

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 649\*

Economic Development Committee Substitute Adopted 5/13/91

House Committee Substitute Favorable 7/11/91

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 63A.**

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

**“§ 63A-1. Short title and intent.**

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.

**“§ 63A-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 or other interest bearing obligations  
13                 authorized to be issued by the Authority 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. In addition to facilities for the transportation of cargo by  
18                 aircraft, a cargo airport may contain facilities to shelter, service, or  
19                 repair aircraft and facilities to discharge and receive 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. An area may not be so  
25                 designated by the Authority unless all or a substantial portion of the  
26                 land on which the cargo airport is located or is to be located is or shall  
27                 be owned by the Authority.

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

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

30                 1.     Acquiring, constructing, erecting, providing, developing,  
31                         installing, furnishing, and equipping.

32                 2.     Reconstructing, remodeling, altering, renovating,  
33                         replacing, refurbishing, and reequipping.

34                 3.     Enlarging, expanding, and extending.

35                 4.     Demolishing, relocating, improving, grading, draining,  
36                         landscaping, paving, widening, and resurfacing.

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

42           c.     The costs of demolishing or moving structures from land  
43                 acquired and acquiring land to which the structures are to be  
44                 moved.

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

- 1           a.    A provision for an adjustment to keep the purchase price of the  
2           bond or note in the open market as close to par as possible.
- 3           b.    A provision for an adjustment based on one or more  
4           percentages of a prime rate or base rate that may vary or apply  
5           for specified periods of time.
- 6           c.    Any other provision that does not materially and adversely  
7           affect the financial position of the Authority and the marketing  
8           of the bonds or notes at a reasonable interest cost to the  
9           Authority.
- 10       (17) Person. – Any person, corporation, partnership, association, trust, or  
11       other legal entity.
- 12       (18) Project. – An airport project or a special user project.
- 13       (19) Revenues. – For a special user project, the term means rents, fees,  
14       charges, payments, proceeds, or other income or profit derived from  
15       the special user project or from the financing agreement or security  
16       document for the special user project. For an airport project, the term  
17       means rents, fees, charges, payments, proceeds, or other income or  
18       profit derived from the airport project or from any pledge of nontax  
19       revenues, appropriation, or payment made by the State or a county in  
20       which the cargo airport is located or from any pledge of tax revenues  
21       made by a county under G.S. 63A-15.
- 22       (20) Security document. – One or more written instruments establishing the  
23       rights and responsibilities of the Authority and the holders of bonds  
24       issued to finance a special user project. A security document may  
25       provide for, or be in the form of an agreement with, a trustee for the  
26       benefit of the bondholders. A security document may contain an  
27       assignment, pledge, mortgage, or other encumbrance of part or all of  
28       the Authority's interest in, or right to receive revenues from, a special  
29       user project or any other property provided by the operator or other  
30       obligor under a financing agreement. A financing agreement and a  
31       security document may be combined as one instrument.
- 32       (21) Special user project. – Any land, equipment, or buildings or other  
33       structures located on one or more sites within a cargo airport complex  
34       site and the addition to or the rehabilitation, improvement, renovation,  
35       or enlargement of a structure located within a cargo airport complex  
36       site when the property is to be used as or in connection with any of the  
37       following:
- 38           a.    An undertaking for industry, including an industrial or a  
39           manufacturing factory, mill, assembly plant, or fabricating  
40           plant, a freight terminal, an industrial research, development, or  
41           laboratory facility, or an industrial processing or distribution  
42           facility for industrial or manufactured products.

1           b. A commercial, processing, mining, transportation, distribution,  
2           storage, marine, aviation, or environmental facility or  
3           improvement.

4           c. Any combination of items mentioned in subparts a. and b.

5           A special user project, during its economic life, is to be principally  
6           used by one or more for-profit entities other than as lessee under a true  
7           lease. A special user project may include all appurtenances and  
8           incidental facilities such as land, a headquarters or office facility,  
9           warehouses, distribution centers, access roads, sidewalks, utilities,  
10           railway sidings, trucking and similar facilities, parking facilities,  
11           waterways, docks, wharves, and other improvements necessary or  
12           convenient for the construction, maintenance, and operation of any  
13           structure.

14           (22) True lease. – A lease that has a fair market value rental and is not  
15           treated as a financing lease or installment sale for federal tax law  
16           purposes.

17    **§ 63A-3. Creation of Authority and Board.**

18           (a) Creation. The North Carolina Air Cargo Airport Authority is created as a  
19           body corporate and politic having the powers and jurisdiction as provided under this  
20           Chapter or any other law. The Authority is a State agency created to perform essential  
21           governmental and public functions. The Authority shall be located within the  
22           Department of Transportation, but shall exercise all of its powers, including the power  
23           to employ, direct, and supervise all personnel, independently of the Secretary of  
24           Transportation and, notwithstanding any other provision of law, shall be subject to the  
25           direction and supervision of the Secretary only with respect to the management  
26           functions of coordinating and reporting.

27           (b) Board of Directors. The Authority shall be governed by a Board of Directors.  
28           The Board shall consist of at least the following 13 members:

29           (1) Seven members appointed by the Governor.

30           (2) Three members appointed by the General Assembly upon the  
31           recommendation of the Speaker of the House of Representatives in  
32           accordance with G.S. 120-121.

33           (3) Three members appointed by the General Assembly upon the  
34           recommendation of the President Pro Tempore of the Senate in  
35           accordance with G.S. 120-121.

