

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1078
SENATE BILL 431

1 AN ACT TO AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA TO CONSTRUCT
2 AND PROVIDE SERVICE AND AUXILIARY FACILITIES NECESSARY OR
3 DESIRABLE FOR THE STUDENTS OR STAFF OR IN THE OPERATION OF THE
4 UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, NORTH CAROLINA,
5 EITHER AS ADDITIONS, EXTENSIONS, IMPROVEMENTS AND BETTERMENTS
6 OF THE UNIVERSITY ENTERPRISES OF THE UNIVERSITY OF NORTH
7 CAROLINA OR OTHERWISE, AND TO PAY THE COSTS THEREOF, IN WHOLE OR
8 IN PART, THROUGH THE ISSUANCE OF REVENUE BONDS PAYABLE FROM
9 REVENUES; PROVIDING FOR THE CHARGING AND COLLECTION OF RATES,
10 FEES, CHARGES AND RENTALS; MAKING INAPPLICABLE HERETO ALL OTHER
11 STATUTORY PROVISIONS IN CONFLICT WITH THE PROVISIONS OF THIS ACT;
12 AND MAKING THE PROVISIONS OF THIS ACT SEVERABLE.
13

14 The General Assembly of North Carolina do enact:
15

16 **Section 1.** As used in this Act:

17 (a) "board" means the Board of Trustees of the University of North Carolina;

18 (b) "University" means the body politic and corporate known and distinguished
19 by the corporate name of the "University of North Carolina" under Section 116-3 of the
20 General Statutes;

21 (c) "University Enterprises" means the following existing facilities, systems,
22 properties, plants, works and instrumentalities located in or near the City of Chapel Hill, North
23 Carolina presently in the jurisdiction of and operated by the University: the telephone, electric,
24 heating and water systems, the laundry, Carolina Inn, service and repair shops and storerooms,
25 the duplicating shop, and rental housing properties for faculty members;

26 (d) "project" means any undertaking under this Act to acquire, construct or
27 provide at the University of North Carolina in Chapel Hill, North Carolina, service and
28 auxiliary facilities necessary or desirable for the students or staff or in the operation of the
29 University, either as additions, extensions, improvements or betterments to the University
30 Enterprises or otherwise, including one or more or any combination of any system, facility,
31 plant, works, instrumentality or other property used or useful: (i) in obtaining, conserving,
32 treating or distributing water for domestic, industrial, sanitation, fire protection or any other
33 public or private use; (ii) for the collection, treatment, purification or disposal of sewage, refuse
34 or wastes; (iii) for the production, generation, transmission or distribution of gas, electricity or
35 heat; (iv) in providing communication facilities including telephone facilities; (v) in providing
36 storage, service, repair and duplicating facilities; (vi) in improving, extending or adding to the
37 University Enterprises as herein defined; and (vii) in providing other service and auxiliary
38 facilities serving the needs of the students, the staff or the physical plant of the University; and
39 including all plants, works, appurtenances, machinery, equipment and properties, both personal
40 and real, used or useful in connection therewith;

41 (e) "construction" means acquisition, construction, provision, reconstruction,
42 replacement, extension, improvement or betterment, or any combination thereof;

1 (f) "cost", as applied to a project, shall include the cost of construction (as
2 herein defined), the cost of all labor, materials and equipment, the cost of all lands, property,
3 rights and easements acquired, financing charges, interest prior to and during construction and,
4 if deemed advisable by the board, for one year after completion of construction, cost of plans
5 and specifications, surveys and estimates of cost and/or revenues, cost of engineering and legal
6 services, and all other expenses necessary or incident to such construction, administrative
7 expense and such other expenses, including reasonable provisions for initial operating expenses
8 necessary or incident to the financing herein authorized and any expense incurred by the board
9 in the issuance of bonds under the provisions of this Act in connection with any of the
10 foregoing items of cost;

11 (g) "revenue bonds" or "bonds" means bonds of the University issued by the
12 board to pay the cost, in whole or in part, of any project pursuant to this Act and the bond
13 resolution or resolutions of the board; provided, however, that bonds issued as a separate series
14 which are stated to mature not later than five years from their date may be designated "revenue
15 notes" or "notes";

16 (h) "service charges" means rates, fees, rentals or other charges for, or for the
17 right to, the use, occupancy, services of commodities of or furnished by any project, or by any
18 other service or auxiliary facility of the University, including the University Enterprises, any
19 part of the income of which is pledged to the payment of the bonds or the interest thereon ;

20 (i) "revenues" means the income and receipts derived by or for the account of
21 the University through the charging and collection of service charges.

