

**KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION
EQUINE TRUST ADVISORY COMMITTEE**



January 17, 2025 – 1:30 p.m. ET
Virtual meeting via ZOOM
Livestream Link: <https://www.youtube.com/@KentuckyCPE>

- I. Call to Order**
- II. Introduction of Advisory Committee and CPE Staff Members**
- III. Review Statutory Changes to KRS 138.510(5) and Addition of Bluegrass Community and Technical College 2**
- IV. Review of Program Cash Report..... 15**
- V. Review and Approval of *Postsecondary Education Equine Trust Program Guidelines*..... 16**
 - a. Advisory Committee proposal evaluation and recommendation process
 - b. Criteria for the award of funds
 - c. Distribution for FY 2024-25 and FY 2025-26
 - d. Discuss Institutions' suggested changes
 - e. Approval of Guidelines
- VI. Other Business**
- VII. Adjournment**

138.510 Taxes on pari-mutuel wagering on live racing and telephone account, intertrack, and interstate wagering -- Exemptions -- Uses of tax revenue -- Order of disbursements -- Two-day international horse racing event -- International harness racing event.

- (1) (a) Before August 1, 2022, except as provided in paragraph (e) of this subsection and subsection (3) of this section, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the corporation as follows:
 1. For each track with a daily average live handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track during the fiscal year; and
 2. For each track with a daily average live handle under one million two hundred thousand dollars (\$1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.
- (b) Beginning August 1, 2022, the excise tax imposed on all tracks conducting pari-mutuel wagering on live racing under jurisdiction of the corporation shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.
- (c) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting pari-mutuel wagering on historical horse races under the jurisdiction of the corporation at a rate of one and one-half percent (1.5%) of all money wagered on historical horse races at the track during the fiscal year.
- (d) Money shall be deducted from the tax paid under paragraphs (a), (b), and (c) of this subsection and deposited as follows:
 1. a. Before August 1, 2022, an amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400; and
 - b. Beginning August 1, 2022, an amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400 until forty-five million dollars (\$45,000,000) has been deposited during a fiscal year, at which point the amount deposited in the fund shall decrease to four-tenths of one percent (0.4%) of all money wagered on live and historical horse races at the track for Thoroughbred racing for the remainder of the fiscal year;
 2. a. Before August 1, 2022, an amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for harness racing shall be deposited in the Kentucky standardbred

development fund established in KRS 230.770. Beginning August 1, 2022, an amount equal to one percent (1%) of all money wagered on live races at the track for harness racing shall be deposited in the Kentucky standardbred development fund until a total of twenty million dollars (\$20,000,000) has been deposited during a fiscal year from this subparagraph, at which point the amount deposited shall decrease to four-tenths of one percent (0.4%) of all money wagered for the remainder of the fiscal year; and

- b. Beginning August 1, 2022, an amount equal to one percent (1%) of all money wagered on historical horse races at the track for harness racing shall be distributed in the exact amounts based upon contracts between the parties that have been filed with the corporation, but at least one-half (1/2) of the funds shall be deposited into the Kentucky standardbred development fund established in KRS 230.770 until a total of twenty million dollars (\$20,000,000) has been deposited into the Kentucky standardbred development fund during a fiscal year from this subparagraph, at which point the amount deposited in this subdivision shall decrease to four-tenths of one percent (0.4%) of all money wagered for the remainder of the fiscal year. The corporation shall provide the department all information necessary from the contracts in order for the funds in this subparagraph to be distributed;
3. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for quarter horse, paint horse, Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, paint horse, Appaloosa, and Arabian development fund established by KRS 230.445;
 4. An amount equal to two-tenths of one percent (0.2%) of all money wagered on live races and historical horse races at the track shall be paid out in equal amounts as follows:
 - a. To the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed eight hundred fifty thousand dollars (\$850,000);
 - b. To the University of Kentucky for equine industry programs at the university, except that the amount paid from money wagered on historical horse races in any fiscal year shall not exceed four hundred thousand dollars (\$400,000);
 - c. To the Bluegrass Community and Technical College for the provision of equine industry programs by the system, except that the amount paid from money wagered on historical horse races in

