CHAPTER 4: RAILROAD FUNDING IN KENTUCKY

This chapter identifies railroad funding opportunities in Kentucky, including options at the federal and state levels.

4.1 FEDERAL FUNDING SOURCES

Various federal funding sources are available for railroad needs. Most federal funding options require at least a portion of the cost of the project to be matched by the project owner so that the total federal share of the project is less than 100 percent. However, some of the discretionary funds and grants available may cover 100 percent of the cost of the project for conditions such as safety and emergency actions. Certain funding programs require additional eligibility determinations. A summary of federal funding sources is provided below.

4.1.1 Federal Funding of Intercity Passenger Rail

4.1.1.1 Passenger Rail Investment and Improvement Act (PRIIA)[37]

The Passenger Rail Investment and Improvement Act (PRIIA) was enacted in October 2008. In addition to reauthorizing Amtrak, PRIIA tasks Amtrak, the USDOT, the FRA, states, and other stakeholders to improve operations, facilities, and services related to passenger rail. PRIIA focuses on intercity passenger rail, including Amtrak's long-distance routes and the Northeast Corridor (NEC), state-sponsored corridors throughout the nation, and the development of high-speed rail corridors. PRIIA provided more than $13 billion between 2009 and 2013 for these activities. No funds for rail projects were allocated to Kentucky under PRIIA.

4.1.1.2 High Speed Intercity Passenger Rail Program (HISPR)[38]

Following the passage of the American Recovery and Reinvestment Act (ARRA) of 2009, the FRA established the High-Speed Intercity Passenger Rail Program (HSIPR), under which the FRA solicited applications for more than $10 billion in grant funding. Federal fiscal year (FY) 2010 was the last year to include funding for the HSIPR program, with no further funding for the program included in the USDOT budgets. No funds for rail projects were allocated to Kentucky through ARRA or HSIPR.

4.1.2 Transportation Investment Generating Economic Recovery (TIGER)[39]

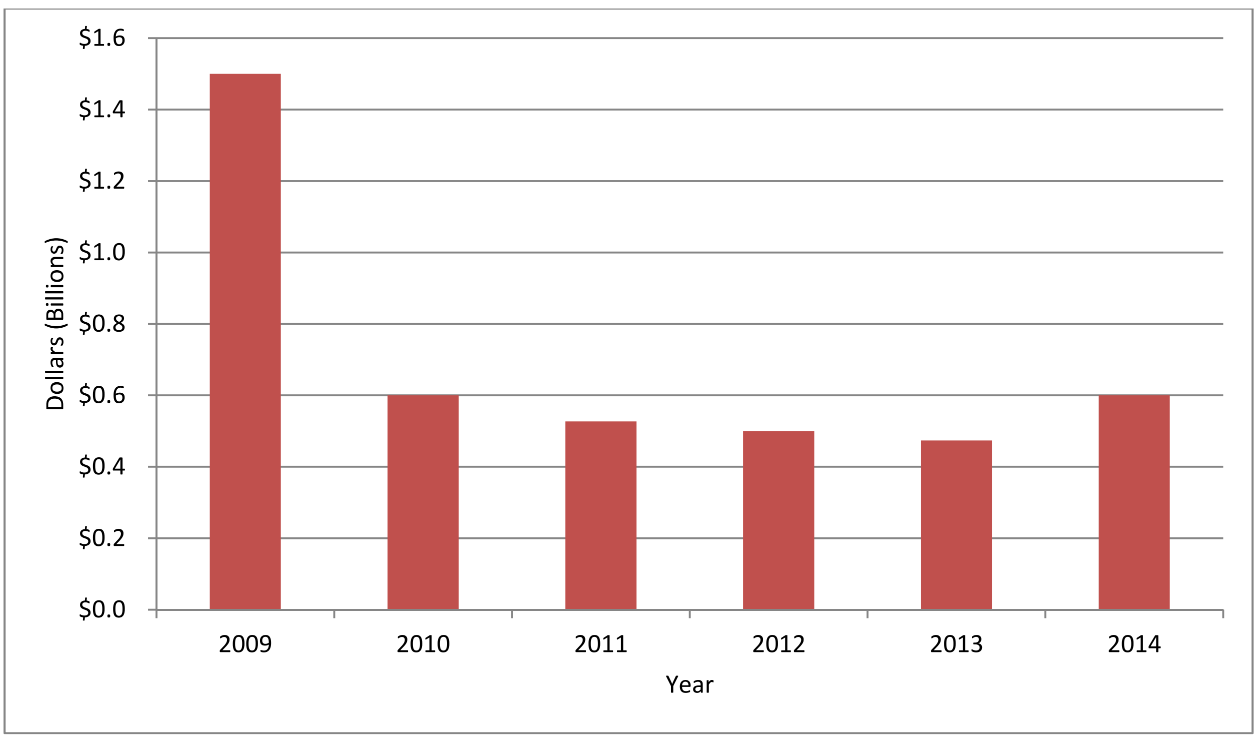
The first round of the Transportation Investment Generating Economic Recovery (TIGER) grant program was included in the 2009 ARRA legislation. Five additional rounds of TIGER grants, from 2010 – 2014, have since been authorized by the U.S. Congress. These grants are awarded by the USDOT on a competitive basis for all modes of transportation including road, rail, transit, riverport, air, bicycle, and pedestrian projects that are judged to create a significant impact on

