain any
- 24 property in accordance with the applicable provisions of the
- 25 law of eminent domain, except that no property of a state

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public body may be acquired without its consent, upon approval of the city council: to sell. lease. exchange. transfer, assign, or otherwise dispose of any real or personal property or any interest therein, provided such transactions are for off-street parking purposes: to lay out, open, extend, widen, straighten, establish, or change the grade, in whole or in part, of public parking facilities and public rights of way necessary or convenient therefor; to insure or provide for the insurance of any real or personal property or operations of the commission against risks or hazards; to acquire, construct, rent, lease, maintain, and repair, such real and personal property, or any portion thereof either on behalf of the commission or as an agent of the city, including the leasing of the operation thereof, the leasing for incidental commercial purposes of surplus space or space which it is not economical to use for parking purposes, and as an incident to the operation of any parking facility, when in the judgment of the commission it is convenient or necessary to permit such use in order to utilize properly such land as a parking facility, provided that the city or parking commission shall be prohibited from operating any such additional, secondary and incidental facilities; provided, however, that such incidental use or uses must be secondary to the primary use as a parking facility, and-in-any-event-the-portion-of-the--tand--devoted

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of--the--surface-area-of-such-property, and if a building is 3 erected on such property for the purpose of parking motor 4 vehicles, then such incidental use or uses of such building 5 shall not-occupy-more-than-ten-per-cent-of-the-ficor-area be confined to the street level and/or below street level of such building, and such incidental use or uses at street level may occupy the entire surface area of the property 9 less that area required for vehicular and pedestrian 10 movement if at least two higher levels each of equal or 11 greater area are devoted entirely to parking purposes; 1.2 provided that other provisions notwithstanding. 13 commission or the city may lease air rights above such 14 building; provided, further, that the commission or the city 15 shall lease such space to private operators at rates 16 comparable to the existing market rate for similar taxable 17 space at the location; to receive, control, and order the expenditure of, any and all moneys and funds pertaining to 18 parking facilities or related properties, including, without 19 20 limiting the generality of this provision, (i) all revenues derived from operations of the commission, (ii) all money 22 appropriated or made available by the city pursuant to section 11-3707, or otherwise, (iii) the proceeds of all 23 financial aid or assistance by the city, federal or state 24

to-such-incidental-use-or-uses-shall-not-exceed-ten-per-cent

governments, (iv) the proceeds of assessments levied, (v)

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the proceeds of all revenue bonds issued pursuant to this
act by the city for parking facilities.

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- (e) To regulate on-street parking where it remains in use, in coordination with off-street parking, subject to traffic regulations imposed by the state; such parking regulations may include, without limiting the generality of this provision, the determination of (i) parking locations, (ii) variable parking durations, (iii) variable parking rate schedules, and (iv) enforcement policies and procedures.
- (e) (f) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement in property or securities in which cities may legally invest funds subject to their control, but no such investment shall be made in contravention of any covenant or agreement made with the holders of any revenue bonds of the commission theretofore issued and then outstanding.
- 17 (f) (g) To exercise all or any part or combination of the powers herein granted.
 - (a) (h) To do and perform any and all other acts and things necessary, convenient, desirable or appropriate to carry out the provisions of this act."
- 22 Section 5. Section 11-3708, R.C.M. 1947, is amended to read as follows:
- 24 "11-3708. Acquisition of existing parking facilities.
 25 --limitation: No existing parking facility shall be acquired

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by the exercise of the power of eminent domain by a 1 commission or the city except after public hearing following 2 notice of the date, time, place, and purpose of such hearing 3 published once not less than ten nor more than twenty days prior to the date of such hearing. +-providedy-howevery--that 5 no--property--being-ased-as-a-facility-os-facilities-for-bho 6 parking-andfor-storing-of-motor-vohisles-ahall--be--acquired by--a--sommission -as-heretofore-provided-by-this-mety-antess the-project-to-be-furnished-or-constructed-by--x -- commission 9 which--necessitates-the-acquisition-of-such-parking-facility 10 or-facilities-will-encompass-an-area--of--land--and--parking 11 area--not--less--than--three--(3)-times-the-area-of-land-and 12 parking-area-encompassed-by-the-existing-parking--fasility-" 13 -End44th Legislature SB 0193/01

