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STATE OF VERMONT

Legislative Committee on Administrative Rules (LCAR)

MEMO TO: Senator Christopher Bray, Chair, Senate Committee on Natural Resources and Energy
Senator Kesha Ram Hinsdale, Chair, Senate Committee on Economic Development, Housing and General Affairs
Representative Amy Sheldon, Chair, House Committee on Environment and Energy
Representative Thomas Stevens, Chair, House Committee on General and Housing

FROM: Legislative Committee on Administrative Rules

DATE: July 27, 2023

SUBJECT: Concerns Related to the Residential Building Energy Standards (RBES) and Commercial Building Energy Standards (CBES)

The Legislative Committee on Administrative Rules (LCAR) reviewed and approved the [Residential Building Energy Standards \(RBES\)](#), with an effective date of July 1, 2024, at LCAR's June 8, 2023, meeting and reviewed and approved the [Commercial Building Energy Standards \(CBES\)](#), with an anticipated effective date of July 1, 2024, at LCAR's June 29, 2023, meeting. The approved amendments include updates required pursuant to 30 V.S.A. §§ 51 and 53.

Throughout two days of testimony, on May 25, 2023, and June 8, 2023, LCAR heard and discussed extensive concerns related to the [administration of the RBES, including](#) training on and enforcement of the RBES. See [Letter from Sandra Vitzthum to LCAR, May 17, 2023](#); [Letter from Christopher Miksic and Enrique Bueno](#); [Memorandum from Board of Directors of AIA Vermont to LCAR, May, 17, 2023](#); [Letter from Ben Civiletti, Department of Public Service, to LCAR, Jun. 2, 2023](#); [Letter from Sandra Vitzthum to LCAR, Jun. 8, 2023](#); [May 25, 2023, LCAR Meeting at 4:45–1:55:30](#); and [Jun. 8, 2023, LCAR Meeting at 23:50–1:07:20](#).

This testimony was in addition to written and oral comments that the Department of Public Service received during the rulemaking process and that are included or summarized in the rulemaking materials. LCAR also heard repeated references to ["I wanted to cry": Devastating risks of spray foam insulation hidden from Vermont homeowners, Alden Wicker, May 22, 2023, VTDigger](#).

It is LCAR's understanding that one or more of your committees took testimony on the issues of **the administration** of the RBES; that this policy work yielded the creation of the Building Energy Code Study Committee, which will, among other things, "recommend strategies for increasing compliance with the Residential Building Energy Standards[,] through 2023 Acts and Resolves No. 47 (S.100), Sec. 23; and that your committees will most likely take testimony on and discuss the Study Committee's report, which is due to the General Assembly not later than December 1, 2023. Part of LCAR's motivation for encouraging and supporting delaying the effective date for the RBES **and the CBES** until July 1, 2024, is to allow your committees time to work through the policy considerations raised in testimony and public comments on the RBES, specifically the **lack of training on and enforcement of the RBES, and in the report from the Study Committee and to also look at whether or not there are similar concerns related to the administration of the CBES or best practices that could be adopted for the administration of the RBES from the administration of the CBES, or both.**

We are cognizant of the fact that these issues related to **the administration of the RBES and the CBES** are outside the jurisdiction of LCAR but currently within the jurisdiction of the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy, but that if the General Assembly takes action related to **the administration of the RBES or the CBES, or both**, that jurisdiction might eventually lie with a different committee, such as the House Committee on General and Housing or the Senate Committee on Economic Development, Housing and General Affairs, which are two of the committees that worked on Act 47. Accordingly, LCAR requests that the House Committees on Environment and Energy and on General and Housing and the Senate Committees on Economic Development, Housing and General Affairs and on Natural Resources and Energy review, during the 2024 legislative session, the report from the Study Committee and the concerns raised throughout the most recent rulemaking process for the RBES **and the CBES on the administration of the RBES and the CBES.**