1	Introduced by Committee on Energy and Technology
2	Date:
3	Subject: Public service; occupational safety and health; accident reporting and
4	investigation; Public Records Act exemptions; cybersecurity; energy
5	storage; Public Utility Commission jurisdiction and adoption of rules;
6	Nuclear Decommissioning Citizens Advisory Panel
7	Statement of purpose of bill as introduced: This bill proposes to amend
8	statutes concerning utilities and the reporting and investigation of accidents,
9	the Public Records Act and cybersecurity, and energy storage, to authorize the
10	adoption of rules by the Public Utility Commission, and to amend the Nuclear
11	Decommissioning Citizens Advisory Panel.
12	An act relating to miscellaneous energy subjects
12 13	An act relating to miscellaneous energy subjects It is hereby enacted by the General Assembly of the State of Vermont:
13	It is hereby enacted by the General Assembly of the State of Vermont:
13 14	It is hereby enacted by the General Assembly of the State of Vermont: * * * Occupational Safety and Health * * *
13 14 15	It is hereby enacted by the General Assembly of the State of Vermont: * ** Occupational Safety and Health * ** Sec. 1. 30 V.S.A. § 207 is amended to read:
13 14 15 16	It is hereby enacted by the General Assembly of the State of Vermont: * ** Occupational Safety and Health *** Sec. 1. 30 V.S.A. § 207 is amended to read: § 207. REPORT OF ACCIDENTS; INVESTIGATION
13 14 15 16 17	It is hereby enacted by the General Assembly of the State of Vermont: *** Occupational Safety and Health *** Sec. 1. 30 V.S.A. § 207 is amended to read: § 207. REPORT OF ACCIDENTS; INVESTIGATION The superintendent or manager of any line or plant, subject to supervision

1	in loss of life or injury to any person that shall incapacitate incapacitates him
2	or her from engaging in his or her usual vocations. The If the accident is
3	subject to investigation by VOSHA pursuant to 21 V.S.A. chapter 3,
4	subchapters 4 and 5, the Department shall provide support as requested by
5	VOSHA, and VOSHA shall, to the extent permitted by law, provide the
6	Department with any information pertaining to the investigation that is
7	requested by the Department. If the accident it not subject to investigation by
8	VOSHA, the Department shall inquire into the cause of every such the
9	accident, and if, in its judgment, a public investigation is necessary, it shall fix
10	a time and place of holding the same, and shall thereupon proceed as provided
11	in 5 V.S.A. § 3454 relating to investigation of accidents upon railroads shall
12	make any recommendations to the company and to the Public Utility
13	Commission as appropriate.
14	* * * Public Records Act * * *
15	Sec. 2. 1 V.S.A. § 317 is amended to read:
16	§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
17	DOCUMENTS; EXEMPTIONS
18	* * *
19	(c) The following public records are exempt from public inspection and
20	copying:
21	* * *

1	(43) Records relating to a regulated utility's cybersecurity program,
2	assessments, and plans, including all reports, summaries, compilations,
3	analyses, notes, or other cybersecurity information.
4	* * *
5	* * * Energy Storage * * *
6	Sec. 3. 10 V.S.A. § 6001 is amended to read:
7	§ 6001. DEFINITIONS
8	In <u>As used in</u> this chapter:
9	* * *
10	(3)(A) "Development" means each of the following:
11	* * *
12	(D) The word "development" does not include:
13	* * *
14	(ii) The construction of improvements for an electric generation.
15	energy storage, or transmission facility that requires a certificate of public
16	good under 30 V.S.A. § 248, or is subject to regulation under 30 V.S.A.
17	<u>§ 8011,</u> a natural gas facility as defined in 30 V.S.A. § 248(a)(3), or a
18	telecommunications facility issued a certificate of public good under 30 V.S.A.
19	§ 248a.
20	* * *

	(dr req 21-0802 – draft 4.1) Page 4 of 18 3/12/2021 – EMC/LM -1:20 PM
1	Sec. 4. 24 V.S.A. § 4413 is amended to read:
2	§ 4413. LIMITATIONS ON MUNICIPAL BYLAWS
3	* * *
4	(b) A bylaw under this chapter shall not regulate public utility power
5	generating plants, energy storage facilities, and transmission facilities
6	regulated under 30 V.S.A. § 248 or subject to regulation under 30 V.S.A.
7	<u>§ 8011</u> .
8	* * *
9	Sec. 5. 30 V.S.A. § 201 is amended to read:
10	§ 201. DEFINITIONS
11	As used in this chapter:
12	* * *
13	(4) "Energy storage facility" means a stationary device or system that
14	captures energy produced at one time, stores that energy for a period of time,
15	and delivers or may deliver that energy as electricity to the grid for use at a
16	future time uses mechanical, chemical, or thermal processes to store energy for
17	export to the grid.
18	(5) "Energy storage aggregation" means a virtual resource formed by
19	combining multiple stationary energy storage devices at different points of
20	interconnection on the distribution system.

