

[First Reprint]

SENATE, No. 3127

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JANUARY 6, 2014

Sponsored by:

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District 3 (Cumberland, Gloucester and Salem)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

Assemblyman PAUL D. MORIARTY

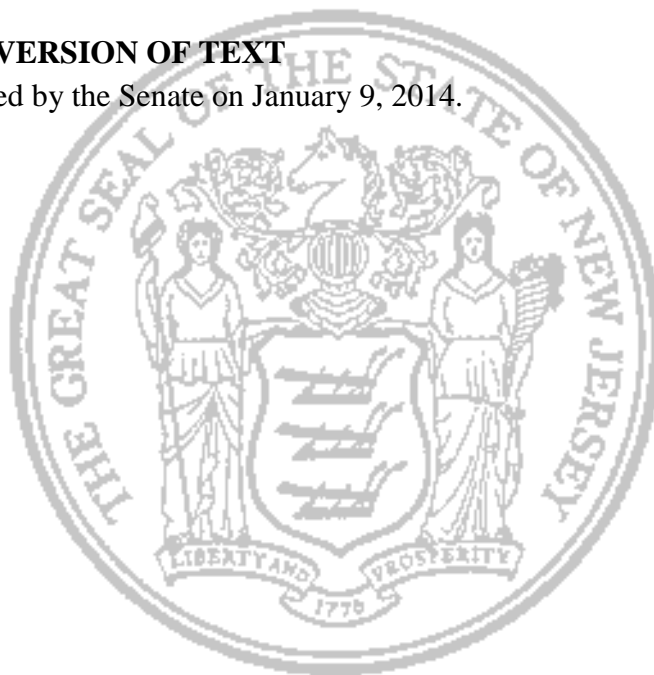
District 4 (Camden and Gloucester)

SYNOPSIS

Revises the authorities of the Rowan University-Rutgers Camden Board of Governors and authorizes Rowan University to participate in public-private partnerships.

CURRENT VERSION OF TEXT

As amended by the Senate on January 9, 2014.



(Sponsorship Updated As Of: 1/14/2014)

1 AN ACT concerning higher education restructuring, amending
2 P.L.1994, c.48, and amending and supplementing P.L.2012, c.45.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 6 of P.L.1994, c.48 (C.18A:3B-6) is amended to
8 read as follows:

9 6. The governing board of each public institution of higher
10 education shall have the following general powers and duties to
11 fulfill its mission and the Statewide goals in cooperation with other
12 institutions and the State coordinating structures:

13 a. To develop an institutional plan and to determine the
14 programs and degree levels to be offered by the institution
15 consistent with this plan and the institution's programmatic mission;

16 b. To have authority over all matters concerning the
17 supervision and operations of the institution including fiscal affairs,
18 the employment and compensation of staff not classified under Title
19 11A of the New Jersey Statutes, and capital improvements in
20 accordance with law;

21 c. To set tuition and fees; however, prior to the date of the
22 adoption of a tuition or fee schedule or an overall institutional
23 budget, and with reasonable notice thereof, the governing board
24 shall conduct a public hearing at such times and places as will
25 provide those members of the college community who wish to
26 testify with an opportunity to be heard;

27 d. To establish admission standards and requirements and
28 standards for granting diplomas, certificates and degrees;

29 e. To recommend for appointment by the Governor, members
30 to the institution's governing board. The recommendation shall be
31 made with regard to the mission of the institution and the diversity
32 of the community to be served;

33 f. To have final authority to determine controversies and
34 disputes concerning tenure, personnel matters of employees not
35 classified under Title 11A of the New Jersey Statutes, and other
36 issues arising under Title 18A of the New Jersey Statutes involving
37 higher education except as otherwise provided herein. Any matter
38 arising under this subsection may be assigned to an administrative
39 law judge, an independent hearing officer or to a subcommittee of
40 the governing board for hearing and initial decision by the board,
41 except for tenure hearings under N.J.S.18A:6-18. Any hearings
42 conducted pursuant to this section shall conform to the requirements
43 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
44 1 et seq.). The final administrative decision of a governing board of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted January 9, 2014.