- any fiscal year shall not exceed two hundred fifty thousand dollars (\$250,000);
- d. Amounts remaining from money wagered on historical horse races in a fiscal year after payments are made in accordance with subdivisions a., b., and c. of this subparagraph shall be distributed in equal amounts to:
 - i. The Kentucky Horse Racing and Gaming Corporation for the benefit of Thoroughbred, standardbred, and American quarter horse aftercare facilities in Kentucky, in an amount not to exceed two hundred fifty thousand dollars (\$250,000). The Kentucky Horse Racing and Gaming Corporation shall serve as the administrative agent for these funds, and shall distribute them annually to organizations engaged in the accreditation and monitoring of aftercare facilities. Any funds distributed under this subpart by the Kentucky Horse Racing and Gaming Corporation shall be awarded to aftercare facilities based in Kentucky only after the facilities have achieved and maintained levels of service and operation that resulted in national accreditation; and
 - ii. The Kentucky equine management internship program for equine management training, in an amount not to exceed two hundred fifty thousand dollars (\$250,000); and
 - e. Any amounts remaining from money wagered on historical horse races in a fiscal year after payments are made in accordance with subdivisions a., b., c., and d. of this subparagraph shall be paid to the general fund;
- 5.
- a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities and the Bluegrass Community and Technical College, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
 - b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities and the Bluegrass Community and Technical College.
 - c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent for these funds, and shall establish an advisory committee of interested parties, including all universities and the Bluegrass Community and Technical College with established equine programs, to evaluate proposals and make

recommendations for the awarding of funds.

- d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and
6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races shall be distributed to the corporation to support equine drug testing as provided in KRS 230.265(3), except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- (e) The excise tax imposed by paragraphs (a) and (b) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.
- (2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is imposed on:
 1. All tracks conducting telephone account wagering;
 2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the corporation; and
 3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.
- (b)
 1. Before August 1, 2022, the tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
 2. Beginning August 1, 2022, the tax shall be one and one-half percent (1.5%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
- (c) A noncontiguous track facility approved by the corporation on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars (\$250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.
- (d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:
 1. An amount equal to one percent (1%) of the amount wagered shall be deposited as follows:
 - a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;
 - b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race

meeting or the interstate wagering is conducted on a harness race meeting; or

- c. In the Kentucky quarter horse, paint horse, Appaloosa, and Arabian development fund established by KRS 230.445, if the host track is conducting a quarter horse, paint horse, Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, paint horse, Appaloosa, or Arabian horse race meeting;
 2. An amount equal to twenty-five thousandths of one percent (0.025%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;
 3. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(d)5. of this section; and
 4. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be distributed to the corporation to support equine drug testing as provided in KRS 230.265(3).
- (3) If a host track in this state is the location for the conduct of a two (2) day international horse racing event that distributes in excess of a total of twenty million dollars (\$20,000,000) in purses and awards:
- (a) The excise tax imposed by subsection (1)(a) and (b) of this section shall not apply to money wagered at the track on live races conducted at the track during the two (2) day international horse racing event; and
 - (b) Amounts wagered at the track on live races conducted at the track during the two (2) day international horse racing event shall not be included in calculating the daily average live handle for purposes of subsection (1) of this section.
- (4) If a host track in this state is the location for the conduct of an international harness racing event spanning multiple days that distributes at least five million dollars (\$5,000,000) in purses and awards, the Tourism, Arts and Heritage Cabinet shall be granted a race title sponsorship and promotional package at the international harness racing event with all usual and customary benefits assigned to promote Kentucky tourism. The Tourism, Arts and Heritage Cabinet shall not be charged any fees for the promotional package.
- (5) The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 166, sec. 5, effective July 15, 2024; and ch. 171, sec 43, effective July 1, 2024. -- Amended 2022 Ky. Acts ch. 124, sec. 4, effective July 14, 2022. -- Amended 2018 Ky. Acts ch. 12, sec. 1, effective July 14, 2018. -- Amended 2015 Ky Acts ch. 4, sec. 1, effective March 17, 2015; and ch. 47, sec. 5, effective June 24, 2015. -- Amended 2014 Ky. Acts ch. 102, sec. 7, effective April