1	(6) "Energy storage aggregator" means an entity other than a
2	distribution utility that is operating an energy storage aggregation of 100 kW
3	or greater aggregate nameplate capacity, unless the Commission establishes a
4	larger threshold by rule.
5	Sec. 6. 30 V.S.A. § 203 is amended to read:
6	§ 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES
7	* * *
8	(1) A company engaged in the manufacture, transmission, distribution,
9	storage, or sale of gas or electricity directly to the public or to be used
10	ultimately by the public for lighting, heating, or power and so far as relates to
11	their use or occupancy of the public highways.
12	(2) That part of the business of a company that consists of the
13	manufacture, transmission, distribution, storage, or sale of gas or electricity
14	directly to the public or to be used ultimately by the public for lighting,
15	heating, or power and so far as relates to their use or occupancy of the public
16	highways.
17	* * *
18	Sec. 7. 30 V.S.A. § 209 is amended to read:
19	§ 209. JURISDICTION; GENERAL SCOPE
20	* * *

1	(k) Energy storage facilities. Except when owned by a retail distribution
2	utility, an energy efficiency utility, or the Vermont Electric Power Company,
3	Inc., competitive suppliers of energy storage services that do not serve retail
4	customers shall be exempt from sections 107, 108, and 109 of this title.
5	Sec. 8. 30 V.S.A. § 231 is amended to read:
6	§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF
7	SERVICE; HEARING
8	* * *
9	(c) For an energy storage facility not already subject to this section, an
10	energy storage aggregator that operates an energy storage facility is subject to
11	this section only if the aggregator is not a retail electric provider.
12	Sec. 9. 30 V.S.A. § 248 is amended to read:
13	§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
14	FACILITIES; CERTIFICATE OF PUBLIC GOOD
15	(a)(1) No company, as defined in section 201 of this title, may:
16	* * *
17	(4)(A) With respect to a facility located in the State, in response to a
18	request from one or more members of the public or a party, the Public Utility
19	Commission shall hold a nonevidentiary public hearing on a petition for such
20	finding and certificate in at least one county in which any portion of the
21	construction of the facility is proposed to be located. The Commission in its

VT LEG #353040 v.5

1	discretion may hold a nonevidentiary public hearing in the absence of any
2	request from a member of the public or a party. From the comments made at a
3	public hearing, the Commission shall derive areas of inquiry that are relevant
4	to the findings to be made under this section and shall address each such area
5	in its decision. Prior to making findings, if the record does not contain
6	evidence on such an area, the Commission shall direct the parties to provide
7	evidence on the area. This subdivision does not require the Commission to
8	respond to each individual comment.
9	* * *
10	(F) The following shall apply to the participation of the Agency of
11	Agriculture, Food and Markets in proceedings held under this subsection:
12	(i) In any proceeding regarding an electric generation facility that
13	will have a capacity greater than 500 kilowatts or an energy storage facility
14	that will have a capacity greater than 1 megawatt and will be sited on a tract
15	containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
16	Agency shall appear as a party and provide evidence and recommendations
17	concerning any findings to be made under subdivision (b)(5) of this section on
18	those soils, and may provide evidence and recommendations concerning any
19	other matters to be determined by the Commission in such a proceeding.
20	* * *

1	(J) This subdivision (J) applies to an application for an electric
2	generation facility with a capacity that is greater than 50 kilowatts and to an
3	application for an energy storage facility that is greater than 1 megawatt, unless
4	the facility is located on a new or existing structure the primary purpose of
5	which is not the generation of electricity. In addition to any other information
6	required by the Commission, the application for such a facility shall include
7	information that delineates:
8	* * *
9	(k)(1) Notwithstanding any other provisions of this section, the
10	Commission may waive, for a specified and limited time, the prohibitions
11	contained in this section upon site preparation for or construction of an electric
12	transmission facility, or a generation facility, or an energy storage facility as
13	necessary to ensure the stability or reliability of the electric system or a natural
14	gas facility, pending full review under this section.
15	* * *
16	(1) Notwithstanding other provisions of this section, and without limiting
17	any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and
18	(11), when the Governor has proclaimed a state of emergency pursuant to
19	20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public
20	Utility Commission and the Commissioner of Public Service or their
21	designees, may waive the prohibitions contained in this section upon site

