

# STATE OF NEW YORK

9738

## IN SENATE

May 23, 2024

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT in relation to authorizing the lease of certain lands for the Albany NanoTech Complex

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that the state  
2 university of New York at Albany ("UAlbany") seeks to use a portion of  
3 the grounds and facilities on the UAlbany campus for the purposes of the  
4 Albany NanoTech Complex. The New York Center for Research, Economic  
5 Advancement, Technology, Engineering and Science Corporation (hereinaft-  
6 er referred to as "NY CREATES"), is the owner and operator of the Albany  
7 NanoTech Complex, the nation's largest and most advanced semiconductor  
8 R&D facility that brings together industry leaders, academia and inter-  
9 national partners to develop next-generation chips and chip fabrication  
10 processes, and is focused on facilitating industry and public-private  
11 partnerships for next-generation semiconductor technology R&D, commer-  
12 cialization, regional economic development and workforce development  
13 projects. NY CREATES is the parent company of Fuller Road Management  
14 Corporation, a 501(c)(25) corporation established for the purpose of  
15 holding real estate for projects of the State University of New York at  
16 Albany. UAlbany is one of the most diverse public research institutions  
17 in the nation and a national leader in educational equity and social  
18 mobility. As a Carnegie-classified R1 institution, UAlbany faculty and  
19 students advance our understanding of the world in fields such as arti-  
20 ficial intelligence, semiconductors, atmospheric and environmental  
21 sciences, public health, emergency preparedness, engineering, the social  
22 sciences, humanities, and social welfare. At its founding in 2004,  
23 UAlbany's College of Nanotechnology, Science, and Engineering was the  
24 first in the nation devoted specifically to the study of nanotechnology  
25 and was a critical academic partner in the development of NY CREATES'  
26 Albany NanoTech Complex. The University's diverse student body combined  
27 with its broad research portfolio put it in a uniquely strong position

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 to play a major role in diversifying the next generation of New York's  
2 STEM workforce.

3 The legislature further finds that UAlbany and NY CREATES have under-  
4 gone long-term collaborations in: (i) fundamental and applied research  
5 projects utilizing the equipment and expertise available in both organ-  
6 izations; (ii) workforce development and training programs to grow the  
7 next generation of semiconductor engineers and technicians; and, (iii)  
8 joint technology commercialization efforts to expand the market for  
9 intellectual property.

10 The legislature further finds that the ground lease authorized by this  
11 legislation would benefit UAlbany, SUNY, and the State of New York by  
12 advancing: (1) Opportunities for UAlbany and other SUNY faculty and  
13 students to collaborate with NY CREATES, industry and government profes-  
14 sionals to develop innovative academic programing and advance workforce  
15 development initiatives while promoting NY CREATES' Albany NanoTech  
16 Complex nationally and globally to grow its reputation; (2) Continued  
17 support of UAlbany's and other SUNY academic partnerships with external  
18 consortiums with industry, and government agencies nationally and inter-  
19 nationally; (3) Collaboration on programs to train next generation semi-  
20 conductor engineers and technicians, providing students with hands-on  
21 experience and industry-relevant skills through internships, co-op  
22 programs, and collaborative research projects, and to cohost events,  
23 workshops, and seminars aimed at fostering entrepreneurship, creativity,  
24 and innovation; and (4) Pursuit of opportunities for public and private  
25 partnerships to fund joint and collaborative research initiatives,  
26 economic development opportunities, technology transfer programs, and  
27 infrastructure development projects that benefit UAlbany, SUNY, and NY  
28 CREATES.

29 § 2. Notwithstanding any other law to the contrary, the state univer-  
30 sity trustees are authorized and empowered, without any public bidding,  
31 to lease and otherwise contract to make available to the Fuller Road  
32 Management Corporation a portion of the lands of the university general-  
33 ly described in this act for the purposes of the Albany NanoTech  
34 Complex. Such lease or contract shall be without any fee simple convey-  
35 ance and otherwise upon terms and conditions determined by such trus-  
36 tees, subject to the approval of the director of the division of the  
37 budget, the attorney general and the state comptroller. In the event  
38 that the real property that is the subject of such lease or contract  
39 shall cease to be used for the purpose described in this act, such lease  
40 or contract shall immediately terminate, and the real property and any  
41 improvements thereon shall revert to the state university of New York.  
42 Any lease or contract entered into pursuant to this act shall be for a  
43 period not exceeding forty years, and provide that the real property  
44 that is the subject of such lease or contract and any improvements ther-  
45 eon shall revert to the state university of New York on the expiration  
46 of such contract or lease.