10, 2014. -- Amended 2010 Ky. Acts ch. 24, sec. 106, effective July 15, 2010; and ch. 57, sec. 1, effective July 15, 2010. -- Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 107, effective June 26, 2009. -- Amended 2005 Ky. Acts ch. 106, sec. 6, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 191, sec. 48, effective July 13, 2004. -- Amended 2000 Ky. Acts ch. 447, sec. 2, effective July 14, 2000. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 43, effective May 30, 1997. -- Amended 1994 Ky. Acts ch. 114, sec. 1, effective July 15, 1994; ch. 272, sec. 2, effective July 15, 1994; and ch. 438, sec. 5, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 109, sec. 7, effective March 30, 1992; and ch. 194, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 159, sec. 2, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 376, sec. 5, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 215, sec. 1, effective July 15, 1986; and ch. 296, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 240, sec. 2, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 100, sec. 8, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 190, sec. 2, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 343, sec. 2. -- Amended 1970 Ky. Acts ch. 258, sec. 1. -- Amended 1956 Ky. Acts ch. 13, sec. 1, effective February 3, 1956. -- Amended 1954 Ky. Acts ch. 76, sec. 1. -- Created 1948 Ky. Acts ch. 35, sec. 1.

Legislative Research Commission Note (7/15/2024). Under the authority of KRS 7.136, references to the "Kentucky Horse Racing Commission" in this statute have been changed in codification to the "Kentucky Horse Racing and Gaming Corporation" to reflect the reorganization enacted by the General Assembly in 2024 Ky. Acts ch. 171.

Legislative Research Commission Note (7/15/2024). This statute was amended by 2024 Ky. Acts chs. 166 and 171, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (4/10/2014). 2014 Ky. Acts ch. 102, sec. 39 provides that the amendments to this statute made in 2014 Ky. Acts ch. 102, sec. 7, shall apply retroactively beginning September 1, 2011.

Legislative Research Commission Note (7/14/2000). In codifying the 2000 Regular Session changes to this statute, an existing reference to "subsection (2)" has been changed to "subsection (3)" under KRS 7.136(1). 1994 Ky. Acts ch. 438, sec. 5, broke down the prior subsection (2) into subsections (2) and (3), and the reference to fiscal year remained in the resulting subsection (3), but the necessary adjustment to the reference in subsection (1) was inadvertently overlooked.

Legislative Research Commission Note (7/14/92). This section was amended by two 1992 Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which was last enacted by the General Assembly prevails, pursuant to KRS 446.250.

CHAPTER 166

(HB 8)

****On April 9, 2024, the Governor vetoed Sections 33, 34, and 44 to 47 of House Bill 8, citing the authority granted under Section 88 of the Constitution of Kentucky to veto parts of appropriation bills. On April 12, 2024, the House of Representatives ruled that House Bill 8 is not an appropriation bill and that the Governor's vetoes are invalid.**

AN ACT relating to fiscal matters, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 224.60-130 is amended to read as follows:

- (1) The Energy and Environment Cabinet, Department for Environmental Protection, Division of Waste Management, shall:
 - (a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks. The division may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the division for reimbursement from the fund for the performance of corrective action. At a minimum, the division shall promulgate administrative regulations *in accordance with KRS Chapter 13A* that will ~~ensure~~^{insure} an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the division shall obligate funds necessary to meet these requirements;
 - (b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The division may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the division. To ensure cost effectiveness, the division shall promulgate administrative regulations *in accordance with KRS Chapter 13A* specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;
 - (c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent (\$.004) from the one and four-tenths cent (\$.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the division;

