

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 649*

Short Title: Air Cargo Airport Authority.

(Public)

Sponsors: Senators Barnes, Daughtry; Staton, Smith, and Bryan.

Referred to: Economic Development.

April 16, 1991

1 A BILL TO BE ENTITLED
2 AN ACT CREATING THE NORTH CAROLINA AIR CARGO AIRPORT
3 AUTHORITY, AUTHORIZING THE ISSUANCE OF REVENUE BONDS TO
4 FINANCE AIRPORT AND INDUSTRIAL FACILITIES AND AUTHORIZING
5 UNITS OF LOCAL GOVERNMENT TO TAKE CERTAIN ACTIONS IN
6 CONNECTION THEREWITH.

7 The General Assembly of North Carolina enacts:

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

9 **“CHAPTER 159J.**

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

11 **“§ 159J-1. Short title.**

12 This Chapter may be cited as the ‘North Carolina Air Cargo Airport Authority Act.’

13 **“§ 159J-2. Findings and purpose.**

14 The General Assembly finds that there is a need to provide for the creation of a body
15 politic and corporate to own, operate, and finance global air cargo facilities within
16 North Carolina and industrial facilities in connection therewith. The purpose of this
17 Chapter is to provide for the creation of such body politic and corporate with power to
18 accomplish the following general purposes:

19 (1) To develop and improve public air cargo airports, cargo handling
20 systems necessary for the efficient operation of cargo airports,
21 infrastructure necessary to support human traffic connected with such
22 complexes, and works of internal improvements incident thereto;

23 (2) To acquire and hold land, develop and improve said land for industrial
24 and commercial use related or adjacent to cargo airport complexes, and

1 to sell or lease said land to private or public interests for said industrial
2 or commercial uses;

3 (3) To foster and stimulate the shipment of freight and commerce through
4 such cargo airport complexes, whether originating within or without
5 the State of North Carolina, including the investigation and handling of
6 matters pertaining to all transportation rates and rate structures
7 affecting the same; and

8 (4) To cooperate with the United States of America and any agency,
9 department, corporation, or instrumentality thereof in the maintenance,
10 development, improvement, and use of such cargo airport complexes
11 in connection with and in furtherance of the operations and needs of
12 the United States.

13 This Chapter is enacted in part pursuant to Article V, Section 13 of the Constitution
14 with the intent that the body politic and corporate created hereby shall have all power
15 and authority as may be provided to it under such section.

16 **"§ 159J-3. Definitions.**

17 Unless a different meaning is required by the context, the following definitions shall
18 apply throughout this Chapter:

19 (1) 'Aircraft' means any contrivance now known, or hereafter invented,
20 used or designed for navigation of or flight in the air.

21 (2) 'Airport Project' means any land, equipment, one or more buildings or
22 other structures, whether or not on the same site or sites, and any
23 rehabilitation, improvement, renovation, or enlargement of, or any
24 addition to, any building or structure for use as or in connection with a
25 cargo airport and any other facilities on a cargo airport site other than
26 special user projects, including any infrastructure improvements, such
27 as railroad facilities, roads, bridges or water, sewer or electric utilities
28 relating to the cargo airport site, even if not located thereon.

29 (3) 'Authority' means the North Carolina Air Cargo Authority.

30 (4) 'Board' means the board of directors of the Authority or any other
31 governing body of the Authority succeeding to the principal functions
32 of the Authority.

33 (5) 'Bonds' means the revenue bonds authorized to be issued by the
34 Authority under this Chapter.

35 (6) 'Cargo Airport' means any area of land or water which is designed for
36 the landing and takeoff of aircraft, whether or not facilities are
37 provided for the shelter, servicing, or repair of aircraft, or for receiving
38 or discharging primarily cargo with some passengers, and all
39 appurtenant areas used or suitable for airport buildings or other airport
40 facilities, and all appurtenant rights-of-way, whether heretofore or
41 hereafter established.

42 (7) 'Cargo Airport Complex' means any cargo airport complex designated
43 as such by the Authority.

- 1 (8) 'Cargo Airport Site' means one or more tracts of property designated
2 by the Authority as the location of a cargo airport complex.
- 3 (9) 'Costs' means the capital cost of acquiring or constructing any project,
4 including, without limitation, the following:
5 a. The costs of doing any or all of the following:
6 1. Acquiring, constructing, erecting, providing, developing,
7 installing, furnishing, and equipping;
8 2. Reconstructing, remodeling, altering, renovating,
9 replacing, refurbishing, and reequipping;
10 3. Enlarging, expanding, and extending; and
11 4. Demolishing, relocating, improving, grading, draining,
12 landscaping, paving, widening, and resurfacing.
13 b. The costs of all property, both real and personal and both
14 improved and unimproved, and of plants, works, appurtenances,
15 structures, facilities, furnishings, machinery, equipment,
16 vehicles, easements, water rights, air rights, franchises, and
17 licenses used or useful in connection with the purpose
18 authorized;
19 c. The costs of demolishing or moving structures from land
20 acquired and acquiring any lands to which such structures
21 thereafter are to be moved;
22 d. Financing charges, including estimated interest during the
23 acquisition or construction of such project and for one year
24 thereafter;
25 e. The costs of services to provide plans, specifications, studies
26 and reports, surveys, and estimates of costs and revenues;
27 f. The costs of paying any interim financing, including principal,
28 interest and premium, related to the acquisition or construction
29 of a project;
30 g. Administrative and legal expenses and administrative charges;
31 h. The costs of obtaining bond and reserve fund insurance and
32 investment contracts, of credit-enhancement facilities, liquidity
33 facilities and interest-rate agreements, and of establishing and
34 maintaining debt service and other reserves; and
35 i. Any other services, costs, and expenses necessary or incidental
36 to the purpose authorized.
- 37 (10) 'Financing Agreement' means a written instrument establishing the
38 rights and responsibilities of the Authority and the operator with
39 respect to a special user project financed by the issuance of bonds. A
40 financing agreement may be in the nature of a lease, a lease and lease-
41 back, a sale and lease-back, a lease purchase, an installment sale and
42 purchase agreement, a conditional sales agreement, a secured or
43 unsecured loan agreement or other similar contract, and may involve
44 property in addition to the property financed with the bonds.

