

I am writing in follow up to Keith's e-mail of June 10, 2009 regarding the County Ag Extension Carryover provision of Iowa Code § 176A.8(13). I agree with the conclusion reached that program and/or participant fees collected by ISU Extension that are used to offset the cost of a particular program and related services are exempt from the carryover provision of § 176A.8(13).

I would conclude that the fees in question would properly be considered "special funds" under Iowa Code § 8.2(9). The Iowa Supreme Court has held that special funds are immune from diversion when such diversion would "conflict with a constitutional provision or impair a contractual relationship." *Des Moines Metropolitan Area Solid Waste Agency v. Branstad*, 504 N.W.2d 888 (Iowa 1993). One can conclude that there is at least an implied contract between ISU Extension and program participants that the fees collected by ISU will be used for purposes associated with the program for which the fees are paid. Because of that contractual relationship, the fees collected cannot be diverted through reversion.

Keith has confirmed that the fees at issue have a direct relationship to the cost of the program for which they are collected. In other words, the amount of the fee is determined by the cost to operate the specific program for which the fee is collected. Furthermore, the fee will be used only for the program and related services at issue. ISU Extension has agreed that it will make uniform its current practice of notifying program participants that their fees will be used for purposes associated with the program for which the fees are paid.

Opinion Received from Diane Stahle, office of the Attorney General