

# STATE OF NEW YORK

9614

## IN SENATE

May 16, 2024

Introduced by Sens. MARTINEZ, PALUMBO -- read twice and ordered printed,  
and when printed to be committed to the Committee on Higher Education

AN ACT relating to authorizing the state university of New York at Stony Brook to lease certain lands for the purpose of constructing a facility to support research and development to address the national semiconductor chip shortage and related environmental sustainability issues

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 Stony Brook ("Stony Brook") created the  
3 Research and Development Park in order to support the cross-pollination  
4 of ground-breaking research and cutting edge technology in the private  
5 sector to benefit the students, faculty and staff as well as the broader  
6 community. Now, Stony Brook has determined there is an opportunity for a  
7 private entity to construct an additional facility in the Research and  
8 Development Park, which would provide needed additional facilities to  
9 support the research and development needs of faculty, staff, students,  
10 and the community and seeks to use approximately 8 acres of underuti-  
11 lized land on Stony Brook's Research and Development Park to build a  
12 facility to address these research and development needs, as well as  
13 engage in its private commercial research, development and manufacturing  
14 of tools to fabricate semiconductor chips, other memory storage devices  
15 or any future technology developed to hold data for later retrieval. The  
16 private entity, which provides new technology to aid in the manufacture  
17 of semiconductor chips, would address the national semiconductor chip  
18 shortage and related environmental sustainability issues, fulfilling a  
19 necessary and vital state and federal public purpose. The legislature  
20 further finds that granting the trustees of the State University of New  
21 York the authority and power to lease and otherwise contract to make  
22 available grounds and facilities of the campus of the State University  
23 of New York at Stony Brook available in this manner will ensure such  
24 land is utilized for the benefit of Stony Brook and the surrounding  
25 community.

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

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1 § 2. Notwithstanding any other law to the contrary, the State Univer-  
2 sity of New York trustees are authorized and empowered, without any  
3 public bidding, to lease and otherwise contract to make available to a  
4 ground lessee a portion of the lands of the university generally  
5 described in this act for the purpose of developing, constructing, main-  
6 taining and operating a facility to engage in its private commercial  
7 research, development and manufacturing purposes, while additionally  
8 providing dedicated space which will support the research and develop-  
9 ment needs of faculty, staff, students, and the community, which may  
10 include supporting services to address the national semiconductor chip  
11 shortage and related environmental sustainability issues. Such lease or  
12 contract shall be for a period not exceeding one hundred (100) years  
13 without any fee simple conveyance and otherwise upon terms and condi-  
14 tions determined by such trustees, subject to the approval of the direc-  
15 tor of the division of the budget, the attorney general and the state  
16 comptroller. In the event that the real property that is the subject of  
17 such lease or contract shall cease to be used for the purpose described  
18 in this act, such lease or contract shall immediately terminate and the  
19 real property and any improvements thereon shall revert to the State  
20 University of New York. Any lease or contract entered into pursuant to  
21 this act shall provide that the real property that is the subject of  
22 such lease or contract and any improvements thereon shall revert to the  
23 State University of New York on the expiration of such contract or  
24 lease. The allocation of any and all proceeds related to the leases  
25 authorized by this act shall be subject to approval by the state univer-  
26 sity trustees.

27 § 3. Any contract or lease entered into pursuant to this act shall be  
28 deemed to be a state contract for purposes of article 15-A of the execu-  
29 tive law, and any contractor, subcontractor, lessee or sublessee enter-  
30 ing into such contract or lease for the construction, demolition, recon-  
31 struction, excavation, rehabilitation, repair, renovation, alteration or  
32 improvement authorized pursuant to this act shall be deemed a state  
33 agency for the purposes of article 15-A of the executive law and subject  
34 to the provisions of such article.

