

AMENDMENTS TO LB 87A

1 1. Strike the original section and insert the following
2 new sections:

3 "Section 1. Section 77-4104, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-4104. (1) In order to utilize the incentives set
6 forth in the Employment and Investment Growth Act, the taxpayer
7 shall file an application for an agreement with the Tax
8 Commissioner.

9 (2) The application shall contain:

10 (a) A written statement describing the plan of employment
11 and investment for a qualified business in this state;

12 (b) Sufficient documents, plans, and specifications as
13 required by the Tax Commissioner to support the plan and to define
14 a project;

15 (c) If more than one location within this state is
16 involved, sufficient documentation to show that the employment and
17 investment at different locations are interdependent parts of the
18 plan. A headquarters shall be presumed to be interdependent with
19 any other location directly controlled by such headquarters. A
20 showing that the parts of the plan would be considered parts of a
21 unitary business for corporate income tax purposes shall not be
22 sufficient to show interdependence for the purposes of this
23 subdivision;

24 (d) A nonrefundable application fee of five hundred

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1 dollars. The fee shall be deposited into the Employment and
2 Investment Growth Fund, which fund is hereby created. Any money in
3 the fund available for investment shall be invested by the state
4 investment officer pursuant to the Nebraska Capital Expansion Act
5 and the Nebraska State Funds Investment Act; and

6 (e) A timetable showing the expected sales tax refunds
7 and what year they are expected to be claimed. The timetable shall
8 include both direct refunds due to investment and credits taken as
9 sales tax refunds as accurately as possible.

10 The application and all supporting information shall be
11 confidential except for the name of the taxpayer, the location of
12 the project, the amounts of increased employment and investment,
13 and the information required to be reported by sections 77-4110 and
14 77-4113.

15 (3) Once satisfied that the plan in the application
16 defines a project consistent with the purposes stated in section
17 77-4102 in one or more qualified business activities within this
18 state, that the plans will result in either (a) the investment in
19 qualified property of at least three million dollars and the hiring
20 of at least thirty new employees or (b) the investment in qualified
21 property resulting in a net gain in the total value of tangible
22 property in this state of a type subject to depreciation,
23 amortization, or other recovery under the Internal Revenue Code of
24 1986 of at least twenty million dollars, and that the required
25 levels of employment and investment for the project will be met
26 prior to the end of the sixth year after the year in which the
27 application was submitted, the Tax Commissioner shall approve the

1 application. In determining the net gain in value for purposes of
2 this subsection, all tangible personal property shall be valued in
3 a manner consistent with the value determined for qualified
4 property, and the total value on the last day of each year shall be
5 compared with the total value on the last day of the base year.

6 (4) After approval, the taxpayer and the Tax Commissioner
7 shall enter into a written agreement. The taxpayer shall agree to
8 complete the project, and the Tax Commissioner, on behalf of the
9 State of Nebraska, shall designate the approved plans of the
10 taxpayer as a project and, in consideration of the taxpayer's
11 agreement, agree to allow the taxpayer to use the incentives
12 contained in the Employment and Investment Growth Act. The
13 application, and all supporting documentation, to the extent
14 approved, shall be considered a part of the agreement. The
15 agreement shall state:

16 (a) The levels of employment and investment required by
17 the act for the project;

18 (b) The time period under the act in which the required
19 levels must be met;

20 (c) The documentation the taxpayer will need to supply
21 when claiming an incentive under the act;

22 (d) The date the application was filed; and

23 (e) A requirement that the company update the Department
24 of Revenue annually on any changes in plans or circumstances which
25 affect the timetable of sales tax refunds as set out in the
26 application. If the company fails to comply with this requirement,
27 the Tax Commissioner may defer any pending sales tax refunds until

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1 the company does comply.

2 (5) The incentives contained in section 77-4105 shall be
3 in lieu of the tax credits allowed by section 77-27,188 for any
4 project. In computing credits under section 77-27,188, any
5 investment or employment which is eligible for benefits under the
6 Employment and Investment Growth Act shall be subtracted from the
7 increases computed for determining the credits under section
8 77-27,188.

9 (6) A taxpayer and the Tax Commissioner may enter into
10 agreements for more than one project and may include more than one
11 project in a single agreement. The projects may be either
12 sequential or concurrent. A project may involve the same location
13 as another project. No new employment or new investment shall be
14 included in more than one project for either the meeting of the
15 employment or investment requirements or the creation of credits.
16 When projects overlap and the plans do not clearly specify, then
17 the taxpayer shall specify in which project the employment and
18 investment belongs.

19 Sec. 2. Original section 77-4104, Reissue Revised
20 Statutes of Nebraska, is repealed.".