1 a public institution of higher education is appealable to the Superior
2 Court, Appellate Division;

3 g. To invest and reinvest the funds of the institution; however,
4 institutions which invest the funds of the institution through the
5 Director of the Division of Investment in the Department of the
6 Treasury on or before the effective date of this act shall continue to
7 do so, unless this requirement is waived by the State Treasurer on
8 an annual basis, which waiver shall not be unreasonably withheld;

9 h. To retain legal counsel of the institution's choosing. State
10 entities may choose representation by the Attorney General;
11 however, as to claims of a tortious nature, the institution shall elect
12 within 75 days of the effective date of this act whether it, and its
13 employees, shall be represented in all such matters by the Attorney
14 General. If the institution elects not to be represented by the
15 Attorney General, it shall be considered and its employees
16 considered employees of a sue and be sued entity for the purposes
17 of the "New Jersey Tort Claims Act" only. The institution shall be
18 required in that circumstance to provide its employees with defense
19 and indemnification consistent with the terms and conditions of the
20 Tort Claims Act in lieu of the defense and indemnification that such
21 employees would otherwise seek and be entitled to from the
22 Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972,
23 c.48 (C.59:10A-1 et seq.);

24 i. To be accountable to the public for fulfillment of the
25 institution's mission and Statewide goals and for effective
26 management of the institution;

27 j. To submit a request for State support to the Division of
28 Budget and Accounting in the Department of the Treasury and to
29 the commission in accordance with the provisions of this act;

30 k. To have prepared and made available to the public an annual
31 financial statement, and a statement setting forth generally the
32 moneys expended for government relations, public relations and
33 legal costs;

34 l. To have prepared an annual independent financial audit,
35 which audit and any management letters regarding that audit shall
36 be deemed public documents.

37 These powers and duties are in addition to and not a limitation of
38 the specific powers and duties provided for the governing board of
39 each public institution under chapters 64, 64A, 64G **[or]** , 64E, or
40 64M of Title 18A of the New Jersey Statutes. If the provisions of
41 this section are inconsistent with these specific powers and duties,
42 the specific powers and duties shall govern.

43 (cf: P.L.1999, c.46, s.28)

44

45 2. Section 41 of P.L.2012, c.45 (C.18A:64M-9) is amended to
46 read as follows:

47 41. The board of trustees of Rowan University shall have the
48 general supervision over and be vested with the conduct of the

- 1 university. It shall have the power and duty, subject to the approval
2 of the Rowan University-Rutgers Camden Board of Governors
3 which shall be subject to the limitations set forth in section 34 of
4 P.L.2012, c.45 (C.18A:64M-38), to:
- 5 a. Adopt and use a corporate seal;
 - 6 b. Determine the educational curriculum and program of the
7 university;
 - 8 c. Determine policies for the organization, administration, and
9 development of the university;
 - 10 d. Study the educational and financial needs of the university,
11 annually acquaint the Governor and Legislature with the condition
12 of the university, and prepare and submit an annual request for
13 appropriation to the Division of Budget and Accounting in the
14 Department of the Treasury in accordance with law;
 - 15 e. Disburse all moneys appropriated to the university by the
16 Legislature and all moneys received from tuition, fees, auxiliary
17 services and other sources;
 - 18 f. Direct and control expenditures and transfers of funds
19 appropriated to the university in accordance with the provisions of
20 the State budget and appropriation acts of the Legislature, and, as to
21 funds received from other sources, direct and control expenditures
22 and transfers in accordance with the terms of any applicable trusts,
23 gifts, bequests, or other special provisions, reporting changes and
24 additions thereto and transfers thereof to the Director of the
25 Division of Budget and Accounting in the Department of the
26 Treasury. All accounts of the university shall be subject to audit by
27 the State at any time;
 - 28 g. In accordance with the provisions of the State budget and
29 appropriation acts of the Legislature, appoint and fix the
30 compensation and term of office of a president of the university
31 who shall be the executive officer of the university and an ex officio
32 member of the board of trustees, without vote, and shall serve at the
33 pleasure of the board of trustees;
 - 34 h. In accordance with the provisions of the State budget and
35 appropriation acts of the Legislature, appoint, upon nomination of
36 the president, such deans and other members of the academic,
37 administrative, and teaching staffs as shall be required and fix their
38 compensation and terms of employment;
 - 39 i. Consistent with the provisions of its budget, this act and any
40 and all controlling collective bargaining agreements, have the
41 power, upon nomination or recommendation of the president, to
42 appoint, remove, promote and transfer all other officers, agents, or
43 employees which may be required to carry out the provisions of this
44 act and prescribe qualifications for those positions, and assign
45 requisite duties and determine and fix respective compensation for
46 those positions in accordance with duly adopted salary program
47 parameters;
 - 48 j. Grant diplomas, certificates or degrees;