35 § 4. Notwithstanding any general, special or local law or judicial  
36 decision to the contrary, all work performed on a project authorized by  
37 this act where all or any portion thereof involves a lease or agreement  
38 for construction, demolition, reconstruction, excavation, rehabili-  
39 tation, repair, renovation, alteration or improvement shall be deemed  
40 public work and shall be subject to and performed in accordance with the  
41 provisions of article 8 of the labor law to the same extent and in the  
42 same manner as a contract of the state, and compliance with all the  
43 provisions of article 8 of the labor law shall be required of any  
44 lessee, sublessee, contractor or subcontractor on the project, including  
45 the enforcement of prevailing wage requirements by the fiscal officer as  
46 defined in paragraph e of subdivision 5 of section 220 of the labor law  
47 to the same extent as a contract of the state.

48 § 5. Notwithstanding any law, rule or regulation to the contrary, the  
49 state university of New York shall not contract out to the ground lessee  
50 or any subsidiary for the instruction or any pedagogical functions or  
51 services, or any administrative services, and similar professional  
52 services currently being performed by state employees at Stony Brook.  
53 Any such functions and services performed in the space used by or for  
54 the research of faculty, staff and students of Stony Brook shall be  
55 performed by state employees pursuant to the civil service law. Nothing  
56 in this act shall result in the displacement of any currently employed

1 state worker or the loss of position (including partial displacement  
2 such as reduction in the hours of nonovertime, wages or employment bene-  
3 fits), or result in the impairment of existing contracts for services or  
4 collective bargaining rights pursuant to existing agreements. All posi-  
5 tions currently at the state university of New York in the unclassified  
6 service of the civil service law shall remain in the unclassified  
7 service. No services or work performed in the space used by or for the  
8 research of faculty, staff and students of Stony Brook on the property  
9 described in this act currently performed by public employees or future  
10 work that is similar in scope and nature to the work being currently  
11 performed by public employees shall be contracted out or privatized by  
12 the state university of New York or by an affiliated entity or associ-  
13 ated entity of the state university of New York. All such future work  
14 shall be performed by public employees. Nothing herein shall be  
15 construed to require a private commercial enterprise to be subject to  
16 the civil service law, the collective bargaining agreements or to have  
17 its own employees deemed state employees for any purpose when engaged in  
18 its private commercial activities, and the ground lessee is not deemed a  
19 state agency for any purpose other than as provided for in this act.

20 § 6. For the purposes of this act:

21 (a) "project" shall mean work at the property authorized by this act  
22 to be leased to the ground lessee as described in section eight of this  
23 act that involves the design, construction, reconstruction, demolition,  
24 excavating, rehabilitation, repair, renovation, alteration or improve-  
25 ment of such property.

26 (b) "project labor agreement" shall mean a pre-hire collective  
27 bargaining agreement between a contractor and a labor organization,  
28 establishing the labor organization as the collective bargaining repre-  
29 sentative for all persons who will perform work on the project, and  
30 which provides that only contractors and subcontractors who sign a pre-  
31 negotiated agreement with the labor organization can perform project  
32 work.

33 § 7. (a) Notwithstanding the provisions of any general, special, or  
34 local law or judicial decision to the contrary: the ground lessee may  
35 require a contractor awarded a contract, subcontract, lease, grant,  
36 bond, covenant or other agreement for a project to enter into a project  
37 labor agreement during and for the work involved with such project when  
38 such requirement is part of the ground lessee's request for proposals  
39 for the project and when the state university of New York at Stony Brook  
40 determines that the record supporting the decision to enter into such an  
41 agreement establishes that the interests underlying the competitive  
42 bidding laws are best met by requiring a project labor agreement includ-  
43 ing obtaining the best work at the lowest possible price; preventing  
44 favoritism, fraud and corruption; the impact of delay; the possibility  
45 of cost savings; and any local history of labor unrest.

46 (b) If the state university of New York at Stony Brook does not  
47 require a project labor agreement, then any contractor, subcontractor,  
48 lease, grant, bond, covenant or other agreements for a project shall be  
49 awarded pursuant to section 135 of the state finance law.

50 § 8. Nothing in this act shall be deemed to waive or impair any rights  
51 or benefits of employees of the state university of New York that other-  
52 wise would be available to them pursuant to the terms of agreements  
53 between the certified representatives of such employees and the state of  
54 New York pursuant to article 14 of the civil service law; all work  
55 performed on such property in the spaces used by or for the research of  
56 the faculty, staff and students of Stony Brook that ordinarily would be

1 performed by employees subject to article 14 of the civil service law  
2 shall continue to be performed by such employees.