1	preparation for or construction of an electric transmission facility, or a
2	generation facility, or an energy storage facility as necessary to ensure the
3	stability or reliability of the electric system or a natural gas facility. Waivers
4	issued under this subsection shall be subject to such conditions as are required
5	by the Governor, and shall be valid for the duration of the declared emergency
6	plus 180 days, or such lesser overall term as determined by the Governor.
7	Upon the expiration of a waiver under this subsection, if a certificate of public
8	good has not been issued under this section, the Commission shall require the
9	removal, relocation, or alteration of the facilities, subject to the waiver, as the
10	Commission finds will best promote the general good of the State.
11	* * *
12	(u) For an energy storage facility, $A \underline{a}$ certificate under this section shall
	(u) For an energy storage facility, A <u>a</u> certificate under this section shall only be required for <del>an energy storage</del> <u>a stationary</u> facility <u>exporting to the grid</u>
12	
12 13	only be required for an energy storage a stationary facility exporting to the grid
12 13 14	only be required for an energy storage <u>a stationary</u> facility <u>exporting to the grid</u> that has a capacity of $500 \ 100$ kW or greater, <u>unless the Commission</u>
12 13 14 15	only be required for <del>an energy storage</del> <u>a stationary</u> facility <u>exporting to the grid</u> that has a capacity of <del>500</del> <u>100</u> kW or greater <u>, unless the Commission</u> <u>establishes a larger threshold by rule</u> . <u>The Commission shall establish a</u>
12 13 14 15 16	only be required for <del>an energy storage</del> <u>a stationary</u> facility <u>exporting to the grid</u> that has a capacity of <del>500</del> <u>100</u> kW or greater, <u>unless the Commission</u> <u>establishes a larger threshold by rule</u> . The Commission shall establish a <u>simplified application process for energy storage facilities subject to this</u>
12 13 14 15 16 17	only be required for an energy storage a stationary facility exporting to the grid that has a capacity of 500 100 kW or greater, unless the Commission establishes a larger threshold by rule. The Commission shall establish a simplified application process for energy storage facilities subject to this section with a capacity of up to 1 MW, unless it establishes a larger threshold
12 13 14 15 16 17 18	only be required for <del>an energy storage</del> <u>a stationary</u> facility <u>exporting to the grid</u> that has a capacity of <del>500</del> <u>100</u> kW or greater, <u>unless the Commission</u> <u>establishes a larger threshold by rule</u> . The Commission shall establish a simplified application process for energy storage facilities subject to this <u>section with a capacity of up to 1 MW, unless it establishes a larger threshold</u> by rule. For facilities eligible for this simplified application process, a

1	an issue. The Commission may require facilities eligible for the simplified
2	application process to include a letter from the interconnecting utility
3	indicating the absence or resolution of interconnection issues as part of the
4	application.
5	Sec. 10. 30 V.S.A. § 8002 is amended to read:
6	§ 8002. DEFINITIONS
7	As used in this chapter:
8	* * *
9	(30) "Energy storage facility" means a stationary device or system that
10	captures energy produced at one time, stores that energy for a period of time,
11	and delivers or may deliver that energy as electricity to the grid for use at a
12	<u>future time.</u>
13	Sec. 11. 30 V.S.A. § 8011 is added to read:
14	<u>§ 8011. ENERGY STORAGE FACILITIES</u>
15	The Commission may adopt and implement rules that govern the
16	installation and operation of energy storage facilities of all sizes.
17	(1) The rules may establish a size threshold below which storage
18	facilities need not submit an application for a certificate of public good
19	pursuant to section 248 of this title.
20	(2) The rules may include provisions that govern:

1	(A) the respective duties of retail electricity providers and energy
2	storage facility owners or operators;
3	(B) the electrical and fire safety, power quality, interconnection,
4	metering, and decommissioning of energy storage facilities;
5	(C) the resolution of disputes between energy storage facility owners,
6	operators, and the interconnecting provider;
7	(D) energy storage aggregators and the operation of aggregations;
8	and
9	(E) energy storage facilities paired with other resources, such as net
10	metering and standard offer plants, including retrofits of existing plants.
11	(3) The rules shall establish standards and procedures governing
12	application for and issuance or revocation of a certificate of public good for
13	certain energy storage facilities under the provisions of section 248 of this title.
14	In establishing these standards and procedures the rules may:
15	(A) waive the requirements of section 248 of this title that are not
16	applicable to energy storage facilities, including criteria that are generally
17	applicable to public service companies as defined in this title;
18	(B) modify notice and hearing requirements of this title as the
19	Commission considers appropriate; and
20	(C) seek to simplify the application and review process.

