



# Senate

General Assembly

**File No. 373**

February Session, 2016

Substitute Senate Bill No. 231

*Senate, March 31, 2016*

The Committee on Environment reported through SEN. KENNEDY of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING POLLINATOR HEALTH.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Not later than January 1,  
2 2017, the Commissioner of Agriculture, in collaboration with the  
3 Connecticut Agricultural Experiment Station and the Department of  
4 Energy and Environmental Protection, shall develop best practices for  
5 minimizing the airborne liberation of neonicotinoid insecticide dust  
6 from treated seeds and mitigating the effects of such dust on  
7 pollinators. Such best practices shall include, but not be limited to: (1)  
8 Methods to minimize such dust when treated seeds are dispensed  
9 from a seed bag into seed planter equipment; (2) guidance on the  
10 positioning of the vacuum system discharge of seed planter equipment  
11 to direct such discharge toward the soil; (3) time frames for the  
12 mowing of flowering vegetation located next to crop fields; (4)  
13 identification of weather conditions that minimize drift of such dust;  
14 and (5) suggestions for the use of seed lubricants to effectively  
15 minimize the drift of such dust. Each such state agency shall make the

16 best practices developed pursuant to this section available to farmers,  
17 any person who owns, operates or manages a farm or an agricultural  
18 facility and the general public by posting such best practices on the  
19 Internet web site of such state agency not later than February 15, 2017.  
20 For purposes of this section and sections 2 to 6, inclusive, of this act,  
21 "neonicotinoid," means any pesticide that acts selectively on the  
22 nicotinic acetylcholine receptors of an organism and that is required by  
23 the Environmental Protection Agency to contain a label that includes  
24 the bee advisory box.

25 Sec. 2. (NEW) (*Effective from passage*) (a) No person shall apply, in  
26 any manner, any insecticide that is a neonicotinoid, as defined in  
27 section 1 of this act, to any linden or basswood tree in this state.

28 (b) The Commissioner of Energy and Environmental Protection may  
29 enforce the provisions of this section and establish a fee for the  
30 violation of the provisions of this section pursuant to section 22a-6 of  
31 the general statutes.

32 Sec. 3. Section 22a-50 of the general statutes is amended by adding  
33 subsection (l) as follows (*Effective October 1, 2016*):

34 (NEW) (l) The commissioner shall classify all neonicotinoids, as  
35 defined in section 1 of this act, that are labeled for treating plants, as  
36 restricted use pursuant to subdivision (2) of subsection (c) of this  
37 section.

38 Sec. 4. (NEW) (*Effective from passage*) (a) No person shall apply any  
39 neonicotinoid, as defined in section 1 of this act, that is labeled for  
40 treating plants to any plant when such plant bears blossoms.

41 (b) The Commissioner of Agriculture, in conjunction with the  
42 Commissioner of Energy and Environmental Protection, may enforce  
43 the provisions of this section and establish a fine for the violation of  
44 this section pursuant to section 22-4c of the general statutes.

45 Sec. 5. (NEW) (*Effective from passage*) The director of the Connecticut  
46 Agricultural Experiment Station shall establish a Pollinator Advisory

47 Committee from the staff of such agency. Such committee shall consist  
48 of not fewer than three persons who have expertise in matters relating  
49 to the health and viability of pollinator populations in the state and  
50 who are knowledgeable of federal and other states' efforts concerning  
51 pollinator health. Such committee shall serve as an information  
52 resource for the joint standing committee of the General Assembly  
53 having cognizance of matters relating to the environment and shall  
54 work collaboratively with the members of said committee on matters  
55 pertaining to pollinators in the state.