- 1 (11) 'Governing Body' means the board, commission, council or other body
2 in which the general legislative powers of any county or other political
3 subdivision are vested.
- 4 (12) 'Local Government Commission' means the Local Government
5 Commission of the Department of the State Treasurer, established by
6 Article 2 of Chapter 159 of the General Statutes and any successor of
7 said Commission.
- 8 (13) 'Notes' means the revenue notes or revenue bond anticipation notes
9 authorized to be issued by the Authority under this Chapter.
- 10 (14) 'Obligor' means any person, including an operator, which has entered
11 into a financing or other agreement obligating itself to make payments
12 to the Authority or holders of bonds issued to finance a special user
13 project.
- 14 (15) 'Operator' means the person or persons entitled to the use or
15 occupancy of a special user project.
- 16 (16) 'Person' means any person, corporation, partnership, association, trust
17 or other legal entity.
- 18 (17) 'Project' means an airport project or a special user project.
- 19 (18) 'Revenues' means, with respect to any special user project, the rents,
20 fees, charges, payments, proceeds and other income or profit derived
21 therefrom or from the financing agreement or security document in
22 connection therewith. 'Revenues' means, with respect to any airport
23 project, the rents, fees, charges, payments, proceeds or other income or
24 profit derived therefrom or from any appropriation, payment or pledge
25 of nontax revenues made by the State or a county in which the cargo
26 airport site is located or tax revenues from such county pursuant to
27 G.S. 159J-17.
- 28 (19) 'Security Document' means a written instrument or instruments
29 establishing the rights and responsibilities of the Authority and the
30 holders of bonds issued to finance a special user project, and may
31 provide for, or be in the form of an agreement with, a trustee for the
32 benefit of such bondholders. A security document may contain an
33 assignment, pledge, mortgage or other encumbrance of all or part of
34 the Authority's interest in, or right to receive revenues with respect to,
35 a special user project and any other property provided by the operator
36 or other obligor under a financing agreement and may bear any
37 appropriate title. A financing agreement and a security document may
38 be combined as one instrument.
- 39 (20) 'Special User Project' shall mean any land, equipment, or any one or
40 more buildings or other structures, whether or not on the same site or
41 sites, located on a cargo airport site, and any rehabilitation,
42 improvement, renovation or enlargement of, or any addition to, any
43 building or structure for use as or in connection with (i) any industrial
44 project for industry which project may be any industrial or

1 manufacturing factory, mill, assembly plant or fabricating plant, or
2 freight terminal, or industrial research, development or laboratory
3 facility, or industrial processing facility or distribution facility for
4 industrial or manufactured products, or (ii) any commercial,
5 processing, mining, transportation, distribution, storage, marine,
6 aviation, or environmental facilities and improvements, or (iii) any
7 combination of projects mentioned in clauses (i) and (ii) of this
8 subdivision. Any special user project may include all appurtenances
9 and incidental facilities such as land, headquarters or office facilities,
10 warehouses, distribution centers, access roads, sidewalks, utilities,
11 railway sidings, trucking and similar facilities, parking facilities,
12 waterways, docks, wharves and other improvements necessary or
13 convenient for the construction, maintenance and operation of any
14 building or structure, or addition thereto.

15 **§ 159J-4. Creation of Authority; members.**

16 (a) There is hereby created the North Carolina Air Cargo Airport Authority
17 which shall be a body corporate and politic having the powers and jurisdiction
18 hereinafter enumerated, and such other and additional powers as may from time to time
19 be conferred upon the Authority by further acts of the General Assembly. The
20 Authority shall be a public agency and an instrumentality of the State for the
21 performance of essential governmental and public functions.

22 (b) The Board of Directors of the Authority shall be its governing board, which
23 shall consist of not less than 10 members. Three members shall be appointed by the
24 Governor; two members shall be appointed by the General Assembly upon the
25 recommendation of the Speaker of the House of Representatives in accordance with
26 G.S.120-121; two members shall be appointed by the General Assembly upon the
27 recommendation of the President of the Senate in accordance with G.S.120-121; and
28 two members shall be appointed by the General Assembly upon the recommendation of
29 the President Pro Tempore of the Senate in accordance with G.S.120-121; the State
30 Treasurer shall serve as a member by virtue of his office; and within 90 days after the
31 acquisition of land by the Authority for development as part of a cargo airport site,
32 either by purchase or condemnation, the board of county commissioners in any county
33 in which a portion of such land is located may, by a majority vote of those
34 commissioners in attendance, appoint one member to serve on the Authority.

35 (c) Appointments made shall be for the terms set forth by the following:

36 (1) Appointments made by the Governor shall be for a term of four years,
37 initially ending on December 31, 1995; and

38 (2) Appointments made by the General Assembly upon the
39 recommendation of the Speaker of the House of Representatives, the
40 President of the Senate, or the President Pro Tempore of the Senate
41 shall be made in accordance with G.S. 120-121 for a term of four
42 years, initially ending on December 31, 1995; and

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

4 The members of the Authority appointed by the governor shall be selected from the
5 State-at-large and insofar as practicable shall represent the geographical regions of the
6 State and shall be representative of business, agribusiness, and industrial interests of the
7 State. The Governor shall convene the first meeting, at which time the members of the
8 Authority shall elect from their membership a chairman and vice-chairman of the
9 Authority.

10 (d) All members of the Board shall remain in office until their successors are
11 appointed and qualify. Vacancies in appointments made by the Governor or a board of
12 county commissioners shall be filled by the Governor or the county commissioners for
13 the remainder of the unexpired terms. Vacancies in appointments made by the General
14 Assembly upon the recommendation of the Speaker of the House of Representatives,
15 the President of the Senate, or the President Pro Tempore of the Senate shall be filled in
16 accordance with G.S. 120-122. Persons appointed to fill vacancies shall qualify in the
17 same manner as persons appointed for full terms.

18 (e) Any member of the Board may be removed from office for misfeasance,
19 malfeasance, nonfeasance, or improper influence in accordance with the provisions of
20 G.S. 143B-13, and the resulting vacancy shall be filled as provided herein for vacancies
21 in general.

22 (f) The Board shall adopt bylaws with respect to the calling of meetings,
23 quorums, voting procedures, the keeping of records and such other organizational and
24 administrative matters as the Board may determine. A quorum shall consist of no less
25 than five members of the Board.

26 (g) No vacancy in the membership of the Board shall impair the right of a
27 quorum to exercise all rights and to perform all the duties of the Board and the
28 Authority.

29 (h) No part of the revenues or assets of the Authority shall inure to the benefit of
30 or be distributable to its members or officers or other private persons. The members of
31 the Board shall receive no salary for their services but shall be entitled to receive per
32 diem and allowances in accordance with the provisions of G.S. 138-5.

33 **§ 159J-5. Powers of the Authority.**

34 (a) The Authority shall have all of the powers necessary or convenient to carry
35 out and to effect the purposes and provisions of this Chapter for promoting, developing,
36 constructing, equipping, maintaining and operating cargo airports, cargo handling
37 systems, infrastructure necessary to support human traffic, industrial and commercial
38 property within cargo airport complexes, and works of internal improvements incident
39 thereto, including the acquisition or construction, maintenance and operation at such
40 complexes of highways and bridges thereon or essential for the proper operation
41 thereof, including, without limitation, the powers:

42 (1) To sue and be sued, to make contracts, and to adopt and use a common
43 seal, and to alter the same as may be deemed expedient;