47 § 3. Any contract or lease entered into pursuant to this act shall be  
48 deemed to be a state contract for purposes of article 15-A of the execu-  
49 tive law, and any contractor, subcontractor, lessee or sublessee enter-  
50 ing into such contract or lease for the construction, demolition, recon-  
51 struction, excavation, rehabilitation, repair, renovation, alteration or  
52 improvement authorized pursuant to this act shall be deemed a state  
53 agency for the purposes of article 15-A of the executive law and subject  
54 to the provisions of such article.

55 § 4. Notwithstanding any general, special or local law or judicial  
56 decision to the contrary, all work performed on a project authorized by

1 this act where all or any portion thereof involves a lease or agreement  
2 for construction, demolition, reconstruction, excavation, rehabili-  
3 tation, repair, renovation, alteration or improvement shall be deemed  
4 public work and shall be subject to and performed in accordance with the  
5 provisions of article 8 of the labor law to the same extent and in the  
6 same manner as a contract of the state, and compliance with all the  
7 provisions of article 8 of the labor law shall be required of any  
8 lessee, sublessee, contractor or subcontractor on the project, including  
9 the enforcement of prevailing wage requirements by the fiscal officer as  
10 defined in paragraph e of subdivision 5 of section 220 of the labor law  
11 to the same extent as a contract of the state.

12 § 5. Notwithstanding any law, rule or regulation to the contrary, the  
13 state university of New York shall not contract out to the ground lessee  
14 or any subsidiary for the instruction or any pedagogical functions or  
15 services, or any administrative services, and similar professional  
16 services currently being exclusively performed by state employees. All  
17 such functions and services shall be performed by state employees pursu-  
18 ant to the civil service law. Nothing in this act shall result in the  
19 displacement of any currently employed state worker or the loss of posi-  
20 tion (including partial displacement such as reduction in the hours of  
21 non-overtime, wages or employment benefits), or result in the impairment  
22 of existing contracts for services or collective bargaining rights  
23 pursuant to existing agreements. All positions currently at the state  
24 university of New York in the unclassified service of the civil service  
25 law shall remain in the unclassified service.

26 § 6. For the purposes of this act the following terms shall have the  
27 following meanings:

28 (a) "Project" shall mean work at the property authorized by this act  
29 to be leased to the ground lessee as described in section twelve of this  
30 act that involves the design, construction, reconstruction, demolition,  
31 excavation, rehabilitation, repair, renovation, alteration or improve-  
32 ment of such property.

33 (b) "Project labor agreement" shall mean a pre-hire collective  
34 bargaining agreement between a contractor and a labor organization,  
35 establishing the labor organization as the collective bargaining repre-  
36 sentative for all persons who will perform work on the project, and  
37 which provides that only contractors and subcontractors who sign a pre-  
38 negotiated agreement with the labor organization can perform project  
39 work.

40 (c) "Ground lessee" shall mean the Fuller Road Management Corporation.

41 § 7. Nothing in this act shall be deemed to waive or impair any rights  
42 or benefits of employees of the state university of New York that other-  
43 wise would be available to them pursuant to the terms of agreements  
44 between the certified representatives of such employees and the state of  
45 New York pursuant to article 14 of the civil service law, and all work  
46 performed on such property that ordinarily would be performed by employ-  
47 ees subject to article 14 of the civil service law shall continue to be  
48 performed by such employees.

49 § 8. Notwithstanding the provisions of any general, special, or local  
50 law or judicial decision to the contrary, the ground lessee shall  
51 require the use of a project labor agreement, as defined in subdivision  
52 1 of section 222 of the labor law, for all contractors and subcontrac-  
53 tors on the project, consistent with paragraph (a) of subdivision 2 of  
54 section 222 of the labor law.

55 § 9. Without limiting the determination of the terms and conditions of  
56 such contracts or leases, such terms and conditions may provide for

1 leasing, subleasing, construction, reconstruction, rehabilitation,  
2 improvement, operation and management of and provision of services and  
3 assistance and the granting of licenses, easements and other arrange-  
4 ments with regard to such grounds and facilities by the ground lessee,  
5 and parties contracting with the ground lessee, and in connection with  
6 such activities, the obtaining of funding or financing, whether public  
7 or private, unsecured or secured (including, but not limited to, secured  
8 by leasehold mortgages and assignments of rents and leases), by the  
9 ground lessee and parties contracting with the ground lessee for the  
10 purposes of completing the project described in this act.

