STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NEBRASKA 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
1235 K ST. FAX (402) 471-4725

DON STENBERG
ATTORNEY GENERAL

L. STEVEN GRASZ
SAM GRIMMINGER
DEPUTY ATTORNEYS GENERAL

#93077

NO.
STATE OF NEBRASKA
OFFICIAL
SEP 27 1993
DEPT. OF JUSTICE

DATE: September 23, 1993

SUBJECT: Authority of County Board to Approve Budget of the County Agricultural Society Under Neb. Rev. Stat. § 2-239 (Cum. Supp. 1992).

REQUESTED BY: Douglas Warner
Scotts Bluff County Attorney

WRITTEN BY: Don Stenberg, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the authority of the County Board to "approve" the budget of the County Agricultural Society under Neb. Rev. Stat. § 2-239 (Cum. Supp. 1992).

Section 2-239 was enacted in 1992 with the passage of LB 398. 1992 Neb. Laws, LB 398, §2. Section 2-239 provides: "The budget of each county agricultural society and each county fair board shall be subject to annual review, audit, and approval by the county board in which such society or fair board is located." (Emphasis added). Your request seeks an interpretation of the meaning of the phrase "approval of the county board" in connection with the board's authority over the budget of the county agricultural society.

"Where words of a statute are plain and unambiguous, no interpretation is needed to ascertain their meaning, and in the absence of anything to indicate the contrary, words will be given their ordinary meaning." *Hill v. City of Lincoln,* 213 Neb. 517, 521, 330 N.W.2d 471, 474 (1983). "It is not within the province of a court to read a meaning into a statute that is not warranted by the legislative language. Neither is it within the province of a

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court to read anything plain, direct, and unambiguous out of a statute." *Gaughen v. Sloup*, 197 Neb. 762, 765, 250 N.W.2d 915, 917 (1977).

To "approve" means "to sanction officially; to ratify;. . . ." Webster's Unabridged Dictionary 92 (2d ed. 1983). "Approval" is defined, in part, as "consent" or "sanction". *Id.* Thus, the plain language of § 2-239 evidences an intent to provide the county board with authority to exercise the power to accept or reject the budget of the county agricultural society, as evidenced by the phrase providing that the society's budget is subject to "approval of the county board." Use of the language "approval of the county board" indicates that the county board must "consent to" or "sanction" the budget adopted by the county agricultural society.

It is also a fundamental rule of statutory construction that "all the parts of an act relating to the same subject shall be considered together, and not each by itself." *State v. Jennings*, 195 Neb. 434, 439, 238 N.W.2d 477, 481 (1976). "A court will construe statutes relating to the same subject matter together so as to maintain a consistent and sensible scheme." *In re Estate of Morse*, 241 Neb. 40, 42, 486 N.W.2d 195, 197 (1992). "[W]hen considering a series or collection of statutes pertaining to a certain subject matter which are in pari materia, they may be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions of the act are consistent and sensible." *In re Interest of Powers*, 242 Neb. 19, 22-23, 493 N.W.2d 166, 168 (1992).

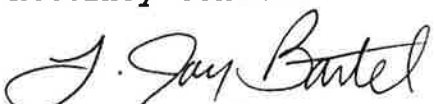
While § 2-239 requires "the approval of the county board" with respect to the agricultural society's budget, the statutes relating to county agricultural societies still require that county boards "shall" levy a tax up to a certain amount for the support and operation of the society. *See* Neb. Rev. Stat. §§ 2-201, 2-203.01, 2-203.02, and 2-203.05 (1991 and Cum. Supp. 1992); 1925-26 Rep. Att'y Gen. 105 (county board under duty to make appropriation of statutory amount for agricultural societies). Thus, while LB 398 was intended to clarify that county boards had authority to approve budgets of county agricultural societies, it did not alter the language setting forth mandatory levies for the agricultural society in §§ 2-201, 2-203.01, 2-203.02, and 2-203.05. Thus, to the extent that the society's budget contains amounts funded by the mandatory levies provided for under these sections, the county board does not have authority to "disapprove" such to the extent this would conflict with the mandatory levy provisions. The county board would, however, have authority to approve or reject additional amounts in the budget which would require the levy of taxes in addition to the amount to be raised by the mandatory levy.

This interpretation is consistent with the intent expressed by the sponsors of LB 398 in the legislative history of the act. In this regard, the bill's co-sponsors indicated that the bill was intended to clarify that the county board had authority to approve the budget of the county agricultural society. The bill was not, however, intended to alter the statutes mandating that the county board shall levy up to a certain amount to provide for the annual operating budget of the agricultural society, contained at Neb. Rev. Stat. §§ 2-201, 2-203, 2-203.01, 2-203.02, and 2-203.05 (1991 and Cum. Supp. 1992). Committee Records on LB 398, 92nd Neb. Leg., 1st Sess. 30-31, 48 (Statements of Senator Kristensen and Senator Schellpeper). The language providing that approval of the county board was required with respect to the agricultural society's budget was intended to clarify that the county board had the authority to determine if additional amounts budgeted for by the agricultural society (i.e., funds for capital construction or renovation, repair and maintenance over and above the amount raised by the mandatory statutory levy) were to be approved. *Id.*

In conclusion, it is our opinion that the county board, by virtue of § 2-239, is vested with the power to approve or reject the budget of the county agricultural society. At the same time, however, this power to approve or reject the society's budget cannot be interpreted to alter the mandatory duty placed on the board to levy the maximum amount required by the relevant statute (either § 2-201, 2-203, 2-203.01. 2-203.02, or 2-203.05) on behalf of the agricultural society. Budgeted amounts in addition to amounts raised by the mandatory levy, however, are subject to the approval of the county board, which has the authority to accept or reject such as part of the society's budget.

Very truly yours,

DON STENBERG
Attorney General



L. Jay Bartel
Assistant Attorney General

APPROVED BY:

DON STENBERG, Attorney General

7-715-7.23