

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 649\*

Economic Development Committee Substitute Adopted 5/13/91

Short Title: Air Cargo Airport Authority.

(Public)

Sponsors:

Referred to:

April 16, 1991

A BILL TO BE ENTITLED  
AN ACT TO CREATE THE NORTH CAROLINA AIR CARGO AIRPORT  
AUTHORITY, TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO  
FINANCE AIRPORT AND INDUSTRIAL FACILITIES, TO AUTHORIZE  
UNITS OF LOCAL GOVERNMENT TO TAKE CERTAIN ACTIONS RELATED  
TO CARGO AIRPORT COMPLEXES, AND TO MAKE CONFORMING  
CHANGES TO OTHER STATUTES.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

**“CHAPTER 159J.**

**“NORTH CAROLINA AIR CARGO AIRPORT AUTHORITY.**

**“§ 159J-1. Short title.**

This Chapter is the ‘North Carolina Air Cargo Airport Authority Act.’ It is enacted in part pursuant to Article V, Section 13, of the North Carolina Constitution with the intent that the body politic and corporate created by this Chapter shall have all power and authority as may be provided to it under that section of the Constitution.

**“§ 159J-2. Definitions.**

The following definitions apply in this Chapter:

(1) Aircraft. – A contrivance that is used or designed for flight.

(2) Airport project. – Any of the following that is part of or is used in connection with a cargo airport or a facility at a cargo airport complex site and is not a special user project:

1           a.     Land, equipment, or buildings or other structures, whether  
2                 located on one or more sites.

3           b.     The addition to or the rehabilitation, improvement, renovation,  
4                 or enlargement of any property described in subpart a.

5           The term includes infrastructure improvements, such as improvements  
6           to railroad facilities, roads, bridges, and water, sewer, or electric  
7           utilities even if not located on a cargo airport complex site. An airport  
8           project may include a facility leased to one or more entities under a  
9           true lease.

10          (3)    Authority. – The North Carolina Air Cargo Airport Authority.

11          (4)    Board. – The Board of Directors of the Authority.

12          (5)    Bonds. – The revenue bonds authorized to be issued by the Authority  
13                 under this Chapter.

14          (6)    Cargo airport. – Any area of land or water that is designed for the  
15                 landing and takeoff of aircraft, any appurtenant area used or suitable  
16                 for airport buildings or other airport facilities, and any appurtenant  
17                 right-of-way. A cargo airport may contain facilities to shelter, service,  
18                 or repair aircraft and may contain facilities to discharge and receive  
19                 passengers.

20          (7)    Cargo airport complex. – A cargo airport and all other facilities,  
21                 including private facilities, related to the cargo airport that are located  
22                 within the cargo airport complex site.

23          (8)    Cargo airport complex site. – The area designated by the Authority as  
24                 the location of a cargo airport complex.

25          (9)    Costs. – The capital cost of a project, including:

26           a.     The costs of doing any or all of the following:

27                 1.     Acquiring, constructing, erecting, providing, developing,  
28                         installing, furnishing, and equipping.

29                 2.     Reconstructing, remodeling, altering, renovating,  
30                         replacing, refurbishing, and reequipping.

31                 3.     Enlarging, expanding, and extending.

32                 4.     Demolishing, relocating, improving, grading, draining,  
33                         landscaping, paving, widening, and resurfacing.

34           b.     The costs of all property, both real and personal and both  
35                 improved and unimproved, and of plants, works, appurtenances,  
36                 structures, facilities, furnishings, machinery, equipment,  
37                 vehicles, easements, water rights, air rights, franchises, and  
38                 licenses used or useful in connection with the project.

39           c.     The costs of demolishing or moving structures from land  
40                 acquired and acquiring land to which the structures are to be  
41                 moved.

42           d.     Financing charges, including estimated interest during the  
43                 acquisition or construction of a project and for one year  
44                 thereafter.

- 1           e.     The costs of services to provide plans, specifications, studies,  
2           reports, surveys, and estimates of costs and revenues.
- 3           f.     The costs of paying any interim financing, including principal,  
4           interest and premium, related to the acquisition or construction  
5           of the project.
- 6           g.     Administrative and legal expenses and administrative charges.
- 7           h.     The costs of obtaining bond and reserve fund insurance and  
8           investment contracts, of credit-enhancement facilities, liquidity  
9           facilities, and interest-rate agreements, and of establishing and  
10          maintaining debt service and other reserves.
- 11          i.     Any other services, costs, and expenses necessary or incidental  
12          to the project.
- 13       (10) Credit facility. – An agreement by the Authority with a banking  
14       institution, an insurance institution, an investment institution, or other  
15       financial institution located inside or outside the United States of  
16       America that provides for prompt payment, whether at maturity,  
17       presentment, or tender for purchase, redemption, or acceleration, of  
18       part or all of the principal or purchase price, redemption premium, if  
19       any, and interest on a bond or note issued by the Authority and for  
20       repayment of the institution by the Authority.
- 21       (11) Financing agreement. – A written instrument establishing the rights  
22       and responsibilities of the Authority and the operator concerning a  
23       special user project financed by the issuance of bonds. A financing  
24       agreement may be a lease, a lease and lease-back, a sale and lease-  
25       back, a lease purchase, an installment sale and purchase agreement, a  
26       conditional sales agreement, a secured or unsecured loan agreement, or  
27       other similar contract, and may involve property in addition to the  
28       property financed with the bonds.
- 29       (12) Local Government Commission. – The Local Government  
30       Commission of the Department of the State Treasurer, established by  
31       Article 2 of Chapter 159 of the General Statutes.
- 32       (13) Notes. – Revenue notes or revenue bond anticipation notes issued by  
33       the Authority under this Chapter.
- 34       (14) Obligor. – A person, including an operator, who has entered into a  
35       financing or other agreement obligating the person to make payments  
36       to the Authority or to holders of bonds issued to finance a special user  
37       project.
- 38       (15) Operator. – The person entitled to the use or occupancy of a special  
39       user project.
- 40       (16) Par formula. – A provision or formula to make periodic adjustments in  
41       the interest rate of a bond or note, including:
- 42           a.     A provision for an adjustment to keep the purchase price of the  
43           bond or note in the open market as close to par as possible.

- 1           b. A provision for an adjustment based on one or more  
2           percentages of a prime rate or base rate that may vary or apply  
3           for specified periods of time.
- 4           c. Any other provision that does not materially and adversely  
5           affect the financial position of the Authority and the marketing  
6           of the bonds or notes at a reasonable interest cost to the  
7           Authority.
- 8           (17) Person. – Any person, corporation, partnership, association, trust, or  
9           other legal entity.
- 10          (18) Project. – An airport project or a special user project.
- 11          (19) Revenues. – For a special user project, the term means rents, fees,  
12          charges, payments, proceeds, or other income or profit derived from  
13          the special user project or from the financing agreement or security  
14          document for the special user project. For an airport project, the term  
15          means rents, fees, charges, payments, proceeds, or other income or  
16          profit derived from the airport project or from any pledge of nontax  
17          revenues or appropriation or payment made by the State or a county in  
18          which the cargo airport is located or pledge of tax revenues made by a  
19          county under G.S. 159J-13.
- 20          (20) Security document. – One or more written instruments establishing the  
21          rights and responsibilities of the Authority and the holders of bonds  
22          issued to finance a special user project. A security document may  
23          provide for, or be in the form of an agreement with, a trustee for the  
24          benefit of the bondholders. A security document may contain an  
25          assignment, pledge, mortgage, or other encumbrance of part or all of  
26          the Authority's interest in, or right to receive revenues from, a special  
27          user project or any other property provided by the operator or other  
28          obligor under a financing agreement. A financing agreement and a  
29          security document may be combined as one instrument.
- 30          (21) Special user project. – Any land, equipment, or buildings or other  
31          structures located on one or more sites within a cargo airport complex  
32          site and the addition to or the rehabilitation, improvement, renovation,  
33          or enlargement of a structure located within a cargo airport complex  
34          site when the property is to be used as or in connection with any of the  
35          following:
- 36               a. An undertaking for industry, including an industrial or a  
37               manufacturing factory, mill, assembly plant, or fabricating  
38               plant, a freight terminal, an industrial research, development, or  
39               laboratory facility, an industrial processing or distribution  
40               facility for industrial or manufactured products;
- 41               b. A commercial, processing, mining, transportation, distribution,  
42               storage, marine, aviation, or environmental facility or  
43               improvement; or
- 44               c. Any combination of items mentioned subparts a. and b;

1 provided such special user project, during its economic life, is to be  
2 principally used by one or more for-profit entities other than as lessee  
3 under a true lease.

