

Rebuilding Bridges: Teaching Plan

Teaching Plan

This is a six-party, multi-issue, scorable legislative negotiation focusing on passing a large, bipartisan, infrastructure bill, the *Bolstering U.S. Infrastructure and Local Development (BUILD)* Act, in the Senate. It introduces and explores the complexities associated with multiparty negotiations in the US legislative context including building, maintaining, and blocking coalitions and process management.

This exercise is ideally situated later in a course that has already addressed negotiation fundamentals, including creating and claiming value, and in which students have had experience moving from two-party to multiparty negotiations.

While *Rebuilding Bridges* is set in the United States Congress, instructors need not have legislative experience to run this case exercise. Relatedly, the main teaching objectives are universal and can be relevant to students outside of the legislative context as well as students who live and work outside of the United States.

Scenario: Turning Crisis into Negotiation Opportunity

For decades, Republicans and Democrats have agreed that America's ailing infrastructure needs fixing. Despite this consensus, Congress has failed time and time again to authorize a major overhaul of the nation's failing highways, interstates, bridges, and airports. Then, two months ago, a large bridge connecting the River Cities in eastern Illinois with western Indiana on Interstate-80 collapsed – killing over 60 people and injuring over 100 more. The collapse has shocked the country, receiving wall-to-wall news coverage highlighting both this specific tragedy and prompting national outrage that Congress has let America's basic infrastructure decay to this level.

Shortly after the collapse, the White House and Congressional leadership from both parties announced that they would work to pass the much-needed reauthorization of major infrastructure

This Teaching Note 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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programs and provide funding for repairs. In the months since the collapse, the Senate Committee on Finance and the Committee on Environment and Public Works drafted and marked-up their portions of the legislation (taxes and infrastructure policy, respectively) with record speed. The resultant bills were voted out of both committee unanimously. For the past few weeks, the Senate Majority Leader, Senator Alston Howell, and the Senate Minority Leader, Senator Yvette Robinson, have been working to merge the two bills into the *Bolstering U.S. Infrastructure and Local Development (BUILD) Act*, a single bill that incorporates both committees' work into a Manager's Amendment to bring to the Senate floor.

While certain contours of *The BUILD Act* have been fully settled, there were discrepancies between the two bills around the issues of offsets, the gas tax, and the implementation timelines. Beyond this, while there has been broad discussion of the issue, the regulation of automated vehicles (AVs) was not included in either committees' reported out version of the bill.

Senator Howell had hoped to bring the *BUILD Act* to the floor under a Unanimous Consent (UC) Agreement. A UC Agreement would allow Sen. Howell to bring the bill to the floor with specific, previously agreed upon limitations around its debate, including the number and nature of amendments, time spent debating each amendment, and time spent debating the entire bill. The UC process would help Sen. Howell better manage the floor debate and save time. However, any Senator can object and block the UC Agreement, but they cannot block final passage of the legislation without 40 additional votes.

If a Senator does object to the UC agreement, Sen. Howell can still move the *BUILD Act*, but he must file a series of procedural votes that will burn through almost a full week of Senate floor time before getting to the actual bill, and then abide by the Senate standing rules to debate the legislation. A week of floor consideration would create the opening for politics to derail the bill. Sen. Howell has invited the other five parties to a meeting to work through the following issues and gain consensus around a UC Agreement that will avoid this significant time delay. However, if the group cannot reach consensus on a UC Agreement, the Majority Leader needs the support of only four of the other parties to ensure that the bill can clear the vote threshold for a Motion to Proceed (which will bring the bill to the Senate floor) and cloture (which will end debate and force the clock on a vote). See below for some helpful legislative definitions.¹

Amendment: A proposal to alter the text of a pending bill or other measure by striking out some of it, by inserting new language, or both. Before an amendment becomes part of the measure, the Senate must agree to it.

Amendment in the Nature of a Substitute (Manager's Amendment): An amendment that would strike out the entire text of a bill or other measure and insert a different full text.

Cloture: The only procedure by which the Senate can vote to place a time limit on consideration of a bill or other matter, and thereby overcome a filibuster. Under the cloture rule (Rule XXII), the Senate may

¹ <https://www.senate.gov/reference/glossary.htm>

limit consideration of a pending matter to 30 additional hours, but only by vote of three-fifths of the full Senate, normally 60 votes.

Filibuster: Informal term for any attempt to block or delay Senate action on a bill or other matter by debating it at length, by offering numerous procedural motions, or by any other delaying or obstructive actions.

