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To:	Senator Jeff Longbine, Chairman Vice Chair Jim Kelly, Vice Chairman Members of the Special Committee on Insurance
From:	Callie Jill Denton Executive Director
Date:	October 6, 2017
RE:	2017 HB 2104 (SUPPORT)

The Kansas Trial Lawyers Association is a nonprofit professional organization of Kansas trial attorneys. KTLA's members represent people injured in auto collisions.

Kansas has a mandatory, comprehensive auto insurance law: the Kansas Auto Injury Reparations Act (KAIRA). Its purpose is to require drivers on roads in the state to be responsible and to have the financial security to "… provide a means of compensating persons promptly…" (K.S.A. 40-3102). But KAIRA is falling short of its purpose. Too often Kansans are left with uncompensated expenses after a collision, even when they are not at fault and they have bought insurance.

KTLA supports 2017 HB 2104 because it stops the erosion of KAIRA. It requires drivers on Kansas roads to have financial security that is truly "minimum". HB 2104 stops cost shifts away from bad drivers and assures that policyholders get the UIM coverage they purchase. It helps responsible Kansans who are in collisions with underinsured drivers. On behalf of KTLA, I respectfully request that the Committee recommend HB 2104 favorably and recommend it be passed in 2018.

1. HB 2104's impact on premium and the rate of uninsured drivers are predicted to be minor, and should not deter legislative action to restore KAIRA.

According to the January 27, 2017 Fiscal Note on HB 2104 prepared by Director of the Budget Shawn Sullivan, with input from the Kansas Insurance Department, any premium increase resulting from HB 2104 would be *negligible*.

The House Insurance Committee received testimony from independent insurance agent Chris Conrade of Conrade Insurance Group that the new minimum limits in HB 2104 would "better protect Kansans while having an estimated *minimal impact* on automobile premiums."

Focusing on minimum insurance limits as a significant influence on affordability disregards the cost shifts that occur when drivers have inadequate coverage. It also ignores the many other cost drivers and effects on premium. Some insurers impose premium increases after a crash even if the driver is not at fault. A 2017 study released by the Consumer Federation of America reported in some cases premiums increased by 10%, and that drivers with moderate incomes experienced greater increases than drivers in upper income brackets.[1] In Kansas City, the average premium increase after a not-at-fault crash was $100.[2] In even minor accidents where the driver is at fault, filing one $2,000 claim could cause rates to increase by 31% or more for three to five years.[3]

The rate of uninsured motorists in Kansas was 10%, 9.8%, and 9.4% in 2007, 2009, and 2012, respectively.[4] Presumably, there were fluctuations and increases in auto premium cost during that time. Yet Kansas' rate of uninsured motorists changed very little.

The Legislature could address the broad array of factors that drive premium cost and affordability, but continuing to delay needed updates to KAIRA is short-sighted. Restoring the

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[1] Drivers see premium increases after not-at-fault crashes, Associated Press, February 13, 2017.
[2] *Ibid.*
[3] Making one auto insurance claim can drive up your rate by up to 76 percent, *Forbes,* January 27, 2015.
[4] Insurance Information Institute, www.iii.org.

integrity of KAIRA so that the financial integrity law is truly meaningful must be a legislative priority in 2018.

2. Kansas' stagnant requirement for bodily injury (25/50) is no longer "minimum coverage" and it is insufficient financial security for drivers using Kansas roads.

The Legislature enacted the current bodily injury coverage mandate 36 years ago. 25/50 was "minimum coverage" in 1981 when the average income per year was $21,050.00, the median price of an existing home was $66,400.00, and a loaf of bread cost $.53.

Today, 25/50 is far less than what is necessary for drivers to be considered financially responsible and it is far less than "minimum" coverage. Drivers without adequate financial security are underinsured and they put the public at risk.

- The value of 25/50 has eroded significantly in 36 years. When adjusted for CPI, $25,000 in 2017 has the same buying power as $9,430 in 1981, or $4,471 when adjusted for Medical CPI.
- In 2017, $25,000 adjusted for inflation since 1981 is $66,000. Adjusted for medical CPI since 1981, $25,000 is $140,000 in 2017.
- Advancements in health care, medical technology and health care protocols have changed in 36 years. One example is imaging technology such as MR, CT, and ultrasound which are used to diagnose trauma patients in the emergency room. MRIs were not widely available until the late 1980s, well after the Legislature established 25/50. Life Star of Kansas, a non-profit owned by Stormont Vail Health and St. Francis Health Center, transported its first patient in 1988.
- Each crash-related hospitalization costs about $57,000 (75% of the costs occur during the 18 months following the injury). (Centers for Disease Control, based on data from 2012).

HB 2104 requires drivers on Kansas roads to have adequate financial security so they can pay for the injuries they cause. A Kansas driver with 25/50 is obeying the law, but he or she will not be able to pay for the injuries caused to passengers, other drivers, or pedestrians. The responsibility for such medical costs are shifted to the injured, hospitals, doctors, and other health care providers, Medicaid, and Medicare. HB 2104 appropriately updates KAIRA so it can fulfill its statutory purpose.

2. UIM protects policyholders if they are in a collision with an underinsured driver. Policyholders should get the UIM coverage they purchase so they aren't left with uncompensated medical bills.

UIM coverage or underinsured motorist coverage is insurance the driver has with his/her own insurer. Under Kansas law, drivers are required to have UIM coverage that equals the amount of liability coverage in their policy, and it protects the policyholder if they are in a collision with a driver who doesn't have enough liability insurance.

Policyholders may be able to recover an amount up to the limit of his/her UIM policy "available" for bodily injury or death. But to have a UIM claim, conditions must be met: the policyholder must have bodily injury damages *more than* the negligent driver's liability coverage, and the negligent driver's available liability coverage must be less than the injured driver's "available" UIM coverage.

Under current law, injured policyholders may not have "available coverage" even though they paid their premiums. When both drivers have 25/50 policies, or a liability coverage policy of the same amount, there is no "available UIM" because the negligent driver does not have less liability coverage than the injured driver. The policyholder effectively has *no* UIM insurance, even though the negligent driver was underinsured and the policyholder's damages exceeded the liability coverage. Further, the policyholder paid premiums for UIM that provides no coverage.

Policyholders should get the UIM coverage they purchase from their insurance company. HB 2104 stops the UIM "set off" or "off set" while permitting the policyholder to recover amounts for damages they would have been entitled to receive up to the policy limit from the negligent driver.

On behalf of the members of the Kansas Trial Lawyers Association, I respectfully request that the Special Committee on Financial Institutions & Insurance recommend HB 2104 favorably and recommend it be passed in 2018.