1	SENATE BILL NO. 193
2	INTRODUCED BY NORMAN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET
5	PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE
6	COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET
7	PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS
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10	OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS
11	ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701,
12	11-3704, 11-3707, AND 11-3708, R.C.M. 1947.
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. The chapter heading of Title II, chapter 37
16	is hereby amended to read as follows:
17	"OPF-STREET PARKING FACELITTES"
18	Section 2. Section 11-3701, R.C.M. 1947, is amended to
19	read as follows:
20	"11-3701. Purpose of act. It is hereby determined and
21	declared that excessive curb parking of motor vehicles in
22	urban and metropolitan areas, and the lack of adequate
23	off-street parking facilities in some cities, is against the
24	public interest; and the purpose of this act is to provide

means whereby cities, in which additional off-street parking

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facilities is considered necessary, may obtain and provide same, and whereby such cities may regulate on-street and off-street parking in a coordinated manner." Section 3. Section 11-3704, R.C.M. 1947, is amended to read as follows: "11-3704. Members of commission--appointment-qualifications--vesting of commission powers--expenses and compensation -- term of office -- chairman -- removal. When the legislative body of a city first adopts a resolution declaring need for a parking commission to function, the mayor, with the approval of the legislative body, shall appoint not less than five (5) nor more than seven (7) electors of the city-as members of the commission. The number of members of such commission, once established, may be changed within these limits from time to time as desired by subsequent resolutions of the legislative body of the city, provided, however, that a resolution to reduce shall not require resignation of any member prior to completion of his appointed term. The powers of each commission shall be vested in the members thereof then in office. Members shall receive their actual and necessary expenses, including traveling expenses and may receive such other compensation as the legislative body may prescribe.

Three of the members who are first appointed shall be

designated to serve for terms of one, two, and three years, -2-

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L	respectively, from the date of their appointments, and two
2	shall be designated to serve for terms of four years from
3	the date of their appointments, except that for a seven (7)
ŧ	member commission there shall be two additional appointments
5	of two (2) years and three (3) years respectively.
5	Thereafter members shall be appointed as aforesaid for a
7	term of office of four years, except that all vacancies
3	occurring during a term shall be filled for the unexpired
}	term. A member shall hold office until his successor has

been appointed and has qualified.

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The appointing officer shall designate which of the members of the commission shall be the first chairman, but when the office of chairman of the commission becomes vacant thereafter, the commission shall elect a chairman from among its members. The term of office as chairman of the commission, unless otherwise prescribed by the legislative body of the city, shall be for the calendar year, or for that portion thereof remaining after each such chairman is designated or elected.

A member of a commission may be removed by the mayor with the consent of the legislative body of the city."

Section 4. Section 11-3707, R.C.M. 1947, is amended to read as follows:

24 "11-3707. Commission a public body--powers specified. 25 Each commission shall constitute a public body, corporate 1 and politic, exercising public and essential governmental

function, and subject to the limitations imposed by this

3 act, shall have the following powers in addition to the

4 others herein granted:

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(a) To sue and be sued; to have a seal; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(b) To make, and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this act to carry into effect the powers and purposes thereof.

(c) To select and appoint or remove such officers, agents, counsel and employees, permanent and temporary, as it may require, and to determine their qualifications, duties and compensation. The powers of the commission under this subsection (c) shall be subject to all limitations and rights applicable to similar employment by the city, unless the legislative body, by resolution, shall otherwise determine.

(d) For the purpose of off-street parking, to purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise or otherwise, any real or personal property, or any interest therein, together with any improvements thereon; to acquire by the exercise of the power of eminent domain any property in accordance with the applicable provisions of the law of eminent domain, except that no property of a state