- (d) Establish a small operator assistance account within the fund which may be used by the division to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;
- (e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, ~~2034~~~~2028~~. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the division shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The division shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the division shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;
- (f) Hear complaints brought before the division regarding the payment of claims from the fund in accordance with KRS 224.10-410 to 224.10-470;
- (g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;
- (h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the division, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The division shall, by administrative regulation, set the entry level for participation in the fund;
- (i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;
- (j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the division may distinguish among owners and operators based on income and types and classes of tanks. The division shall not place a limit on the number of tanks that an owner or operator has in order to be eligible to participate in the program and receive reimbursement under this paragraph;
- (k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;
- (l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The division may collect soil or water samples or require storage tank owners or operators to split samples

with the division for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the division to collect or split samples shall make the facility ineligible for fund participation;

- (m) Have inspectors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the division schedule an inspector to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an inspector fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the division no later than ten (10) days prior to the proposed date that an inspector is not available on the proposed date, in which event a representative of the division shall contact the operator and schedule a new date. If no inspector is present at the rescheduled date, the removal may then proceed without penalty; and
 - (n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter.
- (2) The division may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.
 - (3) The division may sue and be sued in its own name.
 - (4) The division may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The division may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (1)(c) of this section.

➔Section 2. KRS 224.60-142 is amended to read as follows:

- (1) To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, 2004, shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.
- (2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ~~2031~~~~[2025]~~. Owners or operators may submit affidavits and applications relevant to current petroleum storage tank accounts through July 15, ~~2031~~~~[2025]~~.

➔Section 3. KRS 224.60-145 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.
- (2) All deductions detailed in KRS 138.240(2) and all credits detailed in KRS 138.358 are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.
- (3) The fee shall be reported and paid to the Department of Revenue at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.
- (4) The petroleum environmental assurance fee shall be set at one and four-tenths cent (\$0.014) for each gallon. Four-tenths of a cent (\$0.004) per gallon shall be deposited in the financial responsibility account and one cent (\$0.01) shall be deposited in the petroleum storage tank account.
- (5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

- (6) All provisions of law related to the Department of Revenue's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Department of Revenue by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.
- (7) The Department of Revenue shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).
- (8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, ~~2031~~~~[2025]~~, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall submit an annual report to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue on October 1, 2024, and October 1 of each year thereafter.*
- (2) *The report required by subsection (1) of this section shall:*
 - (a) *Summarize each tax law change enacted during:*
 - 1. *The immediately preceding Regular Session of the General Assembly; or*
 - 2. *Any Extraordinary Session of the General Assembly held since the last report was submitted;*
 - (b) *Be organized by bill number, including any resolutions impacting the tax laws; and*
 - (c) *Outline actions taken, or to be taken, by the department to implement each tax law change, including any:*
 - 1. *Required modification to information technology systems and the estimated cost of that modification;*
 - 2. *Development of new or modification to existing forms for submission by taxpayers;*
 - 3. *Taxpayer education efforts deployed or to be deployed in response to the tax law changes;*
 - 4. *Administrative regulations filed or to be filed;*
 - 5. *Shifting of personnel to perform the actions; and*
 - 6. *Suggestions to the Interim Joint Committee on Appropriations and Revenue for related statutory corrections or improvements.*

➔Section 5. KRS 138.510 is amended to read as follows:

- (1) (a) Before August 1, 2022, except as provided in paragraph (e) of this subsection and subsection (3) of this section, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the commission as follows:
 - 1. For each track with a daily average live handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track during the fiscal year; and
 - 2. For each track with a daily average live handle under one million two hundred thousand dollars (\$1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.
- (b) Beginning August 1, 2022, the excise tax imposed on all tracks conducting pari-mutuel wagering on live racing under jurisdiction of the commission shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.
- (c) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting pari-mutuel wagering on historical horse races under the jurisdiction of the commission at a rate of one and one-half percent (1.5%) of all money wagered on historical horse races at the track during the fiscal year.