4 A special user project may include all appurtenances and incidental  
5 facilities such as land, a headquarters or office facility, warehouses,  
6 distribution centers, access roads, sidewalks, utilities, railway sidings,  
7 trucking and similar facilities, parking facilities, waterways, docks,  
8 wharves, and other improvements necessary or convenient for the  
9 construction, maintenance, and operation of any structure.

10 (22) True lease. – A lease which has a fair market value rental and is nor  
11 treated as a financing lease or installment sale for federal tax law  
12 purposes.

13 **"§ 159J-3. Creation of Authority; members.**

14 (a) Creation. There is created the North Carolina Air Cargo Airport Authority  
15 which shall be a body corporate and politic having the powers and jurisdiction as  
16 provided under this Chapter and other additional powers as may be conferred upon the  
17 Authority by further acts of the General Assembly. The Authority shall be a public  
18 agency and an instrumentality of the State for the performance of essential  
19 governmental and public functions.

20 (b) Board of Directors. The Board of Directors of the Authority shall be its  
21 governing board, which shall consist of not less than 14 members. Seven members shall  
22 be appointed by the Governor; two members shall be appointed by the General  
23 Assembly upon the recommendation of the Speaker of the House of Representatives in  
24 accordance with G.S.120-121; two members shall be appointed by the General  
25 Assembly upon the recommendation of the President of the Senate in accordance with  
26 G.S.120-121; and two members shall be appointed by the General Assembly upon the  
27 recommendation of the President Pro Tempore of the Senate in accordance with  
28 G.S.120-121; the State Treasurer shall serve as an ex officio voting member; and within  
29 90 days after the acquisition of land by the Authority for development as part of a cargo  
30 airport complex site, either by purchase or condemnation, the board of county  
31 commissioners in any county in which a portion of the land is located may, by a  
32 majority vote of those commissioners in attendance, appoint one member to serve on the  
33 Authority.

34 (c) Terms. Appointments to the Board of Directors shall be for the terms set  
35 forth as follows:

36 (1) Appointments made by the Governor shall be for a term of four years,  
37 with the terms of three initial appointees ending on December 31,  
38 1994, and the terms of four initial appointees ending on December 31,  
39 1995.

40 (2) Appointments made by the General Assembly upon the  
41 recommendation of the Speaker of the House of Representatives, the  
42 President of the Senate, or the President Pro Tempore of the Senate  
43 shall be made in accordance with G.S. 120-121 for a term of four  
44 years, with the term of one initial appointee recommended by each

1                    officer ending on December 31, 1994, and the terms for the other  
2                    initial appointee recommended by each officer ending on December  
3                    31, 1995.

4            (3)    Appointments made by the boards of county commissioners shall be  
5                    for a term of four years, initially ending on the second December 31  
6                    occurring after such appointment.

7            (d)    Chair and Vice-chair of the Board. The Governor shall designate one of his  
8                    appointees as the Chair of the Board. The Governor shall convene the first meeting, at  
9                    which time the members of the Board shall elect from their membership a Vice-chair of  
10                   the Authority.

11           (e)    Composition of the Board. After selecting the Chair, the remaining members  
12                   of the Board appointed by the Governor shall be selected from the State at large and  
13                   shall represent the geographical regions of the State as follows: two shall represent the  
14                   western region of the State, two shall represent the piedmont region of the State, and  
15                   two shall represent the eastern region of the State. In addition, the members appointed  
16                   by the Governor shall be representative of business, agribusiness, and industrial  
17                   interests of the State.

18           (f)    Vacancies. All members of the Board shall remain in office until their  
19                   successors are appointed and qualify. Vacancies in appointments made by the Governor  
20                   or a board of county commissioners shall be filled by the Governor or the county  
21                   commissioners for the remainder of the unexpired terms. Vacancies in appointments  
22                   made by the General Assembly upon the recommendation of the Speaker of the House  
23                   of Representatives, the President of the Senate, or the President Pro Tempore of the  
24                   Senate shall be filled in accordance with G.S. 120-122. Persons appointed to fill  
25                   vacancies shall qualify in the same manner as persons appointed for full terms.

26           (g)    Removal of Board Members. Any member of the Board may be removed  
27                   from office for misfeasance, malfeasance, nonfeasance, or improper influence in  
28                   accordance with the provisions of G.S. 143B-13, and the resulting vacancy shall be  
29                   filled as provided by subsection (f) of this section.

30           (h)    Organization of the Board. The Board shall adopt bylaws with respect to the  
31                   calling of meetings, quorums, voting procedures, the keeping of records, and other  
32                   organizational and administrative matters as the Board may determine. A quorum shall  
33                   consist of no less than seven members of the Board. No vacancy in the membership of  
34                   the Board shall impair the right of a quorum to exercise all rights and to perform all the  
35                   duties of the Board and the Authority.

36           (i)    Compensation of the Board. No part of the revenues or assets of the Authority  
37                   shall inure to the benefit of or be distributable to the members of the Board or officers  
38                   or other private persons. The members of the Board shall receive no salary for their  
39                   services but shall be entitled to receive per diem and allowances in accordance with the  
40                   provisions of G.S. 138-5.

41           (j)    Treasurer. The Board shall select the Authority's treasurer. The Board shall  
42                   require a surety bond of the appointee in the amount as the Board may fix, and the  
43                   premium shall be paid by the Authority as a necessary expense of the Authority.

1       (k) Executive Director and other Employees. The Board shall appoint an  
2 executive director, whose salary shall be fixed by the Board, to serve at its pleasure. The  
3 executive director or his designee shall appoint, employ, dismiss and, within the limits  
4 of available funding, fix the compensation of other employees as he deems necessary.

5       (l) Office. The Board shall establish an office for the transaction of the  
6 Authority's business at the place as, in the opinion of the Board, shall be advisable or  
7 necessary to implement the provisions of this Chapter.

8 **"§ 159J-4. Powers of the Authority.**

9       (a) The Authority shall have all of the powers necessary to execute the provisions  
10 of this Chapter, which shall include at least the following powers:

- 11       (1) To sue and be sued, to make contracts, and to adopt and use a common  
12 seal and alter the seal as necessary;
- 13       (2) To establish, finance, purchase, construct, operate, and regulate cargo  
14 airport complexes and to own, finance, lease, sell, or manage real or  
15 personal property;
- 16       (3) To charge and collect fees and rents for the use of the cargo airport  
17 complexes or for services rendered in the operation of the complexes;
- 18       (4) To contract and enter into agreements with the State, local  
19 government, other authorities of North Carolina, and other states for  
20 the interchange of business and to facilitate the business of cargo  
21 airport complexes;
- 22       (5) To rent, lease, purchase, acquire, mortgage, encumber, or dispose of  
23 real or personal property, including the power of eminent domain to be  
24 exercised without review or concurrence by the Council of State;
- 25       (6) To establish, construct, purchase, maintain, equip, and operate any  
26 structure or facilities to aid commerce associated with a cargo airport  
27 complex, including the construction of highways, bridges, shipping  
28 facilities, electronic cargo transfer systems, mass transit systems, and  
29 other transportation facilities;
- 30       (7) To create and operate the agencies and departments as necessary for  
31 the furtherance of any of the provisions of this Chapter;
- 32       (8) To pay all necessary costs and expenses in the formation, organization,  
33 administration, and operation of the Authority;
- 34       (9) To apply for, accept, and administer loans and grants of money from  
35 any federal agency, the State or its political subdivisions or from any  
36 public or private sources available; to expend the money in accordance  
37 with the requirements imposed by the federal agency, the State or its  
38 political subdivisions, or any public or private lender or donor; to give  
39 evidences of indebtedness as shall be required, provided, that no  
40 indebtedness of any kind incurred or created by the Authority shall  
41 constitute an indebtedness of the State or its political subdivisions, and  
42 no such indebtedness shall involve or be secured by the faith, credit or  
43 taxing power of the State or its political subdivisions except indirectly  
44 as permitted by G.S. 159J-13;