1 k. Enter into contracts and agreements with the State or any of
2 its political subdivisions or with the United States, or with any
3 public body, department or other agency of the State or the United
4 States or with any individual, firm or corporation which are deemed
5 necessary or advisable by the board for carrying out the provisions
6 of this act. A contract or agreement pursuant to this subsection may
7 require a municipality to undertake obligations and duties to be
8 performed subsequent to the expiration of the term of office of the
9 elected governing body of such municipality which initially entered
10 into or approved said contract or agreement, and the obligations and
11 duties so incurred by such municipality shall be binding and of full
12 force and effect, notwithstanding that the term of office of the
13 elected governing body of such municipality which initially entered
14 into or approved said contract or agreement, shall have expired;

15 l. Exercise the right of eminent domain, pursuant to the
16 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
17 (C.20:3-1 et seq.), to acquire any property or interest therein;

18 m. Adopt, after consultation with the president and faculty,
19 bylaws and make and promulgate such rules, regulations, and
20 orders, not inconsistent with the provisions of this act as are
21 necessary and proper for the administration and operation of the
22 university and the carrying out of its purposes;

23 n. Establish fees for room and board sufficient for the
24 operation, maintenance, and rental of student housing and food
25 services facilities;

26 o. Fix and determine tuition rates and other fees to be paid by
27 students;

28 p. Accept from any government or governmental department,
29 agency or other public or private body or from any other source
30 grants or contributions of money or property which the board may
31 use for or in aid of any of its purposes;

32 q. Acquire, by gift, purchase, condemnation or otherwise, own,
33 lease, dispose of, use and operate property, whether real, personal
34 or mixed, or any interest therein, which is necessary or desirable for
35 university purposes;

36 r. Employ architects to plan buildings; secure bids for the
37 construction of buildings and for the equipment thereof; make
38 contracts for the construction of buildings and for equipment; and
39 supervise the construction of buildings;

40 s. Manage and maintain, and provide for the payment of all
41 charges on and expenses in respect of, all properties utilized by the
42 university;

43 t. Borrow money and to secure the same by a mortgage on its
44 property or any part thereof, and to enter into any credit agreement
45 for the needs of the university and projects of the Rowan
46 University-Rutgers Camden Board of Governors, as deemed
47 requisite by the board, in such amounts and for such time and upon
48 such terms as may be determined by the board, provided that no

1 such borrowing shall be deemed or construed to create or constitute
2 a debt, liability, or a loan or pledge of the credit or be payable out
3 of property or funds, other than moneys appropriated for that
4 purpose, of the State;

5 u. Authorize any new program, educational department or
6 school consistent with the programmatic mission of the institution
7 or approved by the Secretary of Higher Education;

8 v. Adopt standing operating rules and procedures for the
9 purchase of all equipment, materials, supplies and services;
10 however, no contract on behalf of the university shall be entered
11 into for the purchase of services, materials, equipment and supplies,
12 for the performance of any work, or for the hiring of equipment or
13 vehicles, where the sum to be expended exceeds \$30,700 or the
14 amount determined by the Governor as provided herein, unless the
15 university shall first publicly advertise for bids and shall award the
16 contract to that responsible bidder whose bid, conforming to the
17 invitation for bids, will be most advantageous to the university,
18 price and other factors considered. Such advertising shall not be
19 required in those exceptions created by the board of trustees of the
20 university, which shall be in substance those exceptions contained
21 in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section
22 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any
23 product or the rendering of any service by a public utility subject to
24 the jurisdiction of the Board of Public Utilities of this State and
25 tariffs and schedules of the charges made, charged, or exacted by
26 the public utility for any such products to be supplied or services to
27 be rendered are filed with the said board. Commencing July 1, 2013
28 and every two years thereafter, the Governor, in consultation with
29 the Department of the Treasury, shall adjust the threshold amount
30 set forth in this paragraph in direct proportion to the rise or fall of
31 the consumer price index for all urban consumers in the New York
32 City and the Philadelphia areas as reported by the United States
33 Department of Labor. The Governor shall notify the university of
34 the adjustment. The adjustment shall become effective on July 1 of
35 the year in which it is reported.