- (d) Money shall be deducted from the tax paid under paragraphs (a), (b), and (c) of this subsection and deposited as follows:
1.
 - a. Before August 1, 2022, an amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400; and
 - b. Beginning August 1, 2022, an amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400 until forty-five million dollars (\$45,000,000) has been deposited during a fiscal year, at which point the amount deposited in the fund shall decrease to four-tenths of one percent (0.4%) of all money wagered on live and historical horse races at the track for Thoroughbred racing for the remainder of the fiscal year;
 2.
 - a. Before August 1, 2022, an amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for harness racing shall be deposited in the Kentucky standardbred development fund established in KRS 230.770. Beginning August 1, 2022, an amount equal to one percent (1%) of all money wagered on live races at the track for harness racing shall be deposited in the Kentucky standardbred development fund until a total of twenty million dollars (\$20,000,000) has been deposited during a fiscal year from this subparagraph, at which point the amount deposited shall decrease to four-tenths of one percent (0.4%) of all money wagered for the remainder of the fiscal year; and
 - b. Beginning August 1, 2022, an amount equal to one percent (1%) of all money wagered on historical horse races at the track for harness racing shall be distributed in the exact amounts based upon contracts between the parties that have been filed with the commission, but at least one-half (1/2) of the funds shall be deposited into the Kentucky standardbred development fund established in KRS 230.770 until a total of twenty million dollars (\$20,000,000) has been deposited into the Kentucky standardbred development fund during a fiscal year from this subparagraph, at which point the amount deposited in this subdivision shall decrease to four-tenths of one percent (0.4%) of all money wagered for the remainder of the fiscal year. The commission shall provide the department all information necessary from the contracts in order for the funds in this subparagraph to be distributed;
 3. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for quarter horse, paint horse, Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, paint horse, Appaloosa, and Arabian development fund established by KRS 230.445;
 4. An amount equal to two-tenths of one percent (0.2%) of all money wagered on live races and historical horse races at the track shall be paid out in equal amounts as follows:
 - a. To the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed eight hundred fifty thousand dollars (\$850,000);
 - b. To the University of Kentucky for equine industry programs at the university, except that the amount paid from money wagered on historical horse races in any fiscal year shall not exceed four hundred thousand dollars (\$400,000);
 - c. To the Bluegrass Community and Technical College for the provision of equine industry programs by the system, except that the amount paid from money wagered on historical horse races in any fiscal year shall not exceed two hundred fifty thousand dollars (\$250,000);
 - d. Amounts remaining from money wagered on historical horse races in a fiscal year after payments are made in accordance with subdivisions a., b., and c. of this subparagraph shall be distributed in equal amounts to:

- i. *The Kentucky Horse Racing Commission for the benefit of Thoroughbred, standardbred, and American quarter horse aftercare facilities in Kentucky, in an amount not to exceed two hundred fifty thousand dollars (\$250,000). The Kentucky Horse Racing Commission shall serve as the administrative agent for these funds, and shall distribute them annually to organizations engaged in the accreditation and monitoring of aftercare facilities. Any funds distributed under this subpart by the Kentucky Horse Racing Commission shall be awarded to aftercare facilities based in Kentucky only after the facilities have achieved and maintained levels of service and operation that resulted in national accreditation; and*
- ii. *The Kentucky equine management internship program for equine management training, in an amount not to exceed two hundred fifty thousand dollars (\$250,000);*~~*The Kentucky Thoroughbred breeders incentive fund established in KRS 230.800, in an amount not to exceed four hundred thousand dollars (\$400,000); and*~~
- ~~ii. *The Kentucky standardbred breeders incentive fund established in KRS 230.802, in an amount not to exceed one hundred thousand dollars (\$100,000);* and~~
- e. Any amounts remaining from money wagered on historical horse races in a fiscal year after payments are made in accordance with subdivisions a., b., c., and d. of this subparagraph shall be paid to the general fund;
- 5. a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities *and the Bluegrass Community and Technical College*, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities *and the Bluegrass Community and Technical College*.
- c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent *for these funds*, and shall establish an advisory committee of interested parties, including all universities *and the Bluegrass Community and Technical College* with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.
- d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and
- 6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3), except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- (e) The excise tax imposed by paragraphs (a) and (b) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.
- (2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is imposed on:
 - 1. All tracks conducting telephone account wagering;
 - 2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the commission; and
 - 3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

