1	S.270
2	Introduced by Senators Brock, Benning, Collamore, Ingalls, Parent and
3	Terenzini
4	Referred to Committee on
5	Date:
6	Subject: Land use; Act 250; housing; affordable housing; sales and use tax
7	Statement of purpose of bill as introduced: This bill proposes to amend the
8	definition of priority housing project under Act 250; allow for expedited
9	Act 250 permit application review in high demand counties; exempt from the
10	sales and use tax construction materials for priority housing projects; require
11	appeals of Act 250 permits for housing to resolved within 120 days; and
12	temporarily add one judge and one law clerk to the Environmental Division of
13	the Superior Court.
14	An act relating to Vermont Housing Regulation Modernization
15	It is hereby enacted by the General Assembly of the State of Vermont:
16	* * * Short Title; Findings * * *
17	Sec. 1. SHORT TITLE
18	This act may be cited as the "Vermont Housing Regulation Modernization
19	Act" or "VHRMA."

1	Sec. 2. FINDINGS
2	The General Assembly finds:
3	(1) According to the Vermont Housing Needs Assessment, Vermont
4	continues to face a severe shortage of housing to meet its affordable housing
5	needs.
6	(2) Protracted permit timelines and regulatory hurdles are often cited as
7	major impediments to expanding the supply of affordable housing in Vermont.
8	(3) In recent years, the State has greatly expanded investments in
9	affordable housing through the issuance of bonds, increased allotments for tax
10	credits and other incentives, enhanced amounts for housing assistant programs,
11	and additional appropriations for housing-related items such as weatherization.
12	(4) State permitting processes have not been fundamentally reformed in
13	nearly two decades.
14	(5) The average duration for an Act 250 permit appeal to be resolved by
15	the Environmental Division of the Superior Court is 334.8 days.
16	(6) To the extent regulatory and permitting reform has occurred as it
17	relates to affordable housing, success has been realized in mitigating the costs
18	for housing development and reducing the time from permit application to
19	project approval.

1	* * * Priority Housing Projects * * *
2	Sec. 3. 10 V.S.A. § 6001 is amended to read:
3	§ 6001. DEFINITIONS
4	As used in this chapter:
5	* * *
6	(29) "Affordable housing" means either of the following:
7	* * *
8	(B) Rental housing for which the total annual cost of renting,
9	including rent, utilities, and condominium association fees, does not exceed 30
10	percent of the gross annual income of a household at $\frac{80}{120}$ percent of the
11	highest of the following:
12	(i) the county median income, as defined by the U.S. Department
13	of Housing and Urban Development;
14	(ii) the standard metropolitan statistical area median income if the
15	municipality is located in such an area, as defined by the U.S. Department of
16	Housing and Urban Development; or
17	(iii) the statewide median income, as defined by the U.S.
18	Department of Housing and Urban Development.
19	* * *
20	(35) "Priority housing project" means a discrete project located on a
21	single tract or multiple contiguous tracts of land that consists exclusively of:

1	(A) mixed income housing or mixed use, or any combination thereof,
2	and is located entirely within a designated downtown development district,
3	designated new town center, designated growth center, designated Vermont
4	neighborhood, designated neighborhood development area, or designated
5	village center that is also a designated neighborhood development area under
6	24 V.S.A. chapter 76A ; or
7	(B) mixed income housing and is located entirely within a designated
8	Vermont neighborhood or designated neighborhood development area under
9	24 V.S.A. chapter 76A.
10	* * *
11	Sec. 4. 10 V.S.A. § 6081(p) is amended to read:
12	(p)(1) No permit or permit amendment is required for any change to a
13	project that is located entirely within a downtown development district
14	designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of
15	any combination of mixed use and mixed income housing, and the cumulative
16	changes within any continuous period of five years, commencing on or after
17	May 28, 2002, remain below any applicable jurisdictional threshold specified
18	in subdivision 6001(3)(A)(iv)(I) of this title.
19	(2) No permit or permit amendment is required for a priority housing
20	project in a designated center other than a downtown development district if
21	the project remains below any applicable jurisdictional threshold specified in

1	subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions
2	of any existing permit or permit amendment issued under this chapter that
3	applies to the tract or tracts on which the project will be located. If such a
4	priority housing project will not comply with one or more of these conditions,
5	an application may be filed pursuant to section 6084 of this title.
6	Sec. 5. 10 V.S.A. § 6086b is amended to read:
7	§ 6086b. DOWNTOWN DEVELOPMENT <u>IN</u>
8	DOWNTOWNS AND DEVELOPMENT OF HOUSING IN
9	COUNTIES WITH HIGH DEMAND; FINDINGS
10	(a) Downtown development. Notwithstanding any provision of this chapter
11	to the contrary, each of the following shall apply to a development or
12	subdivision that is completely within a downtown development district
13	designated under 24 V.S.A. chapter 76A and for which a permit or permit
14	amendment would otherwise be required under this chapter:
15	(1) In lieu of obtaining a permit or permit amendment, a person may
16	request findings and conclusions from the District Commission, which shall
17	approve the request if it finds that the development or subdivision will meet
18	subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water
19	available), (3) (burden on existing water supply), (4) (soil erosion), (5)
20	(traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas),
21	(8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary

1	agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy
2	conservation), and (9)(K) (public facilities, services, and lands) of this title.
3	* * *
4	(b) Housing development in counties with high demand. During any
5	period in which a county's median gross rent is 10 percent above the median
6	gross rent for the State, the option established under subsection (a) of this
7	section shall be available for a development under subdivision 6001(3)(A)(iv)
8	of this title within that county for which a permit or permit amendment would
9	otherwise be required.
10	Sec. 6. 10 V.S.A. \S 6081(v) is amended to read:
11	(v) A permit or permit amendment shall not be required for a development
12	or subdivision in a designated downtown development district or for a housing
13	development in a high-demand county for which the District Commission has
14	issued positive findings and conclusions under section 6086b of this title on all
15	the criteria listed in that section. A person shall obtain new or amended
16	findings and conclusions from the District Commission under section 6086b of
17	this title prior to commencement of a material change, as defined in the rules of
18	the Board, to a development or subdivision for which the District Commission
19	has issued such findings and conclusions. A person may seek a jurisdictional
20	opinion under section 6007 of this title concerning whether such a change is a
21	material change.

1	* * * Sales and Use Tax Exemption * * *
2	Sec. 7. 32 V.S.A. § 9743 is amended to read:
3	§ 9743. ORGANIZATIONS NOT COVERED
4	Any sale, service, or admission to a place of entertainment charged by or to
5	any of the following or any use by any of the following are not subject to the
6	sales and use taxes imposed under this chapter:
7	* * *
8	(4) Sales of building materials and supplies to be used in the
9	construction, reconstruction, alteration, remodeling, or repair of:
10	(A) any building, structure, or other public works owned by or held
11	in trust for the benefit of any governmental body or agency mentioned in
12	subdivisions (1) and (2) of this section and used exclusively for public
13	purposes;
14	(B) any building or structure owned by or held in trust for the benefit
15	of any organization described in subdivision (3) and used exclusively for the
16	purposes upon which its exempt status is based; and
17	(C) any building or structure owned by any "local development
18	corporation" as defined in 10 V.S.A. § 212(10), and used exclusively for the
19	purposes authorized in 10 V.S.A. chapter 12; and
20	(D) any building or structure that meets the definition of priority
21	housing project as defined in 10 V.S.A. § 6001; provided, however, that the

1	governmental body or agency, the organization, or the development
2	corporation, or the developer of a priority housing project has first obtained a
3	certificate from the Commissioner stating that it is entitled to the exemption,
4	and the vendor keeps a record of the sales price of each separate sale, the name
5	of the purchaser, the date of each separate sale, and the number of the
6	certificate. In this subdivision, the words "building materials and supplies"
7	shall include all materials and supplies consumed, employed, or expended in
8	the construction, reconstruction, alteration, remodeling, or repair of any
9	building, structure, or other public work, as well as the materials and supplies
10	physically incorporated therein.
11	* * *
12	* * * Act 250 Appeals * * *
12 13	* * * Act 250 Appeals * * * Sec. 8. 10 V.S.A. § 6089 is amended to read:
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13 14 15	Sec. 8. 10 V.S.A. § 6089 is amended to read: § 6089. APPEALS (a) Appeals of any act or decision of a District Commission under this
13 14 15 16	Sec. 8. 10 V.S.A. § 6089 is amended to read: § 6089. APPEALS (a) Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be
13 14 15 16 17	Sec. 8. 10 V.S.A. § 6089 is amended to read: § 6089. APPEALS (a) Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this
13 14 15 16 17 18	Sec. 8. 10 V.S.A. § 6089 is amended to read: § 6089. APPEALS (a) Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair of a District

1	(b) The Environmental Division shall act upon the petition of an appeal
2	within 30 days after receiving the petition if the decision relates to a project
3	covered under subdivision 6001(3)(A)(iv) of this title.
4	(c) The Environmental Division shall issue a final decision within 120 days
5	after taking the action described in subsection (b) of this section if the decision
6	relates to a project covered under subdivision 6001(3)(A)(iv) of this title.
7	(d) If the Environmental Division fails to meet the timelines in subsections
8	(b) and (c) of this section, the Natural Resources Board shall refund the
9	applicant any fees paid to the State under section 6083a of this title and the
10	applicant shall not be liable for any additional fees under the same section,
11	regardless of the final decision issued by the Environmental Decision on the
12	appeal.
13	* * * Environmental Court * * *
14	Sec. 9. ENVIRONMENTAL DIVISION OF SUPERIOR COURT;
15	POSITIONS; APPROPRIATION
16	(a) Establishment of the following limited service positions is authorized in
17	the Environmental Division of the Superior Court in fiscal year 2023:
18	(1) one Environmental Division judge; and
19	(2) one law clerk.
20	(b) There is appropriated the sum of \$300,000.00 to the Environmental
21	Division of the Superior Court in fiscal year 2023 from the American Rescue

BILL AS INTRODUCED 2022

- 1 Plan Act of 2021 Coronavirus State Fiscal Recovery Fund for the positions
- 2 <u>established in subsection (a) of this section.</u>
 - * * * Effective Date * * *
- 4 Sec. 10. EFFECTIVE DATE

3

5 <u>This act shall take effect on passage.</u>