- 1 (2) To purchase, acquire, establish, finance, construct, own, control, lease,
2 sell, equip, improve, maintain, operate, and regulate cargo airport
3 complexes and for any of such purposes, to own, hold, finance, lease,
4 sell, and/or operate real or personal property;
- 5 (3) To charge and collect fees and rents for the use of the cargo airport
6 complexes or for services rendered in the operation thereof;
- 7 (4) To make all necessary contracts and arrangements with other
8 authorities of North Carolina and other states for the interchange of
9 business, and for such other purposes as will facilitate and increase the
10 business of cargo airport complexes.
- 11 (5) To rent, lease, buy, own, acquire, mortgage, otherwise encumber, and
12 dispose of such property, real or personal, as the Authority may deem
13 proper to carry out the purposes and provisions of this Chapter or all or
14 any of them, such powers, including the power of eminent domain, to
15 be exercised without review or concurrence by the Council of State;
- 16 (6) To acquire, construct, maintain, equip and operate any structure, and
17 facilities necessary or beneficial for the convenient use of the same in
18 the aid of commerce, including the construction of beltline roads and
19 highways and bridges thereon, necessary or useful in connection with
20 the business of the Authority and shipping and transportation facilities
21 incident thereto, and useful or convenient for the use of the Authority,
22 including electronic cargo transfer systems and mass transit systems;
- 23 (7) To appoint an executive director, whose salary shall be fixed by the
24 Authority, to serve at its pleasure. The executive director or his
25 designee shall appoint, employ, dismiss and, within the limits of
26 available funding, fix the compensation of such other employees as he
27 deems necessary to carry out the purposes of this Chapter. There shall
28 be an executive committee consisting of the chairman of the Authority
29 and two other members elected annually by the Authority. The
30 executive committee shall be vested with authority to do all acts which
31 are authorized by the bylaws of the Authority. Members of the
32 executive committee shall serve until their successors are elected;
- 33 (8) To establish an office for the transaction of its business at such place
34 or places as, in the opinion of the Authority, shall be advisable or
35 necessary in carrying out the purposes of this Chapter;
- 36 (9) To create and operate such agencies and departments as the Authority
37 may deem necessary or useful for the furtherance of any of the
38 purposes of this Chapter;
- 39 (10) To pay all necessary costs and expenses involved in and incident to the
40 formation and organization of the Authority, and incident to the
41 administration and operation thereof, and to pay all other costs and
42 expenses reasonably necessary or expedient in carrying out and
43 accomplishing the purposes of this Chapter;

- 1 (11) To apply for, accept and administer loans and grants of money from
2 any federal agency or the State of North Carolina or any political
3 subdivision thereof or from any public or private sources available for
4 any and all of the purposes authorized in this Chapter, and to expend
5 the same in accordance with the directions and requirements attached
6 thereto, or imposed thereon by any such federal agency, the State of
7 North Carolina, or any political subdivision thereof, or any public or
8 private lender or donor, and to give such evidences of indebtedness as
9 shall be required; provided, however, that no indebtedness of any kind
10 incurred or created by the Authority shall constitute an indebtedness of
11 the State of North Carolina, or any political subdivision thereof, and no
12 such indebtedness shall involve or be secured by the faith, credit or
13 taxing power of the State of North Carolina, or any political
14 subdivision thereof except indirectly as permitted by G.S. 159J-17;
- 15 (12) To act as agent for the United States of America, or any agency,
16 department, corporation, or instrumentality thereof, in any matter
17 coming within the purposes or powers of the Authority;
- 18 (13) To adopt, alter or repeal its own bylaws, rules and regulations
19 governing the manner in which its business may be transacted and in
20 which the power granted to it may be enjoyed, and may provide for the
21 appointment of such committees, and the functions thereof, as the
22 Authority may deem necessary or expedient in facilitating its business;
- 23 (14) To receive, administer and comply with the conditions and
24 requirements respecting any gift, grant or donation of any property or
25 money;
- 26 (15) To make and execute financing agreements, security documents and
27 other contracts and instruments necessary or convenient in the exercise
28 of the powers and functions of the Authority under this Chapter;
- 29 (16) To pledge or assign revenues of the Authority;
- 30 (17) To construct, acquire, own, repair, maintain, extend, improve,
31 rehabilitate, renovate, furnish and equip one or more projects and to
32 pay all or any part of the costs thereof from the proceeds of bonds of
33 the Authority or from any contribution, gift or donation or other funds
34 made available to the Authority for such purpose;
- 35 (18) To fix, charge and collect revenues with respect to any projects;
- 36 (19) To employ consulting engineers, architects, attorneys, real estate
37 counselors, appraisers, and such other consultants and employees as
38 may be required in the judgment of the Authority and to fix and pay
39 their compensation from funds available to the Authority therefor and
40 to select and retain the financial consultants, underwriters, and bond
41 attorneys to be associated with the issuance of any bonds and to pay
42 for services rendered by underwriters, financial consultants, or bond
43 attorneys out of the proceeds of any such issue with regard to which
44 the services were performed;

- 1 (20) To issue revenue bonds of the Authority as hereinafter provided to pay
2 the cost of such acquisition, construction, reconstruction,
3 improvement, extension, enlargement, or equipment of projects;
4 (21) To issue revenue refunding bonds of the Authority as hereinafter
5 provided;
6 (22) To provide for the defense of civil and criminal actions and payment
7 of civil judgments against employees and officers or former employees
8 and officers and members or former members of the Board as
9 authorized by G.S. 160A-167, as amended;
10 (23) To purchase real or personal property as provided by G.S. 160A-20, in
11 addition to any other method allowed under this Chapter, to the same
12 extent and on the same conditions as if the Authority were listed in
13 such provision;
14 (24) To procure and keep in force adequate insurance or otherwise provide
15 for the adequate protection to indemnify and save harmless it and its
16 officers, agents, employees, adjoining property owners, or the general
17 public against loss or liability resulting from any act or omission by or
18 on behalf of the Authority, and for the protection of its property;
19 (25) To enter into agreements with counties pursuant to G.S. 159J-17 and
20 enforce pledges of payments made pursuant thereto;
21 (26) To exercise the powers granted political subdivisions under the Model
22 Airport Zoning Act contained in Article 4, Chapter 63 of the General
23 Statutes and to exercise the powers granted to counties or
24 municipalities under Article 6, Chapter 63 of the General Statutes
25 governing public airports and related facilities;
26 (27) With the approval of any unit of local government, to use officers,
27 employees, agents, and facilities of the unit of local government for
28 such purposes and upon such terms as may be mutually agreeable; and
29 (28) To do all acts and things necessary, convenient or desirable to carry
30 out the purposes, and to exercise the powers herein granted.

31 (b) In order to execute the powers enumerated in subsection (a), the Board shall
32 determine the policies of the Authority by majority vote of all members of the Board
33 present and voting. Once a policy is determined, the Board shall communicate it to the
34 executive director, who shall have the sole and exclusive authority to execute the policy
35 of the Authority. No member of the Board shall have the responsibility or authority to
36 give operational directives to any employee of the Authority other than the executive
37 director.

38 **"§ 159J-6. Property of Authority not subject to taxation; public purpose.**

39 The property of the Authority shall not be subject to any taxes or assessments
40 thereon. Any lands acquired, owned, controlled, or occupied by the Authority shall, and
41 are hereby declared to be acquired, owned, controlled, and occupied for a public
42 purpose.

43 **"§ 159J-7. Acquisition of property; exchange.**

1 For the acquiring of any property, the Authority shall have the right and power to
2 acquire the same by purchase, by negotiation, by gift, by devise, or by eminent domain.
3 Should it elect to exercise the right of eminent domain, proceedings shall be maintained
4 by and in the name of the Authority, and it may proceed in the manner provided by the
5 general laws of the State of North Carolina for the procedure by any county,
6 municipality, or authority organized under the laws of this State, or by the Board of
7 Transportation, or in any other manner provided by law, as the Authority may, in its
8 discretion, elect. The Authority's power of eminent domain shall apply to property of
9 persons, State agencies, or units of local government already devoted to public use.
10 Transfer of land owned by the State shall not be subject to review or approval by the
11 Governor and Council of State, and the Secretary of the Department of Administration
12 is authorized to execute and deliver a deed transferring fee simple title for such property
13 to the Authority.

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

20 **"§ 159J-8. Police power.**

21 (a) The jurisdiction of the Authority in any cargo airport or industrial properties
22 within the State shall extend to all cargo airport sites and all other properties owned by
23 or under control of the Authority.