- (b) 1. Before August 1, 2022, the tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
2. Beginning August 1, 2022, the tax shall be one and one-half percent (1.5%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
- (c) A noncontiguous track facility approved by the commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars (\$250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.
- (d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:
1. An amount equal to one percent (1%) of the amount wagered shall be deposited as follows:
 - a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;
 - b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race meeting or the interstate wagering is conducted on a harness race meeting; or
 - c. In the Kentucky quarter horse, paint horse, Appaloosa, and Arabian development fund established by KRS 230.445, if the host track is conducting a quarter horse, paint horse, Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, paint horse, Appaloosa, or Arabian horse race meeting;
 2. An amount equal to twenty-five thousandths of one percent (0.025%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;
 3. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(d)5. of this section; and
 4. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).
- (3) If a host track in this state is the location for the conduct of a two (2) day international horse racing event that distributes in excess of a total of twenty million dollars (\$20,000,000) in purses and awards:
- (a) The excise tax imposed by subsection (1)(a) and (b) of this section shall not apply to money wagered at the track on live races conducted at the track during the two (2) day international horse racing event; and
 - (b) Amounts wagered at the track on live races conducted at the track during the two (2) day international horse racing event shall not be included in calculating the daily average live handle for purposes of subsection (1) of this section.
- (4) ***If a host track in this state is the location for the conduct of an international harness racing event spanning multiple days that distributes at least five million dollars (\$5,000,000) in purses and awards, the Tourism, Arts and Heritage Cabinet shall be granted a race title sponsorship and promotional package at the international harness racing event with all usual and customary benefits assigned to promote Kentucky tourism. The Tourism, Arts and Heritage Cabinet shall not be charged any fees for the promotional package.***
- (5)~~(4)~~ The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.
- ➔Section 6. KRS 230.770 is amended to read as follows:
- (1) (a) There is hereby created a trust and ***agency account***~~revolving fund~~ for the Kentucky Horse Racing Commission, designated as the Kentucky standardbred development fund, consisting of

Council on Postsecondary Education
 University Equine Program
 Trust Fund (14AV)

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025 (Estimated)</u>	<u>FY 2026 (Estimated)</u>
Balance Forward	405,586	506,357	544,717	196,374	281,026	422,100	229,168	271,223	262,046	408,625	402,695	401,458	277,459
Receipts	628,800	638,360	651,657	684,652	651,074	647,068	522,055	470,822	626,579	474,071	478,763	476,000	476,000
Expense	528,030	600,000	1,000,000	600,000	510,000	840,000	480,000	480,000	480,000	480,000	480,000	600,000	600,000
Ending Balance	506,356	544,717	196,374	281,026	422,100	229,168	271,223	262,046	408,625	402,696	401,458	277,458	153,459

POSTSECONDARY EDUCATION EQUINE TRUST PROGRAM GUIDELINES

Introduction

KRS 138.510(5) established the Postsecondary Education Equine Trust and Revolving Fund from the proceeds of the Kentucky pari-mutuel tax. Specifically, it provides that:

- a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities and the Bluegrass Community and Technical College, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities and the Bluegrass Community and Technical College.

The Council on Postsecondary Education is designated as the administrative agent for the funds and is required to “establish an advisory committee of interested parties, including all universities and the Bluegrass Community and Technical College with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.” An account has been established to fulfill the purpose prescribed by statute.

Commented [RK1]: Advisory Committee input required on how they'd like to operationalize the evaluation and recommendation process.