public body may be acquired without its consent. upon 1 2 approval of the city council; to sell, lease, exchange, 3 transfer, assign, or otherwise dispose of any real or personal property or any interest therein, provided such transactions are for off-street parking purposes: to lav out, open, extend, widen, straighten, establish, or change 7 the grade, in whole or in part, of public parking facilities 8 and public rights of way necessary or convenient therefor; to insure or provide for the insurance of any real or 9 personal property or operations of the commission against 10 risks or hazards; to acquire, construct, rent, lease, 11 maintain, and repair, such real and personal property, or 12 any portion thereof either on behalf of the commission or as 13 an agent of the city, including the leasing of the operation 14 thereof, the leasing for incidental commercial purposes of 15 surplus space or space which it is not economical to use for 16 17 parking purposes, and as an incident to the operation of any parking facility, when in the judgment of the commission it 18 is convenient or necessary to permit such use in order to 19 utilize properly such land as a parking facility, provided 20 that the city or parking commission shall be prohibited from 21 operating any such additional, secondary and incidental 22 facilities: provided, however, that such incidental use or 23 uses must be secondary to the primary use as a parking 24 facility, and-in-anv-event-the-portion-of-the--land--devoted 25

1 to-such-incidental-use-or-uses-shall-not-exceed-ten-mer-cent 2 of--the--surface-area-of-such-property, and if a building is erected on such property for the purpose of parking motor 3 vehicles, then such incidental use or uses of such building shall not-occupy-more-than-ten-per-cent-of-the-ficer-area be 5 6 confined to the street level and/or below street level of such building, and such incidental use or uses at street 7 8 level may occupy the entire surface area of the property 9 less that area required for vehicular and pedestrian 10 movement if at least two higher levels each of equal or greater area are devoted entirely to parking purposes; 11 12 provided that other provisions notwithstanding, the 13 commission or the city may lease air rights above such 14 building; provided, further, that the commission or the city 15 shall lease such space to private operators at rates 16 comparable to the existing market rate for similar taxable 17 space at the location; to receive, control, and order the 18 expenditure of, any and all moneys and funds pertaining to 19 parking facilities or related properties, including, without limiting the generality of this provision. (i) all revenues 20 derived from operations of the commission. (ii) all money 21 22 appropriated or made available by the city pursuant to section 11-3707, or otherwise, (iii) the proceeds of all 23 24 financial aid or assistance by the city, federal or state 25 governments, (iv) the proceeds of assessments levied. (v)

the proceeds of	all revenue	bonds issued	pursuant	to	this
act by the city	for parking	facilities.			

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(e) To regulate on-street parking where it remains in use, in coordination with off-street parking, subject to traffic regulations imposed by the state; such parking regulations may include, without limiting the generality of this provision, the determination of (i) parking locations, (ii) variable parking durations, (iii) variable parking rate schedules, and (iv) enforcement policies and procedures.

(e) (f) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement in property or securities in which cities may legally invest funds subject to their control, but no such investment shall be made in contravention of any covenant or agreement made with the holders of any revenue bonds of the commission theretofore issued and then outstanding.

(f) (g) To exercise all or any part or combination of the powers herein granted.

(g) (h) To do and perform any and all other acts and things necessary, convenient, desirable or appropriate to carry out the provisions of this act."

Section 5. Section 11-3708, R.C.M. 1947, is amended to read as follows:

24 "11-3708. Acquisition of existing parking facilities.
25 --limitation. No existing parking facility shall be acquired

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by the exercise of the power of eminent domain by a 1 commission or the city except after public hearing following notice of the date, time, place, and purpose of such hearing 3 published once not less than ten nor more than twenty days 4 prior to the date of such hearing. -- provided -- however -- that 5 no--property--being-used-as-a-facility-or-facilities-for-the parking-and/or-storing-of-motor-vehicles-shall--be--acquired 7 by--e--commission-as-heretofore-provided-by-this-acty-unless the-project-to-be-furnished-or-constructed-by--a--commission 9 which-necessitates-the-acquisition-of-such-parking-facility 10 or-facilities-will-encompass-an-area--of--land--and--parking 11 area--not--less--than--three--(3)-times-the-area-of-land-and 12 parking-area-encompassed-by-the-existing-parking--facility:" 13 -End44th Legislature SB 0193/01