24 (b) All the provisions of Chapter 20 of the General Statutes relating to the use of
25 the highways of the State and the operation of motor vehicles thereon are hereby made
26 applicable to the streets, alleys, and driveways on the properties owned by or under the
27 control of the Authority. Any person violating any of the provisions of said Chapter in
28 or on such streets, alleys, or driveways shall, upon conviction thereof, be punished as
29 therein prescribed.

30 (c) The Authority may make such reasonable rules, regulations, and adopt such
31 additional ordinances with respect to the use of the streets, alleys, driveways, and to the
32 establishment of parking areas of the properties of the Authority and relating to the
33 safety and welfare of persons using the property of the Authority. All rules, regulations,
34 and ordinances adopted pursuant to the authority of this subsection shall be recorded in
35 the proceedings of the Authority and printed and a copy of such rules, regulations, and
36 ordinances shall be filed in the office of the Attorney General of North Carolina and the
37 Authority shall cause to be posed, at appropriate places on the properties of the
38 Authority, notice to the public of applicable rules, regulations, and ordinances as may be
39 adopted under the authority of this subsection. Any person violating any such rules,
40 regulations, or ordinances shall, upon conviction thereof, be guilty of a misdemeanor
41 and shall be punished by a fine of not exceeding fifty dollars (\$50.00) or imprisonment
42 not to exceed 30 days.

43 (d) The executive director of the Authority may appoint such number of
44 employees of the Authority as he may think proper as special police officers. Such

1 police officers shall have the power of arrest of persons committing violations of federal
2 or State law or any reasonable rules, regulations, and ordinances lawfully adopted by
3 the Authority as herein authorized and any other powers to the same extent as special
4 police officers of incorporated towns. Employees appointed as such special police
5 officers shall take the general oath of office prescribed by G.S. 11-11.

6 **"§ 159J-9. Treasurer.**

7 The Authority shall select its own treasurer. The Authority shall require a surety
8 bond of such appointee in such amount as the Authority may fix, and the premium or
9 premiums thereon shall be paid by said Authority as a necessary expense of said
10 Authority.

11 **"§ 159J-10. Authority funds.**

12 All Authority funds shall be deposited in a bank or banks to be designated by the
13 Authority. Funds of the Authority shall be paid out only upon warrants signed by the
14 treasurer or assistant treasurer of the Authority and countersigned by the chairman, the
15 acting chairman, or the executive director. No warrants shall be drawn or issued
16 disbursing any of the funds of the Authority except for a purpose authorized by this
17 Chapter and only when the account or expenditure for which the same is to be given in
18 payment has been audited and approved by the Authority or its executive director.

19 **"§ 159J-11. State Auditor oversight.**

20 The operations of the Authority shall be subject to the oversight of the State Auditor
21 pursuant to Article 5A of Chapter 147 of the General Statutes.

22 **"§ 159J-12. Public bidding.**

23 (a) All of the provisions of Article 3 of Chapter 143 of the General Statutes
24 relating to the purchase of supplies, material, and equipment by the State government
25 are hereby made applicable to the Authority. All of the provisions of Chapter 143 of the
26 General Statutes relating to public building contracts are hereby made applicable to the
27 Authority for those construction projects which may be funded, in whole or in part, by
28 appropriations from the General Assembly.

29 (b) Notwithstanding subsection (a) of this section, Article 3 of Chapter 143 of the
30 General Statutes shall not apply to any special user project not owned by the Authority
31 or to the letting of any contract for services listed in 49 U.S.C. section 2210(a)(16) or
32 any successor provision.

33 **"§ 159J-13. Bonds.**

34 (a) The Authority may provide for the issuance at one time or from time to time
35 of bonds and notes, including bond anticipation notes and renewal notes, of the
36 Authority to carry out and effectuate its corporate purposes including financing the costs
37 of projects. The principal of and interest on such bonds or notes shall be payable solely
38 from funds provided under this Chapter for such payment. Any bond anticipation notes
39 may be made payable from the proceeds of bonds or renewal notes or, in the event bond
40 or renewal note proceeds are not available, notes may be paid from any available
41 Authority revenues or other funds provided for this purpose. Bonds and notes may also
42 be paid from the proceeds of any credit facility. The bonds and notes of each issue shall
43 be dated and may be made redeemable prior to maturity at the option of the Authority or
44 otherwise, at such price or prices, on such date or dates, and upon such terms and

1 conditions as may be determined by the Authority. The bonds or notes may also be
2 made payable from time to time on demand or tender for purchase by their owner, all
3 upon such terms and conditions as may be determined by the Authority. Any such
4 bonds or notes shall bear interest at such rate or rates, including variable rates, as may
5 be determined by the Local Government Commission with the approval of the
6 Authority.

7 (b) In fixing the details of bonds or notes, the Authority may provide that any of
8 the bonds or notes may:

9 (1) Be made payable from time to time on demand or tender for purchase
10 by the owner thereof provided a credit facility supports such bonds or
11 notes, unless the Local Government Commission specifically
12 determines that a credit facility is not required, based upon a finding
13 and determination by the Local Government Commission that the
14 absence of a credit facility will not materially and adversely affect the
15 financial position of the Authority and the marketing of the bonds or
16 notes at a reasonable interest cost to the Authority;

17 (2) Be additionally supported by a credit facility;

18 (3) If such bonds or notes are issued to finance an airport project, be
19 additionally supported by a pledge of any agreement entered into
20 pursuant to G.S. 159J-17;

21 (4) Be made subject to redemption or a mandatory tender for purchase
22 prior to maturity;

23 (5) Be capital appreciation bonds;

24 (6) Bear interest at a rate or rates that may vary for such period or periods
25 of time, all as may be provided in the proceedings providing for the
26 issuance of such bonds or notes including, without limitation, such
27 variations as may be permitted pursuant to a par formula; and

28 (7) Be made the subject of a remarketing agreement whereby an attempt is
29 made to remarket the bonds or notes to new purchasers prior to their
30 presentment for payment to the provider of the credit facility or to the
31 Authority.

32 (c) As used in this section:

33 (1) 'Credit facility' means an agreement entered into by the Authority with
34 a bank, savings and loan association, or other banking institution, an
35 insurance company, reinsurance company, surety company or other
36 insurance institution, a corporation, investment banking firm or other
37 investment institution, or any financial institution providing for prompt
38 payment of all or any part of the principal or purchase price (whether
39 at maturity, presentment or tender for purchase, redemption or
40 acceleration), redemption premium, if any, and interest on any bonds
41 or notes payable on demand or tender by the owner, in consideration of
42 the Authority agreeing to repay the provider of such credit facility in
43 accordance with the terms and provisions of such agreement; the

1 provider of any credit facility may be located either within or without
2 the United States of America.

3 (2) 'Par formula' means any provision or formula adopted by the
4 Authority to provide for the adjustment, from time to time, of the
5 interest rate or rates borne by any bonds or notes including:

6 a. A provision providing for the adjustment so that the purchase
7 price of the bonds or notes in the open market would be as close
8 to par as possible;

9 b. A provision providing for the adjustment based upon a
10 percentage or percentages of a prime rate or base rate, which
11 percentage or percentages may vary or be applied for different
12 periods of time; or

13 c. Such other provisions as the Authority may determine to be
14 consistent with this Chapter and will not materially and
15 adversely affect the financial position of the Authority and the
16 marketing of the bonds or notes at a reasonable interest cost to
17 the Authority.

