

House Bill 463 (AS PASSED HOUSE AND SENATE)

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

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.