22 **Sec. 2.** In addition to the powers which the board now has, the board shall have the
23 following powers subject to the provisions of this Act and subject to agreements with the
24 holders of any revenue bonds issued hereunder:

25 (a) to acquire by gift, purchase or the exercise of the power of eminent domain
26 or to construct, provide, improve, maintain and operate any project or projects;

27 (b) to borrow money for the construction of any project or projects, and to issue
28 revenue bonds therefor in the name of the University;

29 (c) to establish, maintain, revise, charge and collect such service charges (free of
30 any control or regulation by any State regulatory body) as will produce sufficient revenues to
31 pay the principal of and interest on the bonds and otherwise to meet the requirements of the
32 resolution or resolutions of the board authorizing the issuance of the revenue bonds;

33 (d) to pledge to the payment of any bonds of the University issued hereunder
34 and the interest thereon the revenues of the project financed in whole or in part with the
35 proceeds of such bonds, and to pledge to the payment of such bonds and interest any other
36 revenues, subject to any prior pledge or encumbrance thereof;

37 (e) to appropriate, apply, or expend in payment of the cost of the project the
38 proceeds of the revenue bonds issued for the project;

39 (f) to sell, furnish, distribute, rent, or permit, as the case may be, the use,
40 occupancy, services, facilities and commodities of or furnished by any project or any system,
41 facility, plant, works, instrumentalities or properties whose revenues are pledged in whole or in
42 part for the payment of the bonds, and to sell, exchange, transfer, assign or otherwise dispose of
43 any project or any of the University Enterprises or any other service or auxiliary facility or any
44 part of any thereof or interest therein determined by resolution of the board not to be required
45 for any public purpose by the board;

46 (g) to retain and employ consultants and other persons on a contract basis for
47 rendering professional, technical or financial assistance and advice in undertaking and carrying
48 out any project and in operating, repairing or maintaining any project or any system, facility,
49 plant, works, instrumentalities or properties whose revenues are pledged in whole or in part for
50 the payment of the bonds; and

1 (h) to enter into and carry out contracts with the United States of America or this
2 State or any municipality, county or other public corporation and to lease property to or from
3 any person, firm or corporation, private or public, in connection with exercising the powers
4 vested under this Act.

5 **Sec. 3.** The University is hereby authorized to pay service charges for, or for the
6 right to, the use, occupancy, services or commodities of or furnished by any project or by any
7 other service or auxiliary facility of the University, including the University Enterprises, and
8 the income and receipts derived from such service charges paid by the University shall be
9 deemed to be revenues under the provisions of this Act and shall be applied and accounted for
10 in the same manner as other revenues.

11 **Sec. 4.** The board is hereby authorized to issue, subject to the approval of the
12 Advisory Budget Commission, at one time or from time to time, revenue bonds of the
13 University for the purpose of undertaking and carrying out any project or projects hereunder;
14 provided, however, that the aggregate principal amount of revenue bonds which the board is
15 authorized to issue under this Section during the biennium ending June 30, 1963, shall not
16 exceed two million five hundred thousand dollars (\$2,500,000). The bonds shall be dated, shall
17 mature at such time or times not exceeding thirty years from their date or dates, and shall bear
18 interest at such rate or rates not exceeding six per centum (6%) per annum, as may be
19 determined by the board, and may be made redeemable before maturity at the option of the
20 board at such price or prices and under such terms and conditions as may be fixed by the board
21 prior to the issuance of the bonds. The board shall determine the form and manner of execution
22 of the bonds, and any interest coupons to be attached thereto, and shall fix the denomination or
23 denominations of the bonds and the place or places of payment of principal and interest, which
24 may be at any bank or trust company within or without the State. In case any officer whose
25 signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be
26 such officer before the delivery of such bonds, such signature or such facsimile shall
27 nevertheless be valid and sufficient for all purposes the same as if he had remained in office
28 until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in
29 any bonds issued under the provisions of this Act, all such bonds shall be deemed to be
30 negotiable instruments under the laws of this State. The bonds may be issued in coupon or
31 registered form or both, as the board may determine, and provision may be made for the
32 registration of any coupon bonds as to principal alone and also as to both principal and interest,
33 and for the reconversion into coupon bonds of any bonds registered as to both principal and
34 interest. The board may sell such bonds in such manner, at public or private sale, and for such
35 price, as it may determine to be for the best interests of the University, but no sale shall be
36 made at a price so low as to require the payment of interest on the money received therefor at
37 more than six per centum (6%) per annum, computed with relation to the absolute maturity or
38 maturities of the bonds in accordance with standard tables of bond values, excluding, however,
39 from such computation the amount of any premium to be paid on redemption of any bonds
40 prior to maturity.