18 (d) Notes and bonds shall mature at such time or times, not exceeding 40 years
19 from their date or dates, as may be determined by the Authority. The Authority shall
20 determine the form and manner of execution of the bonds or notes, including any
21 interest coupons to be attached thereto, and shall fix the denomination or denominations
22 and the place or places of payment of principal and interest, which may be any bank or
23 trust company within or without the United States. In case any officer whose signature
24 or a facsimile of whose signature shall appear on any bonds or notes or coupons, if any,
25 shall cease to be this officer before the delivery thereof, this signature or the facsimile
26 shall nevertheless be valid and sufficient for all purposes the same as if the officer had
27 remained in office until the delivery and any bond or note or coupon may bear the
28 facsimile signatures of such persons who at the actual time of the execution thereof shall
29 be the proper officers to sign although at the date of the bond or note or coupon the
30 persons may not have been these officers. The Authority may also provide for the
31 authentication of the bonds or notes by a trustee or other authenticating agent. The
32 bonds or notes may be issued as certificated or uncertificated obligations or both, and in
33 coupon or in registered form, or both, as the Authority may determine. Provision may
34 be made for the registration of any coupon bonds or notes as to principal alone and also
35 as to both principal and interest, and for the reconversion into coupon bonds or notes of
36 any bonds or notes registered as to both principal and interest, and for the interchange of
37 registered and coupon bonds or notes. Any system for registration may be established
38 as the Authority may determine.

39 Bonds or notes may be secured by a reserve fund created therefor and funded from
40 proceeds of such bonds or notes, revenues, or any other source of funds available to the
41 Authority.

42 (e) No bonds or notes may be issued by the Authority under this Chapter unless
43 the issuance thereof is approved and the bonds or notes are sold by the Local
44 Government Commission as provided in this Chapter. The Authority shall file with the

1 Secretary of the Local Government Commission an application requesting approval of
2 the issuance of the bonds or notes which application shall contain any such information
3 and shall have attached to it any such documents concerning the proposed financing as
4 the Secretary of the Local Government Commission may require.

5 In determining whether a proposed bond or note issue should be approved, the Local
6 Government Commission may consider, to the extent applicable as shall be determined
7 by the Local Government Commission, the criteria set forth in G.S. 159-52 and G.S.
8 159-86, as well as the effect of the proposed financing upon any scheduled or proposed
9 sale of obligations by the State, by any of its agencies or departments, or by any unit of
10 local government in the State. The Local Government Commission shall approve the
11 issuance of such bonds or notes if, upon the information and evidence it receives, it
12 finds and determines that the proposed financing will satisfy such criteria and will effect
13 the purposes of this Chapter.

14 Upon the filing with the Local Government Commission of a written request of the
15 Authority requesting that its bonds or notes be sold, the bonds or notes may be sold by
16 the Local Government Commission in such manner, either at public or private sale, and
17 for such price or prices as the Local Government Commission shall determine to be in
18 the best interest of the Authority and to effect the purposes of this Chapter, provided
19 that the sale shall be approved by the Authority.

20 Each bond or bond anticipation note that is represented by an instrument shall bear
21 on its face or reverse a certificate signed by the Secretary of the Local Government
22 Commission or an assistant designated by him that the issuance of the bond or note has
23 been approved under the provisions of this act. Such signature may be a manual or
24 facsimile signature as the Local Government Commission may determine. Each bond
25 or bond anticipation note that is not represented by an instrument shall be evidenced by
26 a writing relating to such obligation, which writing shall identify such obligation or the
27 issue of which it is part, bear such certificate and be on file with the Local Government
28 Commission. The certificate shall be conclusive evidence that the requirements of this
29 act have been observed.

30 (f) The proceeds of any bonds or notes shall be used solely for the purposes for
31 which the bonds or notes were issued and shall be disbursed in such manner and under
32 such restrictions, if any, as the Authority may provide in the resolution authorizing the
33 issuance of, or in any trust agreement securing, such bonds or notes.

34 (g) Prior to the preparation of definitive bonds, the Authority may issue interim
35 receipts or temporary bonds, with or without coupons, exchangeable for definitive
36 bonds when the bonds have been executed and are available for delivery. The Authority
37 may also provide for the replacement of any bonds or notes which shall become
38 mutilated or shall be destroyed or lost.

39 (h) Bonds or notes may be issued under the provisions of this Chapter without
40 obtaining, except as otherwise expressly provided in this Chapter, the consent of any
41 department, division, commission, board, body, bureau, or agency of the State and
42 without any other proceedings or the happening of any conditions or things other than
43 those proceedings, conditions, or things that are specifically required by this Chapter

1 and the provisions of the resolution authorizing the issuance of, or any trust agreement
2 securing, such bonds or notes.

3 (i) In the discretion of the Authority any obligations issued under the provisions
4 of this Chapter may be secured by a trust agreement by and between the Authority and a
5 corporate trustee, which may be any trust company or bank having the powers of a trust
6 company within or without the State and, in the case of a special user project, a deed of
7 trust of which the trustee may be an individual who is a resident of the State. It shall be
8 lawful for any bank or trust company incorporated under the laws of the State which
9 may act as depository of the proceeds of obligations, revenues, or other money under
10 this Chapter to furnish such indemnifying bonds or to pledge such securities as may be
11 required by the Authority. The pledge of any assets, income or revenues of the
12 Authority to the payment of the principal of or the interest on any obligations of the
13 Authority shall be valid and binding from the time when the pledge is made, and any
14 such assets, income or revenues immediately shall be subject to the lien of such pledge
15 without any physical delivery thereof or further act, and the lien of any such pledge
16 shall be valid and binding as against all parties having claims of any kind in tort,
17 contract or otherwise against the Authority, irrespective of whether such parties have
18 notice thereof.

19 (j) The resolution authorizing any obligations or the trust agreement securing the
20 same may provide that any moneys held pursuant thereto may be temporarily invested
21 pending the disbursement thereof and shall provide that any officer with whom, or any
22 bank or trust company with which such moneys shall be deposited shall act as trustee of
23 such moneys and shall hold and apply the same for the purposes hereof, subject to such
24 regulations as this Chapter and such resolution or trust agreement may provide. Any
25 such moneys or any other moneys of the Authority other than proceeds of bonds issued
26 to finance special user projects may be invested as provided in G.S. 159-30 or any
27 successor provision thereof. Notwithstanding the preceding sentence, in connection
28 with or incidental to the acquisition or carrying of any investment or program of
29 investment relating to bonds, or carrying of bonds, the Authority may from time to time
30 enter into such contracts as the Authority may determine to be necessary or appropriate
31 to place the investment or obligation of the Authority, as represented by the bonds,
32 investment, or program of investment and the contract or contracts, in whole or in part,
33 on the interest rate, currency, cash-flow, or other basis as the Authority may desire,
34 including without limitation interest rate swap agreements, currency swap agreements,
35 insurance agreements, forward payment conversion agreements, futures, contracts
36 providing for payments based on levels of, or changes in, interest rates, currency
37 exchange rates or stock or other indices, contracts to exchange cash flows or a series of
38 payments and contracts to hedge payment, currency, rate, spread, or similar exposure,
39 including without limitation interest rate floors or caps, options, puts, and calls. These
40 contracts or arrangements may also be entered into by the Authority in connection with,
41 or incidental to, entering into or maintaining any agreement which secures bonds. Such
42 contracts shall contain such payment, security, term (which may be greater or less than
43 one year), default, remedy and other terms and conditions as the Authority may deem
44 appropriate and shall be entered into with such party or parties as the Authority may

1 select, after giving due consideration, where applicable for the creditworthiness of the
2 counterparty or counterparties, including any rating by a nationally recognized rating
3 agency or any other criteria as may be appropriate. In connection with, or incidental to,
4 the issuance or carrying of bonds, or entering into any of the contracts or arrangements
5 referred to in this section, the Authority may enter into credit enhancement or liquidity
6 agreements, with payment, interest rate, termination date, currency, security, default,
7 remedy, and other terms and conditions as the Authority determines. Proceeds of bonds
8 and any moneys set aside and pledged to secure payment of bonds or any of the
9 contracts entered into pursuant to this section, may be pledged to and used to service
10 any of the contracts or agreements entered into pursuant to this section.