36 This subsection shall not prevent the university from having any
37 work performed by its own employees, nor shall it apply to repairs,
38 or to the furnishing of materials, supplies or labor, or the hiring of
39 equipment or vehicles, when the safety or protection of its or other
40 public property or the public convenience requires or the exigency
41 of the university's service will not admit of such advertisement. In
42 such case, the university shall, by resolution passed by the
43 affirmative vote of its board of trustees, declare the exigency or
44 emergency to exist, and set forth in the resolution the nature and
45 approximate amount to be expended; shall maintain appropriate
46 records as to the reason for such awards; and shall report regularly
47 to its board of trustees on all such purchases, the amounts and the
48 reasons therefor;

1 w. Invest certain moneys in such obligations, securities and
2 other investments as the board shall deem prudent, consistent with
3 the purposes and provisions of this act and in accordance with State
4 and federal law, as follows:

5 Investment in not-for-profit corporations or for-profit
6 corporations organized and operated pursuant to the provisions of
7 subsection x. of this section may utilize income realized from the
8 sale or licensing of intellectual property as well as the reinvestment
9 of earnings on intellectual property. Investment in not-for-profit
10 corporations may also utilize income from the operation of faculty
11 practice plans of the university and income from overhead grant
12 fund recovery as permitted by federal law as well as other
13 university funds except those specified in paragraph 5 of subsection
14 x. of this section;

15 x. (1) Participate as the general partner or as a limited partner,
16 either directly or through a subsidiary corporation created by the
17 university, in limited partnerships, general partnerships, or joint
18 ventures engaged in the development, manufacture, or marketing of
19 products, technology, scientific information or health care services
20 and create or form for-profit or not-for-profit corporations to
21 engage in such activities; provided that any such participation shall
22 be consistent with the mission of the university and the board shall
23 have determined that such participation is prudent;

24 (2) The decision to participate in any activity described in
25 paragraph (1) of this subsection, including the creation or formation
26 of for-profit or not-for-profit corporations, shall be articulated in the
27 minutes of the board of trustees meeting in which the action was
28 approved;

29 (3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.)
30 shall continue to apply to the university, its employees, and
31 officers;

32 (4) Nothing herein shall be deemed or construed to create or
33 constitute a debt, liability, or a loan or pledge of the credit or be
34 payable out of property or funds of the State;

35 (5) Funds directly appropriated to the university from the State
36 or derived from the university's academic programs or derived from
37 payment for coverage provided by the self insurance fund for claims
38 accruing prior to the effective date of this act shall not be utilized
39 by the for-profit or not-for-profit corporations organized and
40 operated pursuant to this subsection in the development,
41 manufacture, or marketing of products, technology or scientific
42 information;

43 (6) Employees of any joint venture, subsidiary corporation,
44 partnership, or other jural entity entered into or owned wholly or in
45 part by the university shall not be deemed public employees;

46 (7) A joint venture, subsidiary corporation, partnership, or other
47 jural entity entered into or owned wholly or in part by the university
48 shall not be deemed an instrumentality of the State of New Jersey;

1 (8) Income realized by the university as a result of participation
2 in the development, manufacture, or marketing of products,
3 technology, or scientific information may be invested or reinvested
4 pursuant to subsection w. of this section or any other provision of
5 this act or State or federal law or retained by the board for use in
6 furtherance of any of the purposes of this act or of other applicable
7 statutes;

8 (9) The board shall annually report to the State Treasurer on the
9 operation of all joint ventures, subsidiary corporations,
10 partnerships, or such other jural entities entered into or owned
11 wholly or in part by the university;

12 y. Sue and be sued in its own name;

13 z. Retain independent counsel including representation by the
14 Attorney General in accordance with subsection h. of section 6 of
15 P.L.1994, c.48 (C.18A:3B-6);