- 1           (10) To adopt, alter, or repeal its own bylaws or rules implementing the  
2           provisions of this Chapter;
- 3           (11) To execute financing agreements, security documents, and other  
4           instruments necessary in the exercise of the Authority under this  
5           Chapter;
- 6           (12) To fix, charge, collect, pledge, or assign revenues of the Authority;
- 7           (13) To employ consulting engineers, architects, attorneys, real estate  
8           counselors, appraisers, and other consultants and employees as may be  
9           required in the judgment of the Board and to fix and pay their  
10           compensation from funds available to the Authority and to select and  
11           retain the financial consultants, underwriters, and bond attorneys to be  
12           associated with the issuance of any bonds and to pay for services  
13           rendered by underwriters, financial consultants, or bond attorneys out  
14           of the proceeds of any issue with regard to which the services were  
15           performed;
- 16           (14) To issue revenue bonds or notes of the Authority as provided under  
17           this Chapter to pay the cost of the acquisition, construction,  
18           reconstruction, improvement, extension, enlargement, operation, or  
19           equipping of projects;
- 20           (15) To issue revenue refunding bonds of the Authority as provided under  
21           this Chapter;
- 22           (16) To provide for the defense of civil and criminal actions and to pay civil  
23           judgments against employees, officers, former employees or officers,  
24           and members or former members of the Board as authorized by G.S.  
25           160A-167;
- 26           (17) To purchase real or personal property as provided by G.S. 160A-20;
- 27           (18) To procure and maintain adequate insurance or otherwise provide for  
28           the adequate protection to indemnify and save harmless the Authority  
29           and its officers, agents, employees, adjoining property owners, or the  
30           general public against loss or liability resulting from any act or  
31           omission by or on behalf of the Authority;
- 32           (19) To enter into agreements with counties pursuant to G.S. 159J-13 and  
33           enforce pledges of payments made pursuant to that agreement;
- 34           (20) To exercise the powers granted political subdivisions under Article 4,  
35           Chapter 63 of the General Statutes and to exercise the powers granted  
36           to counties or municipalities under Article 6, Chapter 63 of the  
37           General Statutes governing public airports and related facilities;
- 38           (21) To act as agent for the United States of America or any agency,  
39           department, corporation, or instrumentality thereof.
- 40           (22) To enter into agreements and contracts with units of local government  
41           pursuant to, and exercise all powers of a unit of local government  
42           derived from, Part 1 of Article 20 of Chapter 160A of the General  
43           Statutes.



1           (23) With the approval of any unit of local government, to use officers,  
2           employees, agents, and facilities of the unit of local government for the  
3           purposes and upon the terms as may be mutually agreeable; and

4           (24) To do all acts necessary to carry out the provisions of this Chapter.

5           (b) To execute the powers provided in subsection (a) of this section, the Board  
6           shall determine the policies of the Authority by majority vote of all members of the  
7           Board present and voting. Once a policy is determined, the Board shall communicate it  
8           to the executive director, who shall have the sole and exclusive authority to execute the  
9           policy of the Authority. No member of the Board shall have the responsibility or  
10           authority to give operational directives to any employee of the Authority other than the  
11           executive director.

12           **"§ 159J-5. Acquisition of property; exchange.**

13           The Authority may acquire property by purchase, negotiation, gift, devise, or by  
14           eminent domain. To exercise the right of eminent domain, proceedings shall be  
15           maintained by and in the name of the Authority. The Authority may proceed in the  
16           manner provided by the general laws of the State for the procedure by any county,  
17           municipality, or authority organized under the laws of this State, or by the Board of  
18           Transportation, or in any other manner provided by law, as the Authority may, in its  
19           discretion, elect. The Authority's power of eminent domain shall apply to property of  
20           persons, State agencies, or units of local government already devoted to public use.  
21           Transfer of land owned by the State shall not be subject to review or approval by the  
22           Governor or Council of State, and the Secretary of the Department of Administration  
23           shall execute and deliver a deed transferring fee simple title for the property to the  
24           Authority.

25           The Authority may exchange any property acquired under the authority of this  
26           Chapter for other property usable in carrying out the powers conferred on the Authority  
27           and also may remove from lands needed for its purposes and reconstruct on other  
28           locations, buildings, terminals, or other structures, upon the payment of just  
29           compensation, if in its judgment, it is necessary or expedient so to do in order to carry  
30           out any of its plans for development, under the authorization of this Chapter.

31           **"§ 159J-6. Police power.**

32           (a) The Authority has jurisdiction within a cargo airport complex site. The  
33           Board may adopt ordinances regulating traffic and parking within the cargo airport  
34           complex site and for the safety and welfare of those using the cargo airport complex. An  
35           ordinance adopted under this subsection shall be recorded in the minutes of Board. A  
36           copy of the ordinance shall be filed in the office of the Attorney General of North  
37           Carolina and shall be posted at appropriate places in the cargo airport complex site.  
38           Any person who violates an ordinance of the Authority is guilty of a misdemeanor and  
39           is punishable by a fine of up to fifty dollars (\$50.00) or imprisonment for up to 30 days.

40           (b) The executive director of the Authority may designate employees of the  
41           Authority as special police officers. A person designated as a special police officer has  
42           jurisdiction within the cargo airport complex site to arrest a person who violates any  
43           federal or State law or any ordinance of the Authority and has other powers to the same  
44           extent as police officers of incorporated municipalities. An employee designated as a

1 special police officer shall take the oath of a law enforcement officer set out in G.S. 11-  
2 11.

3 **"§ 159J-7. Authority funds.**

4 All Authority funds shall be deposited in a bank to be designated by the Board.  
5 Funds of the Authority shall be paid out only upon warrants signed by the treasurer or  
6 assistant treasurer of the Authority and countersigned by the chair, the acting chair, or  
7 the executive director. No warrants shall be drawn or issued disbursing any of the funds  
8 of the Authority except for a purpose authorized by this Chapter and only when the  
9 account or expenditure has been audited and approved by the Authority or its executive  
10 director.

11 **"§ 159J-8. Bonds.**

12 (a) The Authority may provide for the issuance, at one time or from time to time,  
13 of bonds and notes, including bond anticipation notes and renewal notes, of the  
14 Authority to carry out its corporate purposes including financing the costs of projects.  
15 The principal of and interest on the bonds or notes shall be payable solely from funds  
16 provided under this Chapter for their payment. A bond anticipation note may be made  
17 payable from the proceeds of bonds or renewal notes or, in the event bond or renewal  
18 note proceeds are not available, from any available Authority revenues or other funds  
19 provided for this purpose. Bonds and notes may also be paid from the proceeds of any  
20 credit facility.

21 The bonds and notes of each issue shall be dated and may be made redeemable prior  
22 to maturity at the option of the Authority or otherwise, at one or more prices, on one or  
23 more dates, and upon the terms and conditions set by the Authority. The bonds or notes  
24 may also be made payable from time to time on demand or tender for purchase by the  
25 owner upon terms and conditions set by the Authority.

26 A bond or note shall bear interest at a rate or rates, including variable rates, as  
27 determined by the Local Government Commission with the approval of the Authority.  
28 A bond or note may be secured by a reserve fund created for that purpose and funded  
29 from proceeds of the bond or note, revenues, or any other source of funds available to  
30 the Authority.

31 (b) In fixing the details of bonds or notes, the Authority may provide that the  
32 bonds or notes may:

33 (1) Be payable from time to time on demand or tender for purchase by the  
34 owner of the bond or note if a credit facility supports the bond or note,  
35 unless the Local Government Commission specifically determines that  
36 a credit facility is not required because the absence of a credit facility  
37 will not materially and adversely affect the financial position of the  
38 Authority and the marketing of the bonds or notes at a reasonable  
39 interest cost to the Authority

40 (2) Be additionally supported by a credit facility.

