

1 H.434

2 Introduced by Committee on Agriculture and Forestry

3 Date:

4 Subject: Agriculture; pesticides; Agricultural Innovation Board

5 Statement of purpose of bill as introduced: This bill proposes to establish the  
6 Agricultural Innovation Board to replace the Pesticide Advisory Council. The  
7 Agricultural Innovation Board would make recommendations to the Governor  
8 and the General Assembly for prioritizing and coordinating the  
9 implementation of the recommendations of the Soil Health and Payment for  
10 Ecosystem Services Working Group, the Vermont Climate Council, and other  
11 relevant recommendations. The Agricultural Innovation Board would also  
12 recommend practices that reduce the use of and exposure to pesticides and  
13 synthetic fertilizers in order to protect soil biology, human health, and  
14 environmental health. In addition, the Board would advise the Executive  
15 Branch and the General Assembly with respect to legislation concerning the  
16 use of agricultural pest control measures and integrated pest management.

17 An act relating to establishing the Agricultural Innovation Board

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 ~~Sec. 1, 6 V.S.A., chapter 215, subchapter 7A, is amended to read:~~

3 ~~Subchapter 7A. Regenerative Farming Regenerative and Innovative~~

4 ~~Agriculture~~

5 ~~\* \* \*~~

6 ~~§ 4964. AGRICULTURAL INNOVATION BOARD~~

7 ~~(a) Creation. There is created the Agricultural Innovation Board that shall:~~

8 ~~(1) Review and make recommendations for prioritizing and~~  
9 ~~coordinating the implementation of the recommendations of the Soil Health~~  
10 ~~and Payment for Ecosystem Services Working Group, the Vermont Climate~~  
11 ~~Council, and other relevant recommendations.~~

12 ~~(2) Recommend practices that reduce the use of and exposure to~~  
13 ~~pesticides and synthetic fertilizers in order to protect soil biology, human~~  
14 ~~health, and environmental health.~~

15 ~~(3) Advise the Executive Branch and the General Assembly with respect~~  
16 ~~to legislation concerning the use of agricultural pest control measures and~~  
17 ~~integrated pest management.~~

18 ~~(4) Recommend to the Secretary of Agriculture, Food and Markets~~  
19 ~~policies, proposed rules, or legislation for the regulation of the use of treated~~  
20 ~~articles when the Board determines that use of a treated article will have a~~  
21 ~~hazardous or long-term deleterious effect on the environment in Vermont.~~

1 ~~presents a likely risk to human health, or is dangerous. In developing~~

2 recommendations under this subdivision, the Board shall review:

3 (A) alternatives available to a user of a treated article; and

4 (B) the potential effects on the environment or risks to human health

5 from use of the available alternatives to use of a treated article.

6 (5) Recommended practices to reduce the use and generation of waste  
7 associated with plastic in farming.

8 (6) Incentivize farming practices that are looking to reduce the use and  
9 dependence on pesticides in their practices.

10 (7) Advise the Agency with regard to the regulation of biostimulants.

11 (8) Recommend studies necessary for the performance of its functions  
12 as established under this section.

13 (9) Explore developing standards for a Vermont Agricultural Marketing  
14 program the sets standards for carbon capture, plastics use, and organic  
15 product selection.

16 (b) Organization of the Board.

17 (1) The Secretary of Agriculture, Food and Markets shall convene the  
18 Agricultural Innovation Board. Members of the Board who are not serving in  
19 an ex officio capacity shall be appointed by the Secretary of Agriculture, Food  
20 and Markets, and the Secretary shall designate a chair from among the

1 ~~members of the Board. The Agricultural Innovation Board shall consist of the~~

2 ~~following ~~15~~14 members:~~

3 ~~(A) the Secretary of Agriculture, Food and Markets or designee;~~

4 ~~(B) a member of the farming community who practices organic~~  
5 ~~agriculture;~~