11 Proceeds of bonds issued to finance special user projects may be invested as
12 provided in the security document therefor.

13 (k) Obligations issued under the provisions of this Chapter are hereby made
14 securities in which all public offices and public bodies of the State and its political
15 subdivisions, all insurance companies, trust companies, banking associations,
16 investment companies, executors, administrators, trustees, and other fiduciaries may
17 properly and legally invest funds, including capital in their control or belonging to them.
18 Such obligations are hereby made securities which may properly and legally be
19 deposited with and received by any State or municipal officer or any agency or political
20 subdivision of the State for any purpose for which the deposit of bonds, notes, or
21 obligations of the State is now or may hereafter be authorized by law.

22 (l) The Authority may provide for the issuance of refunding obligations for the
23 purpose of refunding any obligations then outstanding which shall have been issued
24 under the provisions of this Chapter, including the payment of any redemption premium
25 thereon and any interest accrued or to accrue to the date of redemption of such
26 obligations and, if deemed advisable by the Authority, for any corporate purpose of the
27 Authority. The issuance of such obligations, the maturities and other details thereof, the
28 rights of the holders thereof, and the rights, duties, and obligations of the Authority in
29 respect of the same shall be governed by the provisions of this Chapter which relate to
30 the issuance of obligations, insofar as such provisions may be appropriate therefor.

31 Refunding obligations may be sold or exchanged for outstanding obligations issued
32 under this Chapter, and, if sold, the proceeds thereof may be applied, in addition to any
33 other authorized purposes, to the purchase, redemption, or payment of such outstanding
34 obligations.

35 Any such refunding bonds or notes may bear interest at rates, including variable
36 rates, lower, the same as, or higher than and have maturities shorter than, the same as, or
37 longer than the bonds or notes being refunded. The proceeds of any such refunding
38 bonds or notes may be applied:

- 39 (1) To the payment and retirement of the bonds or notes being refunded by
40 direct application to such payment and retirement;
- 41 (2) To the payment and retirement of the bonds or notes being refunded by
42 the deposit in trust of such proceeds;
- 43 (3) To the payment of any expenses incurred in connection with such
44 refunding; and

- 1 (4) For any other uses not inconsistent with such refunding.
2 (m) Any money so held in trust may be invested in:
3 (1) Direct obligations of the United States of America;
4 (2) Obligations, the principal of, and the interest on which are guaranteed
5 by the United States of America;
6 (3) Evidences of ownership of a proportionate interest in specified
7 obligations described in subdivisions (1) and (2) of this subsection,
8 which obligations are held by a bank or trust company organized and
9 existing under the laws of the United States of America or any state
10 thereof in the capacity of custodian;
11 (4) Obligations of the State or local governments of the State, provision
12 for the payment of the principal of and interest on which obligations
13 shall have been made by deposit with a trustee or escrow agent of
14 obligations described in subdivisions (1), (2), or (3) of this subsection,
15 the maturing principal of any interest on which, when due and payable,
16 shall provide sufficient money with any other money held in trust for
17 such purpose to pay the principal of, premium, if any, and interest on
18 such obligations of the State or units of local government and which
19 are rated in the highest category by Standard & Poor's Corporation and
20 Moody's Investors Service, Inc.;
21 (5) Obligations of the State or local governments of the State, the principal
22 of and interest on which, when due and payable, have been insured by
23 a bond insurance company which is rated in the highest category by
24 Standard & Poor's Corporation and Moody's Investors Service, Inc.;
25 (6) Full faith and credit obligations of the State or local governments of
26 the State, which are rated in the highest category by Standard & Poor's
27 Corporation and Moody's Investors Service, Inc.; or
28 (7) Any obligations or investments in which the State Treasurer is
29 authorized, at the time of such investment, to invest funds of the State.

30 The proceedings providing for the issuance of any refunding bonds or notes may
31 limit the investments in which the proceeds of a particular refunding issue may be
32 invested.

33 (n) Nothing in this section shall be construed as a limitation on:

- 34 (1) The duration of any deposit in trust for the retirement of bonds or notes
35 being refunded, but which shall not have matured and which shall not
36 be then redeemable or, if then redeemable, shall not have been called
37 for redemption; or
38 (2) The power to issue bonds or notes for the combined purpose of
39 refunding bonds or notes and providing moneys for any other
40 corporate purpose as provided in this Chapter.

41 (o) Any obligations issued by the Authority under the provisions of this Chapter,
42 the interest paid thereon, their transfer and the income therefrom (including any profit
43 made on the sale thereof), shall at all times be exempt from taxation by the State or any

1 local unit or political subdivision or other instrumentality of the State, excepting
2 inheritance or gift taxes.

3 (p) Except as permitted by G.S. 159J-17, obligations issued under the provisions
4 of this Chapter shall not be deemed to constitute a debt, liability, or obligation of the
5 State or of any other public body in the State secured by a pledge of the faith and credit
6 of the State or of any other public body in the State, respectively, but shall be payable
7 solely from the revenues, income or assets of the Authority pledged thereto. Each
8 obligation issued shall contain on its face a statement to the effect that the Authority
9 shall not be obligated to pay the same or the interest thereon except from the revenues,
10 income, or assets pledged therefor and that neither the faith and credit nor the taxing
11 power of the State or of any other public body in the State is pledged to the payment of
12 the principal of or the interest on such obligation, except as permitted by G.S. 159J-17.

13 (q) The State of North Carolina does pledge to and agree with the holders of any
14 bonds or bond anticipation notes heretofore or hereafter issued by the Authority that so
15 long as any such bonds or notes are outstanding and unpaid the State will not limit or
16 alter the rights vested in the Authority at the time of issuance of the bonds or notes to
17 establish, maintain, revise, charge, and collect such rates, fees, rentals, tolls, and other
18 charges for the use, services, facilities, and commodities of or furnished by the project
19 in connection with which the bonds or notes, or bonds or notes refunded by the bonds or
20 notes, were issued as shall produce revenues at least sufficient with other available
21 funds to meet the expense of maintenance and operation of and renewal and
22 replacements to such project, including reserves therefor, to pay when due the principal,
23 interest, and redemption premiums (if any) of the bonds or notes, and to fulfill the terms
24 of any agreements made with the bondholders or noteholders, nor will the State in any
25 way impair the rights and remedies of the bondholders or noteholders until the bonds or
26 notes and all costs and expenses in connection with any action or proceedings, by or on
27 behalf of the bondholders or noteholders, are fully paid, met, and discharged.

