

# STATE OF NEW YORK

9738--A

## 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 with its broad research portfolio put it in a uniquely strong position  
2 to play a major role in diversifying the next generation of New York's  
3 STEM workforce.

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

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

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

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

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

14 § 5. 1. Notwithstanding any law, rule or regulation to the contrary,  
15 the state university of New York shall not contract out to the ground  
16 lessee or any subsidiary for the instruction or any pedagogical func-  
17 tions or services, or any administrative services, and similar profes-  
18 sional services currently being performed by state employees. All such  
19 functions and services shall be performed by state employees pursuant to  
20 the civil service law. Nothing in this act shall result in the displace-  
21 ment of any currently employed state worker or the loss of position  
22 (including partial displacement such as reduction in the hours of non-  
23 overtime, wages or employment benefits), or result in the impairment of  
24 existing contracts for services or collective bargaining rights pursuant  
25 to existing agreements. All positions currently at the state university  
26 of New York in the unclassified service of the civil service law shall  
27 remain in the unclassified service.

28 2. No services or work on the property described in this act currently  
29 performed by public employees at the time of the effective date of this  
30 act, or that is similar in scope and nature to the work being currently  
31 performed by public employees at the time of the effective date of this  
32 act, shall be contracted out or privatized by SUNY. SUNY acknowledges  
33 its obligations as an employer under the civil service law and agrees  
34 that it will not exercise its right to contract out for goods and  
35 services under any applicable collective bargaining agreement.

36 § 6. For the purposes of this act the following terms shall have the  
37 following meanings:

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

43 (b) "Project labor agreement" shall mean a pre-hire collective  
44 bargaining agreement between a contractor and a labor organization,  
45 establishing the labor organization as the collective bargaining repre-  
46 sentative for all persons who will perform work on the project, and  
47 which provides that only contractors and subcontractors who sign a pre-  
48 negotiated agreement with the labor organization can perform project  
49 work.

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

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

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

3 § 8. Notwithstanding the provisions of any general, special, or local  
4 law or judicial decision to the contrary, the ground lessee shall  
5 require the use of a project labor agreement, as defined in subdivision  
6 1 of section 222 of the labor law, for all contractors and subcontractors  
7 on the project, consistent with paragraph (a) of subdivision 2 of  
8 section 222 of the labor law.

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

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

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

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

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

46 Thence along said road boundary the following seven (7) courses and  
47 distances:

- 48 1. North 58° 55' 27" east, a distance of 260.28 feet to a point,
- 49 2. Along a curve to the left having a radius of 1727.02 feet, an arc  
50 length of 128.41 feet, a chord bearing of north 59° 54' 49" east, a  
51 chord distance of 128.38 feet to a point,
- 52 3. North 54° 22' 33" east, a distance of 308.02 feet to a point,
- 53 4. North 52° 40' 20" east, a distance of 179.21 feet to a point,
- 54 5. North 55° 09' 41" east, a distance of 308.26 feet to a point,

1 6. Along a curve to the right having a radius of 1186.05 feet, an arc  
2 length of 139.91 feet, a chord bearing of north 63° 31' 59" east, a  
3 chord distance of 139.83 feet to a point,  
4 7. North 80° 02' 14" east, a distance of 4.79 feet to a point,  
5 thence through said lands of SUNY at Albany the following five (5)  
6 courses and distances:  
7 1. South 52° 02' 44" east, a distance of 517.07 feet to a point,  
8 2. North 34° 27' 34" east, a distance of 16.93 feet to a point,  
9 3. South 51° 16' 56" east, a distance of 80.00 feet to a point,  
10 4. South 36° 22' 07" west, a distance of 1214.99 feet to a point at  
11 its intersection with the first mentioned property division line between  
12 said lands of national grid and said lands of suny at albany,  
13 thence along said property division line the following eight (8)  
14 courses and distances:  
15 1. north 67° 15' 52" west, a distance of 745.88 feet to a concrete  
16 monument, thence  
17 2. north 52° 07' 07" west, a distance of 117.77 feet to a concrete  
18 monument with suny cap, thence  
19 3. south 37° 52' 53" west, a distance of 31.88 feet to a concrete  
20 monument with suny cap, thence  
21 4. north 67° 15' 52" west, a distance of 82.87 feet to a concrete  
22 monument with suny cap, thence  
23 5. north 21° 06' 33" east, a distance of 110.71 feet to a point,  
24 thence  
25 6. north 22° 23' 43" east, a distance of 49.25 feet to a concrete  
26 monument, thence  
27 7. along a curve to the right having a radius of 70.00 feet, an arc  
28 length of 16.46 feet, a chord bearing of north 74° 13' 30" west, a chord  
29 distance of 16.42 feet to a point, thence  
30 8. north 67° 46' 21" west, a distance of 64.66 feet to the point or  
31 place of beginning.  
32 Containing 1,111,738 sq. ft. (25.522 acres), more or less. Subject to  
33 all existing easements and restrictions of record.  
34 § 13. The state university of New York shall not lease lands described  
35 in this act unless any such lease shall be executed within 5 years of  
36 the effective date of this act.  
37 § 14. Insofar as the provisions of this act are inconsistent with the  
38 provisions of any law, general, special or local, the provisions of this  
39 act shall be controlling.  
40 § 15. This act shall take effect immediately.