36           The Board may consist of more than 13 members if more members are appointed by  
37           boards of county commissioners in accordance with this subsection. Within 90 days  
38           after the Authority acquires land, either by purchase or condemnation, for development  
39           as part of a cargo airport complex site, the board of county commissioners in any county  
40           in which a portion of the land is located may, by resolution, appoint a person to serve as  
41           a member of the Board. If the board of commissioners appoints one of its own  
42           members to the Board, the county commissioner who is appointed is considered to be  
43           -serving on the Board as an ex officio voting member as part of the duties of the office of

1 county commissioner, in accordance with G.S. 128-1.2, and is not considered to be  
2 servicing in a separate office.

3 As the holder of an office, each member of the Board shall take the oath required by  
4 Article VI, § 7 of the North Carolina Constitution before assuming the duties of a Board  
5 member.

6 (c) Selection Criteria. Of the members appointed by the Governor, at least two  
7 shall be residents of the western region of the State, at least two shall be residents of the  
8 piedmont region of the State, and at least two shall be residents of the eastern region of  
9 the State. In addition, at least one member appointed by the Governor shall be  
10 representative of business, at least one shall be representative of agribusiness, and at  
11 least one shall be representative of industrial interests.

12 Of the members appointed by the General Assembly upon the recommendation of  
13 the President Pro Tempore of the Senate, one shall be a resident of the western region of  
14 the State, one shall be a resident of the piedmont region of the State, and one shall be a  
15 resident of the eastern region of the State. Of the members appointed by the General  
16 Assembly upon the recommendation of the Speaker of the House of Representatives,  
17 one shall be a resident of the western region of the State, one shall be a resident of the  
18 piedmont region of the State, and one shall be a resident of the eastern region of the  
19 State.

20 (d) Terms. Except for the terms of the initial Board members, Board members  
21 shall serve two-year terms that begin on July 1. The terms of the initial members  
22 appointed by the Governor or the General Assembly end June 30, 1993. The initial  
23 term of a member appointed by a board of county commissioners ends on the second  
24 June 30 after the appointment.

25 (e) Chair and Vice-chair of the Board. The Governor shall designate one of the  
26 members appointed by the Governor as the Chair of the Board. The Governor shall  
27 convene the first meeting of the Board, at which time the members of the Board shall  
28 elect from their membership a Vice-chair of the Board.

29 (f) Vacancies. All members of the Board shall remain in office until their  
30 successors are appointed and qualify. A vacancy in an appointment made by the  
31 Governor or a board of county commissioners shall be filled by the Governor or the  
32 board of county commissioners for the remainder of the unexpired term. A vacancy in  
33 an appointment made by the General Assembly shall be filled in accordance with G.S.  
34 120-122. A person appointed to fill a vacancy shall qualify in the same manner as a  
35 person appointed for a full term.

36 (g) Removal of Board Members. The Governor may remove any member of the  
37 Board for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-  
38 13(d). The person who appointed a member of the Board may remove the member for  
39 using improper influence in accordance with G.S. 143B-13(c).

40 (h) Organization of the Board. The Board shall adopt bylaws with respect to the  
41 calling of meetings, quorums, voting procedures, the keeping of records, and other  
42 organizational and administrative matters as the Board may determine. A quorum shall  
43 consist of at least seven members of the Board. No vacancy in the membership of the

1 Board shall impair the right of a quorum to exercise all rights and to perform all the  
2 duties of the Board and the Authority.

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

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

11 (k) Executive Director and other Employees. The Board shall appoint an  
12 executive director, whose salary shall be fixed by the Board, to serve at its pleasure. The  
13 executive director or a person designated by the executive director shall appoint,  
14 employ, dismiss, and, within the limits of available funding, fix the compensation of  
15 other employees as considered necessary.

16 (l) Office. The Board shall establish an office for the transaction of the  
17 Authority's business at the place the Board finds advisable or necessary to implement  
18 the provisions of this Chapter.

19 **"§ 63A-4. Powers of the Authority.**

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

22 (1) The powers of a corporate body, including the power to sue and be  
23 sued, to make contracts, to adopt and use a common seal, and to alter  
24 the adopted seal as needed.

25 (2) To establish, finance, purchase, construct, operate, and regulate cargo  
26 airport complexes and to own, finance, lease, sell, or manage real or  
27 personal property.

28 (3) To charge and collect fees and rents for the use of the cargo airport  
29 complexes or for services rendered in the operation of the complexes.

30 (4) To contract and enter into agreements with the State, local  
31 governments, other authorities of North Carolina, and other states for  
32 the interchange of business and to facilitate the business of cargo  
33 airport complexes.

34 (5) To rent, lease, purchase, acquire, own, encumber, dispose of, or  
35 mortgage real or personal property, including the power to acquire  
36 property by eminent domain pursuant to G.S. 63A-6.

37 (6) To establish, construct, purchase, maintain, equip, and operate any  
38 structure or facilities to aid commerce associated with a cargo airport  
39 complex, including the construction of highways, bridges, shipping  
40 facilities, electronic cargo transfer systems, mass transit systems, and  
41 other transportation facilities. Before constructing a highway or a  
42 bridge, the Authority shall consult with the Department of  
43 Transportation.