56 Sec. 6. (*Effective from passage*) Not later than January 1, 2017, the  
57 Commissioners of Energy and Environmental Protection and  
58 Agriculture shall submit a report, in accordance with section 11-4a of  
59 the general statutes, to the joint standing committee of the General  
60 Assembly having cognizance of matters relating to the environment on  
61 the requisite statutory and regulatory changes for applying current  
62 statutory and regulatory restrictions and licensing requirements for the  
63 spraying of pesticides to the planting of seeds that are treated with  
64 neonicotinoids, as defined in section 1 of this act. Such report shall  
65 include, but not be limited to, an analysis of the consistency of such  
66 changes with federal law and any potential effects, including, but not  
67 limited to, improved pollinator health, expenses and delays, that such  
68 changes may have on agriculture in the state.

69 Sec. 7. (*Effective from passage*) Not later than January 1, 2017, the State  
70 Entomologist shall report, in accordance with section 11-4a of the  
71 general statutes, to the joint standing committee of the General  
72 Assembly having cognizance of matters relating to the environment on  
73 the conditions that cause an increase in the presence of varroa mites  
74 that affect honey bee and other pollinator populations in the state.  
75 Such report shall include, but not be limited to, any recommendations  
76 for legislation to assist in limiting or offsetting the effects of such  
77 conditions.

78 Sec. 8. (NEW) (*Effective from passage*) The Office of Policy and  
79 Management shall amend the state plan of conservation and

80 development adopted pursuant to chapter 297 of the general statutes  
81 to give priority to: (1) Development that includes model pollinator  
82 habitat, as described in section 11 of this act; and (2) the expenditure of  
83 state funds for conservation purposes when an aspect of such  
84 conservation includes the protection or enhancing of pollinator  
85 habitats.

86 Sec. 9. Subsection (i) of section 22-26cc of the general statutes is  
87 repealed and the following is substituted in lieu thereof (*Effective from*  
88 *passage*):

89 (i) The Commissioner of Agriculture, pursuant to any cooperative  
90 agreement with the United States Department of Agriculture for the  
91 disbursement of funds under federal law, may require that any  
92 property to which rights are acquired under this section with such  
93 funds shall be managed in accordance with a conservation plan which  
94 utilizes the standards and specifications of the Natural Resources  
95 Conservation Service field office technical guide and is approved by  
96 such service. Additionally, such conservation plan shall require the  
97 establishment of model pollinator habitat, as described in section 11 of  
98 this act. Any instrument by which the commissioner acquires such  
99 rights and for which any such funds are used may provide for a  
100 contingent right in the United States of America in the event that the  
101 state of Connecticut fails to enforce any of the terms of its rights  
102 acquired under this section which failure shall be determined by the  
103 United States Secretary of Agriculture. Such contingent right shall  
104 entitle the secretary to enforce any rights acquired by the state under  
105 this section by any authority provided under law. Such instrument  
106 may provide that such rights shall become vested in the United States  
107 of America in the event that the state of Connecticut attempts to  
108 terminate, transfer or otherwise divest itself of any such rights without  
109 the prior consent of the United States Secretary of Agriculture and  
110 payment of consideration to the United States and may further provide  
111 that title to such rights may be held by the United States of America at  
112 any time at the request of the United States Secretary of Agriculture. In  
113 connection with such an agreement, the commissioner may hold the

114 United States harmless from any action based on negligence in the  
115 procurement or management of any rights acquired under this section  
116 and may assure that proper title evidence is secured, that the title is  
117 insured to the amount of the federal cost paid for the interest of the  
118 United States of America and that, in the event of a failure of title, as  
119 determined by a court of competent jurisdiction, and payment of  
120 insurance to the state, the state will reimburse the United States for the  
121 amount of the federal cost paid.