41 (3) If the bonds or notes are issued to finance an airport project, be  
42 additionally supported by a pledge of any agreement entered into  
43 pursuant to G.S. 159J-13.

- 1           (4) Be made subject to redemption or a mandatory tender for purchase  
2 prior to maturity.  
3           (5) Be capital appreciation bonds.  
4           (6) Bear interest at a rate or rates that may vary, including variations  
5 permitted pursuant to a par formula.  
6           (7) Be made the subject of a remarketing agreement whereby an attempt is  
7 made to remarket the bonds or notes to new purchasers prior to their  
8 presentment for payment to the provider of the credit facility or to the  
9 Authority.

10       (c) Notes and bonds shall mature at the times determined by the Authority, not to  
11 exceed 40 years from the date of issue. The Authority shall determine the form and  
12 manner of execution of a bond or note, including any interest coupons to be attached to  
13 the bond or note. The Authority shall fix the denominations and places of payment of  
14 principal and interest of the bond or note. The principal of and interest on a bond or  
15 note may be paid at any bank or trust company, whether located inside or outside the  
16 United States of America.

17       (d) The validity of a bond, note, or coupon that has the signature or facsimile  
18 signature of a person who was an officer when the bond, note, or coupon was signed or  
19 the facsimile signature attached but who is not that officer when the bond, note, or  
20 coupon is delivered is not affected by the change in officers. A bond, note, or coupon  
21 may bear the signature or facsimile signature of a person who will be the proper officer  
22 to sign the bond, note, or coupon when it is executed but who is not the officer on the  
23 date of the bond, note, or coupon.

24       (e) The Authority may provide for any of the following:

- 25           (1) Authentication of a bond or note by a trustee or other authenticating  
26 agent.  
27           (2) Issuance of a bond or note as a certificated obligation, an  
28 uncertificated obligation, or both.  
29           (3) Issuance of a bond or note in coupon form, in registered form, or both.  
30           (4) Registration of a coupon bond or note as to principal alone or as to  
31 both principal and interest.  
32           (5) The reconversion of a bond or note registered as to both principal and  
33 interest into a coupon bond or note.  
34           (6) The interchange of registered and coupon bonds or notes.  
35           (7) A system for registration.  
36           (8) Replacement of a bond or note that has been mutilated, lost, or  
37 destroyed.

38       (f) The Authority may not issue a bond or note under this Chapter unless its  
39 issuance is approved by the Local Government Commission, and it is sold by the Local  
40 Government Commission. To obtain approval of a bond or note, the Authority shall file  
41 an application for approval with the Local Government Commission. The application  
42 shall contain the information required by the Local Government Commission.

43       In determining whether to approve a proposed bond or note issue of the Authority,  
44 the Local Government Commission shall consider the criteria in G.S. 159-52, the

1 criteria in G.S. 159-86, and the effect of the proposed financing upon any proposed or  
2 scheduled sale of obligations by the State, another State agency, or a unit of local  
3 government. The Local Government Commission shall approve the proposed bond or  
4 note issue if it determines that the proposed financing for the issue meets the criteria and  
5 will effect the purposes of this Chapter.

6 When the Local Government Commission approves a bond or note issue of the  
7 Authority, the Authority may submit a written request to the Local Government  
8 Commission to sell the approved bonds or notes. Upon receiving a written request, the  
9 Local Government Commission shall consult with the Authority on the manner in which  
10 the bonds or notes will be sold and the price or prices at which the bonds or notes will  
11 be sold. With the approval of the Authority, the Local Government Commission shall  
12 sell the bonds or notes either at public or private sale in the manner and at the prices  
13 determined to be in the best interest of the Authority and to effect the purposes of this  
14 Chapter.

15 Bonds or notes may be issued under the provisions of this Chapter without  
16 obtaining, except as otherwise expressly provided in this Chapter, the consent of any  
17 department, division, commission, board, body, bureau, or agency of the State or  
18 without any other proceedings or conditions except as specifically authorized by this  
19 Chapter or by the provisions of the resolution authorizing the issuance of, or any trust  
20 agreement securing, the bonds or notes.

21 (g) Each bond or note that is represented by an instrument shall contain a  
22 statement signed by the Secretary of the Local Government Commission, or an assistant  
23 designated by the Secretary, certifying that the issuance of the bond or note has been  
24 approved under this Chapter. The signature may be a manual signature or a facsimile  
25 signature, as determined by the Local Government Commission. Each bond or note that  
26 is not represented by an instrument shall be evidenced by a writing relating to the  
27 obligation that identifies the obligation or the issue of which it is a part, contains the  
28 signed statement certifying approval of the Local Government Commission that is  
29 required on an instrument, and is filed with the Local Government Commission. A  
30 certification of approval by the Local Government Commission is conclusive evidence  
31 that a bond or note complies with this Chapter.

32 (h) The proceeds of a bond or note shall be used solely for the purposes for  
33 which the bond or note was issued and shall be disbursed in accordance with the  
34 resolution authorizing the issuance of the bond or note and with any trust agreement  
35 securing the bond or note.

36 (i) Prior to the preparation of definitive bonds, the Authority may issue interim  
37 receipts or temporary bonds, with or without coupons, exchangeable for definitive  
38 bonds when the bonds have been executed and are available for delivery.

39 (j) The Authority may secure a bond or note issued under this Chapter by a trust  
40 agreement between the Authority and a corporate trustee. The corporate trustee may be  
41 any trust company or bank having the powers of a trust company inside or outside the  
42 State. The Authority may secure a bond or note issued under this Chapter by a deed of  
43 trust. The trustee of the deed of trust may be an individual who is a resident of the  
44 State. A bank or trust company that is incorporated in this State and is a depository of

1 the proceeds of obligations, revenues, or other money of an Authority may furnish  
2 indemnifying bonds or pledge securities required by the Authority.

3 The pledge of any assets, income, or revenues of the Authority to the payment of the  
4 principal of or the interest on any obligations of the Authority is binding from the time  
5 the pledge is made, and any assets, income, or revenues of the Authority are  
6 immediately subject to the lien of the pledge without any physical delivery or other act.  
7 The lien created by a pledge is binding against all persons who have claims of any kind  
8 against the Authority, regardless of whether they have notice of the lien.

9 (k) A resolution authorizing the issuance of a bond or note and a trust agreement  
10 securing a bond or note may provide that any moneys held under the resolution or trust  
11 agreement may be temporarily invested pending disbursement. Any officer with whom,  
12 or any bank or trust company with which, the moneys are deposited is considered a  
13 trustee of the moneys and must hold and apply the moneys for their stated purpose in  
14 accordance with this Chapter and the resolution or trust agreement. The Authority may  
15 invest any moneys, other than the proceeds of bonds issued to finance special user  
16 projects, as provided in this subsection or G.S. 159-30. The proceeds of bonds issued to  
17 finance special user projects may be invested as provided in the security document for  
18 the bonds.

19 In connection with or incidental to the acquisition or carrying of any investment  
20 relating to bonds, program of investment relating to bonds, or carrying of bonds, the  
21 Authority may enter into a contract to place the investment or obligation of the  
22 Authority, as represented by the bonds, investment, or program of investment and the  
23 contract or contracts, in whole or in part, on an interest rate, currency, cash-flow, or  
24 other basis, including the following:

- 25 (1) Interest rate swap agreements, currency swap agreements, insurance  
26 agreements, forward payment conversion agreements, and futures.
- 27 (2) Contracts providing for payments based on levels of, or changes in,  
28 interest rates, currency exchange rates, or stock or other indices.
- 29 (3) Contracts to exchange cash flows or a series of payments.
- 30 (4) Contracts to hedge payment, currency, rate, spread, or similar  
31 exposure, including interest rate floors or caps, options, puts, and calls.