- 1           (7)    To create and operate agencies and departments needed to implement  
2           this Chapter.
- 3           (8)    To pay all necessary costs and expenses in the formation, organization,  
4           administration, and operation of the Authority.
- 5           (9)    To apply for, accept, and administer loans and grants of money from  
6           any federal agency, from the State or its political subdivisions, or from  
7           any other public or private sources available, to expend the money in  
8           accordance with the requirements imposed by the lender or donor, and  
9           to give any evidences of indebtedness that are required. No  
10           indebtedness of any kind incurred or created by the Authority shall  
11           constitute an indebtedness of the State or its political subdivisions, and  
12           no indebtedness of the Authority shall involve or be secured by the  
13           faith, credit, or taxing power of the State or its political subdivisions  
14           except indirectly as permitted by G.S. 63A-15.
- 15           (10)   To adopt, alter, or repeal its own bylaws or rules implementing the  
16           provisions of this Chapter.
- 17           (11)   To execute financing agreements, security documents, and other  
18           instruments necessary in exercising its power under this Chapter.
- 19           (12)   To fix, charge, collect, pledge, or assign revenues of the Authority.
- 20           (13)   To employ consulting engineers, architects, attorneys, real estate  
21           counselors, appraisers, and other consultants and employees as may be  
22           required in the judgment of the Board and to fix and pay their  
23           compensation from funds available to the Authority, and, when  
24           approved by the Local Government Commission under G.S. 159-  
25           123(e) and (f) as if the Authority were an issuing unit, to select and  
26           retain financial consultants, underwriters, and bond attorneys in  
27           connection with the issuance of any bonds and to pay for their services  
28           out of the proceeds of any bond issue for which their services were  
29           performed.
- 30           (14)   To issue bonds or notes of the Authority as provided under this  
31           Chapter to pay the costs of a project.
- 32           (15)   To issue revenue refunding bonds of the Authority as provided under  
33           this Chapter.
- 34           (16)   To procure and maintain adequate insurance or otherwise provide for  
35           adequate protection to indemnify the Authority and its officers,  
36           directors, agents, employees, adjoining property owners, or the general  
37           public against loss or liability resulting from any act or omission by or  
38           on behalf of the Authority.
- 39           (17)   To purchase or finance real or personal property in the manner  
40           provided for cities and counties under G.S. 160A-20.
- 41           (18)   To enter into agreements with counties pursuant to G.S. 63A-15 and  
42           request the Local Government Commission to enforce, pursuant to  
43           Chapter 159 of the General Statutes, the agreements and any pledges  
44           made with respect to the agreements.



- 1           (19) To exercise the powers granted political subdivisions under Article 4,  
2 Chapter 63 of the General Statutes, and to exercise the powers granted  
3 to municipalities and counties under Article 6, Chapter 63 of the  
4 General Statutes, governing public airports and related facilities.
- 5           (20) To act as agent for the United States of America or any agency of the  
6 United States in any matter within the purpose of this Chapter.
- 7           (21) With the approval of any unit of local government, to use officers,  
8 employees, agents, and facilities of the unit of local government for the  
9 purposes and upon the terms as may be mutually agreeable.
- 10          (22) To issue obligations, without Local Government Commission  
11 approval, to finance the purchase or acquisition of land or options on  
12 land. An obligation may be secured by the land purchased or acquired,  
13 may be unsecured, or may be made payable from revenues, the  
14 proceeds of notes, bonds, or the sale of any lands, the proceeds of any  
15 bonds of the State or moneys appropriated by the State, or any other  
16 available moneys of the Authority. An obligation to finance the  
17 purchase or acquisition of land or options on land may be sold only to  
18 the Escheat Fund as an investment of the Fund pursuant to G.S. 147-  
19 69.2(b)(11).
- 20          (23) To receive and use appropriations from the State, including an  
21 appropriation from the proceeds of State general obligation bonds or  
22 notes.

23          (b) To execute the powers provided in subsection (a) of this section, the Board  
24 shall determine the policies of the Authority by majority vote of the members of the  
25 Board present and voting, a quorum having been established. Once a policy is  
26 determined, the Board shall communicate it to the executive director, who shall have the  
27 sole and exclusive authority to execute the policy of the Authority. No member of the  
28 Board shall have the responsibility or authority to give operational directives to any  
29 employee of the Authority other than the executive director.

30 **"§ 63A-5. Taxation of property of Authority.**

31          Property owned by the Authority is exempt from taxation in accordance with Article  
32 V, § 2 of the North Carolina Constitution. Property that is part of or is located on a  
33 cargo airport complex site and is not owned by the Authority, including property that is  
34 part of a special user project, is not exempt from tax due to its location.

35 **"§ 63A-6. Acquisition, disposition, or exchange of real property.**

36          (a) General. The Authority may acquire real property by purchase, negotiation,  
37 gift, devise, or eminent domain. Any acquisition or disposition by the Authority of real  
38 property or an estate or interest in real property must be reviewed and approved by the  
39 Council of State before it can become effective. When the Authority acquires real  
40 property owned by the State, the Secretary of the Department of Administration shall  
41 execute and deliver to the Authority a deed transferring fee simple title to the property  
42 to the Authority.

43          (b) Eminent Domain. To exercise the power of eminent domain, the Authority  
44 shall commence a proceeding in its name and may follow any procedure set by law by

1 which a State agency or a political subdivision of the State may exercise the power of  
2 eminent domain. As with other acquisitions, however, the Authority's exercise of the  
3 power of eminent domain is subject to review and approval by the Council of State.

4 The Authority's power of eminent domain applies to all property, including property  
5 that is owned by a State agency or a political subdivision of the State and is already  
6 devoted to a specific use other than as an airport established under Chapter 63 of the  
7 General Statutes. The Authority may acquire by eminent domain property that is owned  
8 by a political subdivision and is used as an airport established under Chapter 63 of the  
9 General Statutes only after obtaining the approval of the governing body of each  
10 political subdivision that established the airport.