122 Sec. 10. Subsection (j) of section 22-26nn of the general statutes is  
123 repealed and the following is substituted in lieu thereof (*Effective from*  
124 *passage*):

125 (j) The Commissioner of Agriculture, pursuant to any cooperative  
126 agreement with the United States Department of Agriculture for the  
127 disbursement of funds under federal law, may require that any  
128 property to which rights are acquired under this section with such  
129 funds shall be managed in accordance with a conservation plan which  
130 utilizes the standards and specifications of the Natural Resources  
131 Conservation Service field office technical guide and is approved by  
132 such service. Additionally, such conservation plan shall require the  
133 establishment of model pollinator habitat, as described in section 11 of  
134 this act. Any instrument by which the commissioner acquires such  
135 rights and for which any such funds are used may provide for a  
136 contingent right in the United States of America in the event that the  
137 state of Connecticut fails to enforce any of the terms of its rights  
138 acquired under this section which failure shall be determined by the  
139 United States Secretary of Agriculture. Such contingent right shall  
140 entitle the United States Secretary of Agriculture to enforce any rights  
141 acquired by the state under this section by any authority provided  
142 under law. Such instrument may provide that such rights shall become  
143 vested in the United States of America in the event that the state of  
144 Connecticut attempts to terminate, transfer or otherwise divest itself of  
145 any such rights without the prior consent of the United States  
146 Secretary of Agriculture and payment of consideration to the United  
147 States and may further provide that title to such rights may be held by

148 the United States of America at any time at the request of the United  
149 States Secretary of Agriculture. In connection with such an agreement,  
150 the commissioner may hold the United States harmless from any  
151 action based on negligence in the procurement or management of any  
152 rights acquired under this section and may assure that proper title  
153 evidence is secured, that the title is insured to the amount of the  
154 federal cost paid for the interest of the United States of America and  
155 that, in the event of a failure of title, as determined by a court of  
156 competent jurisdiction, and payment of insurance to the state, the state  
157 will reimburse the United States for the amount of the federal cost  
158 paid.

159 Sec. 11. (NEW) (*Effective from passage*) Not later than January 1, 2017,  
160 the Connecticut Agricultural Experiment Station shall develop a  
161 citizen's guide to model pollinator habitat that shall be made available  
162 on the Internet web site of such agency. Such guide shall include, but  
163 not be limited to: (1) Clearly stated information and steps to take for  
164 the establishment of a succession of flowers, wildflowers, vegetables,  
165 weeds, herbs, ornamental plants, cover crops and legume species to  
166 attract honey bees and other pollinators, provided such information  
167 shall include, but not be limited to, suggested groupings or clumpings  
168 of such plantings to establish a long season of continuous bloom for  
169 such plantings; and (2) information on how to protect important  
170 nesting sites for honey bees and other pollinators.

171 Sec. 12. (NEW) (*Effective from passage*) The Department of  
172 Transportation shall identify opportunities in the state for the  
173 replacement of nonnative, cool-season turf grasses installed along state  
174 highways with native plant communities that include model pollinator  
175 habitat, as described in section 11 of this act. In identifying such  
176 opportunities, the department may consider, but shall not be limited  
177 to, the availability of partnerships with private entities to assist in the  
178 funding of such replacement costs. Not later than January 1, 2017, the  
179 Commissioner of Transportation shall submit a report to the joint  
180 standing committees of the General Assembly having cognizance of  
181 matters relating to the environment and transportation on such

182 identified areas. Such report shall include, but not be limited to,  
 183 information concerning any proposed timetable for any such  
 184 replacements or proposed replacements, the location and dimensions  
 185 for any identified areas, information concerning any partnership with  
 186 a private entity to allay the costs of any such replacement or proposed  
 187 replacements, a description of the anticipated costs associated with any  
 188 such replacement or proposed replacement and a comparison of such  
 189 costs with the operational expenditures made to otherwise maintain  
 190 such areas.

191 Sec. 13. Section 16-50hh of the general statutes is repealed and the  
 192 following is substituted in lieu thereof (*Effective from passage*):

193 As part of its supervision of construction activity in connection with  
 194 any transmission line project, the Connecticut Siting Council may  
 195 order such restoration or revegetation of the right-of-way occupied by  
 196 the overhead transmission facilities approved with any transmission  
 197 line project as it deems necessary to promote the long-term restoration  
 198 of vegetation in portions of the right-of-way in residential areas where  
 199 there has been a significant and material loss of screening as a result of  
 200 clearing activities. Such restoration or revegetation orders shall include  
 201 the requirement to establish vegetation that includes model pollinator  
 202 habitat, as described in section 11 of this act, and shall be consistent  
 203 with all standards regarding required clearances between energized  
 204 conductors and vegetation and all standards regarding minimum  
 205 work distances for those working in proximity to conductors.