32 The Authority may enter a contract of this type in connection with, or incidental to,  
33 entering into or maintaining any agreement that secures bonds. A contract shall contain  
34 the payment, security, term, default, remedy, and other terms and conditions the Board  
35 considers appropriate. The Authority may enter a contract of this type with any person  
36 after giving due consideration, where applicable, of the person's creditworthiness as  
37 determined by a rating by a nationally recognized rating agency or any other criteria the  
38 Board deems appropriate. In connection with, or incidental to, the issuance or carrying  
39 of bonds, or entering into any of the contracts described in this subsection, the Authority  
40 may enter into credit enhancement or liquidity agreements, with payment, interest rate,  
41 termination date, currency, security, default, remedy, and other terms and conditions as  
42 the Authority determines. Proceeds of bonds and any moneys set aside and pledged to  
43 secure payment of bonds or any of the contracts entered into pursuant to this subsection

1 may be pledged to and used to service any of the contracts entered into pursuant to this  
2 section.

3 (l) A bond or note issued by the Authority, interest paid on the bond or note, the  
4 transfer of the bond or note, and the income therefrom shall at all times be exempt from  
5 all taxes imposed by the State or a political subdivision of the State, except inheritance  
6 or gift taxes.

7 (m) Bonds or notes issued under this Chapter shall not constitute a debt secured  
8 by a pledge of the faith and credit of the State or a political subdivision of the State and  
9 shall be payable solely from the revenues, income, or assets of the Authority that are  
10 pledged for their payment. The face of each bond or note issued shall contain a  
11 statement that the Authority is obligated to pay the bond or note or the interest on the  
12 bond or note only from the revenues, income, or assets pledged in payment of the bond  
13 or note and that neither the faith and credit nor the taxing power of the State or any  
14 political subdivision of the State is pledged in payment of the principal of or the interest  
15 on the bond or note. This subsection does not apply to bonds or notes for which a  
16 county has pledged its taxing power under G.S. 159J-13.

17 (n) The State pledges to the holder of a bond or note issued under this Chapter  
18 that, as long as the bond or note is outstanding and unpaid, the State will not limit or  
19 alter the power the Authority had when the bond or note was issued in a way that  
20 impairs the ability of the Authority to produce revenues sufficient with other available  
21 funds to do all of the following:

22 (1) Maintain and operate the project for which the bond or note was  
23 issued.

24 (2) Pay the principal of, interest on, and redemption premium, if any, of  
25 the bond or note.

26 (3) Fulfill the terms of an agreement with the holder.

27 The State further pledges to the holder of a bond or note issued under this Chapter  
28 that the State will not impair the rights and remedies of the holder concerning the bond  
29 or note.

30 (o) Obligations issued under the provisions of this Chapter are made securities in  
31 which all public offices and public bodies of the State and its political subdivisions, all  
32 insurance companies, trust companies, banking associations, investment companies,  
33 executors, administrators, trustees, and other fiduciaries may properly and legally invest  
34 funds, including capital in their control or belonging to them. The obligations are made  
35 securities which may properly and legally be deposited with and received by any State  
36 or municipal officer or any agency or political subdivision of the State for any purpose  
37 for which the deposit of bonds, notes, or obligations of the State is now or may be  
38 authorized by law.

39 **"§ 159J-9. Refunding bonds or notes.**

40 (a) Refunding Bonds. – The Authority may issue refunding bonds or notes for  
41 the purpose of refunding any outstanding bonds or notes issued under this Chapter,  
42 including any redemption premium on the bonds or notes and any interest accrued or to  
43 accrue to the date of redemption. Refunding bonds or notes shall be issued in  
44 accordance with the same procedures and requirements as bonds or notes. Refunding

1 bonds or notes may be sold or exchanged for outstanding bonds and notes issued under  
2 this Chapter.

3 Refunding bonds or notes may have different interest rates and maturities than the  
4 bonds or notes being refunded. The proceeds of refunding bonds or notes may be  
5 applied to any of the following:

6 (1) The payment, purchase, and retirement of the bonds or notes being  
7 refunded by direct application to the payment, purchase, and  
8 retirement.

9 (2) The payment, purchase, and retirement of the bonds or notes being  
10 refunded by the deposit in trust of the proceeds.

11 (3) The payment of any expenses incurred in connection with the  
12 refunding.

13 (4) For any other uses not inconsistent with the refunding.

14 (b) Refunding Proceeds. – The proceedings providing for the issuance of  
15 refunding bonds or notes may limit the investments in which the proceeds of a particular  
16 refunding issue may be invested. Unless prohibited by the proceedings, the proceeds of  
17 refunding bonds or notes that are deposited in trust for the payment, purchase, and  
18 retirement of outstanding bonds or notes may be invested in any of the following:

19 (1) Direct obligations of the United States of America.

20 (2) Obligations the principal and interest on which are guaranteed by the  
21 United States of America.

22 (3) Evidences of ownership of a proportionate interest in an obligation that  
23 is described in subdivisions (1) or (2) of this subsection and is held in a  
24 custodial capacity by a bank or trust company organized under the  
25 laws of the United States of America or a state.

26 (4) Obligations of the State or a unit of local government of the State  
27 when payment of the principal of and interest on the obligations has  
28 been provided for by depositing with a trustee or other escrow agent  
29 obligations that meet all of the following:

30 a. Are described in subdivisions (1), (2), or (3) of this subsection.

31 b. When due and payable, will provide enough money when added  
32 to any other money held in trust for this purpose to pay the  
33 principal of, premium, if any, and interest on the State or local  
34 obligations.

35 c. Are rated in the highest category by Standard & Poor's  
36 Corporation and Moody's Investors Service, Inc.

37 (5) Obligations of the State or a unit of local government when payment  
38 of the principal and interest on the obligations is insured by a bond  
39 insurance company rated in the highest category by Standard & Poor's  
40 Corporation and Moody's Investors Service, Inc.

41 (6) Full faith and credit obligations of the State or a unit of local  
42 government of the State that are rated in the highest category by  
43 Standard & Poor's Corporation and Moody's Investors Service, Inc.

1           (7) Any obligations or investments in which the State Treasurer is then  
2           authorized to invest funds of the State.

3       (c) This section does not limit any of the following:

4           (1) The period for which the proceeds of refunding bonds or notes may be  
5           held in trust to retire the bonds or notes that are being refunded and  
6           have not matured, are not redeemable or, if redeemable, have not been  
7           called for redemption.

8           (2) The power to issue bonds or notes for the combined purpose of  
9           refunding outstanding bonds or notes and of providing funds for any  
10          other corporate purpose.

11 **"§ 159J-10. Special user project bonds.**

12       (a) The Authority may also, subject to the provisions of this section, issue, at one  
13       time or from time to time, bonds and notes to finance or refinance special user projects.

14       (b) Bonds and notes may be sold to finance or refinance special user projects  
15       irrespective of the interest limitations set forth in G.S. 24-1.1.

16       (c) The bonds or notes of each issue of the Authority under this section shall be  
17       special, limited obligations of the Authority payable solely from such other revenues,  
18       income or assets of the Authority as the Authority shall specifically assign or pledge and  
19       the funds, collateral, and undertakings as any private parties may assign or pledge.

20       (d) Bonds and notes issued under the provisions of this section may be secured  
21       by one or more agreements, including foreclosure deeds of trust and other trust  
22       instruments, which may pledge and assign to the trustee or the holders of its obligations  
23       the assets, revenues, and income provided for the security of the bonds or notes,  
24       including proceeds from the sale of any special user project or part thereof, insurance  
25       proceeds and condemnation awards, and third-party agreements, and may convey or  
26       mortgage the project and other property and collateral to secure a bond issue.

27       The Authority may subordinate the bonds or notes or its rights, assets, revenues, and  
28       income derived from any special user project to any prior, contemporaneous or future  
29       securities or obligations or lien, mortgage, or other security interest.

30       (e) Notwithstanding any other provision of law, the Authority may agree that all  
31       contracts relating to the acquisition, construction, installation, and equipping of the  
32       special user project shall be solicited, negotiated, awarded, and executed by the private  
33       parties for which the Authority is financing the special user project or any agents of the  
34       private parties subject only to approval by the Authority as the Authority may require.  
35       The Authority may, out of the proceeds of bonds or notes, make advances to or  
36       reimburse the private parties or their agents for all or a portion of the costs incurred in  
37       connection with the contracts.