11 (c) Exchange. The Authority may exchange any property it acquires for other  
12 property usable in carrying out the powers conferred on the Authority and also, upon the  
13 payment of just compensation, may remove a building, a terminal, or another structure  
14 from land needed for its purposes and reconstruct the structure on another location.

15 **"§ 63A-7. Police power.**

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

24 (b) The executive director of the Authority may designate employees of the  
25 Authority as special police officers. A person designated as a special police officer has  
26 jurisdiction within the cargo airport complex site to arrest a person who violates any  
27 federal or State law or any ordinance of the Authority and has other powers to the same  
28 extent as police officers of incorporated municipalities. An employee designated as a  
29 special police officer shall take the oath of a law enforcement officer set out in G.S. 11-  
30 11.

31 **"§ 63A-8. Authority funds.**

32 All Authority funds shall be deposited in one or more banks to be designated by the  
33 Board. Funds of the Authority shall be paid out only upon warrants signed by the  
34 treasurer or assistant treasurer of the Authority and countersigned by the chair, the  
35 acting chair, or the executive director. No warrants shall be drawn or issued disbursing  
36 any of the funds of the Authority except for a purpose authorized by this Chapter and  
37 only when the account or expenditure has been audited and approved by the Authority  
38 or its executive director.

39 **"§ 63A-9. Bonds and notes.**

40 (a) The Authority may provide for the issuance, at one time or from time to time,  
41 of bonds and notes, including bond anticipation notes and renewal notes, of the  
42 Authority to carry out its corporate purposes including financing the costs of projects.  
43 The principal of and interest on the bonds or notes shall be payable from funds provided  
44 under this Chapter for their payment. A bond anticipation note may be made payable

1 from the proceeds of bonds or renewal notes or, in the event bond or renewal note  
2 proceeds are not available, from any available Authority revenues or other funds  
3 provided for this purpose. Bonds and notes may also be paid from the proceeds of any  
4 credit facility.

5 All bonds, notes, or refunding bonds or notes of the Authority are subject to this  
6 section and G.S. 63A-10. All bonds, notes, or refunding bonds or notes to finance or  
7 refinance a special user project are also subject to G.S. 63A-11.

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

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

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

20 (1) Be payable from time to time on demand or tender for purchase by the  
21 owner of the bond or note if a credit facility supports the bond or note,  
22 unless the Local Government Commission specifically determines that  
23 a credit facility is not required because the absence of a credit facility  
24 will not materially and adversely affect the financial position of the  
25 Authority and the marketing of the bonds or notes at a reasonable  
26 interest cost to the Authority.

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

28 (3) If the bonds or notes are issued to finance an airport project, be  
29 additionally supported by a pledge of any agreement entered into  
30 pursuant to G.S. 63A-15.

31 (4) Be made subject to redemption or a mandatory tender for purchase  
32 prior to maturity.

33 (5) Be capital appreciation bonds.

34 (6) Bear interest at a rate or rates that may vary, including variations  
35 permitted pursuant to a par formula.

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

40 (c) Notes and bonds shall mature at the times determined by the Authority, not to  
41 exceed 40 years from the date of issue. The Authority shall determine the form and  
42 manner of execution of a bond or note, including any interest coupons to be attached to  
43 the bond or note. The Authority shall fix the denominations and places of payment of  
44 principal and interest of the bond or note. The principal of and interest on a bond or

1 note may be paid at any bank or trust company, whether located inside or outside the  
2 United States of America.

3 (d) The validity of a bond, note, or coupon that has the signature or facsimile  
4 signature of a person who was an officer when the bond, note, or coupon was signed or  
5 the facsimile signature attached but who is not that officer when the bond, note, or  
6 coupon is delivered is not affected by the change in officers. A bond, note, or coupon  
7 may bear the signature or facsimile signature of a person who will be the proper officer  
8 to sign the bond, note, or coupon when it is executed but who is not the officer on the  
9 date of the bond, note, or coupon.

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

- 11 (1) Authentication of a bond or note by a trustee or other authenticating  
12 agent.
- 13 (2) Issuance of a bond or note as a certificated obligation, an  
14 uncertificated obligation, or both.
- 15 (3) Issuance of a bond or note in coupon form, in registered form, or both.
- 16 (4) Registration of a coupon bond or note as to principal alone or as to  
17 both principal and interest.
- 18 (5) The reconversion of a bond or note registered as to both principal and  
19 interest into a coupon bond or note.
- 20 (6) The interchange of registered and coupon bonds or notes.
- 21 (7) A system for registration in accordance with Chapter 159E of the  
22 General Statutes.
- 23 (8) Replacement of a bond or note that has been mutilated, lost, or  
24 destroyed.

25 (f) The Authority may not issue a bond or note under this Chapter, other than an  
26 obligation permitted under G.S. 63A-4(a)(22), unless its issuance is approved by the  
27 Local Government Commission, and it is sold by the Local Government Commission.  
28 To obtain approval of a bond or note, the Authority shall file an application for approval  
29 with the Local Government Commission. The application shall contain the information  
30 required by the Local Government Commission.

31 In determining whether to approve a proposed bond or note issue of the Authority,  
32 the Local Government Commission shall consider the following:

- 33 (1) For bonds or notes to finance airport projects, the criteria for its  
34 approval of revenue bonds under G.S. 159-86.
- 35 (2) For bonds or notes to finance special user projects, the criteria used for  
36 its approval of industrial bonds under G.S. 159C-8.
- 37 (3) The effect of the proposed financing upon any proposed or scheduled  
38 sale of obligations by the State, another State agency, or a unit of local  
39 government.

