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1 **HOUSE BILL NO. 411**

2 Offered January 14, 2026

3 Prefiled January 12, 2026

4 *A BILL to amend the Code of Virginia by adding a section numbered 33.2-228.1, relating to Commissioner of*
5 *Highways; certain agreements with the U.S. Department of Transportation; National Environmental*
6 *Policy Act.*

7 Patron—Reid

8 Committee Referral Pending

9 **Be it enacted by the General Assembly of Virginia:**10 **1. That the Code of Virginia is amended by adding a section numbered 33.2-228.1 as follows:**11 *§ 33.2-228.1. Agreements between Commissioner of Highways and U.S. Department of Transportation;*
12 *National Environmental Policy Act.*13 *A. The Commissioner of Highways may enter into agreements and cooperate with the U.S. Department of*
14 *Transportation, or any other appropriate federal agency, pursuant to 23 U.S.C. §§ 326 and 327, regarding*
15 *state assumption of responsibility for categorical exclusions and the Surface Transportation Project Delivery*
16 *Program for a term of five years. Pursuant to such an agreement, the Department may assume certain*
17 *responsibilities of the U.S. Secretary of Transportation and take any other actions required by any such*
18 *agreements or as authorized by 23 U.S.C. §§ 326 and 327, including adopting any rules or regulations and*
19 *making expenditures of money in connection with responsibilities assumed under such agreements.*20 *B. Subject to the limitations of subsection C, the Commonwealth hereby waives its immunity from civil*
21 *suit in a federal court under the Eleventh Amendment to the Constitution of the United States and consents to*
22 *the exclusive jurisdiction of the federal courts over any civil action solely with regard to the compliance,*
23 *discharge, or enforcement of the responsibilities assumed under agreements authorized by subsection A in*
24 *accordance with the same legal standards and requirements as would be applicable to a suit against the U.S.*
25 *Secretary of Transportation arising out of the responsibilities assumed under the agreement.*26 *C. The waiver of immunity under subsection B is valid only if (i) the Commissioner of Highways has*
27 *executed an agreement with the U.S. Department of Transportation pursuant to 23 U.S.C. § 326 or 327, (ii)*
28 *the act or omission that is the subject of the lawsuit arises out of the discharge of responsibilities assumed by*
29 *the Department pursuant to 23 U.S.C. § 326 or 327, and (iii) the agreement is in effect when the act or*
30 *omission that is the subject of the lawsuit occurs.*31 **2. That the Department of Transportation shall make any revisions to its National Environmental**
32 **Policy Act (NEPA) Program Manual as may be necessary from time to time to implement the**
33 **provisions of this act and shall post any proposed revisions to the NEPA Program Manual, excluding**
34 **administrative changes, on the Department of Transportation's website for public comment for a**
35 **period of 30 days that shall begin at least 45 days prior to the intended effective date of any such**
36 **revisions.**37 **3. That the provisions of this act shall expire five years after the date on which the first agreement is**
38 **entered into pursuant to the first enactment of this act unless the General Assembly reenacts this act or**
39 **enacts similar legislation authorizing the Commissioner of Highways to enter into a subsequent**
40 **agreement for a period of up to five years. The Commissioner of Highways shall, upon entering into an**
41 **agreement pursuant to this act, notify the chair of the Virginia Code Commission in writing of the date**
42 **on which he has entered into such agreement.**

INTRODUCED

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