[37] https://www.fra.dot.gov/eLib/details/L02692, 2014
[38] http://www.fra.dot.gov/Page/P0060, 2014
[39] http://www.dot.gov/tiger, 2014

the nation, a region, or a metropolitan area. All grants must be applied to publicly accessible transportation infrastructure. Projects generally must be shovel ready, ready for construction within a specified length of time, although TIGER II (2010) and TIGER VI (2014) allowed some money to be used for planning studies or research.

TIGER grants are designed to fund up to 80 percent of an infrastructure improvement, with the remaining 20 percent to be provided by a non-federal source. Applications are typically considered more competitive if they request a smaller federal percentage by providing a more substantial investment from local government agencies or private companies. From FY 2009 through FY 2012 (TIGER I through IV), a total of $3 billion in funding was available through the TIGER program. TIGER V funds totaled $474 million in 2013. TIGER VI funds totaled $600 million in 2014, including $120 million dedicated to rural areas and up to $35 million for planning activities. **Figure 4-1** shows the total funds awarded or available through TIGER grants since inception in 2009. More information about this grant can be found at: http://www.dot.gov/sites/dot.gov/files/docs/Tiger_I_Awards.pdf, 2014.

Figure 4-1: TIGER Funds Awarded Nationally, 2009-2014



Source: USDOT, 2014

TIGER grants have funded several rail projects in Kentucky. The R.J. Corman Railroad Group received a $17.5 million TIGER grant in 2010 for the Appalachian Regional Short-Line Rail project to improve rail infrastructure on five short line railroads operating in Kentucky, Tennessee, and West Virginia. The portion of the grant for improvements in Kentucky was

$12.9 million, of which the R.J. Corman Group contributed approximately $3 million and the state contributed $200,000. The Kentucky portion of the project involved upgrades to 120 miles of track along the R.J. Corman Railroad Group's Memphis, Central Kentucky, and Bardstown Lines in 12 counties. Work in Kentucky included improvements to rail, at-grade crossings, and bridges.[40]

The Paducah and Louisville Railway, Inc. (PAL) was awarded a $14.4 million grant in 2011 to replace two bridges near Fort Knox. The railroad contributed approximately 20 percent of the total, (about $2.9 million) and the state contributed $1.0 million.[41]

4.1.3 FHWA Section 130 Railway-Highways Crossing Program

The Federal Highway Administration (FHWA) Section 130 Railway-Highways Crossing Program provides federal support for projects that improve safety at public highway-rail at-grade crossings, including crossings of roadway, bicycle, and pedestrian facilities. Funds may be used to install or upgrade warning devices, eliminate at-grade crossings through grade separation, or consolidate or close at-grade crossings. The federal share of these funds is 90 percent and the local, or typically the railroad's share, is 10 percent. Funds are allocated to each state by a formula that is partly based on number of crossings in the state, with the state acting as a pass-through and managing the funds. In order for states to receive funds from this program, they must conduct an annual survey of all public crossings and prioritize them for improvement. In Kentucky, FHWA Section 130 funds are prioritized annually by the KYTC Division of Right of Way and Utilities, Railroad Section. A total of 32 rail crossing projects were identified by the KYTC for years 2012-2014, with a total program cost of more than $7.0 million.