38       (f) The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary  
39       notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial  
40       Code, G.S. 25-9-101 to G.S. 25-6-607 inclusive, shall apply to transactions under this  
41       section, but not to transactions involving the issuance of bonds for airport projects, to  
42       the same extent the provisions of Article 9 would apply were G.S. 25-9-104(e) and G.S.  
43       25-9-302(6) repealed.



1 (g) If the Authority is required by federal tax law to obtain allocation of the  
2 unified volume limitation on private activity bonds with respect to any bonds issued  
3 under this Chapter, the Authority shall apply to the North Carolina Federal Tax Reform  
4 Allocation Committee for the allocation. In the event the Authority makes the  
5 application on or before October 1 of a calendar year, the Committee shall allocate a  
6 portion of the unified volume limitation for private activity bonds to the Authority for  
7 the bonds, but only to the extent the volume limitation remains available at the time the  
8 application is received by the Committee. If application for such allocation is made  
9 after October 1 of any year, the Committee shall consider it for approval in accordance  
10 with its rules then in effect.

11 (h) To the extent that federal tax law requires public hearings to be held with  
12 respect to the issuance of bonds to finance special user projects, the hearings may be  
13 called for by the executive director and held before one or more members of the Board  
14 of the Authority. The hearings may be held at any place within the State pursuant to  
15 public notice given in accordance with current federal tax regulations. To the extent  
16 federal tax law requires approval following the hearing of the issuance of bonds to  
17 finance a special user project, the approval shall be sought from the Governor following  
18 a report to the Governor of the results of the public hearing accompanied by information  
19 relating to the purposes for the proposed bond issue.

20 **"§ 159J-11. Financing agreements.**

21 Every financing agreement shall provide that:

- 22 (1) The amounts payable under the financing agreement shall be sufficient  
23 to pay all of the principal of and redemption premium, if any, and  
24 interest on the bonds that shall be issued by the Authority to pay the  
25 cost of the special user project as the same shall respectively become  
26 due;
- 27 (2) The operator shall pay all costs incurred by the Authority in  
28 connection with the financing and administration of the special user  
29 project, except as may be paid out of the proceeds of bonds or  
30 otherwise, including, but without limitation, insurance costs, the cost  
31 of administering the financing agreement and the security document  
32 and the fees and expenses of the fiscal agent or trustee, paying agents,  
33 attorneys, consultants, and others;
- 34 (3) The operator shall pay all the costs and expenses of operation,  
35 maintenance, and upkeep of the special user project; and
- 36 (4) The operator's obligation to provide for the payment of the bonds in  
37 full shall not be subject to cancellation, termination, or abatement until  
38 such payment of the bonds or provision therefor shall be made.

39 The financing agreement, if in the nature of a lease agreement, shall either provide  
40 that the obligor shall have an option to purchase, or require that the obligor purchase,  
41 the special user project upon the expiration or termination of the financing agreement  
42 subject to the condition that payment in full of the principal of, and the interest and any  
43 redemption premium on, the bonds, or provision therefor, shall have been made.

1       The financing agreement may provide the Authority with rights and remedies in the  
2 event of a default by the obligor including, without limitation, any one or more of the  
3 following:

- 4           (1) Acceleration of all amounts payable under the financing agreement;
- 5           (2) Reentry and repossession of the special user project;
- 6           (3) Termination of the financing agreement;
- 7           (4) Leasing or sale of foreclosure of the special user project to others; and
- 8           (5) Taking whatever actions at law or in equity may appear necessary or  
9 desirable to collect the amounts payable under, and to enforce  
10 covenants made in, the financing agreement.

11       The Authority's interest in a special user project under a financing agreement may be  
12 that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee,  
13 secured party, or otherwise, but the Authority need not have any ownership or  
14 possessory interest in the special user project.

15       The Authority may assign all or any of its rights and remedies under the financing  
16 agreement to the trustee or the bondholders under a security document.

17       Any such financing agreement may contain such additional provisions as in the  
18 determination of the Board are necessary or convenient to effectuate the purposes of this  
19 Chapter.

20 **"§ 159J-12. Security documents.**

21       Bonds issued under the provisions of this Chapter may be secured by a security  
22 document which may be a trust instrument between the Authority and a bank or trust  
23 company or individual within the State, or a bank or a trust company outside the State,  
24 as trustee. The security document may pledge and assign the revenues provided for the  
25 security of the bonds, including proceeds from the sale of any project, or part thereof,  
26 insurance proceeds and condemnation awards, and may convey or mortgage the project  
27 and other property to secure a bond issue.

28       The revenues and other funds derived from the project, except for any part as may be  
29 necessary to provide reserves therefor, if any, may be set aside at such regular intervals  
30 as may be provided in such security document in a sinking fund which may be pledged  
31 to, and charged with, the payment of the principal of and the interest on such bonds as  
32 the same shall become due and the redemption price or the purchase price of bonds  
33 retired by call or purchase as provided. The pledge shall be valid and binding from the  
34 time when the pledge is made. The revenues so pledged and thereafter received by the  
35 Authority shall immediately be subject to the lien of such pledge without any physical  
36 delivery or further act, and the lien of any pledge shall be valid and binding as against  
37 all parties having claims of any kind in tort, contract or otherwise against the Authority,  
38 irrespective of whether such parties have notice. The use and disposition of money to  
39 the credit of such sinking fund shall be subject to the provisions of the security  
40 document. The security document may contain provisions for protecting and enforcing  
41 the rights and remedies of the bondholders as may be reasonable and proper and not in  
42 violation of law, including, without limitation, any one or more of the following:

- 43           (1) Acceleration of all amounts payable under the security document;

- 1           (2) Appointment of a receiver to manage the project and any other  
2 property mortgaged or assigned as security for the bonds;  
3           (3) Foreclosure and sale of the project and any other property mortgaged  
4 or assigned as security for the bonds; and  
5           (4) Rights to bring and maintain such other actions at law or in equity as  
6 may appear necessary or desirable to collect the amounts payable  
7 under, or to enforce the covenants made in, the security document.

8           It shall be lawful for any bank or trust company incorporated under the laws of this  
9 State which may act as depository of the proceeds of bonds, revenues, or other funds  
10 provided under this Chapter to furnish indemnifying bonds or to pledge securities as  
11 may be required by the Authority. All expenses incurred in carrying out the provisions  
12 of such security document may be treated as a part of the cost of the project in  
13 connection with which bonds are issued or as an expense of administration of such  
14 project.

15           The Authority may subordinate the bonds or its rights under the financing agreement  
16 or otherwise to any prior, contemporaneous, or future securities or obligations or lien,  
17 mortgage, or other security interest.

18 **"§ 159J-13. County agreements.**

19           (a) Any county in which all or part of a cargo airport complex site is located may  
20 enter into an agreement with the Authority providing for payments to be made by such  
21 county to the Authority in respect of benefits accruing to the county from the location of  
22 the cargo airport complex site within the county. The county's obligations under any  
23 agreement shall not constitute a pledge of its faith and credit, except pursuant to  
24 subsections (b) or (c) of this section.

25           (b) Payments made by a county to the Authority pursuant to agreements entered  
26 into under subsection (a) of this section may be secured by a pledge of receipts of the  
27 exercise of the county's taxing power if the requirements of this subsection are met.

28           (b1) Any county may covenant with the Authority for the payment of amounts due  
29 under agreements permitted by subsection (a) of this section whereby the county agrees  
30 to:

- 31           (1) Levy for the life of the agreement an annual property tax not in excess  
32 of the rate set forth in the question submitted to voters as hereinafter  
33 provided, the levy to be based upon the operating supplement  
34 requirement, as defined in this subsection; or  
35           (2) Levy for the life of the agreement in respect of which the tax is being  
36 levied an annual property tax not in excess of the rate required to pay  
37 the principal of and the interest on the aggregate principal amount of  
38 revenue bonds set forth in the question submitted to the voters as  
39 hereinafter provided, the levy to be based upon the debt service reserve  
40 supplement requirement, as defined in this subsection.