28 **"§ 159J-14. Special user project bonds.**

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

31 (b) Bonds and note may be sold to finance or refinance special user projects
32 irrespective of the interest limitations set forth in G.S. 24-1.1 as amended, and successor
33 provisions.

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

39 (d) Bonds and notes issued under the provisions of this section may be secured
40 by one or more agreements, including foreclosureable deeds of trust and other trust
41 instruments, which may pledge and assign to the trustee or the holders of its obligations
42 the assets, revenues, and income provided for the security of the bonds or notes,
43 including proceeds from the sale of any special user project or part thereof, insurance

1 proceeds and condemnation awards, and third-party agreements, and may convey or
2 mortgage the project and other property and collateral to secure a bond issue.

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

6 (e) Notwithstanding any other provision of law, the Authority may agree that all
7 contracts relating to the acquisition, construction, installation, and equipping of the
8 special user project shall be solicited, negotiated, awarded, and executed by the private
9 party or parties for which the Authority is financing the special user project or their
10 agents subject only to such approvals by the Authority as the Authority may require.
11 The Authority may, out of the proceeds of bonds or notes, make advances to or
12 reimburse such private parties or such agents for all or a portion of the costs incurred in
13 connection with such contracts. The provisions of G.S. 143B-463 shall have no
14 application to funds and moneys derived pursuant to this section.

15 (f) The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary
16 notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial
17 Code, being G.S. 25-9-101 to G.S. 25-6-607, inclusive, shall apply to transactions under
18 this section (but not to transactions involving the issuance of bonds for airport projects)
19 to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e)
20 and G.S. 25-9-302(6) hereby repealed.

21 (g) If the Authority is required by federal tax law to obtain allocation of the
22 unified volume limitation on private activity bonds with respect to any bonds issued
23 under this Chapter, the Authority shall apply to the North Carolina Federal Tax Reform
24 Allocation Committee for such allocation. In the event the Authority makes such
25 application on or before October 1 of a calendar year, such Committee shall allocate a
26 portion of the unified volume limitation for private activity bonds to the Authority for
27 such bonds, but only to the extent such volume limitation remains available at the time
28 the application is received by the Committee. If application for such allocation is made
29 after October 1 of any year, the Committee shall consider it for approval in accordance
30 with its rules then in effect.

31 (h) To the extent that federal tax law requires public hearings to be held with
32 respect to the issuance of bonds to finance special user projects, such hearings may be
33 called for by the executive director and held before one or more members of the Board
34 of the Authority. Such hearings may be held at any place within the State pursuant to
35 public notice thereof given in accordance with current federal tax regulations. To the
36 extent federal tax law requires approval following such hearing of the issuance of bonds
37 to fiance a special user project, such approval shall be sought from the Governor
38 following a report to the Governor of the results of the public hearing accompanied by
39 information relating to the purposes for the proposed bond issue.

40 **"§ 159J-15. Financing agreements.**

41 Every financing agreement shall provide that:

- 42 (1) The amounts payable under the financing agreement shall be sufficient
43 to pay all of the principal of and redemption premium, if any, and
44 interest on the bonds that shall be issued by the Authority to pay the

1 cost of the special user project as the same shall respectively become
2 due;

3 (2) The operator shall pay all costs incurred by the Authority in
4 connection with the financing and administration of the special user
5 project, except as may be paid out of the proceeds of bonds or
6 otherwise, including, but without limitation, insurance costs, the cost
7 of administering the financing agreement and the security document
8 and the fees and expenses of the fiscal agent or trustee, paying agents,
9 attorneys, consultants, and others;

10 (3) The operator shall pay all the costs and expenses of operation,
11 maintenance, and upkeep of the special user project; and

12 (4) The operator's obligation to provide for the payment of the bonds in
13 full shall not be subject to cancellation, termination, or abatement until
14 such payment of the bonds or provision therefor shall be made.

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

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

23 (1) Acceleration of all amounts payable under the financing agreement;

24 (2) Reentry and repossession of the special user project;

25 (3) Termination of the financing agreement;

26 (4) Leasing or sale of foreclosure of the special user project to others; and

27 (5) Taking whatever actions at law or in equity may appear necessary or
28 desirable to collect the amounts payable under, and to enforce
29 covenants made in, the financing agreement.

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

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

36 Any such financing agreement may contain such additional provisions as in the
37 determination of the Authority are necessary or convenient to effectuate the purposes of
38 this Chapter.

39 **"§ 159J-16. Security documents.**

40 Bonds issued under the provisions of this Chapter may be secured by a security
41 document which may be a trust instrument between the Authority and a bank or trust
42 company or individual within the State, or a bank or a trust company without the State,
43 as trustee. Such security document may pledge and assign the revenues provided for the
44 security of the bonds, including proceeds from the sale of any project, or part thereof,

1 insurance proceeds and condemnation awards, and may convey or mortgage the project
2 and other property to secure a bond issue.

3 The revenues and other funds derived from the project, except such part thereof as
4 may be necessary to provide reserves therefor, if any, may be set aside at such regular
5 intervals as may be provided in such security document in a sinking fund which may be
6 thereby pledged to, and charged with, the payment of the principal of and the interest on
7 such bonds as the same shall become due and the redemption price or the purchase price
8 of bonds retired by call or purchase as therein provided. Such pledge shall be valid and
9 binding from the time when the pledge is made. The revenues so pledged and thereafter
10 received by the Authority shall immediately be subject to the lien of such pledge
11 without any physical delivery thereof or further act, and the lien of any such pledge
12 shall be valid and binding as against all parties having claims of any kind in tort,
13 contract or otherwise against the Authority, irrespective of whether such parties have
14 notice thereof. The use and disposition of money to the credit of such sinking fund shall
15 be subject to the provisions of the security document. Such security document may
16 contain such provisions for protecting and enforcing the rights and remedies of the
17 bondholders as may be reasonable and proper and not in violation of law, including,
18 without limitation, any one or more of the following:

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

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

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

37 **"§ 159J-17. County agreements.**

38 (a) Any county in which all or part of a cargo airport site is located may enter
39 into an agreement with the Authority providing for payments to be made by such county
40 to the Authority in respect of benefits accruing to the county from the location of the
41 cargo airport site within the county. The county's obligations under any such agreement
42 shall not constitute a pledge of its faith and credit and payment therefor shall be made
43 from sources of payment specified in such agreement, except pursuant to subsection (b)

1 or (c). Except as permitted pursuant to subsection (b) or (c), such sources of payment
2 may not include any receipts from the exercise of the county's taxing power.

3 (b) Payments made by a county to the Authority pursuant to agreements entered
4 into under subsection (a) may be made from receipts of the exercise of the county's
5 taxing power if the requirements of this subsection are met.

6 (b1) Any county may covenant with the Authority for the payment of amounts due
7 under agreements permitted by subsection (a) whereby such county agrees to:

8 (1) Levy for the life of the agreement an annual property tax not in excess
9 of the rate set forth in the question submitted to voters as hereinafter
10 provided, such levy to be based upon the operating supplement
11 requirement, as defined in this subsection, or

12 (2) Levy for the life of the agreement in respect of which such tax is being
13 levied an annual property tax not in excess of the rate required to pay
14 the principal of and the interest on the aggregate principal amount of
15 revenue bonds set forth in the question submitted to the voters as
16 hereinafter provided, such levy to be based upon the debt service
17 reserve supplement requirement, as defined in this subsection.