Motion to Proceed: A motion, usually offered by the majority leader to bring a bill or other measure up for consideration. The usual way of bringing a measure to the floor when unanimous consent to do so cannot be obtained. For legislative business, the motion is debatable under most circumstances, and therefore may be subject to filibuster.

Offsets: Shorthand for the provisions in a bill that cut federal spending or raise federal revenues to fund the other policies in the bill. Also called “payfors.”

Unanimous Consent Agreement: A unanimous consent request setting terms for the consideration of a specified bill or other measure. These agreements are usually proposed by the majority leader or floor manager of the measure, and reflect negotiations among senators interested in the measure. Many are “time agreements,” which limit the time available for debate and specify who will control that time. Many also permit only a list of specified amendments, or require amendments to be to the measure. Many also contain other provisions, such as empowering the majority leader to call up the measure at will or specifying when consideration will begin or end.

Background Readings

Leigh L. Thompson, *Multiple Parties, Coalitions, and Teams, The Mind and the Heart of the Negotiator*, Pearson, 2009, pp. 218-256.

Lawrence E. Susskind and Larry Crump, Editor’s Introduction, *Multiparty Negotiation*, Volume 1, Sage, London, 2008, Published in Association with the Program on Negotiation.

Robert C. Bordone, “Dealing with a Spoiler? Negotiate Around the Problem,” *Negotiation 10(1)*, PON, Cambridge, MA, 2007, pp. 4-6.

Roger Fisher and William Ury, *Getting to Yes*, New York, NY, Penguin Books, 1983.

Materials

- General Materials for all parties (HKS Case# 2152.0)
- Six sets of Confidential Materials (HKS Case# 2152.4), distributed only to the individuals negotiating that role in Rebuilding Bridges
- Teaching Note (this document, HKS Case# 2152.2)
 - Fast Results Form (to be distributed to the Majority Leader)
 - Party and Issue Matrix Prep Sheet (to be handed out during preparation)
 - Mapping the Table Prep Sheet (to be handed out during preparation)

- Scoring Rubric (to be handed out during debriefing)

Logistics

This game should be played with six negotiators (one per role).

Game instructions require at least 30 minutes to read and prepare individually. As a general rule, distribute General Instructions and Confidential Instructions as far in advance as possible to give each participant ample time to understand the materials and consider their strategy. If participants do not have legislative background they may need additional time to prepare.

Individual preparation can be followed by preparation-by-role of up to 45 minutes, if time permits. A preparation-by-role will allow negotiators to discuss the overview of the simulation and strategize together. They should be instructed that they do not need to agree on *one* collective strategy but should instead use the time to analyze the information and brainstorm strategy. Party and Issue Matrix and Mapping the Table Prep Sheets, included at the end of this Teaching Guide, may be used by instructors to aid students in preparation, if the instructor chooses.

1. Party and Issue Matrix Prep Sheet

This prep sheet allows the participant to have a template for organizing their own priorities, and estimating the priorities of others. Instruct participants to begin with their own priorities, listing the most important issue to them a “5” and the least important issue to them a “1”. They can use the same number more than once. For example, if a party does not care about two issues, both would receive a “1”.

Then instruct negotiators to fill out the rest of the table, to the best of their ability, about the other parties. If they realize that they do not know how important an issue is for various other negotiators, it is a signal that they might want to try to learn more about those parties’ views about those issues in the negotiation, maybe through questioning. Encourage them to use negative numbers as well. For example, if my most important issue is the UC Agreement, I will give it a “5”. If Party X’s most important is also the UC Agreement but I believe our positions are opposed on this issue, I would give them a “-5”. This tool will help to map the intensity and direction of your counterparts’ preferences, relative to your own.

2. Mapping the Table Prep Sheet

Instruct negotiators to again begin with themselves and map the table from their perspective. Indicate current allies with a straight line, adversaries with two arrows pointing toward each other, and recruitables - or those who are not current coalition partners but can likely be recruited to their side – with a dotted line. From there, make a best guess about the relationship between the remaining parties.

These two prep sheets should help negotiators begin to shape their opening strategy including who to talk to, in what sequence, and how to think about the order of and bundling/package specific issues into comprehensive deals.

The full group negotiation requires 90 minutes.