41           (b2) When any such covenant has been made or any such agreement has been  
42 entered into, the county shall determine by not later than June 1 of each fiscal year the  
43 amount required, determined as hereinafter provided, to be raised by taxation by such  
44 county in the next fiscal year. The county is obligated to levy the tax only to the extent

1 that an operating supplement requirement or a debt service reserve supplement  
2 requirement shall occur during the fiscal year preceding the fiscal year in which the tax  
3 is to be levied. In no event shall the county be required to levy a tax in excess of the  
4 rate required to be levied in accordance with the approval of the voters as provided in  
5 subsection (b3) of this section. When any such tax is to be levied, the county shall  
6 include in its budget ordinance an appropriation equal to the estimated yield of the tax  
7 levy, and shall pay the appropriation to the Authority or transfer moneys to the  
8 appropriate fund in equal monthly installments unless another mutually satisfactory  
9 schedule of payments is agreed upon.

10 (b3) A covenant made, or the pledge of an agreement entered into, by a county  
11 pursuant to this subsection shall be effected by the provisions of the agreement  
12 permitted pursuant to subsection (a) of this section.

13 A covenant made, or agreement entered into, by a county pursuant to this subsection  
14 shall take effect only if approved by the affirmative vote of a majority of those who vote  
15 in a referendum held in the county. The referendum shall be called and held as  
16 provided in G.S. 159-61, except that:

17 (1) The ballot proposition shall be in substantially one of the following  
18 forms:

19 Operating Supplement Requirement:

20 'Shall the agreement binding the county to levy annually a tax on  
21 property not in excess of ..... cents on the one hundred dollars  
22 (\$100.00) value of property subject to taxation for the purpose of  
23 supplementing the revenues of the Authority in instances where the  
24 gross revenues of an airport project are estimated to be less than the  
25 estimated total costs of the (i) current operating expenses of the  
26 project, (ii) amount required to maintain the debt service reserve by  
27 repaying any withdrawals in respect of all outstanding bonds issued in  
28 connection with the project and (iii) debt service on all outstanding  
29 bonds issued in connection with the project, all as defined in such  
30 agreement, the proceeds of such tax to be used for the payment of the  
31 current operating expenses of the project so long as any revenue bonds  
32 issued remain outstanding and unpaid be approved?

33  Yes

34  No'

35 Debt Service Reserve Supplement Requirement:

36 'Shall the agreement binding the county to levy annually, without  
37 limitation as to rate or amount, a tax on property subject to taxation for  
38 the purpose of supplementing the revenues of the Authority for  
39 maintaining the debt service reserve required by said agreement in  
40 connection with the issuance of not in excess of \$..... revenue  
41 bonds of the Authority to finance an airport project so long as any of  
42 such revenue bonds remain outstanding and unpaid, be approved?

43  Yes

44  No'



1 districts for certain types of projects, counties may utilize such obligations to secure or  
2 provide for the agreements described in subsection (a) of this section using a cargo  
3 airport complex site or a portion within the county as the development financing district  
4 pursuant to Article 6 of Chapter 159 of the General Statutes.

5 **"§ 159J-14. Remedies.**

6 Any owner of bonds or notes issued under the provisions of this Chapter or any  
7 coupons appertaining thereto, and the trustee under any trust agreement securing or  
8 resolution authorizing the issuance of such bonds or notes, except to the extent the  
9 rights given may be restricted by the trust agreement or resolution, may either at law or  
10 in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and  
11 all rights under the laws of the State or granted hereunder or under the trust agreement  
12 or resolution, or under any other contract executed by the Authority pursuant to this  
13 Chapter; and may enforce and compel the performance of all duties required by this  
14 Chapter or by the trust agreement or resolution by the Authority or by any officer of the  
15 Authority.

16 **"§ 159J-15. Airport zoning authority approval required.**

17 Notwithstanding the provisions of G.S. 63-31, no airport zoning provisions or  
18 restrictions may be adopted by any other political subdivision or State agency affecting  
19 real property within two miles of any cargo airport complex site without the approval of  
20 the Authority.

21 **"§ 159J-16. Status of bonds and notes under Uniform Commercial Code.**

22 All bonds and notes and interest coupons, if any, issued under this Chapter are made  
23 investment securities within the meaning of and for all the purposes of Article 8 of the  
24 Uniform Commercial Code, as enacted in Chapter 25 of the General Statutes.

25 **"§ 159J-17. Officers not liable.**

26 No member or officer of the Authority shall be subject to any personal liability or  
27 accountability by reason of his execution of any bonds or notes or the issuance of any  
28 bonds or notes.

29 **"§ 159J-18. Conflicts of interest.**

30 If any member, officer, or employee of the Authority shall be interested either  
31 directly or indirectly, or shall be an officer or employee of or have an ownership interest  
32 in any firm or corporation, not including units of local government, interested directed  
33 or indirectly, in any contract with the Authority, the interest shall be disclosed to the  
34 Board and shall be set forth in the minutes of the Board. The member, officer, or  
35 employee having an interest shall not participate on behalf of the Authority in the  
36 authorization of any contract. Other provisions of law notwithstanding, failure to take  
37 any or all actions necessary to carry out the purposes of this section may not affect the  
38 validity of any bonds or notes pursuant to the provisions of this Chapter.

39 **"§ 159J-19. Cooperation by other State agencies.**

40 All State officers and agencies shall render the services to the Authority within their  
41 respective functions as may be requested by the Authority.

42 **"§ 159J-20. Annual reports.**

43 The Authority shall, promptly following the close of each fiscal year, submit an  
44 annual report of its activities for the preceding year to the Governor, the General

1 Assembly, and the Local Government Commission. Each report shall be accompanied  
2 by an audit of its books and accounts by an independent certified public accountant.

3 **"§ 159J-21. General laws apply to Authority; exceptions.**

4 As a State agency, the general laws that apply to State agencies apply to the  
5 Authority, except as specified below and as specified by other provisions of this  
6 Chapter. These general laws include the following:

- 7 (1) Chapter 132 of the General Statutes, which governs public access to  
8 records of a State agency, shall apply.
- 9 (2) Article 33C of Chapter 143 of the General Statutes, which governs  
10 meetings of a State agency, shall apply.
- 11 (3) Article 5A of Chapter 147 of the General Statutes, which governs  
12 oversight by the State Auditor, shall apply.
- 13 (4) Article 31 of Chapter 143 of the General Statutes, which governs tort  
14 claims against State agencies, shall apply.
- 15 (5) Chapter 150B of the General Statutes shall apply, except that Articles  
16 2 and 3 of Chapter 150B shall not apply to (i) contracts or other rules  
17 or regulations as to the acquisition, construction, operation, or use,  
18 including fees or charges for use, of any portions of a cargo airport  
19 complex or (ii) any agreement between the Authority and a local  
20 government or political subdivision.
- 21 (6) Articles 8B and 36 of Chapter 143 of the General Statutes shall not  
22 apply. G.S. 143-31.1 and 143-34.1 shall not apply. The procedures and  
23 requirements of Articles 3 and 8 of Chapter 143 of the General  
24 Statutes shall apply to contracts with respect to airport projects, but not  
25 contracts for services listed in 49 U.S.C. 2210(a)(16) or for special  
26 user projects, except that the powers and duties prescribed by those  
27 Articles shall be exercised by the Authority and shall not be exercised  
28 by the Secretary of Administration, other State officers, employees, or  
29 agencies.
- 30 (7) Chapter 126 of the General Statutes shall not apply, except that  
31 Articles 5 and 7 of Chapter 126 shall apply and the executive director  
32 and other employees of the Authority shall be eligible for participation  
33 in the Retirement System for Teachers and State Employees.

