

House Bill 463 (AS PASSED HOUSE AND SENATE)

By: Representatives Dempsey of the 13<sup>th</sup>, Coleman of the 97<sup>th</sup>, Carter of the 175<sup>th</sup>, Nix of the 69<sup>th</sup>, and Chandler of the 105<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 1A of Title 20 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to early care and learning, so as to authorize the  
3 Department of Early Care and Learning to establish a nonprofit corporation to qualify as a  
4 public foundation; to provide for requirements; to provide for an annual report; to provide  
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to  
9 general provisions relative to early care and learning, is amended by adding a new Code  
10 section to read as follows:

11 "20-1A-4.1.

12 (a) The department shall have the power and authority to incorporate a nonprofit  
13 corporation that could qualify as a public foundation under Section 501(c)(3) of the Internal  
14 Revenue Code to aid the department in carrying out any of its powers and in accomplishing  
15 any of its purposes. Any nonprofit corporation created pursuant to this power shall be  
16 created pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and  
17 the Secretary of State shall be authorized to accept such filing.

18 (b) Any nonprofit corporation created pursuant to this Code section shall be subject to the  
19 following provisions:

20 (1) In accordance with the Constitution of Georgia, no governmental functions or  
21 regulatory powers shall be conducted by any such nonprofit corporation;

22 (2) Upon dissolution of any such nonprofit corporation incorporated by the department,  
23 any assets shall revert to the department or to any successor to the department or, failing  
24 such succession, to the State of Georgia;

25 (3) As used in this paragraph, the term 'direct employee costs' means salary, benefits, and  
26 travel expenses. To avoid the appearance of undue influence on regulatory functions by

27 donors, no donations to any such nonprofit corporation from private sources shall be used  
28 for direct employee costs of the department;

29 (4) Any such nonprofit corporation shall be subject to all laws relating to open meetings  
30 and the inspection of public records;

31 (5) The department shall not be liable for the action or omission to act of any such  
32 nonprofit corporation;

33 (6) No debts, bonds, notes, or other obligations incurred by any such nonprofit  
34 corporation shall constitute an indebtedness or obligation of the State of Georgia nor shall  
35 any act of any such nonprofit corporation constitute or result in the creation of an  
36 indebtedness of the state. No holder or holders of any such bonds, notes, or other  
37 obligations shall ever have the right to compel any exercise of the taxing power of the  
38 state nor to enforce the payment thereof against the state; and

39 (7) Any nonprofit corporation created pursuant to this Code section shall not acquire or  
40 hold a fee simple interest in real property by any method, including but not limited to gift,  
41 purchase, condemnation, devise, court order, and exchange.

42 (c) Pursuant to this Code section, the department may establish a nonprofit corporation to  
43 be designated as the Georgia Foundation for Early Care and Learning to Promote  
44 Public-Private Partnerships between businesses, nonprofit organizations, institutions of  
45 higher education, local school systems, public schools, and early care and education  
46 programs for the purpose of supporting educational excellence for children and families.  
47 Funds received by the foundation may be awarded through a competitive grant process  
48 administered by the department. The General Assembly may appropriate funds for  
49 purposes of this foundation.

50 (d) Any nonprofit corporation created pursuant to this Code section shall make public and  
51 provide an annual report showing the identity of all donors and the amount each person or  
52 entity donated as well as all expenditures or other disposal of money or property donated."

53 **SECTION 2.**

54 All laws and parts of laws in conflict with this Act are repealed.