6 ~~(C) a member from the University of Vermont Center for Sustainable~~  
7 ~~Agriculture;~~

8 ~~(D) the Director of the Agency of Agriculture, Food and Markets,~~  
9 ~~Agrichemical Program or designee;~~

10 ~~(E) the Director of the Agency of Agriculture, Food and Markets,~~  
11 ~~Water Quality Program or designee;~~

12 ~~(F) the Commissioner of Health or designee;~~

13 ~~(G) the Secretary of Natural Resources or designee;~~

14 ~~(H) a soil biologist or certified crop consultant;~~

15 ~~(I) a member of the public representing the dairy industry in~~  
16 ~~Vermont;~~

17 ~~(J) a member of the public representing fruit and vegetable~~  
18 ~~production in Vermont;~~

19 ~~(K) a member of the public representing grass-based, non-dairy~~  
20 ~~livestock farming in Vermont,~~

1 (L) a member of the public knowledgeable in agricultural water  
2 management;

3 (M) a representative from an organization involved in land  
4 conservation; and

5 (N) a representative from an environmental advocacy organization.

6 (2) Members of the Agricultural Innovation Board shall be appointed  
7 for terms of three years, except initially, appointments shall be made such that  
8 one member shall serve for a term of one year and one for a term of two years.  
9 Members other than ex officio members shall be allowed to serve not more  
10 than three consecutive terms.

11 (3) Members of the Agricultural Innovation Board other than ex officio  
12 members and those compensated for their participation on the Board shall be  
13 entitled to per diem compensation authorized under 32 V.S.A. § 1010(b) for  
14 each day spent in the performance of their duties, and each member shall be  
15 reimbursed for his or her actual and necessary expenses incurred in carrying  
16 out his or her duties. These payments shall be made from the Pesticide  
17 Monitoring Revolving Fund under 6 V.S.A. § 929.

18 (c) Powers and Duties of the Board. The Agricultural Innovation Board  
19 shall:

20 (1) issue a report annually to the General Assembly on or before  
21 January 15 that recommends policy solutions to assist farmers in.

- 1           ~~(A) reducing the use of and exposure to pesticides; and~~
- 2           (B) the use of innovative or alternative practices;
- 3           (2) propose an annual budget report that provides ideas for funding  
4 sources for any new programs created in the annual report; and
- 5           (3) survey farmers from every county in the State to help better  
6 understand the current agricultural landscape, as well as current challenges for  
7 farmers in Vermont in order to better inform recommendations to be provided  
8 in the annual report required under subdivision (1) of this subsection.

9       Sec. 2. REPEAL; PESTICIDE ADVISORY COUNCIL

10       6 V.S.A. § 1102 (Pesticide Advisory Council) is repealed.

11       Sec. 3. 6 V.S.A. § 1083(a)(5) is amended to read:

12           (5) Issue or deny permits to any person for the use of larvicides or  
13 pupacides for mosquito control in the waters of the State pursuant to  
14 procedures adopted under 3 V.S.A. chapter 25. Such procedures shall include  
15 provisions regarding an opportunity for public review and comment on permit  
16 applications. Persons applying for a permit shall apply on a form provided by  
17 the Agency. The Secretary shall seek the advice of the ~~Vermont Pesticide~~  
18 ~~Advisory Council~~ Agricultural Innovation Board when designating acceptable  
19 control products and methods for their use, and when adopting or amending  
20 procedures for implementing this subsection. Before issuing a permit under  
21 ~~this subsection, the Secretary shall find, after consultation with the Secretary~~

1 ~~of the Agency of Natural Resources, that there is acceptable risk to the~~  
2 non-target environment and that there is negligible risk to public health.