34 **"§ 159J-22. Dissolution.**

35 Whenever the Board shall by resolution determine that the purposes for which the  
36 Authority was formed have been substantially fulfilled and that all bonds issued and all  
37 other obligations incurred by the Authority have been fully paid or satisfied, the Board  
38 may declare the Authority to be dissolved. On the effective date of the resolution, the  
39 title to all funds and other property owned by the Authority at the time of the dissolution  
40 shall vest in the State and possession of the funds and other property shall be delivered  
41 to the State."

42 Sec. 2. Interpretation of act. (a) This act shall be deemed to provide an  
43 additional and alternative method for executing the provisions of this act, shall be

1 regarded as supplemental to powers conferred by other laws, and shall not be regarded  
2 as in derogation of any powers now existing.

3 (b) This act, being necessary for the health and welfare of the people of this  
4 State, shall be liberally construed to effect its purposes.

5 (c) Insofar as the provisions of this act are inconsistent with the provisions of  
6 any general laws, the provisions of this act shall be controlling.

7 (d) Insofar as the provisions of this act are inconsistent with the provisions of  
8 any local, special, or private laws, the provisions of those laws are repealed to the extent  
9 of the conflict.

10 (e) If any provisions of this act or its application are held invalid, the  
11 invalidity does not affect other provisions or applications of this act that can be given  
12 effect without the invalid provisions or application, and to this end the provisions of this  
13 act are severable.

14 Sec. 3. G.S. 126-5(c1) is amended by adding a new subdivision to read:

15 "(15) Employees of the North Carolina Air Cargo Airport Authority."

16 Sec. 4. G.S. 143-336 reads as rewritten:

17 "**§ 143-336. Definitions.**

18 As used in this Article:

19 'Agency' includes every agency, institution, board, commission, bureau, council,  
20 department, division, officer, and employee of the State, but does not include counties,  
21 municipal corporations, political subdivisions, county and city boards of education, and  
22 other local public bodies.

23 'Community college buildings' means all buildings, utilities, and other property  
24 developments located at a community college, which is defined in G.S. 115D-2(2).

25 'Department' means the Department of Administration, unless the context otherwise  
26 requires.

27 'Public buildings' means all buildings owned or maintained by the State in the City  
28 of Raleigh, but does not mean any building which a State agency other than the  
29 Department of Administration is required by law to care for and maintain.

30 'Public buildings and grounds' means all buildings and grounds owned or  
31 maintained by the State in the City of Raleigh, but does not mean any building or  
32 grounds which a State agency other than the Department of Administration is required  
33 by law to care for and maintain.

34 'Public grounds' means all grounds owned or maintained by the State in the City of  
35 Raleigh, but does not mean any grounds which a State agency other than the  
36 Department of Administration is required by law to care for and maintain.

37 'Secretary' means the Secretary of Administration, unless the context otherwise  
38 requires.

39 'State buildings' mean all State buildings, utilities, and other property developments  
40 except the State Legislative Building, railroads, highway structures, ~~and bridge structures.~~  
41 bridge structures, and any buildings, utilities, or property owned or leased by the North  
42 Carolina Air Cargo Airport Authority.

43 But under no circumstances shall this Article or any part thereof apply to the judicial  
44 or to the legislative branches of the State."



1           Sec. 5. G.S. 143-433.9 reads as rewritten:

2   **"§ 143-433.9. Allocation.**

3       (a) To provide for the orderly and prompt issuance of private activity bonds there  
4 are hereby proclaimed formulas for allocating the unified volume limitation and the  
5 state housing credit ceiling. The unified volume limitation for all issues in North  
6 Carolina shall be considered as a single resource to be allocated under this Article. The  
7 Committee shall issue allocations of the unified volume limitation and shall issue  
8 allocations of the State Housing Credit Ceiling. The Committee shall set forth  
9 procedures for making such allocations and in the making of such allocations shall take  
10 into consideration the best interest of the State of North Carolina with regard to the  
11 economic development and general prosperity of the people of North Carolina.

12       (b) Notwithstanding subsection (a) of this section, the Committee shall comply  
13 with the provisions of G.S. 159J-10(g)."

14           Sec. 6. G.S. 150B-1(d) is amended by adding the following new subdivision  
15 to read:

16           "(14) This Chapter applies to Chapter 159J of the General Statutes except  
17 as provided by G.S. 159J-21(5)."

18           Sec. 7. G.S. 160A-460 reads as rewritten:

19   **"§ 160A-460. Definitions.**

20       The words defined in this section shall have the meanings indicated when used in  
21 this Part:

22           (1) 'Undertaking' means the joint exercise by two or more units of  
23 local government, or the contractual exercise by one unit for one or  
24 more other units, of any power, function, public enterprise, right,  
25 privilege, or immunity of local government.

26           (2) 'Unit,' or 'unit of local government' means a county, city,  
27 consolidated city-county, local board of education, sanitary district,  
28 or other local political subdivision, authority, or agency of local  
29 government, or the North Carolina Air Cargo Airport Authority."

30           Sec. 8. G.S.120-123 is amended by adding a new subdivision to read:

31           "(25a) The North Carolina Air Cargo Airport Authority as established under  
32 G.S. 159J-3."

33           Sec. 9. G.S. 160A-20 reads as rewritten:

34   **"§ 160A-20. Security interests.**

35       (a) Cities, counties, and water and sewer authorities created under Article 1 of  
36 Chapter 162A of the General Statutes, and the North Carolina Air Cargo Airport  
37 Authority may purchase or finance the purchase of real or personal property by  
38 installment contracts that create in the property purchased a security interest to secure  
39 payment of the purchase price to the seller or to an individual or entity advancing  
40 moneys or supplying financing for the purchase transaction.

41       (b) Cities, counties, and water and sewer authorities created under Article 1 of  
42 Chapter 162A of the General Statutes, and the North Carolina Air Cargo Airport  
43 Authority may finance the construction or repair of fixtures or improvements on real  
44 property by contracts that create in the fixtures or improvements, or in all or some

1 portion of the property on which the fixtures or improvements are located, or in both, a  
2 security interest to secure repayment of moneys advanced or made available for such  
3 construction or repair.

4 (c) Cities, counties, ~~and~~ water and sewer authorities created under Article 1 of  
5 Chapter 162A of the General Statutes, and the North Carolina Air Cargo Airport  
6 Authority may use escrow accounts in connection with the advance funding of  
7 transactions authorized by this section, whereby the proceeds of such advance funding  
8 are invested pending disbursement.

9 (d) No contract entered into under this section may contain a nonsubstitution  
10 clause that restricts the right of a city, a county, ~~or~~ a water and sewer authority created  
11 under Article 1 of Chapter 162A of the General Statutes, or the North Carolina Air  
12 Cargo Airport Authority to:

13 (1) Continue to provide a service or activity; or

14 (2) Replace or provide a substitute for any fixture, improvement,  
15 project, or property financed or purchased pursuant to such  
16 contract.

17 (e) A contract entered into under this section is subject to approval by the Local  
18 Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

19 (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2),  
20 and 159-148(a)(3), or involves the construction or repair of fixtures  
21 or improvements on real property; and

22 (2) Is not exempted from the provisions of that Article by one of the  
23 exemptions contained in G.S. 159-148(b).

24 (f) No deficiency judgment may be rendered against any city, county, ~~or~~ water  
25 and sewer authority created under Article 1 of Chapter 162A of the General Statutes, or  
26 the North Carolina Air Cargo Airport Authority in any action for breach of a contractual  
27 obligation authorized by this section, and the taxing power of a city or county is not and  
28 may not be pledged directly or indirectly to secure any moneys due under a contract  
29 authorized by this section.

30 (g) Before entering into a contract under this section involving real property, a  
31 city, a county, or a water and sewer authority created under Article 1 of Chapter 162A  
32 of the General Statutes shall hold a public hearing on the contract. A notice of the  
33 public hearing shall be published once at least 10 days before the date fixed for the  
34 hearing."

35 Sec. 10. G.S. 160A-167(d) reads as rewritten:

36 "(d) For the purposes of this section, 'authority' means an authority organized  
37 under Article 1 of Chapter 162A of the General Statutes, the North Carolina Water and  
38 Sewer Authorities Act, or the North Carolina Air Cargo Airport Authority."

39 Sec. 11. This act is effective upon ratification.