

Rebuilding Bridges: Ian George, President, The Automated Vehicles Innovation Association (AVIA)

TO: Ian George, President of the Automated Vehicles Innovation Association

FROM: Kyle Zhou, Director of Federal Relations

RE: Final Negotiation on The *BUILD Act*

As you know, the *BUILD Act* presents a serious risk to the innovation that the industries we represent are working to achieve. However, it also presents an opportunity to significantly increase funding for transportation infrastructure that will lay a solid foundation for our vehicles to operate and reduce the likelihood of accidents that are not our fault.

The tragic River Cities bridge collapse provided the momentum we needed to get Congress focused on better funding infrastructure. Since the collapse, POTUS has stated publicly again and again that he will work with Congress to make sure a bill “gets done.” We could not have anticipated that the recent crash in Des Moines, Iowa that killed a pedestrian would coincide with the final negotiations on this bill. Post-crash forensics clearly indicate that a combination of poor roads and pedestrian error caused the crash, but it does not seem to matter to the national press. The industry broadly continues to be hammered on cable news and online outlets.

Since the crash, public pressure has increased to add some sort of federal level regulation to our industries. This would be a real loss for AVIA – we would prefer to have these fights on the state level, leaving a smattering of low-regulation states for us to continue testing our vehicles at a lower cost and with faster turnaround on improvements.

Scoring. In order to help with your negotiating strategy, we have constructed a 100 point scoring scheme to illustrate which negotiable issues are of greatest and least importance to you. We have weighted these based on political considerations, your previous voting record, and constituent interests. Under this scheme, you can score up to 100 points during the negotiation, depending on how each of the five issues is resolved. Your most preferred version of the bill is scored at 100 points.

This Confidential Instruction was written by Brian Mandell, Senior Lecturer in Negotiation and Public Policy, Monica Giannone, Director of the Harvard Kennedy School Negotiation Project, and Emily Schlichting at the John F. Kennedy School of Government, Harvard University (HKS) as part of the Harvard Kennedy School’s “Teaching Legislative Negotiation Project.” Funding for this simulation was provided by The William and Flora Hewlett Foundation. HKS simulations are developed solely as the basis for class discussion. They are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

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Dealing with these issues in terms of “points” may seem artificial and abstract but for the purposes of this negotiation, it will enable you to combine your interests – securing sufficient funding, raising the gas tax, preventing regulation of AVs, a reasonable implementation timeline, and securing a floor vote on the funding formula amendment – into a single index. You will be able to compare the gains and losses of different options under each issue more easily.

In addition, the point system allows you to compare the value of the negotiated agreements to your alternatives. We believe you should only pledge AVIA’s support for the bill if you can secure an agreement worth **at least 65 points**. You, and our member industries, would be better off without any bill than with one that jeopardizes innovation and regulates AVs out of existence.

Your task is to build enough support for the *BUILD Act* to get the deal through the Senate, while minimizing compromises required to do so. Try to earn as many points as possible in this negotiation.

Note: We believe you can negotiate an agreement that scores much better than 65 points. An agreement worth 80 points would set you up nicely to retain our robust industry membership in the coming year. We know that certain CEOs have begun whispering doubts about our effectiveness – they do not feel that their AVIA membership dues have been serving them well on Capitol Hill. A better bill only strengthens your position within AVIA and sends a message to our member companies that we get results.

While you do not have any ability to formally stop the *BUILD Act*, we have worked to develop a fairly strong coalition of innovation-oriented and federalist Senators – 22, to be exact. We could not convince any specific Senator to oppose a Unanimous Consent (UC) Agreement if the Majority Leader puts one forward. Apparently, they are concerned they will appear to be withholding emergency response funds from people in the River Cities area. However, our lobbying team has secured commitments from these offices that these Senators will vote with us on any amendments or oppose votes on cloture or a Motion to Proceed (MTP) for a bill that hurts our interests if you can somehow secure an additional 19 votes.

Issue #1: Funding and Offsets

More funding for DOT is a net positive for AVIA – better maintained roads will reduce the number of motor vehicle accidents and the likelihood that we experience another “Des Moines” crisis. However, we do not think it is worth staking a public position on this issue either way. Instead, we suggest seeing how the discussions play out. Offering your support one way or another could be helpful in achieving one of your more critical objectives. Given this, we have not built in any scoring on this issue.