3 Sec. 4. 6 V.S.A. § 1103(a) is amended to read:

4 (a) General authority. The Secretary shall have responsibility for  
5 regulating and controlling the sale, use, storage, treatment, and disposal of  
6 pesticides and pesticide wastes, in order to promote the public health, safety,  
7 and welfare and protect agricultural and natural resources. In the performance  
8 of such duties the Secretary shall act upon the advice of the ~~Pesticide Advisory~~  
9 Council Agricultural Innovation Board, and subject to the approval of the  
10 Governor.

11 Sec. 5. 6 V.S.A. § 1104 is amended to read:

12 § 1104. POWERS OF SECRETARY

13 The Secretary in furtherance of the purposes of this chapter may:

14 \* \* \*

15 (6) Require pesticide dealers and applicators to keep records of the sale  
16 and use of pesticides deemed particularly toxic or hazardous by the ~~Pesticide~~  
17 Advisory Council Agricultural Innovation Board and to have such records  
18 available for examination by the Secretary or his or her agents at his or her  
19 request; the accounting for kinds and amounts of such economic poisons, to  
20 ~~whom sold, and where and when used, and the reporting of incidents resulting~~

1 ~~from accidental contamination or misapplication of pesticides which that~~  
2 present a hazard to humans, animals, or the environment, may be required.

3 \* \* \*

4 (9) Make, adopt, revise, and amend reasonable rules as he or she deems  
5 necessary with the advice of the ~~Pesticide Advisory Council~~ Agricultural  
6 Innovation Board in order to carry out the provisions of this chapter.

7 \* \* \*

8 Sec. 6. 6 V.S.A. § 1105a is amended to read:

9 § 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST  
10 MANAGEMENT PRACTICES

11 (a) The Secretary of Agriculture, Food and Markets, upon the  
12 recommendation of the ~~Pesticide Advisory Council~~ Agricultural Innovation  
13 Board, may adopt by rule:

14 (1) best management practices, standards, procedures, and requirements  
15 relating to the sale, use, storage, or disposal of treated articles the use of which  
16 the ~~Pesticide Advisory Council~~ Agricultural Innovation Board has determined  
17 will have a hazardous or long-term deleterious effect on the environment,  
18 presents a likely risk to human health, or is dangerous;

19 \* \* \*

20 (3) requirements for the examination or inspection of treated articles the  
21 ~~use of which the Pesticide Advisory Council~~ Agricultural Innovation Board



1 ~~has determined will have a hazardous or long-term deleterious effect on the~~  
2 environment, presents a likely risk to human health, or is dangerous;

3 (4) requirements for persons selling treated articles to keep or make  
4 available to the Secretary records of sale of treated articles the use of which  
5 the ~~Pesticide Advisory Council~~ Agricultural Innovation Board has determined  
6 will have a hazardous or long-term deleterious effect on the environment,  
7 presents a likely risk to human health, or is dangerous; or

8 (5) requirements for reporting of incidents resulting from accidental  
9 contamination from or misuse of treated articles the use of which the ~~Pesticide~~  
10 ~~Advisory Council~~ Agricultural Innovation Board has determined will have a  
11 hazardous or long-term deleterious effect on the environment, presents a likely  
12 risk to human health, or is dangerous.

13 (b) At least 30 days prior to prefilng a rule authorized under subsection (a)  
14 of this section with the Interagency Committee on Administrative Rules under  
15 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate  
16 Committee on Agriculture and the House Committee on Agriculture and  
17 Forestry for review.

18 Sec. 7. IMPLEMENTATION; TRANSITION

19 The Secretary of Agriculture, Food and Markets shall appoint those  
20 ~~members of the Agricultural Innovation Board under 6 V.S.A. § 4904 or of~~

1 ~~before January 1, 2022 so that the Agricultural Innovation Board can fulfill its~~  
2 ~~functions and duties.~~

3 Sec. 8. EFFECTIVE DATES

4 ~~This act shall take effect on January 1, 2022, except that the authority of the~~  
5 ~~Secretary of Agriculture, Food and Markets to appoint members of the~~  
6 ~~Agricultural Innovation Board under 6 V.S.A. § 4964(b)(1) shall take effect on~~  
7 ~~July 1, 2021.~~