Before starting the negotiation, make sure that everyone understands the scenario and the mechanics of the negotiation. It may be useful to explicitly address the following points:

- Keep all information in your role **confidential**. Negotiators can strategically decide to reveal information in their confidential instructions but can never show other negotiators their confidential instructions.
- A **process facilitator** may be helpful for building a productive agenda and having a systematic exploration of issues.
- Within the **first five to ten minutes** ALL parties should remain at the table to quickly explore their interests.
- Parties **cannot** agree to a deal which earns them points below their minimum point requirement.
- Only **two (2) parties** may meet privately at any time.
- Point allocations and the particulars of options (e.g. the amount of Federal support or compensation for other ports) **CANNOT be changed**. Negotiators cannot think “outside the box” in this simulation.
- During the negotiation, parties shall take **one “straw vote,”** & mark it on the final page of their role.
 - The column for the **second vote** is for the final agreement.
- Parties are to vote on the **entire package** not individual issues.
- The Majority Leader, Minority Leader, and White House Legislative Affairs all essentially have veto power. Thus an agreement must have the support of these three roles and at least two others.

Each group of six should ideally have their own room in which to negotiate. Ideally each room would have a flip chart, white board, or ability to project a computer. This will help the group organize their negotiation, if they choose to do so. Be sure to check the final scores as the groups turn in their results.

Debriefing

There are 14 possible deals that satisfy the game requirements of at least five negotiators – the White House Legislative Affairs Director (Yohannes Carter), Majority Leader (Alston Howell), Minority Leader (Yvette Robinson) and at least two others. All 14 possible deals exclude one party. The three parties that may get excluded from a deal are the Majority Senator (Deb Brooks), the Minority Senator (David Martinez), and the President of the AVIA (Ian George). While each of these three “low power” negotiators can be excluded, it is mathematically more probable that Deb Brooks will be excluded than David Martinez or Ian George. [A Table with all the possible agreements can be found later in this teaching plan.]

The Scoring Rubric attached to the end of this Teaching Plan may be handed out to students during debriefing. It reveals the point allocations for each issue for each party. It also shows the maximum number of points it is possible to achieve per role in this simulation. Participants should NOT share this scoring rubric summary with anyone outside the negotiation class.

You may choose to address at the start of the debriefing that, as they likely figured out, this was a game in which it was mathematically impossible for all six parties to be in the final deal. Negotiators may feel a bit tense after the negotiation and giving a bit of explanation for any lingering frustration that the excluded parties may feel may be a good way to begin the debriefing.

1. Worked Well/Do Differently

Begin by asking groups what they think worked well in their negotiation and what, if they were doing it again, would they do differently? This is a good place to tie their initial reflections to additional themes and concepts covered in the course: whether skills and tactics or group process and coalition-building.

2. High and Low Power

Next, lead a discussion about sources of power in this exercise: institutional power, role and status power, issue-specific power, resource power, and coalitional power.

Three parties (the Majority Leader, Minority Leader, and WHLA) have institutionalized power, or effectively veto power, that give them high-power status. Next discuss the low-power individuals (Majority Senator, Minority Senator, and AVIA). Discuss what power low-power individuals have in this type of exercise (forming blocking coalitions, etc.). Either begin broadly as a reflection on power differentials in negotiation or specifically on what dynamics emerged in their groups and then abstract out to negotiations in general.

You can further explore power by addressing what a high power role, playing as an advocate might do. If the Majority Leader wants the *BUILD* Act to pass, what might he/she do first? How might they establish process, what sequence might they want to talk to counterparts? Should they reach out to another high-power negotiator or does a low power individual make more sense? Should they go to their same-party colleague or is that a lower priority than parties with presumed opposed interests? From there discuss the pros and cons of each strategy, either in a legislative setting or more broadly depending on the professional background of the participants.

Next, have the class think strategically about building power as a low-power negotiator. Suggest that it is possible to play a weak hand brilliantly in this negotiation and that sources of power are not fixed. What is the “right” first move for someone in a low-power negotiation like this? Should they think about building a coalition with another low-power negotiator or with a high-power negotiator in the exercise?

3. Shared, Opposed, and Tradeable Interests

It will become apparent once the Scoring Rubric is handed out that there are many potential coalitions around issues. Participants may be surprised to see certain overlaps. Ask students how they probed for shared interests and how they made decisions about what information to share and what information to conceal.

Potential Coalitions Around Issues:

UC Agreement

No Amendments: Howell, George

1 Amendment: Robinson, Carter

3 Amendments: Brooks, Martinez

Gas Tax

No change: Howell

Raise to \$.45 and index; Robinson, Carter, Martinez

AVs

Bill silent: Carter, George

Pre-market Approval: Howell

Implementation

2 years: Howell, Carter, Brooks, Martinez, George

Phase In: Robinson

Funding

Under \$1 trillion: Brooks

\$3 trillion, fully offset: Carter, Robinson

\$3 trillion, partially offset: Howell

Participants may also notice that some roles do not receive points for certain issues (Robinson, Brooks, Martinez, and George). Ask how this information was or was not revealed during the game. Ask these roles how they used this strategically or how they wish they had used it differently. Being able to find low-cost high-value trades are a source of power and leverage in negotiation and a potential opportunity for low-power roles especially to build coalitions and increase their power.