4.1.4 FRA Railroad Rehabilitation & Repair (Disaster Assistance) Program

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, provided $20.0 million in grants for necessary expenses to repair and rehabilitate Class II and Class III railroad infrastructure damaged by natural disasters, such as hurricanes and floods, that have been declared by the President as a major disaster.[42] Kentucky has received two grants under this program, both to PAL. The first grant was for repairs due to damage from winter weather such as snow and ice. The second grant was for repairs due to flooding damage. The federal share of these funds is 80 percent and the local, or typically the railroad's share, is 20 percent. There were three application cycles for this funding, with the last solicitations requested in 2013.

[40] http://www.dot.gov/sites/dot.gov/files/docs/Tiger_I_Awards.pdf, 2014
[41] http://www.dot.gov/sites/dot.gov/files/docs/TIGER_2011_AWARD.pdf, 2014
[42] http://www.fra.dot.gov/Page/P0129, 2014

4.1.5 Federal Funding for Surface Transportation Programs

The following discussions are about federal transportation budget bills. Moving Ahead for Progress in the 21st Century (MAP-21) is the most recent federal transportation bill, and has been extended in continuing resolutions since expiring in 2014. In Kentucky, federal discretionary funding is administered by the KYTC Office of Local Programs (OLP).[43] The most current KYTC guidance for federal discretionary programs is located on the KYTC OLP website.

4.1.5.1 Congestion Mitigation and Air Quality (CMAQ) Improvement Program[44]

Funding for the Congestion Mitigation and Air Quality (CMAQ) program is available for nonattainment areas, those that do not meet the National Ambient Air Quality Standards (NAAQS), as well as former nonattainment areas that are now in compliance, referred to as maintenance areas. Since April 2012, the counties of Boone, Kenton, and Campbell are all considered to be nonattainment areas for the eight-hour ozone standard.[45] Since April 2005, Bullitt and Jefferson counties are considered nonattainment areas for particulate matter (PM).[46] Other counties eligible for CMAQ funding in Kentucky include: Boyd, Christian, Daviess, Edmonson, Fayette, Greenup (partial county designation), Hancock (partial county designation), Knott, Lawrence, Livingston (partial county designation), Marshall, Oldham, and Scott. All of these counties currently have rail access.

The program provides funds for transportation projects and programs that improve air quality or reduce transportation-related emissions of criteria pollutants under the NAAQS established by the federal Clean Air Act. In Kentucky, R.J. Corman Railroad Group used CMAQ funds to replace two conventional diesel locomotive engines with locomotive engine-generator sets in 2014. Nationally, CMAQ funds have been used to construct intermodal terminals, improve rail access to ports, improve rail yards, and a variety of other rail infrastructure projects.

MAP-21 places emphasis on selected project types that reduce PM 2.5 (microns) pollution, including electric and natural gas vehicle infrastructure and diesel retrofits. State departments of transportation and metropolitan planning organizations (MPOs) select and approve projects for funding. The federal share of these funds is 80 percent, with the remaining 20 percent provided by state, local, or private funding. Applications for CMAQ funds are prioritized by the KYTC Office of Local Programs through a competitive application process. The 2012 Kentucky Highway Plan made $12.9 million available per year. The 2014 Kentucky Highway Plan made $13.1 million available per year.[47]

---

[43] http://transportation.ky.gov/Local-Programs/Pages/default.aspx, 2014
[44] http://transportation.ky.gov/Local-Programs/Pages/Congestion-Mitigation-and-Air-Quality.aspx, 2014
[45] Standard is based on the highest daily concentrations for 8 hours during 25 days per year.
[46] Standard is based on the annual average over 3 years.
[47] http://transportation.ky.gov/Local-Programs/Pages/Congestion-Mitigation-and-Air-Quality.aspx, 2014

4.1.5.2 Transportation Alternatives Program (TAP)[48]

The FHWA Transportation Alternatives Program (TAP) provides funding at 80 percent federal share of a project's cost with the remaining 20 percent matched by the project sponsor. These funds are restricted to activities related to surface transportation. Several of these activities are relevant to rail, including rail corridor preservation via rail trail facilities and preservation of historic rail facilities, as well as scenic overlooks and turnouts. In 2014, $9.6 million per year was made available. Examples of previous Kentucky TAP projects include the Ashland Depot and the TARC T2 Rail Study.[49]

4.1.5.3 Surface Transportation Program (STP)

The FHWA Surface Transportation Program (STP) is a grant program available for improvement of any federal-aid highway, bridge, or transit capital project. Eligible improvements related to rail involve increasing the vertical clearance of highway bridges over rail, eliminating highway-rail crossings, and improving intermodal connectors. The federal share is 80 percent and a 20 percent state and/or local match is required.[50]