1	SENATE BILL NO. 193
2	INTRODUCED BY NORMAN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET
5	PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE
6	COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET
7	PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS
8	WHERE DESIRED; INCREASING PERMISSIBLE GROUND FLOOR AREA OF
9	PARKING BUILDINGS FOR INCIDENTAL USES; DELETING REQUIREMENT
LO	OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS
L1	ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701,
L2	11-3704, 11-3707, AND 11-3708, R.C.M. 1947."
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L 4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1.5	Section 1. The chapter heading of Title II, chapter 37
L 6	is hereby amended to read as follows:
L7	"OFF-STRBET PARKING FACILITIES"
L8	Section 2. Section 11-3701, R.C.M. 1947, is amended to
L9	read as follows:
20	"11-3701. Purpose of act. It is hereby determined and
21	declared that excessive curb parking of motor vehicles in
22	urban and metropolitan areas, and the lack of adequate
23	off-street parking facilities in some cities, is against the
24	public interest; and the purpose of this act is to provide
25	means whereby cities, in which additional off-street parking

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1	facilities is considered necessary, may obtain and provide
2	same, and whereby such cities may regulate on-street and
3	off-street parking in a coordinated manner."
4	Section 3. Section 11-3704, R.C.M. 1947, is amended to
5	read as follows:
6	"11-3704. Members of commissionappointment
7	qualificationsvesting of commission powersexpenses and
8	compensationterm of officechairmanremoval. When the
9	legislative body of a city first adopts a resolution
LO	declaring need for a parking commission to function, the
L1	mayor, with the approval of the legislative body, shall
L2	appoint not less than five (5) nor more than seven (7)
L3	electors of the city as members of the commission. The
L4	number of members of such commission, once established, may
L5	be changed within these limits from time to time as desired
L6	by subsequent resolutions of the legislative body of the
L7	city, provided, however, that a resolution to reduce shall
L8	not require resignation of any member prior to completion of
L9	his appointed term. The powers of each commission shall be
20	vested in the members thereof then in office. Members shall
21	receive their actual and necessary expenses, including
22	traveling expenses and may receive such other compensation
23	as the legislative body may prescribe.
24	Three of the members who are first appointed shall be

designated to serve for terms of one, two, and three years,

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1 respectively, from the date of their appointments, and two 2 shall be designated to serve for terms of four years from 3 the date of their appointments, except that for a seven (7) 4 member commission there shall be two additional appointments 5 of two (2) years and three (3) years respectively. б Thereafter members shall be appointed as aforesaid for a 7 term of office of four years, except that all vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his successor has 9

been appointed and has qualified.

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- The appointing officer shall designate which of the members of the commission shall be the first chairman. but when the office of chairman of the commission becomes vacant thereafter, the commission shall elect a chairman from among its members. The term of office as chairman of the commission, unless otherwise prescribed by the legislative body of the city, shall be for the calendar year, or for that portion thereof remaining after each such chairman is designated or elected.
- 20 A member of a commission may be removed by the mayor 21 with the consent of the legislative body of the city. "
- 22 Section 4. Section 11-3707, R.C.M. 1947, is amended to 23 read as follows:
- 24 "11-3707. Commission a public body--powers specified. 25 Each commission shall constitute a public body, corporate

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- and politic, exercising public and essential governmental
- function, and subject to the limitations imposed by this
- 3 act, shall have the following powers in addition to the
- others herein granted:

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- 5 (a) To sue and be sued; to have a seal; to make and execute contracts and other instruments necessary or 7 convenient to the exercise of its powers.
 - (b) To make, and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this act to carry into effect the powers and purposes thereof.
- 11 (c) To select and appoint or remove such officers. 12 agents, counsel and employees, permanent and temporary, as 13 it may require, and to determine their qualifications, duties and compensation. The powers of the commission under 14 15 this subsection (c) shall be subject to all limitations and 16 rights applicable to similar employment by the city, unless 17 legislative body, by resolution, shall otherwise 18 determine.
- 20 lease, obtain option upon, acquire by gift, grant, bequest, 21 devise or otherwise, any real or personal property, or any 22 interest therein, together with any improvements thereon; to