The Advisory Committee (aka., the Equine Trust Fund Group) will meet at least twice per year to share institutional program updates, review fund revenues and expenditures, and discuss parties' contractual administrative obligations, including initial budget requests, substantive budget revisions, and annual programmatic financial reporting. The meetings will be publicly noticed by the Council.

Eligibility for Participation

Morehead State University, Murray State University, the University of Kentucky, the University of Louisville, Western Kentucky University, and Bluegrass Community and Technical College operate equine programs and are eligible to participate in the Postsecondary Education Equine Trust and Revolving Fund per KRS 138.510(5).

Criteria for the Award of Funds

Projects funded shall:

- Significantly improve academic equine program facilities and campus infrastructure that supports such facilities through construction, expansion, or renovation.
 - For the purposes of these guidelines, “facilities” includes buildings and key building systems, such as the plumbing system, electrical system and

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- permanently affixed power generators, mechanical and HVAC system, elevator system, escalator system, fire protection and alarm system, gas distribution system, and the security system.
- For the purposes of these guidelines, “campus infrastructure” includes infrastructure, such as roads, walkways, and steam tunnels that support current and ongoing use of academic equine program facilities.
- Qualities of projects that significantly improve academic facilities or campus infrastructure include:
 - Projects that extend the useful life of the building or key building system, as opposed to projects anticipated to be completed over the expected useful life of the building or key building system (e.g., routine maintenance).
 - Routine maintenance and repair projects and ongoing building maintenance and operations (M&O) costs, typically funded through an institution’s operating budget are not eligible for funds.
 - Projects that place the property in better operating condition, as opposed to projects that keep a unit of property in ordinarily efficient operating condition.
- For items of equipment to be eligible for funding, they must meet two requirements: (1) have a useful life in excess of 2 years and (2) have a cost of \$5,000 or more.
- Recognize the needs of all institutions; and
- ~~Support only capital construction, expansion, renovation, or equipment purchases that relate directly to the institutions’ equine programs.~~
- Not include salary or other operating expenses or replace other funds for capital purposes.

The *yearly allocation of the Postsecondary Education Equine Trust and Revolving Fund* will include a base-funding amount that may be conservatively supported by the historical receipts of the fund. Currently, this is \$120,000 allocated equally to each eligible institution. Institutions shall submit budgets for the expenditure of their base funding allocations identifying each capital construction, expansion, or renovation project and equipment purchase. Cost estimates for individual items along with brief descriptions of each item and their use are also encouraged. Allocations cannot exceed available revenue at any point in time. The Council reserves the right to adjust allocations should actual receipts fall short of the amounts initially approved.

Council staff, along with the Advisory Committee, may recommend a fiscal year contract amendment if receipts are in excess of the initial fiscal year \$600,000 allotment to the institutions. Budget requests for excess receipts shall be provided to Council staff before additional disbursements are paid to the institutions.

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Commented [RK2]: Discussion for Advisory Committee. Need to discuss if this is how we should still proceed for FY 2024-25 and to decide what we want to do for FY 2025-26 with the addition of BCTC.

Commented [RK3]: Discussion for Advisory Committee. Need to potentially reduce this allocation based on what is decided above.

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Institutions are required to comply with all statutes relating to capital project authorization. At a minimum, projects meeting the statutory capital project definitions and thresholds (KRS 45.750) must be approved by an institution's board and the Council on Postsecondary Education to have projects authorized.

Reporting Guidelines (defined in institutional contracts)

An annual or biennial budget should be received by Council staff prior to the start of the period (year or biennium).

Funds for capital construction, expansion, or renovation projects and equipment purchases that are consistent with the statute will be distributed to the institutions, in accordance with the contracts, and shall be deposited by the institution into institution-designated restricted fund accounts. Funds may be accumulated over more than one fiscal year provided that these funds are designated for a capital construction, expansion, or renovation project or equipment purchase.

Annual programmatic financial reports displaying the expenditure and use of funds (July 1 through June 30) must be submitted to Council staff by the following October 1.

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