*Sec. 1. 6 V.S.A. chapter 215, subchapter 7A is amended to read:*

*Subchapter 7A. Regenerative Farming Regenerative and Innovative*  
*Agriculture*

*\* \* \**

*§ 4964. AGRICULTURAL INNOVATION BOARD*

*(a) Creation. There is created the Agricultural Innovation Board that*  
*shall:*

*(1) Review historic recommendations for pesticide reduction in the State*  
*and coordinate with existing work groups to avoid submitting to the General*  
*Assembly conflicting policy recommendations on the regulation of pesticides*  
*and farming.*

*(2) Recommend practices that reduce the use of and exposure to*  
*pesticides and synthetic fertilizers in order to protect soil biology, human*  
*health, and environmental health, including recommended targets to achieve*

the State goal of an overall reduction in the use of pesticides consistent with sound pest or vegetative management practices.

(3) Advise the Executive Branch and the General Assembly with respect to legislation concerning the use of agricultural pest control measures and integrated pest management.

(4) Recommend to the Secretary of Agriculture, Food and Markets policies, proposed rules, or legislation for the regulation of the use of treated articles when the Board determines that use of a treated article will have a hazardous or long-term deleterious effect on the environment in Vermont, presents a likely risk to human health, or is dangerous.

(5) Recommend practices to reduce the use and generation of waste associated with plastic in farming.

(6) Incentivize farming practices that are looking to reduce the use and dependence on pesticides in their practices.

(7) Advise the Agency with regard to the regulation of plant biostimulants.

(8) Recommend studies necessary for the performance of its functions as established under this section.

(9) Explore methods and standards for transitioning farmers to practices that reduce pesticide usage.

(10) Explore methods and standards for farmers to engage in carbon

sequestration or mitigation.

(11) Review the seed traits of a new genetically engineered seed proposed for sale, distribution, or use in the State.

(12) Study and issue recommendations regarding the feasibility of the use of biodegradable plastics in agriculture and the promotion of the use of and production of biodegradable plastics and similar products in Vermont.

(b) Organization of the Board.

(1) The Secretary of Agriculture, Food and Markets shall convene the Agricultural Innovation Board. Members of the Board who are not serving in an ex officio capacity shall be appointed by the Secretary of Agriculture, Food and Markets, and the Secretary shall designate a chair from among the members of the Board. The Agricultural Innovation Board shall consist of the following 13 members:

(A) the Secretary of Agriculture, Food and Markets or designee;

(B) an active farmer who is a member of an organization representing the organic farming community;

(C) a member from the University of Vermont Center for Sustainable Agriculture;

(D) the Director of the Agency of Agriculture, Food and Markets, Agrichemical Program or designee;

(E) the Director of the Agency of Agriculture, Food and Markets,

Water Quality Program or designee;

(F) the Commissioner of Health or a designee with expertise in the effects of pesticides on human health;

(G) the Secretary of Natural Resources or designee;

(H) a certified crop consultant;

(I) an active farmer who is a member of an organization representing the conventional dairy industry in Vermont;

(J) an active farmer who is a member of an organization representing fruit or vegetable farmers in Vermont;

(K) an active farmer who is a member of an organization representing grass-based, non-dairy livestock farming in Vermont;

(L) a soil biologist; and

(M) a member of an environmental organization that advocates for policy regarding the management or reduction of toxic substances in the State.

(2) Members of the Agricultural Innovation Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member shall serve for a term of one year and one for a term of two years. Members other than ex officio members shall be allowed to serve not more than three consecutive terms.

(3) Members of the Agricultural Innovation Board other than ex officio members and those compensated for their participation on the Board shall be

entitled to per diem compensation authorized under 32 V.S.A. § 1010(b) for each day spent in the performance of their duties, and each member shall be reimbursed for his or her actual and necessary expenses incurred in carrying out his or her duties. These payments shall be made from the Pesticide Monitoring Revolving Fund under 6 V.S.A. § 929.