4.1.5.4 Transportation Infrastructure Finance and Innovation Act (TIFIA)[51]

The Transportation Infrastructure Finance and Innovation Act (TIFIA) provides credit assistance for transportation projects with a capital cost of $50 million (or 33.3 percent of a state's annual apportionment of federal-aid funds, whichever is less). There are no limits on the amount financed by TIFIA. Eligible applicants include state and local governments, transit agencies, railroads, special authorities, special districts, and private entities. TIFIA provides three types of financial assistance:

- Secured direct loans: These have a maximum term of 35 years after project completion. Repayment may begin up to five years after project completion;
- Loan guarantees: The federal government guarantees a borrower's repayments to a non-federal lender. Loan repayments to the lender must begin no later than five years after project completion; and,
- Standby line of credit: A federal loan serves as a contingent source of cash to supplement project revenues. Standby financing is available during the first 10 years after project completion.[52]

---

[48] http://transportation.ky.gov/Local-Programs/Pages/transportation_alternatives.aspx, 2014
[49] Ibíd.
[50] http://www.grants.gov/web/grants/home.html, 2014
[51] http://www.fhwa.dot.gov/ipd/tifia/, 2014
[52] http://www.fhwa.dot.gov/ipd/tifia/defined/,2014

MAP-21 established a multi-step application process that begins with a letter of intent and determination of eligibility. All projects eligible for STP funding are eligible for TIFIA, as well as intercity passenger rail facilities and vehicles, publicly owned freight rail facilities, intermodal freight transfer facilities, access to intermodal freight transfer facilities, and projects located within the boundary of a port terminal under certain conditions

4.1.6 Federal Funding for Non-Surface Transportation Programs

4.1.6.1 FRA Railroad Rehabilitation and Improvement Financing (RRIF) Program[53]

The Railroad Rehabilitation and Improvement Financing (RRIF) Program provides direct federal loans and loan guarantees to finance the development of railroad infrastructure. Eligible applicants include railroads, state and local governments, government-sponsored authorities and corporations, joint ventures, and shippers served by a single railroad who wish to build a connection to a competing carrier. Eligible costs include improvements to, rehabilitation of, or acquisition of freight and passenger railroad equipment, track, structures, multimodal facilities, as well as refinancing of associated debt. Direct loans can provide up to 100 percent of project cost with repayment periods up to 35 years. Interest rates are equal to the U.S. Treasury Rate, but fees must be paid to the government to defray the cost of making the loan. R.J. Corman Railroad Group obtained approximately $58.9 million worth of RRIF financing in 2006 to purchase 24 locomotives, 200 center beam flat cars, and 100 coal hopper cars. No additional loans have been made under the program in Kentucky since then.[54]

4.1.6.2 U.S. Department of Commerce, Economic Development Administration (EDA)

The Economic Development Administration (EDA) provides grants for projects in economically distressed areas. An area is economically distressed if per capita income is 80 percent less than the national average or unemployment over the past 24 months exceeds the national average by one percent or more.[55] Programs can provide between 50 and 80 percent of the total project cost, depending upon the level of economic distress in the area. According to the Appalachian Regional Commission (ARC), 37 of the 120 counties in Kentucky are considered distressed as of March 2015.[56] According to the Delta Regional Authority (DRC), 21 counties in Kentucky are distressed.[57] **Table 4-1** identifies the ARC distressed counties in Kentucky. **Table 4-2** identifies the DRC distressed counties in Kentucky.

[53] http://www.fra.dot.gov/Page/P0128, 2014.
[54] Ibíd.
[55] http://www.fhwa.dot.gov/economicrecovery/guidancedistressed.htm, 2014
[56] http://www.arc.gov/research/MapsofAppalachia.asp?MAP_ID=90, 2015
[57] http://www.westkyjournal.com/news.php?viewStory=5050, 2015

Table 4-1: ARC Distressed Counties in Kentucky

Bath	Bell	Breathitt	Carter	Casey
Clay	Clinton	Cumberland	Elliott	Estill
Floyd	Harlan	Jackson	Johnson	Knott
Knox	Lawrence	Lee	Leslie	Letcher
Lewis	Lincoln	McCreary	Magoffin	Martin
Menifee	Metcalfe	Monroe	Morgan	Owsley
Perry	Powell	Rockcastle	Rowan	Wayne
Whitley	Wolfe			