18 (b2) When any such covenant has been made or any such agreement has been
19 entered into, the county shall determine by not later than June 1 of each fiscal year the
20 amount required, determined as hereinafter provided, to be raised by taxation by such
21 county in the next fiscal year. The county is obligated to levy such tax only to the
22 extent that an operating supplement requirement or a debt service reserve supplement
23 requirement shall occur during the fiscal year preceding the fiscal year in which the tax
24 is to be levied. In no event shall the county be required to levy a tax in excess of the
25 rate required to be levied in accordance with the approval of the voters as provided in
26 subsection (b3). When any such tax is to be levied, the county shall include in its
27 budget ordinance an appropriation equal to the estimated yield of the tax levy, and shall
28 pay such appropriation to the Authority or transfer moneys to the appropriate fund in
29 equal monthly installments unless another mutually satisfactory schedule of payments is
30 agreed upon.

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

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

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

40 Operating Supplement Requirement:

41 'Shall the agreement binding the county to levy annually a tax on
42 property not in excess of cents on the one hundred dollars
43 (\$100.00) value of property subject to taxation for the purpose of
44 supplementing the revenues of the Authority in instances where the

gross revenues of an airport project are estimated to be less than the estimated total costs of the (i) current operating expenses of the project, (ii) amount required to maintain the debt service reserve by repaying any withdrawals therefrom in respect of all outstanding bonds issued in connection with the project and (iii) debt service on all outstanding bonds issued in connection with the project, all as defined in such agreement, the proceeds of such tax to be used for the payment of the current operating expenses of the project so long as any revenue bonds issued therefor remain outstanding and unpaid be approved?

Yes

No'

Debt Service Reserve Supplement Requirement:

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

Yes

No'

and

(2) The published statement of result shall have the following statement appended:

'Any action or proceeding challenging the regularity or validity of this supplemental tax referendum must be begun within 30 days after (date of publication).

.....
(title of governing board.)'

(b4) Any action or proceeding in any court to set aside a supplemental tax referendum held under this section, or to obtain any other relief upon the ground that the referendum is invalid or was irregularly conducted, must be begun within 30 days after the publication of the statement of the result of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this subsection.

(b5) An order or agreement submitted to an approved by the voters pursuant to this section may be repealed at any time before bonds are issued pursuant thereto.

(b6) For the purposes of this section:

(1) An 'operating supplement requirement' occurs when, as set forth in the budget prepared by the Authority, the estimated cost in the next succeeding fiscal year of the (i) current operating expenses of the relevant airport project, (ii) amount required to maintain the debt

1 service reserve by repaying any withdrawals therefrom in respect of all
2 outstanding bonds issued in connection with the relevant airport
3 project, and (iii) debt service on all outstanding bonds issued in
4 connection with the relevant airport project are in excess of the
5 pledged revenues of the project for such fiscal year as estimated by the
6 Authority, excluding taxes levied pursuant to this subsection;
7 provided, however, that the amount of the operating supplement
8 requirement shall not exceed the total amount of the current operating
9 expenses of the project, and

10 (2) A 'debt service reserve supplement requirement' occurs when there
11 have been withdrawn from the debt service reserve any moneys for the
12 purpose of paying debt service on the bonds in respect of which the
13 supplemental tax has been authorized by the voters; provided,
14 however, that the amount of the debt service reserve supplement
15 requirement shall not exceed the amount so withdrawn.

16 (b7) Any covenant or agreement of a county made pursuant to this section, and the
17 obligations assumed thereby, shall be excludable from the gross debt of the county for
18 purposes of the statement of debt mentioned in G.S. 159-55.

19 (c) On or after the effective date of an amendment to the Constitution permitting
20 the General Assembly to enact laws permitting counties to issue bonds secured by
21 incremental increases in real property taxes within specifically designated taxing
22 districts for certain types of projects, counties may utilize such obligations to secure or
23 provide for the agreements described in subsection (a) using a cargo airport site or a
24 portion thereof within the county as the development financing district pursuant to
25 Article 6 of Chapter 159 of the General Statutes.

26 **"§ 159J-18. Remedies.**

27 Any owner of bonds or notes issued under the provisions of this Chapter or any
28 coupons appertaining thereto, and the trustee under any trust agreement securing or
29 resolution authorizing the issuance of such bonds or notes, except to the extent the
30 rights herein given may be restricted by such trust agreement or resolution, may either
31 at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce
32 any and all rights under the laws of the State or granted hereunder or under such trust
33 agreement or resolution, or under any other contract executed by the Authority pursuant
34 to this Chapter; and may enforce and compel the performance of all duties required by
35 this Chapter or by such trust agreement or resolution by the authority or by any officer
36 thereof.

37 **"§ 159J-19. Status of bonds and notes under Uniform Commercial Code.**

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

42 **"§ 159J-20. Officers not liable.**

43 No member or officer of the Authority shall be subject to any personal liability or
44 accountability by reason of his execution of any bonds or notes or the issuance thereof.

1 **"§ 159J-21. Conflicts of interest.**

2 If any member, officer, or employee of the Authority shall be interested either
3 directly or indirectly, or shall be an officer or employee of or have an ownership interest
4 in any firm or corporation, not including units of local government interested directed or
5 indirectly, in any contract with the Authority, such interest shall be disclosed to the
6 Authority and shall be set forth in the minutes of the Authority. The member, officer, or
7 employee having an interest therein shall not participate on behalf of the Authority in
8 the authorization of any such contract. Other provisions of law notwithstanding, failure
9 to take any or all actions necessary to carry out the purposes of this section may not
10 affect the validity of any bonds, notes, or loan agreements issued pursuant to the
11 provisions of this Chapter.

12 **"§ 159J-22. Dissolution.**

13 Whenever the Board of the Authority shall by resolution determine that the purposes
14 for which the Authority was formed have been substantially fulfilled and that all bonds
15 theretofore issued and all other obligations theretofore incurred by the Authority have
16 been fully paid or satisfied, such Board may declare the Authority to be dissolved. On
17 the effective date of such resolution, the title to all funds and other property owned by
18 the Authority at the time of such dissolution shall vest in the State and possession of
19 such funds and other property shall forthwith be delivered to the State.

20 **"§ 159J-23. Conflicting laws.**

21 Insofar as the provisions of this Chapter are inconsistent with the provisions of any
22 general, special, or local laws, or parts thereof, the provisions of this Chapter shall be
23 controlling.

24 **"§ 159J-24. Airport zoning authority approval required.**

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

29 **"§ 159J-25. Liberal construction.**

30 It is intended that the provisions of this act shall be liberally construed to accomplish
31 the purposes provided for, or intended to be provided for, herein, and where strict
32 construction would result in the defeat of the accomplishment of any of the acts
33 authorized herein, and a liberal construction would permit or assist in the
34 accomplishment thereof, the liberal construction shall be chosen.

35 **"§ 159J-26. Severability.**

36 The provisions of this act are severable, and if any provision of this act is held
37 invalid by a court of competent jurisdiction, the invalidity shall not affect other
38 provisions of the act which can be given effect without the invalid provision."

39 Sec. 2. G.S.120-123 is amended by adding a new subdivision to read:

40 "(25a) The North Carolina Air Cargo Authority as established under
41 G.S.159J-4."

42 Sec. 3. This act is effective upon ratification.