(4) The Board shall meet no fewer than four times a year.

(c) Powers and Duties of the Board. The Agricultural Innovation Board shall:

(1) issue a report annually to the General Assembly on or before January 15 that recommends policy solutions to assist farmers in:

(A) reducing the use of and exposure to pesticides; and

(B) the use of innovative or alternative practices;

(2) propose an annual budget report that provides ideas for funding sources for any new programs recommended in the annual report; and

(3) survey farmers from every county in the State to help better understand how agricultural inputs, such as pesticides, synthetic fertilizers, and plastics, are currently used, as well as current challenges farmers face in reducing these inputs in order to better inform recommendations to be provided in the annual report required under subdivision (1) of this subsection.

~~(d) Seed Review. Prior to sale, distribution, or use in the State of a new genetically engineered seed, a majority of the Agricultural Innovation Board~~

~~shall approve of the sale, distribution, or use of the seed. In order to ensure the appropriate use of traits of a new genetically engineered seed in the State, the Agricultural Innovation Board may propose to the Secretary limits or conditions on the sale, distribution, or use of a seed or recommend a limited period of time for sale of the seed.~~

(d) Seed review. The Agricultural Innovation Board shall advise the Secretary regarding the sale, distribution, or use of genetically engineered seed in the State and may recommend to the Secretary limits or conditions on the sale, distribution, or use of a genetically engineered seed or seeds or recommend a limited period of time for sale of a genetically engineered seed or seeds.

*Sec. 2. REPEAL; PESTICIDE ADVISORY COUNCIL*

6 V.S.A. § 1102 (Pesticide Advisory Council) is repealed.

*Sec. 3. 6 V.S.A. § 1083(a)(5) is amended to read:*

*(5) Issue or deny permits to any person for the use of larvicides or pupacides for mosquito control in the waters of the State pursuant to procedures adopted under 3 V.S.A. chapter 25. Such procedures shall include provisions regarding an opportunity for public review and comment on permit applications. Persons applying for a permit shall apply on a form provided by the Agency. The Secretary shall seek the advice of the Vermont Pesticide Advisory Council Agricultural Innovation Board when designating acceptable*

*control products and methods for their use, and when adopting or amending procedures for implementing this subsection. Before issuing a permit under this subsection, the Secretary shall find, after consultation with the Secretary of the Agency of Natural Resources, that there is acceptable risk to the nontarget environment and that there is negligible risk to public health.*

*Sec. 4. 6 V.S.A. § 1103(a) is amended to read:*

*(a) General authority. The Secretary shall have responsibility for regulating and controlling the sale, use, storage, treatment, and disposal of pesticides and pesticide wastes, in order to promote the public health, safety, and welfare and protect agricultural and natural resources. In the performance of such duties the Secretary shall act upon the advice of the ~~Pesticide Advisory Council~~ Agricultural Innovation Board, and subject to the approval of the Governor.*

*Sec. 5. 6 V.S.A. § 1104 is amended to read:*

*§ 1104. POWERS OF SECRETARY*

*The Secretary in furtherance of the purposes of this chapter may:*

*\* \* \**

*(6) Require pesticide dealers and applicators to keep records of the sale and use of pesticides deemed particularly toxic or hazardous by the ~~Pesticide Advisory Council~~ Agricultural Innovation Board and to have such records available for examination by the Secretary or his or her agents at his or her*



*request; the accounting for kinds and amounts of such economic poisons, to whom sold, and where and when used, and the reporting of incidents resulting from accidental contamination or misapplication of pesticides which that present a hazard to humans, animals, or the environment, may be required.*

\* \* \*

*(9) Make, adopt, revise, and amend reasonable rules as he or she deems necessary with the advice of the ~~Pesticide Advisory Council~~ Agricultural Innovation Board in order to carry out the provisions of this chapter:*