16 aa. (1) Procure and enter into contracts for any type of insurance
17 and indemnify against loss or damage to property from any cause,
18 including loss of use and occupancy, against death or injury of any
19 person, against employees' liability, against any act of any member,
20 officer, employee or servant of the university, whether part-time,
21 full-time, compensated or non-compensated in the performance of
22 the duties of his office or employment or any other insurable risk.
23 In addition, the university shall carry its own liability insurance or
24 maintain an actuarially sound program of self insurance. Any joint
25 venture, subsidiary corporation, or partnership or such other jural
26 entity entered into or owned wholly or in part by the university shall
27 carry insurance or maintain reserves in such amounts as are
28 determined by an actuary to be sufficient to meet its actual or
29 accrued claims;

30 (2) Moneys in the fund known as the Self-Insurance Trust Fund
31 administered by the State Treasurer shall continue to be available to
32 the university solely to indemnify and defend claims against the
33 university and its employees, officers and servants but only to the
34 extent that the university has elected on behalf of itself and its
35 employees to obtain representation from the Attorney General
36 pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-
37 6) and such entity or individuals would have been entitled to
38 defense and indemnification pursuant to the "New Jersey Tort
39 Claims Act," N.J.S.59:1-1 et seq., as a State entity or State
40 employee but for the provision of subsection z. of this section. Any
41 expenditure of such funds shall be made only in accordance with
42 the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et
43 seq., including but not limited to the provisions of chapters 10, 10A
44 and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall
45 be construed to authorize the use of the Self-Insurance Trust Fund
46 to indemnify or insure in any way, directly or indirectly the
47 activities of any joint venture, partnership or corporation entered

1 into or created by the university pursuant to subsection x. of this
2 section;

3 bb. Create auxiliary organizations subject to the provisions of
4 P.L.1982, c.16 (C.18A:64-26 et seq.);

5 cc. Adopt a code of ethics that complies with the requirements
6 of all statutes applicable to the institution, including, but not
7 limited, to the "Higher Education Restructuring Act of 1994,"
8 P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of
9 Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of
10 the State Ethics Commission, and any applicable executive orders;
11 and

12 dd. Establish a procedure for the confidential, anonymous
13 submission of employee concerns regarding alleged wrongdoing at
14 the university.
15 (cf: P.L.2012, c.45, s.41)

16

17 3. Section 33 of P.L.2012, c.45 (C.18A:64M-37) is amended to
18 read as follows:

19 33. There is established the Rowan University-Rutgers Camden
20 Board of Governors.

21 a. The board shall be composed of seven members as follows:
22 two members appointed by the board of trustees of Rowan
23 University from among its members; two members appointed by the
24 board of directors of Rutgers University-Camden from among its
25 members; and three members appointed by the Governor with the
26 advice and consent of the Senate. The board shall elect a
27 chairperson from among its membership.

28 b. The term of office of a member of the board appointed by
29 the board of trustees of Rowan University or the board of directors
30 of Rutgers University-Camden shall be coterminous with his term
31 on that board. The term of office of the Governor's appointees shall
32 be six years. An appointed member may be removed for cause by
33 the board of trustees or the board of directors that appointed the
34 member, or by the Governor in the case of his appointees.

35 c. Each member shall serve until his successor is appointed and
36 qualified, and vacancies shall be filled in the same manner as the
37 original appointments for the remainder of the unexpired term.

38 d. Members of the board shall serve without compensation but
39 shall be entitled to be reimbursed for all reasonable and necessary
40 expenses.

41 e. The board **[shall]** may be staffed by employees of Rowan
42 University and Rutgers University-Camden.
43 (cf: P.L.2012, c.45, s.33)

44

45 4. Section 34 of P.L.2012, c.45 (C.18A:64M-38) is amended to
46 read as follows:

47 34. The Rowan University-Rutgers Camden Board of Governors
48 shall have the authority and responsibility to act, in all cases subject

1 to and not inconsistent with the requirements and standards of
2 applicable accreditation authorities, to:

3 a. approve or disapprove of the establishment or expansion of
4 any schools, programs, or departments after the effective date of
5 this act in the area of the health sciences proposed by either the
6 board of trustees of Rowan University or the board of directors of
7 Rutgers University-Camden;

8 b. determine policies for the organization, administration, and
9 development of curriculum and programs of Rowan University and
10 Rutgers University-Camden in the area of the health sciences,
11 including dual degree programs and partnerships between the
12 institutions;

13 c. make recommendations to Rowan University and to Rutgers,
14 The State University for joint faculty appointments to Rowan
15 University and Rutgers University-Camden;

16 d. provide curricular oversight of joint programs in the area of
17 the health sciences of Rowan University and Rutgers University-
18 Camden; and

19 e. develop plans for the operation and governance of health
20 science facilities, including plans concerning the development and
21 financing of capital improvements or expansions of health science
22 facilities.