Issue #2: Regulation of Automated Vehicles

For years, our industry has been working on developing driverless cars. AVs have the potential to remake the economy. This issue is paramount for us. With any form of pre-market approval in place at the federal level, our production costs skyrocket and our member companies will be severely constrained in their currently robust investment into this sector of their businesses.

We suspect the recent AV collision that killed a pedestrian in Des Moines has put Sen. Howell in a very difficult position, suddenly placing us right in the center of the bull’s eye, just as this legislation is nearing the Senate floor. Despite our repeated attempts to reach out, his staff have not been forthcoming about the Leader’s position on this issue. That said, we were not at all surprised that Sen. Howell’s initial package

includes the strictest level of regulation for AVs given the heat we have both been receiving in the local Iowa press.

You'll recall that initial backlash called on the Administration to regulate AVs from the National Highway Traffic Safety Administration (NHTSA). The White House claims it does not have the legislative authority, which has shifted the pressure to the *BUILD Act* as a last resort to put in place federal regulations. We have made clear that our member companies expect **full** White House support at the table.

There has been a coalition of Senate Democrats that has vocally criticized AVIA for its attempts to pushback on any federal regulation. While it is unclear where Minority Leader Robinson lies on this issue, we believe that it is likely she supports stronger regulation.

- a) Pre-market regulatory approval = 0 points
- b) Hybrid certification and pre-market approval = 15 points
- c) Certification only = 35 points
- d) No language on AVs = 50 points

Issue #3: Gas Tax

As we noted above, additional funding for DOT is a net positive for AVIA. However, we do not think it is worth staking a public position on this issue either way. Instead, we suggest seeing how the discussions play out. Offering your support one way or another could be helpful in achieving one of your more critical objectives. Given this, we have not built in any scoring on this issue.

Issue #4: Implementation Timelines

We are not entirely sure why the Majority Leader has included this issue in the debate – at markup it seemed as though everyone was fine with a two year timeline. This was due largely to the White House's insistence that the statutory deadlines for the implementation of the *BUILD Act* be two years from date of enactment. A two year timeline would also give us time to fight and/or adjust to regulations should we lose ground on that issue. While we believe two years to be the best policy choice, one year is also an acceptable outcome.

- a) 180 days = 0 points
- b) 1 year = 20 points
- c) Phase in = 15 points
- d) 2 years = 25 points

Issue #5: Amendments and Time Agreement

We recommend a Unanimous Consent (UC) Agreement that includes no amendments, to reduce the likelihood that political floor fights on amendments will harm the bill's chance of passage.

You do not want the bill to be embroiled in a debate on any additional topics.

- a) No amendments = 25 points
- b) 1 amendment per side = 20 points
- c) 3 amendments per side = 0 points

A one-page scoring sheet has been attached which summarizes the points we have assigned to each one of the five issues. This information is CONFIDENTIAL! You should not show your scoring sheet to anyone! You may convey some or all of the scoring information verbally to a mediator, or to any other party, but you should not let anyone see your scoring sheet. Good luck.

**CONFIDENTIAL TO AVIA PRESIDENT
POINT SUMMARY AND WORKSHEET**

Issue Option	Points	First Vote	Second Vote
<u>Funding</u>			
1. Under \$1 trillion, fully offset	--		
2. \$3 trillion mixed spending, fully offset	--		
3. \$1.5 trillion in mixed spending, partially offset	--		
4. \$2 trillion in budgetary spending, not offset	--		
5. \$3 trillion in mixed spending, partially offset	--		
<u>AV regulation</u>			
1. Pre-market regulatory approval	0		
2. Hybrid certification and pre-market approval	15		
3. Certification only	35		
4. No language on AVs	50		
<u>Gas Tax</u>			
1. No changes	--		
2. Index to inflation	--		
3. Raise to \$0.45/gal	--		
4. Raise to \$0.45/gal and index to inflation	--		
<u>Implementation</u>			
1. 180 days	0		
2. 1 year	20		
3. Phase in	15		
4. 2 years	25		
<u>Time and Amendments</u>			
1. No amendments	25		
2. 1 amendment per side	20		
3. 3 amendments per side	0		

Minimum needed for an agreement = 65 points.

This is your score if the negotiations fail and no agreement is reached.