206 Sec. 14. (NEW) (*Effective from passage*) The Commissioner of  
 207 Transportation shall plant vegetation that includes pollinator habitat,  
 208 including, but not limited to, flowering vegetation, in areas that have  
 209 been deforested along state highway rights of way.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

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Sec. 3	<i>October 1, 2016</i>	22a-50
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	22-26cc(i)
Sec. 10	<i>from passage</i>	22-26nn(j)
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>from passage</i>	16-50hh
Sec. 14	<i>from passage</i>	New section

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Transportation, Dept.	TF - Potential Cost	See Below	See Below
Department of Energy and Environmental Protection	GF - Potential Cost	49,661	51,151
Department of Energy and Environmental Protection	GF - Potential Revenue Gain	See Below	See Below
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Potential Cost	19,835	20,430

Note: GF=General Fund; TF=Transportation Fund

**Municipal Impact:**

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Municipalities	Cost	Potential	Potential

**Explanation**

**Section 1** requires the Department of Agriculture (DoAg), in conjunction with the Connecticut Agricultural Experiment Station (CAES) and the Department of Energy and Environmental Protection (DEEP) to develop best practices by January 1, 2017 regarding certain uses and methods of applying neonicotinoid dust (a type of pesticide). As these agencies currently have staff with expertise in this area, there is no fiscal impact anticipated.

**Sections 2 and 4** prohibit anyone from applying neonicotinoid insecticides to certain trees or blossoming plants. It allows DEEP and

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<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 39.94% of payroll in FY 17 and FY 18.

DoAg to enforce the ban and allows the agencies to set penalties for violations. This may result in a revenue gain, to the extent violations occur.

There may be costs to municipalities that currently use neonicotinoids on certain trees or blossoming plants. These costs would vary based on the cost of alternative pesticides.

**Section 3** requires DEEP to classify all neonicotinoids that are labeled for treating plants as “restricted use” pesticides, but does not set a deadline for doing so. To the extent DEEP initiates the reclassification; DEEP would incur costs of \$49,661 in FY 17 and \$51,151 in FY 18, plus associated fringe benefits (of \$19,835 in FY 17 and \$20,430 in FY 18) for an Environmental Analyst I position.

**Section 5** requires CAES to establish a Pollinator Advisory Committee consisting of at least three existing agency staff with certain expertise in pollinators. This does not result in a fiscal impact.

**Sections 6, 7, and 12** require DEEP and DoAg, by January 1, 2017, to jointly report to the Environment Committee on (1) the statutory and regulatory changes needed to apply current restrictions, and (2) certain licensing requirements for pesticide spraying related to planting seeds treated with neonicotinoids. Both agencies currently have staff with expertise to make these reporting requirements. As such, these provisions do not result in a fiscal impact.

**Section 8** requires the Office of Policy and Management (OPM) to amend the state’s Plan of Conservation and Development for certain purposes but does not specify a deadline for doing so. There is no fiscal impact for OPM to update the plan, as the agency is already required to amend the plan periodically.

**Sections 9 - 11** require that a model pollinator habitat guide be established under certain conditions. **Section 11** specifically requires CAES to develop such a plan. These provisions have no fiscal impact.

**Section 13** requires the Siting Council’s revegetation orders of

overhead transmission line rights-of-way to include vegetation with model pollinator habitat. This may result in a cost to the state and municipalities depending on the ownership of the right-of-way.

**Section 14** requires the Department of Transportation (DOT) to (1) identify areas where nonnative, cool-season turf grass installed along state highways could be replaced with pollinator vegetation, and (2) report to the Environment and Transportation committees on these areas by January 1, 2017. To the extent DOT is required to replace the turf grass there will be a cost of up to \$20,000 per acre for the initial installation of pollinator vegetation.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of violations.