3 § 9. Without limiting the determination of the terms and conditions of  
4 such contracts or leases, such terms and conditions may provide for  
5 leasing, subleasing, construction, reconstruction, rehabilitation,  
6 improvement, operation and management of and provision of services and  
7 assistance and the granting of licenses, easements and other arrange-  
8 ments with regard to such grounds and facilities by the ground lessee,  
9 and parties contracting with the ground lessee, and in connection with  
10 such activities, the obtaining of funding or financing, whether public  
11 or private, unsecured or secured (including, but not limited to, secured  
12 by leasehold mortgages and assignments of rents and leases), by the  
13 ground lessee and parties contracting with the ground lessee for the  
14 purposes of completing the project described in this act.

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

23 § 11. Any construction contracts entered into pursuant to this act  
24 between the ground lessee and parties contracting with the ground lessee  
25 for purposes of the construction, demolition, reconstruction, exca-  
26 vation, rehabilitation, repair, renovation, alterations or improvements  
27 to such structure shall be awarded by a competitive process.

28 § 12. The property authorized by this act to be leased to the ground  
29 lessee is generally described as approximately 8 acres of land situated  
30 on Stony Brook's Research and Development Park within the town of Brook-  
31 haven, county of Suffolk, state of New York, commencing at a concrete  
32 monument found on the southwesterly sideline of Stony Brook road (66  
33 feet wide) where the same is intersected by the dividing line of section  
34 273, block 1, lot 3 to the north with the northerly line of the subdivi-  
35 sion known as "Map of University Heights at Flowerfield, Section No. 6",  
36 filed September 27, 1965 as map no. 4479, to the South. the said  
37 commencement point having state plane coordinate values of, North  
38 268163.304 and East 1224698.785, and running the following two (2)  
39 courses to the point of beginning:

40 A) along the said dividing line, South 61 degrees 59 minutes 05  
41 seconds West, a distance of 395.30 feet; thence

42 B) along the same, South 51 degrees 07 minutes 47 seconds West, a  
43 distance of 584.24 feet to the point of beginning. From the said point  
44 of beginning, running; thence

45 1) continuing along the aforementioned dividing line, South 51 degrees  
46 07 minutes 47 seconds West, a distance of 406.75 feet; thence crossing  
47 into aforementioned lot 1 the following four (4) courses:

48 2) North 38 degrees 52 minutes 13 seconds west, a distance of 1152.33  
49 feet to a point on the southeasterly side of development drive, a  
50 private roadway of undesignated width; thence

51 3) following the said side of development drive, on a curve to the  
52 right having a radius of 3485.50 feet, a central angle of 03 degrees 09  
53 minutes 38 seconds and an arc length of 192.27 feet, the chord of which  
54 bears North 69 degrees 55 minutes 59 seconds East for a distance of  
55 192.25 feet to a point of tangency; thence

1 4) North 71 degrees 30 minutes 49 seconds east, a distance of 46.00  
2 feet; thence

3 5) South 48 degrees 28 minutes 00 seconds east, a distance of 1089.59  
4 feet to the point and place of beginning.

5 The above-described lease area contains 348,485 square feet or 8.0001  
6 acres of land.

7 The above-described preservation area was written in accordance with a  
8 map entitled, "Lease area sketch, proposed Veeco lease area, Stony Brook  
9 university, part of section 273, block 1, lot 3, town of Brookhaven,  
10 county of Suffolk, state of New York" prepared by Gallas Surveying  
11 Group, dated March 6, 2024, subject to all existing easements and  
12 restrictions of record.

13 § 13. The State University of New York shall not lease lands described  
14 in this act unless any such lease shall be executed within 5 years of  
15 the effective date of this act.

16 § 14. Insofar as the provisions of this act are inconsistent with the  
17 provisions of any law, general, special or local, the provisions of this  
18 act shall be controlling.

19 § 15. This act shall take effect immediately.