\* \* \*

*Sec. 6. 6 V.S.A. § 1105a is amended to read:*

*§ 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST  
MANAGEMENT PRACTICES*

*(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the ~~Pesticide Advisory Council~~ Agricultural Innovation Board, may adopt by rule:*

*(1) best management practices, standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the ~~Pesticide Advisory Council~~ Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;*

\* \* \*

*(3) requirements for the examination or inspection of treated articles the use of which the ~~Pesticide Advisory Council~~ Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;*

*(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles the use of which the ~~Pesticide Advisory Council~~ Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or*

*(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the ~~Pesticide Advisory Council~~ Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.*

*(b) At least 30 days prior to prefiling a rule authorized under subsection (a) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry for review.*

*Sec. 7. 6 V.S.A. § 642 is amended to read:*

*§ 642. DUTIES AND AUTHORITY OF THE SECRETARY*

*(a) The Secretary shall enforce and carry out the provisions of this subchapter, including:*

*(1) Sampling, inspecting, making analysis of, and testing seeds subject to the provisions of this subchapter that are transported, sold, or offered or exposed for sale within the State for sowing purposes. The Secretary shall notify promptly a person who sells, offers, or exposes seeds for sale and, if appropriate, the person who labels or transports seeds, of any violation and seizure of the seeds, or order to cease sale of the seeds under section 643 of this title.*

*(2) Making or providing for purity and germination tests of seed for farmers and dealers on request and to fix and collect charges for the tests made.*

*(3) Cooperating with the U.S. Department of Agriculture and other agencies in seed law enforcement.*

*(4) Prior to sale, distribution, or use of a new genetically engineered seed in the State and after consultation with ~~a seed review committee convened under subsection (e) of this section~~ the Agricultural Innovation Board under section 4964 of this title, review the traits of the new genetically engineered seed. The Secretary may prohibit, restrict, condition, or limit the sale, distribution, or use of the seed in the State when determined necessary to prevent an adverse effect on agriculture in the State.*

*(b) The Secretary shall establish rules to carry out the provisions of this subchapter, including those governing the methods of sampling, inspecting, analyzing, testing, and examining seeds and reasonable standards for seed.*

~~*(c)(1) The Secretary shall convene a seed review committee to review the seed traits of a new genetically engineered seed proposed for sale, distribution, or use in the State.*~~

~~*(2) A seed review committee convened under this subsection shall be composed of the Secretary of Agriculture, Food and Markets or designee and the following members appointed by the Secretary:*~~

~~*(A) a certified commercial agricultural pesticide applicator;*~~

~~*(B) an agronomist or relevant crop specialist from the University of Vermont or Vermont Technical College;*~~

~~*(C) a licensed seed dealer; and*~~

~~*(D) a member of a farming sector affected by the new genetically engineered seed.*~~

~~*(3) A majority of the seed review committee must approve of the sale, distribution, or use of a new genetically engineered seed prior to sale, distribution, or use in the State. In order to ensure the appropriate use or traits of a new genetically engineered seed in the State, a seed review committee may propose to the Secretary limits or conditions on the sale, distribution, or use of a seed or recommend a limited period of time for sale of*~~

~~*the seed.*~~ *[Repealed.]*

*Sec. 8. IMPLEMENTATION; TRANSITION*

*The Secretary of Agriculture, Food and Markets shall appoint those members of the Agricultural Innovation Board under 6 V.S.A. § 4964 on or before January 1, 2022 so that the Agricultural Innovation Board can fulfill its functions and duties.*

*Sec. 9. EFFECTIVE DATES*

*This act shall take effect on January 1, 2022, except that the authority of the Secretary of Agriculture, Food and Markets to appoint members of the Agricultural Innovation Board under 6 V.S.A. § 4964(b)(1) shall take effect on July 1, 2021.*