DEPARTMENT OF JUSTICE
STATE OF NEBRASKA
TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

#86001

NO.
STATE OF NEBRASKA
OFFICIAL
JAN 6 1988
DEPT. OF JUSTICE

October 28, 1985

ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

SUBJECT: Hunting and Fishing Fee Exemptions for Senior and Disabled Veterans.

REQUESTED BY: John F. Simmons, Deputy County Attorney, Banner County, Nebraska

OPINION BY: Robert M. Spire, Attorney General
Laura L. Freppel, Assistant Attorney General

QUESTION: Is a habitat stamp a fee from which disabled veterans and senior citizens are exempted?

CONCLUSION: Yes.

Under Neb.Rev.Stat. §§37-214.03 and 37-214.04, disabled veterans and senior citizens are exempt from the payment of any fees provided by the laws of the State of Nebraska for the privilege of fishing or hunting. These exemptions, however, do not apply to the privilege of commercial fishing; the trapping of fur-bearing animals; the hunting for deer, antelope, wild turkey, or any other species of fish and game on which the open season is limited to a restricted number of permits; or to special permits for a restricted area or game management unit.

Section 37-216.01 requires all residents over the age of 16 years and all non-residents to obtain a habitat stamp. The habitat stamp is issued upon the payment of $7.50. Throughout §37-216, the revenues collected from the issuance of habitat stamps are variously referred to as "monies," "fees," and "funds." A habitat stamp, then, represents a fee charged for the privilege of hunting and fishing.

On their face, the statutes conflict since neither statute specifically refers to the other. Nor

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does the legislative history of either statute provide a definitive answer.

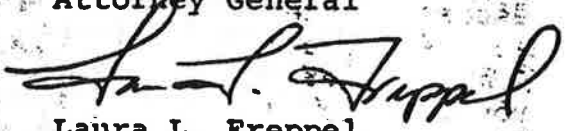
When two statutes which are in pari materia conflict, general statutory rules of construction are applied. The Nebraska Supreme Court has set forth the rule which is applicable here. "[W]here a statute . . . enumerates the things upon which it is to operate, or forbids certain things, it is to be construed as excluding from its effect all those not expressly mentioned, unless the legislative body has plainly indicated the contrary purpose of intention." Starman v. Shirley, 162 Neb. 613, 618, 76 N.W.2d 749, 753 (1956). See also, Nebraska City Education Association v. School District of Nebraska City, 201 Neb. 303, 267 N.W.2d 530 (1978).

Since the habitat stamp represents a fee, and since it is not included in the list of exceptions to the exemptions found in §§37-214.03 and 37-214.04, we conclude that senior citizens and disabled veterans are exempt from the payment of the habitat stamp fee.

Our conclusion, however, does not affect the requirement set forth in §37-216.01 which requires all residents over the age of 16 years and all nonresidents to be in possession of a habitat stamp. The current fee-exempt hunting and fishing permit bears a permanent habitat stamp. Likewise, an exempt individual under §37-214.03 and §37-214.04 who purchases a special permit or a big game permit must obtain, free of charge, a habitat stamp and affix it to the permit. In so doing, the exempt individual verifies through the proper procedures his or her right to claim the exemption.

Very truly yours,

ROBERT M. SPIRE
Attorney General



Laura L. Freppel
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APPROVED:

Attorney General