11 § 10. Such lease shall include an indemnity provision whereby the  
12 lessee or sublessee promises to indemnify, hold harmless and defend the  
13 lessor against all claims, suits, actions, and liability to all persons  
14 on the leased premises, including tenant, tenant's agents, contractors,  
15 subcontractors, employees, customers, guests, licensees, invitees and  
16 members of the public, for damage to any such person's property, whether  
17 real or personal, or for personal injuries arising out of tenant's use  
18 or occupation of the demised premises.

19 § 11. Any construction contracts entered into pursuant to this act  
20 between the ground lessee and parties contracting with the ground lessee  
21 shall be awarded by a competitive process.

22 § 12. The property authorized by this act to be leased to the ground  
23 lessee is generally described as a parcel of real property with improve-  
24 ments thereon consisting of a total of approximately 25.522 acres situ-  
25 ated on the campus of the state university of New York at Albany. The  
26 description in this section of the parcel that may be made available  
27 pursuant to this act is not meant to be a legal description, but is  
28 intended only to identify the parcel:

29 Beginning at a concrete monument on the easterly highway boundary of  
30 interstate 87, also known as the Adirondack Northway, at its inter-  
31 section with the property division line between lands N/F of national  
32 grid on the south, and lands N/F of SUNY at Albany on the north, said  
33 point being marked by a concrete monument, thence north 22° 06' 24" east  
34 along said highway boundary a distance of 66.07 feet to a point on the  
35 southerly highway boundary of Washington Avenue,

36 Thence along said road boundary the following seven (7) courses and  
37 distances:

- 38 1. North 58° 55' 27" east, a distance of 260.28 feet to a point,
- 39 2. Along a curve to the left having a radius of 1727.02 feet, an arc  
40 length of 128.41 feet, a chord bearing of north 59° 54' 49" east, a  
41 chord distance of 128.38 feet to a point,
- 42 3. North 54° 22' 33" east, a distance of 308.02 feet to a point,
- 43 4. North 52° 40' 20" east, a distance of 179.21 feet to a point,
- 44 5. North 55° 09' 41" east, a distance of 308.26 feet to a point,
- 45 6. Along a curve to the right having a radius of 1186.05 feet, an arc  
46 length of 139.91 feet, a chord bearing of north 63° 31' 59" east, a  
47 chord distance of 139.83 feet to a point,

48 7. North 80° 02' 14" east, a distance of 4.79 feet to a point,  
49 thence through said lands of SUNY at Albany the following five (5)  
50 courses and distances:

- 51 1. South 52° 02' 44" east, a distance of 517.07 feet to a point,
- 52 2. North 34° 27' 34" east, a distance of 16.93 feet to a point,
- 53 3. South 51° 16' 56" east, a distance of 80.00 feet to a point,
- 54 4. South 36° 22' 07" west, a distance of 1214.99 feet to a point at  
55 its intersection with the first mentioned property division line between  
56 said lands of national grid and said lands of suny at albaney,

1 thence along said property division line the following eight (8)  
2 courses and distances:

3 1. north 67° 15' 52" west, a distance of 745.88 feet to a concrete  
4 monument, thence

5 2. north 52° 07' 07" west, a distance of 117.77 feet to a concrete  
6 monument with suny cap, thence

7 3. south 37° 52' 53" west, a distance of 31.88 feet to a concrete  
8 monument with suny cap, thence

9 4. north 67° 15' 52" west, a distance of 82.87 feet to a concrete  
10 monument with suny cap, thence

11 5. north 21° 06' 33" east, a distance of 110.71 feet to a point,  
12 thence

13 6. north 22° 23' 43" east, a distance of 49.25 feet to a concrete  
14 monument, thence

15 7. along a curve to the right having a radius of 70.00 feet, an arc  
16 length of 16.46 feet, a chord bearing of north 74° 13' 30" west, a chord  
17 distance of 16.42 feet to a point, thence

18 8. north 67° 46' 21" west, a distance of 64.66 feet to the point or  
19 place of beginning.

20 Containing 1,111,738 sq. ft. (25.522 acres), more or less. Subject to  
21 all existing easements and restrictions of record.

22 § 13. The state university of New York shall not lease lands described  
23 in this act unless any such lease shall be executed within 5 years of  
24 the effective date of this act.

25 § 14. Insofar as the provisions of this act are inconsistent with the  
26 provisions of any law, general, special or local, the provisions of this  
27 act shall be controlling.

28 § 15. This act shall take effect immediately.