**OLR Bill Analysis****sSB 231*****AN ACT CONCERNING POLLINATOR HEALTH.*****SUMMARY:**

This bill establishes numerous requirements related to pollinator health and habitat. Pollinators are organisms that spread pollen between flowers, such as bees and butterflies.

Among other things, the bill:

1. prohibits applying neonicotinoid (a) insecticide to linden or basswood trees or (b) labeled for treating plants to plants with blossoms;
2. requires the Department of Energy and Environmental Protection (DEEP) commissioner to classify certain neonicotinoids as “restricted use” pesticides;
3. requires the Department of Agriculture (DoAg) commissioner to develop best practices for minimizing the release of neonicotinoid insecticide dust from treated seeds;
4. requires the Connecticut Agricultural Experiment Station (CAES) to develop a citizen’s guide to model pollinator habitat;
5. establishes a Pollinator Advisory Committee to inform legislators on pollinator issues;
6. specifies that Connecticut Siting Council orders to restore or revegetate in certain rights-of-way must include provisions for model pollinator habitat;
7. includes model pollinator habitat in any conservation plan

DoAg requires as part of its farm preservation programs;

8. requires the Office of Policy and Management (OPM) to amend the state's Plan of Conservation and Development to prioritize development with model pollinator habitat;
9. requires reports on (a) legislation needed to restrict or license planting neonicotinoid-treated seeds, (b) conditions leading to an increase in varroa mites, and (c) areas where the Department of Transportation (DOT) can replace turf grass with native plants and model pollinator habitat; and
10. requires the DOT commissioner to plant vegetation with pollinator habitat, including flowering vegetation, in deforested areas along state highway rights-of-way.

Under the bill, a neonicotinoid is a pesticide that (1) selectively acts on an organism's nicotinic acetylcholine receptors (i.e., impacts the nervous system) and (2) the federal Environmental Protection Agency labels, with its "bee advisory box", as potentially hazardous to bees and other insect pollinators.

EFFECTIVE DATE: Upon passage, except the provision requiring classifying certain neonicotinoids as "restricted use" is effective October 1, 2016.

#### **§§ 2 & 4 — NEONICOTINOID APPLICATION BANS**

The bill prohibits applying neonicotinoid (1) insecticides to linden or basswood trees in the state or (2) labeled for treating plants to plants when they have blossoms.

The bill allows the (1) DEEP commissioner to enforce the tree application ban and the DoAg commissioner, in conjunction with the DEEP commissioner, to enforce the plant application ban and (2) commissioners to set a fee or fine, respectively, for violating the bans.

#### **§ 3 — RESTRICTED USE CLASSIFICATION**

The bill requires the DEEP commissioner to classify all

neonicotinoids that are labeled for treating plants as “restricted use” pesticides, meaning that they may cause unreasonable adverse environmental effects. By law, this classification requires these pesticides to be applied only by a certified applicator or under his or her direct supervision or subject to other restrictions the commissioner imposes through regulations.

### **§ 1 — BEST PRACTICES ON NEONICOTINOID DUST**

By January 1, 2017, the bill requires the DoAg commissioner, in collaboration with CAES and DEEP, to develop best practices for (1) minimizing airborne liberation of neonicotinoid insecticide dust from treated seeds and (2) mitigating the dust’s effects on pollinators. The best practices must include:

1. methods for minimizing dust when dispensing treated seeds from a seed bag into seed planter equipment,
2. guidance on how to position vacuum system discharge from seed planter equipment so that the discharge is directed at the soil,
3. timeframes for mowing flowering vegetation adjacent to crop fields,
4. identification of weather conditions that minimize dust drift, and
5. suggestions for using seed lubricants to effectively minimize dust drift.

DoAg, CAES, and DEEP must post the best practices on their websites by February 15, 2017 so that they are available to the general public, including farmers and people who own, operate, or manage a farm or agricultural facility.