Source: http://www.arc.gov/research/MapsofAppalachia.asp?MAPID=90, 2015

Table 4-2: DRC Distressed Counties in Kentucky

Ballard	Caldwell	Carlisle	Calloway	Christian
Crittenden	Fulton	Graves	Henderson	Hopkins
Livingston	Lyon	Marshall	McCracken	McLean
Muhlenberg	Todd	Trigg	Union	Webster

Source: http://www.westkyjournal.com/news.php?viewStory=5050, 2015

The EDA Public Works program is aimed at helping areas improve physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term private sector jobs and investment. The EDA Economic Adjustment program helps communities that are experiencing economic disruptions such as natural disasters, military base closures, trade-related disruptions, or major private sector employer restructurings.

Examples of rail EDA grants include the reconstruction of damaged rail infrastructure, rail spurs, and access projects. According to the American Short Line and Regional Railroad Association (ASLRA), more than $55 million in EDA grants have been allocated to rail projects since 2008, with an average grant amount of $1.9 million per project.[58] No rail projects in Kentucky have been funded by EDA grants in recent years.

4.1.6.3 U.S. Environmental Protection Agency, Diesel Emission Reduction Act (DERA) National Funding Assistance Program[59]

Diesel Emission Reduction Act (DERA) funding is available through the U.S. Environmental Protection Agency (EPA) for projects that lower locomotive emissions. These include retrofit technologies, idle-reduction technologies, aerodynamic technologies, and early engine replacement or repower. For FY 2014, $9 million in funding was available. The federal match

[58] http://www.aslrra.org/news___publications/Views___News/results.cfm?articleid=4956, 2014
[59] http://www.epa.gov/cleandiesel/prgnational.htm, 2014

depends upon the type of project. Although there is no requirement for a project to be located in an air quality nonattainment area, applications are scored higher for those projects.

4.1.6.4 Private Activity Bonds

The USDOT and FHWA administer the allocation of private activity bonds. A private activity bond for rail purposes is a tax-exempt municipal bond issued by a local or state government to advance freight transfer projects on behalf of a private project sponsor. Up to $15 billion can be used for transportation infrastructure and freight transfer facilities, such as private rail-truck facilities. For example, this type of bond was recently issued to finance rail-related intermodal development by CenterPoint, a development company, in Chicago, Illinois, and in Kansas City, Missouri. At least 95 percent of the net proceeds of bond issues must be expended within five years of issue date.[60]

4.1.7 Federal Tax Incentives

Section 45G of the Internal Revenue Code provides federal tax credits for short line railroad infrastructure investments. Originally enacted in January 2005, the Section 45G provision enables short line and regional railroads to claim a tax credit of 50 percent for every dollar spent on capital improvements, with a cap of $3,500 per mile of track. This tax credit technically expired on December 31, 2014, although legislation was introduced in early 2015 to extend the tax credit through 2016.[61]

4.2 STATE FUNDING SOURCES

The following section discusses Kentucky sources of rail funding. The state highway fund is constitutionally mandated, as noted in **Section 1.2.1**, to be used only on highways, with no dedicated source for rail funding. However, the Kentucky General Fund provides the mechanism for state funding for rail projects on a competitive basis with other statewide needs. More information about state spending can be found at http://www.kentucky.gov.

4.2.1 Recent Kentucky Rail Funding Initiatives

4.2.1.1 Kentucky Short Line Railroad Assistance (KSRA) Fund

In May 2011, the Kentucky Legislature voted to make Highway Construction Contingency Funds available through the Kentucky Short Line Railroad Assistance (KSRA) Fund, administered by the KYTC. Grants totaling $3,138,726 were awarded under this program for fiscal year 2011-2012. All but one of the grants represented 50 percent of the cost of a project, with each railroad providing the remainder as a match. The exception was a project to replace a PAL bridge at Muldraugh in Hardin County. That grant was $1 million and the total project cost was $8 million.