23 "Health sciences" for purposes of this section shall include, but
24 not be limited to, nursing, medicine, dentistry, pharmacy,
25 pharmacology, biochemistry, biomedicine, genetics,
26 bioengineering, public health, and physician-related studies.

27 The board shall not take any action to use, transfer, commit, or
28 control the endowment funds or any other funds provided to or
29 accumulated by and under the control of either institution without
30 the respective approval of the Rowan University Board of Trustees
31 or the Rutgers Board of Governors. The board shall have no
32 authority over the tenure or contract rights of faculty at either
33 Rutgers, The State University or Rowan University.

34 The board shall not take any action that would violate any of the
35 bond covenants of Rutgers, The State University or Rowan
36 University.

37 Rowan University and Rutgers University-Camden shall each
38 appropriate \$2,500,000 per year to the Rowan University-Rutgers
39 Camden Board of Governors for administration and other necessary
40 expenses.

41 (cf: P.L.2012, c.45, s.34)

42

43 5. (New section) In addition to the authority and responsibility
44 of the Rowan University-Rutgers Camden Board of Governors
45 pursuant to section 34 of P.L.2012, c.45 (C.18A:64M-38), the board
46 shall have the power and the duty, subject to the limitations set
47 forth in that section including the appropriations limit applicable to
48 Rowan University and Rutgers, The State University set forth

1 therein, and consistent with the provisions of P.L.2012, c.45
2 (C.18A:64M-1 et al.), to:

3 a. Enter into contracts and agreements with the State or any of
4 its political subdivisions or with the United States, or with any
5 public body, department, or other agency of the State or the United
6 States or with any individual, firm, or corporation, which are
7 deemed necessary or advisable by the board for carrying out the
8 provisions of P.L.2012, c.45 (C.18A:64M-1 et al.);

9 b. Exercise the right of eminent domain, pursuant to the
10 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
11 (C.20:3-1 et seq.), to acquire any property or interest therein ¹,
12 provided that this right shall be exercised only in a municipality that
13 has been under rehabilitation and economic recovery pursuant to the
14 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
15 c.43 (C.52:27BBB-1 et al.)¹;

16 c. Accept from any government or governmental department,
17 agency, or other public or private body or from any source grants or
18 contributions of money or property which the board may use for or
19 in aid of any of its purposes; and

20 d. Acquire, by gift, purchase, condemnation or otherwise, own,
21 lease, dispose of, use and operate property, whether real, personal
22 or mixed, or any interest therein, which is necessary or desirable for
23 its purposes.

24
25 6. (New section) In transferring the assets of the University of
26 Medicine and Dentistry of New Jersey to Rowan University, it is
27 the intention of the Legislature to protect Rowan University, and to
28 hold it harmless, subject to future appropriation, for unexpected
29 costs or losses associated with undisclosed liabilities of the
30 University of Medicine and Dentistry of New Jersey that were not
31 reasonably foreseeable or contemplated at the time of the transfers
32 required by this act. Therefore, if Rowan University experiences,
33 during fiscal years 2014 and 2015, costs or losses associated with
34 liabilities of the University of Medicine and Dentistry of New
35 Jersey that were not identified in the certified financial statements
36 of the University of Medicine and Dentistry of New Jersey for the
37 time periods preceding the incurrence of the cost or loss, the State
38 shall reimburse Rowan University for such cost or loss, subject to
39 appropriation by the Legislature.

40
41 7. (New section) Notwithstanding the provisions of section 43
42 of P.L.2009, c.90 (C.18A:64-85) to the contrary, Rowan University
43 may enter into a public-private partnership agreement in accordance
44 with the provisions of that section.

45
46 8. This act shall take effect immediately.