40 The Local Government Commission shall approve the proposed bond or note issue if it  
41 determines that the proposed financing for the issue meets the criteria and will effect the  
42 purposes of this Chapter.

43 When the Local Government Commission approves a bond or note issue of the  
44 Authority, the Authority may submit a written request to the Local Government

1 Commission to sell the approved bonds or notes. Upon receiving a written request, the  
2 Local Government Commission shall consult with the Authority on the manner in which  
3 the bonds or notes will be sold and the price or prices at which the bonds or notes will  
4 be sold. With the approval of the Authority, the Local Government Commission shall  
5 sell the bonds or notes either at public or private sale in the manner and at the prices  
6 determined to be in the best interest of the Authority and to effect the purposes of this  
7 Chapter.

8 Bonds or notes may be issued under this Chapter without obtaining, except as  
9 otherwise expressly provided in this Chapter, the consent of any department, division,  
10 commission, board, body, bureau, or other agency of the State or without any other  
11 proceedings or conditions except as specifically authorized by this Chapter or by the  
12 provisions of the resolution authorizing the issuance of, or any trust agreement securing,  
13 the bonds or notes.

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

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

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

32 (j) The Authority may secure a bond or note issued under this Chapter by a trust  
33 agreement between the Authority and a corporate trustee. The corporate trustee may be  
34 any trust company or bank having the powers of a trust company inside or outside the  
35 State. The Authority may secure a bond or note issued under this Chapter by a deed of  
36 trust. The trustee of the deed of trust may be an individual who is a resident of the  
37 State. A bank or trust company that is incorporated in this State and is a depository of  
38 the proceeds of obligations, revenues, or other money of an Authority may furnish  
39 indemnifying bonds or pledge securities required by the Authority.

40 The pledge of any assets, income, or revenues of the Authority to the payment of the  
41 principal of or the interest on any obligations of the Authority is binding from the time  
42 the pledge is made, and any assets, income, or revenues of the Authority are  
43 immediately subject to the lien of the pledge without any physical delivery or other act.

1 The lien created by a pledge is binding against all persons who have claims of any kind  
2 against the Authority, regardless of whether they have notice of the lien.

3 (k) A resolution authorizing the issuance of a bond or note and a trust agreement  
4 securing a bond or note may provide that any moneys held under the resolution or trust  
5 agreement may be temporarily invested pending disbursement. Any officer with whom,  
6 or any bank or trust company with which, the moneys are deposited is considered a  
7 trustee of the moneys and must hold and apply the moneys for their stated purpose in  
8 accordance with this Chapter and the resolution or trust agreement. The Authority may  
9 invest any moneys, other than the proceeds of bonds issued to finance special user  
10 projects, as allowed in G.S. 147-69.1 for investments of the State Treasurer or in this  
11 subsection. The proceeds of bonds issued to finance special user projects may be  
12 invested as provided in the security document for the bonds.

13 In connection with or incidental to the acquisition or carrying of any investment  
14 relating to bonds, program of investment relating to bonds, or carrying of bonds, the  
15 Authority may, with the approval of the Local Government Commission, enter into a  
16 contract to place the investment or obligation of the Authority, as represented by the  
17 bonds, investment, or program of investment and the contract or contracts, in whole or  
18 in part, on an interest rate, currency, cash-flow, or other basis, including the following:

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

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

40 (l) Bonds and notes and their transfer, including any profit made on the their  
41 sale, are exempt from all State, county, and municipal taxation or assessment, direct or  
42 indirect, general or special, whether imposed for the purpose of general revenue or  
43 otherwise, excluding inheritance and gift taxes. The interest on bonds and notes is not

1 subject to taxation as income, and the bonds and notes are not subject to taxation when  
2 constituting a part of the surplus of any bank, trust company, or other corporation.

3 (m) Bonds or notes issued under this Chapter shall not constitute a debt secured  
4 by a pledge of the faith and credit of the State or a political subdivision of the State and  
5 shall be payable solely from the revenues, income, or assets of the Authority that are  
6 pledged for their payment. The face of each bond or note issued shall contain a  
7 statement that the Authority is obligated to pay the bond or note or the interest on the  
8 bond or note only from the revenues, income, or assets pledged in payment of the bond  
9 or note and that neither the faith and credit nor the taxing power of the State or any  
10 political subdivision of the State is pledged in payment of the principal of or the interest  
11 on the bond or note. This subsection does not apply to bonds or notes for which a  
12 county has pledged its taxing power under G.S. 63A-15.

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

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

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

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

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

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

35 **"§ 63A-10. Refunding bonds or notes.**

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

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

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

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

9           (3) The payment of any expenses incurred in connection with the  
10 refunding.

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

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

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

18           (2) Obligations whose principal and interest are guaranteed by the United  
19 States of America.

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

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

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

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

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

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

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

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

44       (c) Scope. – This section does not limit any of the following:



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

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

8    **"§ 63A-11. Special user project bonds or notes.**

9           (a)    The Authority may, subject to the provisions of this section, G.S. 63A-9, and,  
10                  if applicable, G.S. 63A-10, issue, at one time or from time to time, bonds and notes to  
11                  finance or refinance special user projects. Bonds and notes to finance or refinance  
12                  special user projects may be sold irrespective of the interest limitations in G.S. 24-1.1.