41 The proceeds of the bonds of each issue shall be used solely for the purpose for
42 which such bonds shall have been authorized and shall be disbursed in such manner and under
43 such restrictions, if any, as the board may provide in the resolution authorizing the issuance of
44 such bonds. Unless otherwise provided in the authorizing resolution, if the proceeds of such
45 bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in
46 like manner be issued to provide the amount of such deficit and shall be deemed to be of the
47 same issue and shall be entitled to payment from the same fund without preference or priority
48 of the bonds first issued for the same purpose.

49 The resolution providing for the issuance of revenue bonds may also contain such
50 limitations upon the issuance of additional revenue bonds as the board may deem proper, and

1 such additional bonds shall be issued under such restrictions and limitations as may be
2 prescribed by such resolution.

3 Prior to the preparation of definitive bonds, the board may, under like restrictions,
4 issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive
5 bonds when such bonds shall have been executed and are available for delivery. The board may
6 also provide for the replacement of any bonds which shall become mutilated or be destroyed or
7 lost.

8 Bonds may be issued by the board under the provisions of this Act, subject to the
9 approval of the Advisory Budget Commission, but without obtaining the consent of any other
10 commission, board, bureau or agency of the State, and without any other proceedings or the
11 happening of any other conditions or things than those consents, proceedings, conditions or
12 things which are specifically required by this Act.

13 Revenue bonds issued under the provisions of this Act shall not be deemed to
14 constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State,
15 but such bonds shall be payable solely from the funds herein provided therefor and a statement
16 to that effect shall be recited on the face of the bonds.

17 **Sec. 5.** The board in the resolution authorizing the issuance of bonds under this Act
18 may provide for a pledge to the payment of such revenue bonds and the interest thereon of the
19 revenues derived from the project and also for a pledge of the revenues derived from any
20 system, facility, plant, works, instrumentalities or properties improved, bettered, or extended by
21 the project or otherwise within the jurisdiction of or operated by the University in connection
22 with the University of North Carolina at Chapel Hill, North Carolina, the revenues derived
23 from any future improvements, betterments or extensions of the project, the revenues derived
24 from the University Enterprises, or any part thereof, or the revenues from the project and any or
25 all of the revenues mentioned in this sentence, without regard to whether the operations
26 involved are deemed governmental or proprietary, it being the purpose hereof to vest in the
27 board broad powers which shall be liberally construed. So long as any revenues of the
28 University mentioned in this paragraph are pledged for the payment of the principal of or
29 interest on any bonds issued hereunder, such revenues shall be deposited in a special fund and
30 shall be applied and used only as provided in the resolution authorizing such bonds, subject,
31 however, to any prior pledge or encumbrance thereof.

32 The resolution authorizing the issuance of the bonds may contain provisions for
33 protecting and enforcing the rights and remedies of the holders of the bonds, including
34 covenants setting forth the duties of the University in relation to the construction of any project
35 to be financed with the proceeds of said bonds, and to the maintenance, repair, operation and
36 insurance of such project or any other project, systems, facilities, plants, works,
37 instrumentalities, properties, the University Enterprises or any part thereof, if the revenues
38 thereof are in any way pledged as security for the bonds; the fixing and revising of service
39 charges and the collection thereof; and the custody, safeguarding and application of all moneys
40 of the University pertaining to the project and the bonds, and all revenues pledged therefor.
41 Notwithstanding the provisions of any other law, the board may carry insurance on any such
42 project in such amounts and covering such risks as it may deem advisable. It shall be lawful for
43 any bank or trust company incorporated under the laws of the State of North Carolina which
44 may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying
45 bonds or to pledge such securities as may be required by the board. Such resolution may set
46 forth the rights and remedies of the bondholders and may restrict the individual right of action
47 by bondholders. Such resolution may contain such other provisions in addition to the foregoing
48 as the board may deem reasonable and proper for the security of the bondholders.