1	Sec. 12. PUBLIC UTITLITY COMMISSION RULEMAKING;
2	INTERCONNECTION RULE
3	On or before March 15, 2022, the Public Utility Commission shall propose
4	an updated interconnection rule that:
5	(1) incorporates energy storage facilities with a capacity of 1 MW or
6	more; and
7	(2) incorporates a simplified process for energy storage facilities with a
8	capacity of between 100 kW and 1 MW.
9	* * * Nuclear Decommissioning Citizens Advisory Panel * * *
10	Sec. 13. 18 V.S.A. § 1700 is amended to read:
11	§ 1700. CREATION; MEMBERSHIP; OFFICERS; QUORUM
12	(a) There is created the Nuclear Decommissioning Citizens Advisory Panel
13	that shall consist of the following:
14	(1) The Secretary of Human Services, ex officio, or designee.
15	(2) The Secretary of Natural Resources, ex officio, or designee.
16	(3) The Commissioner of Public Service, ex officio, or designee.
17	(4) The Secretary of Commerce and Community Development, ex
18	officio, or designee.
19	(5) One member of the House Committee on Energy and Technology,
20	chosen by the Speaker of the House.

1	(6) One member of the Senate Committee on Natural Resources and
2	Energy, chosen by the Committee on Committees.
3	(7) One representative of the Windham Regional Commission or
4	designee, selected by the Regional Commission.
5	(8) One representative <u>Two representatives</u> of the Town of Vernon or
6	designee designees, selected by the legislative body of that town.
7	(9) Six members of the public, two each selected by the Governor, the
8	Speaker of the House, and the President Pro Tempore of the Senate. Under
9	this subdivision, each appointing authority initially shall appoint a member for
10	a three-year term and a member for a four-year term. Subsequent
11	appointments under this subdivision shall be for terms of four years.
12	(10) Two representatives of the <u>owners of the</u> Vermont Yankee <del>Nuclear</del>
13	Power Station (VYNPS or Station) selected by the owner of the Station site.
14	(11) A representative of the International Brotherhood of Electric
15	Workers (IBEW) selected by the IBEW who shall be a present or former
16	employee at the VYNPS.
17	(12) One <u>optional</u> member who will represent collectively the Towns of
18	Chesterfield, Hinsdale, Richmond, Swanzey, and Winchester, New Hampshire,
19	when selected by the Governor of New Hampshire at the invitation of the
20	Commissioner of Public Service.

1	(13)(12) One <u>optional</u> member who will represent collectively the
2	Towns of Bernardston, Colrain, Gill, Greenfield, Leyden, Northfield, and
3	Warwick, Massachusetts, when selected by the Governor of Massachusetts at
4	the invitation of the Commissioner of Public Service.
5	(b) Ex officio members shall serve for the duration of their time in office or
6	until a successor has been appointed. Members of the General Assembly shall
7	be appointed for two years or until their successors are appointed, beginning on
8	or before January 15 in the first year of the biennium. Representatives
9	designated by ex officio members shall serve at the direction of the designating
10	authority.
11	* * *
12	(f) Members of the panel who are not ex officio members, employees of the
12 13	(f) Members of the panel who are not ex officio members, employees of the State of Vermont, representatives of the <u>VYNPS</u> owners of the Vermont
13	State of Vermont, representatives of the VYNPS owners of the Vermont
13 14	State of Vermont, representatives of the VYNPS owners of the Vermont Yankee site, or members representing towns outside Vermont, and who are not
13 14 15	State of Vermont, representatives of the VYNPS <u>owners of the Vermont</u> <u>Yankee site</u> , or members representing towns outside Vermont, and who are not otherwise compensated or reimbursed for their attendance, shall be entitled to
13 14 15 16	State of Vermont, representatives of the <del>VYNPS</del> <u>owners of the Vermont</u> <u>Yankee site</u> , or members representing towns outside Vermont, and who are not otherwise compensated or reimbursed for their attendance, shall be entitled to \$50.00 per diem and their necessary and actual expenses. Funds for this
13 14 15 16 17	State of Vermont, representatives of the <del>VYNPS</del> <u>owners of the Vermont</u> <u>Yankee site</u> , or members representing towns outside Vermont, and who are not otherwise compensated or reimbursed for their attendance, shall be entitled to \$50.00 per diem and their necessary and actual expenses. Funds for this purpose shall come from the monies collected under 30 V.S.A. § 22 for the
13 14 15 16 17 18	State of Vermont, representatives of the <del>VYNPS</del> <u>owners of the Vermont</u> <u>Yankee site</u> , or members representing towns outside Vermont, and who are not otherwise compensated or reimbursed for their attendance, shall be entitled to \$50.00 per diem and their necessary and actual expenses. Funds for this purpose shall come from the monies collected under 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service. Legislative