13           (b)    Bonds or notes issued by the Authority under this section are special, limited  
14                  obligations of the Authority payable solely from the following:

15                  (1)    The Authority's revenues, income, or assets that it specifically assigns  
16                          or pledges for payment.

17                  (2)    The funds, collateral, and undertakings of a private party that are  
18                          assigned or pledged by that party.

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

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

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

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

43    **"§ 63A-12. Public hearing requirements.**

1 To the extent federal tax law requires public hearings to be held with respect to the  
2 issuance of bonds to finance projects, the hearings may be called for by the executive  
3 director and held before one or more members of the Board of the Authority. The  
4 hearings may be held at any place within the State pursuant to public notice given in  
5 accordance with current federal tax regulations. To the extent federal tax law requires  
6 approval following the hearing of the issuance of bonds to finance a project, the  
7 approval shall be sought from the Governor following a report to the Governor of the  
8 results of the public hearing accompanied by information relating to the purposes for the  
9 proposed bond issue.

10 **"§ 63A-13. Financing agreements.**

11 Every financing agreement shall contain provisions ensuring all of the following:

- 12 (1) That the amounts payable under the financing agreement are sufficient  
13 to pay, when due, the principal of, redemption premium, if any, and  
14 interest on the bonds issued to pay the costs of the special user project.
- 15 (2) That the operator pays all costs incurred by the Authority in  
16 connection with the financing and administration of the special user  
17 project, except costs paid out of the proceeds of bonds or otherwise,  
18 including, but without limitation, insurance costs, the cost of  
19 administering the financing agreement and the security document, and  
20 the fees and expenses of the fiscal agent or trustee, paying agents,  
21 attorneys, consultants, and others.
- 22 (3) That the operator pays all the costs and expenses of operation,  
23 maintenance, and upkeep of the special user project.
- 24 (4) That the operator's obligation to provide for the payment of the bonds  
25 in full is not subject to cancellation, termination, or abatement until the  
26 payment of the bonds or provision for their payment is made.

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

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

- 35 (1) Acceleration of all amounts payable under the financing agreement.
- 36 (2) Reentry and repossession of the special user project.
- 37 (3) Termination of the financing agreement.
- 38 (4) Leasing or sale of foreclosure of the special user project to others.
- 39 (5) Taking whatever actions at law or in equity may appear necessary or  
40 desirable to collect the amounts payable under, and to enforce  
41 covenants made in, the financing agreement.

42 The Authority's interest in a special user project under a financing agreement may be  
43 that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee,

1 secured party, or otherwise, but the Authority need not have any ownership or  
2 possessory interest in the special user project.

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

5 The financing agreement may contain additional provisions as in the determination  
6 of the Board are necessary or convenient to effectuate the purposes of this Chapter.  
7 When, as provided in G.S. 63A-9 and G.S. 63A-11, the Local Government Commission  
8 approves the issuance of bonds by the Authority, the Commission shall also approve all  
9 financing agreements and security documents.

10 **"§ 63A-14. Security documents.**

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

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

- 33 (1) Acceleration of all amounts payable under the security document.
- 34 (2) Appointment of a receiver to manage the project and any other  
35 property mortgaged or assigned as security for the bonds.
- 36 (3) Foreclosure and sale of the project and any other property mortgaged  
37 or assigned as security for the bonds.
- 38 (4) Rights to bring and maintain such other actions at law or in equity as  
39 may appear necessary or desirable to collect the amounts payable  
40 under, or to enforce the covenants made in, the security document.

41 It shall be lawful for any bank or trust company incorporated under the laws of this  
42 State which may act as depository of the proceeds of bonds, revenues, or other funds  
43 provided under this Chapter to furnish indemnifying bonds or to pledge securities as  
44 may be required by the Authority. All expenses incurred in carrying out the provisions

1 of the security document may be treated as a part of the cost of the project in connection  
2 with which bonds are issued or as an expense of administration of the project.

3 The Authority may subordinate the bonds or its rights under the security document  
4 or otherwise to any prior, contemporaneous, or future securities or obligations or lien,  
5 mortgage, or other security interest.

6 **"§ 63A-15. County agreements.**

7 (a) Any county in which all or part of a cargo airport complex site is located may  
8 enter into an agreement with the Authority providing for payments to be made by the  
9 county to the Authority. The county's obligations under the agreement shall not  
10 constitute a pledge of its faith and credit, except as permitted by this section. Payments  
11 made by a county to the Authority under an agreement entered into under this section  
12 may be secured by a pledge of receipts of the exercise of the county's taxing power if  
13 the requirements of this section are met.

14 (b) A county that enters into an agreement with the Authority under subsection  
15 (a) of this section may covenant with the Authority to pay amounts due under the  
16 agreement by doing one of the following:

17 (1) Levying for the life of the agreement an annual property tax that does  
18 not exceed the rate stated in the question submitted to the voters and is  
19 to be based on the operating supplement requirement.

20 (2) Levying for the life of the agreement an annual property tax that does  
21 not exceed the rate required to pay the principal of and the interest on  
22 the aggregate principal amount of revenue bonds stated in the question  
23 submitted to the voters and is to be based on the debt service reserve  
24 supplement requirement.

25 (c) When a county enters an agreement and a covenant under this section, the  
26 Authority shall determine by not later than June 1 of each fiscal year the amount  
27 required to be raised by taxation by the county in the next fiscal year. The county is  
28 obligated to levy a tax to the extent that an operating supplement requirement or a debt  
29 service reserve supplement requirement is expected to occur during the fiscal year in  
30 which the tax is to be levied, but in no event is the county obligated to levy a tax in  
31 excess of the rate approved by the voters. When a tax is to be levied, the county shall  
32 include in its budget ordinance an appropriation equal to the estimated yield of the tax  
33 levy, and shall pay the appropriation to the Authority or transfer moneys to the proper  
34 fund in equal monthly installments unless the county and the Authority agree on another  
35 mutually satisfactory schedule of payments.