49 The board may provide for the payment of the proceeds of the bonds and any
50 revenues pledged therefor to such officer, board or depository as it may designate for the
51 custody thereof, and for the method of disbursement thereof, with such safeguards and

1 restrictions as it may determine. All expenses incurred in carrying out the provisions of such
2 resolution may be treated as a part of the cost of operation.

3 **Sec. 6.** All pledges of revenues under the provisions of this Act shall be valid and
4 binding from the time such pledges are made. All such revenues so pledged shall immediately
5 upon receipt thereof be subject to the lien of such pledge without any physical delivery thereof
6 or further action, and the lien of such pledge shall be valid and binding as against all parties
7 having claims of any kind in tort, contract or otherwise against the University, irrespective of
8 whether such parties have notice thereof.

9 **Sec. 7.** The proceeds of all bonds issued and all revenues and other moneys
10 received pursuant to the authority of this Act shall be deemed to be trust funds, to be held and
11 applied solely as provided in this Act. The resolution authorizing the issuance of bonds shall
12 provide that any officer to whom, or bank, trust company or fiscal agent to which, such moneys
13 shall be paid shall act as trustee of such moneys and shall hold and apply the same for the
14 purposes hereof, subject to such regulations as such resolution may provide.

15 **Sec. 8.** Any holder of revenue bonds issued under the provisions of this Act or of
16 any of the coupons appertaining thereto, except to the extent that the rights herein given may be
17 restricted by the resolution authorizing the issuance of such bonds, may, either at law or in
18 equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights
19 under the laws of the State of North Carolina, including this Act, or under such resolution, and
20 may enforce and compel the performance of all duties required by this Act or by such
21 resolution to be performed by the University or by any officer thereof or the board, including
22 the fixing, charging and collecting of service charges.

23 **Sec. 9.** The University is hereby authorized, subject to the approval of the Advisory
24 Budget Commission, to issue from time to time refunding revenue bonds for the purpose of
25 refunding any revenue bonds issued by the University under this Act in connection with any
26 project or projects, including the payment of any redemption premium thereon and any interest
27 accrued or to accrue to the date of redemption of such bonds. The University is further
28 authorized, subject to the approval of the Advisory Budget Commission, to issue from time to
29 time refunding revenue bonds for the combined purpose of

- 30 (1) refunding any revenue bonds or refunding revenue bonds issued by the
31 University in connection with any project or projects including the payment
32 of any redemption premium thereon and any interest accrued or to accrue to
33 the date of redemption of such bonds, and
34 (2) paying all or any part of the cost of any project or projects.

35 The issuance of such refunding revenue bonds, the maturities and other details
36 thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties
37 and obligations of the University with respect to the same, shall be governed by the foregoing
38 provisions of this Act insofar as the same may be applicable.

39 **Sec. 10.** The bonds issued under the provisions of this Act and the income
40 therefrom shall at all times be free from taxation within the State.

41 **Sec. 11.** The board by resolution may authorize its Executive Committee to
42 exercise or perform any of the powers or functions vested in the board under this Act.

43 **Sec. 12.** This Act shall be deemed to provide an additional and alternative method
44 for the doing of the things authorized hereby and shall be regarded as supplemental and
45 additional to powers conferred by other laws, and shall not be regarded as in derogation of or as
46 repealing any powers now existing under any other law, either general, special or local;
47 provided, however, that the issuance of revenue bonds or refunding revenue bonds under the
48 provisions of this Act need not comply with the requirements of any other law applicable to the
49 issuance of bonds and provided, further, that all general, special or local laws, or parts thereof,
50 inconsistent herewith are hereby declared to be inapplicable to the provisions of this Act.

1 **Sec. 13.** The provisions of this Act are severable, and if any of its provisions shall
2 be held unconstitutional by any court of competent jurisdiction, the decision of such court shall
3 not affect or impair any of the remaining provisions.

4 **Sec. 14.** This Act shall be in full force and effect from and after its ratification.

5 In the General Assembly read three times and ratified, this the 21st day of June,
6 1961.