1	* * *
2	(6) hire experts, contract for services, and provide for materials and
3	other reasonable and necessary expenses of the Panel as the Commissioner
4	may consider appropriate on request of the Panel from time to time. Funds for
5	this purpose shall come from the monies collected under 30 V.S.A. § 22 for the
6	purpose of maintaining the Department of Public Service and such other
7	sources as may be or become available. owners of the Vermont Yankee site as
8	the Commissioner of Public Service may consider appropriate, not to exceed
9	\$35,000 annually. The obligation to support the Panel's activities shall cease
10	upon the submission of the application for Partial License Termination by the
11	owners of the Vermont Yankee site to the U.S. Nuclear Regulatory
12	Commission. On or before June 30 annually, the Commissioner of Public
13	Service shall render to the owners of the Vermont Yankee site a statement
14	detailing the amount of money expended or contracted for under this
15	subdivision (6), which shall be paid within 30 days by the owners of the
16	Vermont Yankee site into the special fund established pursuant to 30 V.S.A.
17	§ 22 for the purpose of maintaining the Department of Public Service and
18	Public Utility Commission. The funds paid into the special fund by the owners
19	of the Vermont Yankee site shall be paid solely to the Department. Within
20	30 days of receiving the statement of funds due, the owners of the Vermont
21	Yankee site may petition the Public Utility Commission for a hearing to review

1	and determine the necessity and reasonableness of such expenses. Following
2	the review, the Public Utility Commission may amend or revise the cost
3	assessments as it deems appropriate.
4	Sec. 14. 18 V.S.A. § 1701 is amended to read:
5	§ 1701. DUTIES
6	The Panel shall serve in an advisory capacity only and shall not have
7	authority to direct decommissioning of the VYNPS Vermont Yankee site. The
8	duties of the Panel shall be:
9	(1) To hold a minimum of four three public meetings each year for the
10	purpose of discussing issues relating to the decommissioning of the VYNPS
11	Vermont Yankee. The Panel may hold additional meetings.
12	(2) To advise the Governor, the General Assembly, the agencies of the
13	State, and the public on issues related to the decommissioning of the VYNPS
14	Vermont Yankee, with a written report being provided annually to the
15	Governor and to the energy committees of the General Assembly. The
16	provisions of 2 V.S.A. § 20(d) (expiration of reports) shall not apply to this
17	report.
18	(3) To serve as a conduit for public information and education on and to
19	encourage community involvement in matters related to the decommissioning
20	of the VYNPS Vermont Yankee and to receive written reports and

1	presentations on the decommissioning of the Station site at its regular
2	meetings.
3	(4) To periodically receive reports, including those required by the
4	Public Utility Commission Docket No. 8880 Order, on the Decommissioning
5	Trust Fund and other funds associated with decommissioning of or site
6	restoration at the VYNPS Vermont Yankee, including fund balances,
7	expenditures made, and reimbursements received.
8	(5) To receive reports and presentations at regular meetings regarding
9	the decommissioning progress and plans for the VYNPS Vermont Yankee,
10	including any site assessments and post-shutdown decommissioning
11	assessment reports; provide a forum for receiving public comment on these
12	plans and reports; and to provide comment on these plans and reports as the
13	Panel may consider appropriate to State agencies and the owner of the VYNPS
14	Vermont Yankee and in the annual report described in subdivision (2) of this
15	subsection.
16	Sec. 15. 18 V.S.A. § 1702 is amended to read:
17	§ 1702. ASSISTANCE
18	The Department of Public Service, the Agency of Human Services, and the
19	Agency of Natural Resources shall furnish administrative support to the Panel,
20	with assistance from the owners of the VYNPS Vermont Yankee site as the
21	Commissioner of Public Service may consider appropriate.

- 1 \* \* \* Effective Dates \* \* \*
- 2 Sec. 16. EFFECTIVE DATES
- 3 This act shall take effect on July 1, 2021, except that Sec. 9 (30 V.S.A.
- 4 § 248) shall take effect on December 31, 2022.