36 (d) An agreement or a covenant made by a county under this section shall be  
37 effected by the provisions of the agreement. A covenant made by a county under  
38 subsection (b) of this section becomes effective only if approved by the affirmative vote  
39 of a majority of those who vote in a referendum held on the question in the county. The  
40 referendum shall be called and held as provided in G.S. 159-61, except that:

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

43 Operating Supplement Requirement:

1 ‘Shall the agreement binding the county to levy annually a tax on  
2 property not in excess of ..... cents on the one hundred dollars  
3 (\$100.00) value of property subject to taxation for the purpose of  
4 supplementing the revenues of the Authority in instances where the  
5 gross revenues of an airport project are estimated to be less than the  
6 estimated total costs of the (i) current operating expenses of the  
7 project, (ii) amount required to maintain the debt service reserve by  
8 repaying any withdrawals in respect of all outstanding bonds issued in  
9 connection with the project and (iii) debt service on all outstanding  
10 bonds issued in connection with the project, all as defined in such  
11 agreement, the proceeds of such tax to be used for the payment of the  
12 current operating expenses of the project so long as any revenue bonds  
13 issued remain outstanding and unpaid be approved?

14  Yes

15  No'

16 Debt Service Reserve Supplement Requirement:

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

24  Yes

25  No'

26 and

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

29 ‘Any action or proceeding challenging the regularity or validity of  
30 this supplemental tax referendum must be begun within 30 days after  
31 the date of publication.

32 .....  
33 (title of governing board.)'

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

42 (f) An order or agreement submitted to and approved by the voters under this  
43 section may be repealed at any time before bonds are issued pursuant thereto.

44 (g) The following definitions apply in this section:

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

7           (2) An 'operating supplement requirement' occurs when, as set forth in the  
8 budget prepared by the Authority, the estimated cost in the next  
9 succeeding fiscal year of the (i) current operating expenses of the  
10 relevant airport project, (ii) amount required to maintain the debt  
11 service reserve by repaying any withdrawals therefrom in respect of all  
12 outstanding bonds issued in connection with the relevant airport  
13 project, and (iii) debt service on all outstanding bonds issued in  
14 connection with the relevant airport project are in excess of the  
15 pledged revenues of the project for the fiscal year as estimated by the  
16 Authority, excluding taxes levied pursuant to this subsection;  
17 provided, however, that the amount of the operating supplement  
18 requirement shall not exceed the total amount of the current operating  
19 expenses of the project.

20           (h) Any covenant or agreement of a county made under this section, and the  
21 obligations assumed thereby, shall be excludable from the gross debt of the county for  
22 purposes of the statement of debt mentioned in G.S. 159-55.

23           (i) No agreement or pledge of taxing power described in this section is valid  
24 unless the terms of the agreement and the pledge of taxing power have each been  
25 approved by the Local Government Commission. Commission approval shall be  
26 evidenced by a writing that identifies the agreement and pledge and shall be on file with  
27 the Local Government Commission. The writing shall be conclusive evidence that the  
28 requirements of this section have been met.

29 **"§ 63A-16. Remedies.**

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

40 **"§ 63A-17. Status of bonds and notes under Uniform Commercial Code.**

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

44 **"§ 63A-18. Zoning power of Authority.**

1       (a) The Authority has exclusive zoning jurisdiction within a cargo airport  
2 complex site. The Authority has zoning jurisdiction within four miles of the boundaries  
3 of a cargo airport complex site. The Authority has zoning jurisdiction sufficient to  
4 restrict the height of any structure to be erected, and the height to which any tree may  
5 grow, within six miles of the boundaries of a cargo airport complex site.

6       (b) No State agency and, in accordance with G.S. 63-31, no political subdivision  
7 may adopt, without obtaining the approval of the Authority, either of the following if it  
8 conflicts with a zoning provision or land use restriction adopted by the Authority:

9           (1) An airport zoning provision or other land use regulation that affects  
10 real property within four miles of any cargo airport complex site.

11           (2) An airport zoning provision or other land use regulation that affects the  
12 height of any structure or tree within six miles of a cargo airport  
13 complex site.

14 A zoning provision or land use restriction adopted in violation of this subsection is not  
15 effective.

16 **"§ 63A-19. Officers not liable.**

17 No member or officer of the Authority shall be subject to any personal liability or  
18 accountability by reason of his execution of any bonds or notes or the issuance of any  
19 bonds or notes.

20 **"§ 63A-20. Conflicts of interest.**

21 If any member, officer, or employee of the Authority shall be interested either  
22 directly or indirectly, or shall be an officer or employee of or have an ownership interest  
23 in any firm or corporation, not including units of local government, interested directly  
24 or indirectly, in any contract with the Authority, the interest shall be disclosed to the  
25 Board and shall be set forth in the minutes of the Board. The member, officer, or  
26 employee having an interest shall not participate on behalf of the Authority in the  
27 authorization of any contract. Other provisions of law notwithstanding, failure to take  
28 any or all actions necessary to carry out the purposes of this section may not affect the  
29 validity of any bonds or notes issued under this Chapter.