### **§ 11 — CITIZEN’S GUIDE ON MODEL POLLINATOR HABITAT**

The bill requires CAES to (1) develop a citizen’s guide to model pollinator habitat by January 1, 2017 and (2) make the guide available

on its website.

The guide must provide information on and the steps for establishing a succession of flowers, wildflowers, vegetables, weeds, herbs, ornamental plants, cover crops, and legumes to attract honeybees and other pollinators. It must suggest groupings or clumpings of the plantings to create a long season of continuous bloom. The guide must also provide information on how to protect important nesting sites for honeybees and other pollinators.

### **§ 5 — POLLINATOR ADVISORY COMMITTEE**

The bill requires the CAES director to establish a Pollinator Advisory Committee, consisting of at least three CAES staff. Committee members must have (1) expertise in the health and viability of Connecticut's pollinator populations and (2) knowledge of efforts at the federal level and in other states on pollinator health.

The bill charges the committee with serving as an information resource for the Environment Committee, requiring it to work collaboratively with legislators on pollinator matters.

### **§ 13 — VEGETATION IN RIGHT-OF-WAYS**

By law, the Connecticut Siting Council may order restoration or revegetation of overhead transmission line rights-of-way (ROW). It may do so to promote the long-term restoration of vegetation in the parts of the ROW in residential areas where there has been a significant and material loss of screening (e.g., fewer trees blocking the view of the line) due to clearing activities.

The bill requires the council's restoration or revegetation orders to include establishing vegetation with model pollinator habitat.

### **§§ 9 & 10 — DOAG FARMLAND PRESERVATION PROGRAMS**

By law, DoAg administers two programs to preserve farmland by purchasing development rights: the Farmland Preservation Program and the Community Farms Program. As part of these programs, the DoAg commissioner may require that the preserved land be managed

according to a conservation plan. Under the bill, if the commissioner requires a conservation plan, the plan must require establishment of model pollinator habitat.

### **§ 8 — PLAN OF CONSERVATION AND DEVELOPMENT**

Under the bill, OPM must amend the state's Plan of Conservation and Development to prioritize (1) development with model pollinator habitat and (2) expending state funds for conservation purposes when it involves protecting or enhancing pollinator habitat. But it does not specify a deadline for doing so.

By law, the plan is revised every five years. Presumably the bill's provisions would be incorporated into the plan when it is next amended. The current plan covers 2013 to 2018.

### **§§ 6, 7 & 12 — REPORTING REQUIREMENTS**

#### ***Legislation for Planting Treated Seeds***

The bill requires the DEEP and DoAg commissioners to jointly report to the Environment Committee on the statutory and regulatory changes needed to apply current restrictions and licensing requirements for pesticide spraying to planting seeds treated with neonicotinoids.

The report must analyze the consistency of the recommended changes with federal law and any potential effects of the changes on the state's agriculture, including improved pollinator health, expenses, and delays. It is due by January 1, 2017.

#### ***Varroa Mites***

The bill requires the state entomologist to report, by January 1, 2017, to the Environment Committee on the conditions that cause an increase in varroa mites (parasitic mites) that affect honeybee and other pollinator populations. The report must include legislative recommendations to help limit or offset the conditions' effects.

#### ***DOT-Identified Areas for Native Plant Communities***

The bill requires DOT to (1) identify areas where nonnative, cool-

season turf grass installed along state highways could be replaced with native plant communities that have model pollinator habitat and (2) report to the Environment and Transportation committees on these areas by January 1, 2017. DOT may consider partnering with private entities to help fund the replacement costs.

The bill requires DOT's report to provide:

1. information on (a) the location and dimension of any identified areas for replacement or proposed replacement and (b) any proposed timeframe for replacement,
2. a description of anticipated replacement costs,
3. a comparison of anticipated replacement costs to the operational expenses made to otherwise maintain the areas, and
4. information on any private partnership to reduce replacement costs.

### **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/11/2016)