[60] www.fhwa.dot.gov/ipd/finance/legislation/federal_debt/pabs.aspx, 2014
[61] www.aslrra.org/legislative/Short_Line_Tax_Credit_Extension, 2014

A summary of KSRA grants made in 2011 includes:

- **R.J. Corman Railroad Group**
  $463,038 for rail maintenance and crossing repair between Bowling Green and Russellville
  $645,828 for rail line expansion in Lexington, Fayette County;
- **Paducah and Louisville Railway, Inc.**
  $1 million for bridge replacement at Muldraugh, Hardin County
  $39,150 for crossing rehabilitation on KY 1646 in Elizabethtown, Hardin County
  $34,740 for crossing rehabilitation on KY 920 in Leitchfield, Grayson County
  $25,344 for crossing rehabilitation on KY 907 in Louisville, Jefferson County;
- **Tennken Railroad**
  $196,740 for rail replacement in Fulton County;
- **Louisville and Indiana Railroad**
  $183,635 for repair of Ohio River bridge pier in Jefferson County;
- **Transkentucky Transportation Railroad**
  $359,901 for tie replacement and rail bed rehabilitation in Bourbon, Nicholas, Fleming, and Mason counties; and,
- **Kentucky Railway Museum**
  $190,350 for track and crossing rehabilitation and repairs in Nelson and LaRue counties.

4.2.1.2 Kentucky Railroad Crossing Improvement (KRCI) Program

In October 2013, the state announced that $3.2 million in grants would be made available through FY 2014 to short line railroads to help fund safety improvements at highway-rail at-grade crossings in Kentucky. The grants, all of which required a dollar-for-dollar match from the applicants, were funded through the Kentucky Railroad Crossing Improvement (KRCI) Program, administered by the KYTC.

In late 2013, the KYTC processed applications for 172 projects at 165 crossing locations. These projects included 57 crossing reconstructions and 115 signal improvements, including upgrades to existing signage, equipment, and light emitting diode (LED) lighting.

The R.J. Corman Railroad Group received grant money for 86 of the projects. PAL received grant money for 64 of the projects. TTI received grant money for 22 of the projects. At least 11 of the projects were located at at-grade crossings with at least one crash involving motor vehicles or pedestrians in the last five years. Six of the projects were at at-grade crossings on excepted track, where passenger trains are prohibited and the speed limit for freight trains is 10 mph.

While this is a non-recurring funding source, another $3.2 million ($1.6 million per year) was entered into the Transportation Budget (HB 236) by the Kentucky Legislature for FY 2015 and FY 2016 to make additional short line rail safety improvements. These funds are restricted to public safety improvements to at-grade crossings, railroad bridge overpasses, and railroad crossing safety equipment. Unlike the FY 2013-2014 grants, which required a 50 percent local match, the FY 2015-2016 funding will be available with an 80 percent state share and 20 percent local match.

4.2.2 Kentucky Tax Credits

In addition to grant funding, Kentucky makes certain tax credits available to companies and railroads that invest in rail and rail-related projects. These are administered by and made available through the Kentucky Railroad Assistance Program (KRAP).[62]

The three main programs under the KRAP are discussed below:

- **Economic Development Tax Credit** – "This tax credit is for corporations, limited liability corporations (LLCs), partnerships, limited partnerships, business trusts or other entities in manufacturing, agribusiness, non-retail service, technology or national or regional headquarters operations for investment in the construction and installation of railroad spurs as needed to connect economic development projects to existing railroads."[63] Specific language about this tax credit can be found in KRS 154.32-010(14)(a)7 or at http://www.lrc.ky.gov/Statutes/statute.aspx?id=2862;

- **Nonrefundable Tax Credit for Railroad Improvement (50% Tax Credit)** - This is a 50 percent tax credit for Class II and Class III railroads, "or any person who transports property using the rail facilities of a Class II railroad or Class III railroad located in Kentucky or furnishes railroad-related property or services to a Class II railroad or Class III railroad located in Kentucky, to maintain or improve railroads located in Kentucky, including roadbeds, bridges, and related structures."[64] Specific language about this tax credit can be found in KRS 141.385 or at http://www.lrc.ky.gov/Statutes/statute.aspx?id=29125; and,

- **Nonrefundable Tax Credit for Railroad Expansion or Upgrade to Accommodate Transportation of Fossil Energy Resources or Biomass Resources (25% Tax Credit)** – "This 25 percent tax credit is for corporations that own fossil energy resources or biomass resources and transports these resources using rail facilities; or for railway

---

[62] http://transportation.ky.gov/Railroads/Pages/Railroad-Assistance-Funds.aspx, 2014
[63] Ibid.
[64] Ibid.

companies that serve a corporation that owns fossil energy resources to expand or upgrade railroad track, including roadbeds, bridges, and related track structures, to accommodate the transport of fossil energy resources or biomass resources."[65] Specific language about this tax credit can be found in KRS 141.386 or at http://www.lrc.ky.gov/Statutes/statute.aspx?id=29126.

[65] Ibid.