30 **"§ 63A-21. Cooperation by other State agencies.**

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

33 **"§ 63A-22. Annual reports.**

34 The Authority shall, promptly following the close of each fiscal year, submit an  
35 annual report of its activities for the preceding year to the Governor, the General  
36 Assembly, and the Local Government Commission. Each report shall be accompanied  
37 by an audit of its books and accounts. The costs of all audits, whether conducted by the  
38 State Auditor's staff or contracted with a private auditing firm, shall be paid from funds  
39 of the Authority.

40 **"§ 63A-23. General laws apply to Authority; exceptions.**

41 Except as provided in this section, the general laws that apply to State agencies  
42 apply to the Authority. The following general laws, to the extent provided below, do  
43 not apply to the Authority:

- 1           (1) Article 3 of Chapter 143 of the General Statutes does not apply to  
2 contracts for services listed in 49 U.S.C. § 2210(a)(16) or contracts for  
3 special user projects. That Article also does not apply to other  
4 contracts for projects, but, with respect to these other contracts, the  
5 powers and duties established in that Article shall be exercised by the  
6 Authority and the Secretary of Administration, and other State officers,  
7 employees, or agencies shall have no duties or responsibilities  
8 concerning the contracts.
- 9           (2) Article 8 of Chapter 143 of the General Statutes does not apply to  
10 public building contracts of the Authority, but, with respect to these  
11 contracts, the powers and duties established in that Article shall be  
12 exercised by the Authority and the Secretary of Administration, and  
13 other State officers, employees, or agencies shall have no duties or  
14 responsibilities concerning the contracts.
- 15           (3) Except for G.S. 146-29.1, 146-79, and 146-80, Chapter 146 of the  
16 General Statutes does not apply to the Authority.

17 **"§ 63A-24. Dissolution.**

18 Whenever the Board shall by resolution determine that the purposes for which the  
19 Authority was formed have been substantially fulfilled and that all bonds issued and all  
20 other obligations incurred by the Authority have been fully paid or satisfied, the Board  
21 may declare the Authority to be dissolved. On the effective date of the resolution, the  
22 title to all funds and other property owned by the Authority at the time of the dissolution  
23 shall vest in the State and possession of the funds and other property shall be delivered  
24 to the State."

25           Sec. 2. Interpretation of act. (a) This act shall not be deemed to exclude  
26 additional or alternative methods for executing the provisions of this act, shall be  
27 regarded as supplemental to powers conferred by other laws, and shall not be regarded  
28 as in derogation of any powers now existing.

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

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

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

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

40           (f) References in this act to specific acts, sections, or Chapters of the General  
41 Statutes are intended to be references to such acts, sections, or Chapters as they may be  
42 amended from time to time by the General Assembly.

43           Sec. 3. G.S. 63-31 is amended by adding a new subsection to read:



1       "(f) A political subdivision may not adopt an airport zoning regulation in  
2 violation of G.S. 63A-18."

3               Sec. 4. G.S. 126-5(c1) is amended by adding a new subdivision to read:

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

5               Sec. 5. G.S. 143-336 reads as rewritten:

6       "**§ 143-336. Definitions.**

7       As used in this Article:

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

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

14       'Department' means the Department of Administration, unless the context otherwise  
15 requires.

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

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

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

26       'Secretary' means the Secretary of Administration, unless the context otherwise  
27 requires.

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

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

34               Sec. 6. G.S. 120-123 is amended by adding a new subdivision to read:

35               "(25a) The North Carolina Air Cargo Airport Authority as established under  
36               G.S. 63A-3."

37               Sec. 7. G.S. 66-58(b) is amended by adding a new subdivision to read:

38               "(17) The North Carolina Air Cargo Airport Authority or a lessee of the  
39               Authority."

40               Sec. 8. G.S. 159-7(b)(4) is amended to read:

41               "(4) 'Debt service' is the sum of money required to pay installments of  
42 principal and interest on bonds, notes, and other evidences of debt  
43 accruing within a fiscal year, to maintain sinking funds, and to pay  
44 installments on debt instruments issued pursuant to Chapter 159G of

1                   the General Statutes accruing within a fiscal year and to pay amounts  
2                   due under agreements described in G.S. 63A-15 accruing within a  
3                   fiscal year."

4                   Sec. 9. G.S. 147-69.2(b) is amended by adding the following subdivision to  
5 read:

6                   "(11) With respect to assets of the Escheat Fund, obligations of the North  
7                   Carolina Air Cargo Airport Authority authorized by G.S. 63A-  
8                   4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that  
9                   have a final maturity not later than September 1, 1999. The obligations  
10                   shall bear interest at the rate set by the State Treasurer. No  
11                   commitment to purchase obligations may be made pursuant to this  
12                   subdivision after September 1, 1993, and no obligations may be  
13                   purchased after September 1, 1994."

14                   Sec. 10. G.S. 150B-1(d), as amended by Chapters 418 and 477 of the 1991  
15 Session Laws, is further amended by adding a new subdivision to read:

16                   "(5) The North Carolina Air Cargo Airport Authority with respect to the  
17                   acquisition, construction, operation, or use, including fees or charges,  
18                   of any portion of a cargo airport complex."

19                   Sec. 11. G.S. 150B-1(e), as amended by Chapter 418 of the 1991 Session  
20 Laws, is further amended by adding a new subdivision to read:

21                   "(10) The North Carolina Air Cargo Airport Authority with respect to  
22                   to the acquisition, construction, operation, or use, including fees  
23                   or charges, of any portion of a cargo airport complex."

24                   Sec. 12. This act is effective upon ratification.