(d) For the purpose of off-street parking, to purchase,

- 23 acquire by the exercise of the power of eminent domain any 24 property in accordance with the applicable provisions of the
- 25 law of eminent domain, except that no property of a state

public body may be acquired without its consent, upon 1 approval of the city council; to sell, lease, exchange, 2 transfer, assign, or otherwise dispose of any real or 3 personal property or any interest therein, provided such 4 transactions are for off-street parking purposes; to lay 5 out. open. extend, widen, straighten, establish, or change the grade, in whole or in part, of public parking facilities 7 and public rights of way necessary or convenient therefor; 8 to insure or provide for the insurance of any real or 9 personal property or operations of the commission against 10 risks or hazards; to acquire, construct, rent, lease. 11 maintain, and repair, such real and personal property. or 12 any portion thereof either on behalf of the commission or as 13 an agent of the city, including the leasing of the operation 14 thereof, the leasing for incidental commercial purposes of 15 surplus space or space which it is not economical to use for 16 parking purposes, and as an incident to the operation of any 17 parking facility, when in the judgment of the commission it 18 is convenient or necessary to permit such use in order to 19 utilize properly such land as a parking facility, provided 20 21 that the city or parking commission shall be prohibited from operating any such additional, secondary and incidental 22 facilities; provided, however, that such incidental use or 23 24 uses must be secondary to the primary use as a parking facility, and-in-any-event-the-portion-of-the--land--devoted 25

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to-such-incidental-use-or-uses-shall-not-exceed-ten-per-cent of--the--surface-area-of-such-property; and if a building is erected on such property for the purpose of parking motor 3 4 vehicles, then such incidental use or uses of such building shall not-occupy-more-than-ten-per-cent-of-the-floor-area be 5 confined to the street level and/or below street level of 6 such building, and such incidental use or uses at street 7 8 level may occupy the entire surface area of the property less that area required for vehicular and pedestrian 9 movement if at least two higher levels each of equal or 10 greater area are devoted entirely to parking purposes: 11 provided that other provisions notwithstanding, the 12 commission or the city may lease air rights above such 13 14 building; provided, further, that the commission or the city 15 shall lease such space to private operators at rates 16 comparable to the existing market rate for similar taxable space at the location; to receive, control, and order the 17 expenditure of, any and all moneys and funds pertaining to 18 parking facilities or related properties, including, without 19 limiting the generality of this provision, (i) all revenues 20 derived from operations of the commission, (ii) all money 21 22 appropriated or made available by the city pursuant to 23 section 11-3707, or otherwise, (iii) the proceeds of all financial aid or assistance by the city, federal or state 24 governments, (iv) the proceeds of assessments levied, (v)

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1 the proceeds of all revenue bonds issued pursuant to this act by the city for parking facilities.

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(e) To regulate on-street parking where it remains in use, in coordination with off-street parking, subject to traffic regulations imposed by the state; such parking regulations may include, without limiting the generality of this provision, the determination of (i) parking locations. (ii) variable parking durations, (iii) variable parking rate schedules, and (iv) enforcement policies and procedures.

(f) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursement in property or securities in which cities may legally invest funds subject to their control, but no such investment shall be made in contravention of any covenant or agreement made with the holders of any revenue bonds of the commission theretofore issued and then outstanding.

(f) (g) To exercise all or any part or combination of the powers herein granted.

(a) (h) To do and perform any and all other acts and things necessary, convenient, desirable or appropriate to carry out the provisions of this act."

22 Section 5. Section 11-3708, R.C.M. 1947, is amended to 23 read as follows:

*11-3708. Acquisition of existing parking facilities. 24 --limitation: No existing parking facility shall be acquired 25

by the exercise of the power of eminent domain by a 1 commission or the city except after public hearing following notice of the date, time, place, and purpose of such hearing 3 published once not less than ten nor more than twenty days prior to the date of such hearing. 7-provided 7-however 7-- that 5 no--property--being-used-as-a-facility-or-facilities-for-the 6 parking-and/or-storing-of-motor-vehicles-shall--be--acquired by--a--commission-as-heretofore-provided-by-this-act;-unless 9 the-project-to-be-furnished-or-constructed-by--a--commission which--necessitates-the-acquisition-of-such-parking-facility 10 or-facilities-will-encompass-an-area--of--land--and--parking 11 area--not--less--than--three--(3)-times-the-area-of-land-and 12 13 parking-area-encompassed-by-the-existing-parking-facility." -End-