4. Results

Choose groups to call on based on differences in results. You may also choose to call on participants who scored the highest amount for their role and/or those who scored the lowest for their role (but were still in the deal). Spend time discussing what happened from the perspective of the party that was cut out of the deal. When did the group realize that not everyone would be able to be in the deal? When did the party that was ultimately cut from the deal realize what was happening? How had they tried to build a coalition up to that point? What would they do differently if they were playing the simulation again?

Listen for examples of good process and engage with groups that handled the complexities of the case well. What did they do? Do they set an agenda? Limit sidebars? Talk through issues one at a time or bundle them? Try to bring in different groups and discuss the strengths and limitations of different approaches.

Make sure to engage groups that reached no agreement. The most common reasons why groups do not reach agreement include individuals trying to build coalitions with the wrong people and/or in the wrong sequence and the group having an inefficient process and/or losing control of time. It is also possible that low-power negotiators created coalitions early in the negotiation that drove the group over the cliff. Unpack with them what happened and what lessons can be learned about the dangers or benefits of committing to coalitions. It may be useful here to draw on Bordone's article on spoilers in negotiation (listed under Background Readings).

How can you identify and isolate would-be spoilers? How can you prevent a blocking coalition that might upend a deal? How can you create a strong coalition that doesn't lock you into failure down the

road? How can you create a dynamic coalition that can adapt as circumstances change? It is always possible that a coalition becomes less attractive over time and good negotiators will build coalitions based on interests, not positions.

Scorable Games

Some negotiators may feel frustrated that they were not capable of inventing options or thinking creatively. It may be useful to note that the benefit of scored games is that it allows negotiators to understand their intensity of preferences in a way that can be translated into their real life negotiation. This ranking system makes it easy to compare the deal to your target and compare your performance to others. It helps participants think more clearly about tradeoffs. However, negotiators may feel, especially in the final moments of the negotiation, that it pushed them into “horse trading.” While this is a potential drawback of scored games, in our experience this is more a product of improperly managed time than the exercise itself. And learning how to negotiate effectively when options are curtailed enables negotiators to negotiate even more effectively in real life when options are not curtailed. Moreover, for some negotiators the discipline of determining the relative importance of trade-offs is often a useful discipline for real life.

Legislative Negotiations

Legislative negotiations are difficult and different from many other forms of negotiations because of unique societal and electoral trends, and structural, institutional and organizational complicating factors. The following is excerpted from a lecture given on May 11, 2017 at the Program on Negotiation by Brian Mandell, Senior Lecturer in Negotiation and Public Policy at the Harvard Kennedy School.

Societal and electoral trends include:

- Shared experience post-WWII contributed to mid-20th century bipartisanship
- Emergence of echo-chamber zip codes with shift from compromising to uncompromising mindsets
- Polarization not just a DC phenomenon – growing disconnect between political class and US public, accelerated by 2008 financial crisis
- Societal polarization a function of economic inequality, demographic changes (race/ethnicity), demographic sorting, ideological realignment, and globalization backlash
- Partisan ideological divide driven by decline in number of moderates in both parties coupled with shrinking number of competitive House seats
- Political engagement in primaries increases polarization where turn-out is weak and dominated by most active and engaged voters
- Narrow majorities in House and Senate; plus rough balance in electorate leaves party in control with incentive to protect status quo and with minority party having incentives to make majority look bad to increase their party’s election prospects in next election
- Senate filibusters; use of nuclear option for Supreme Court nominee
- Partisan warriors coupled with negative campaigning exacerbate incivility and raises political risks of bipartisanship

- Permanent campaign encourages tribalism with party “message votes” used to delegitimize opposition
- Hyper-transparency interferes with advancing legislation
- Gridlock in Congress shifts more policy and program experimentation to state level

Structural, institutional, and organizational complicating factors include:

- Multi-sided internal/external iterated game – negotiators act as agents not just on behalf of intra-party constituents but for multiple external stakeholders (lobbyists, NGOs) capable of imposing constraints and costs on legislative initiatives

Six internal negotiations	Six external negotiations
Individual, same-party members	Democrats and Republicans in House and Senate
Party Leaders	Counterpart’s “back table”
Committee leaders and committee staff	Caucuses
Legislative directors from members’ offices	Democrats and Republicans at White House and Executive Agencies
Constituents	Lobbyists/NGOs
Funders	Press

- Bipartisan collaborative problem-solving is discouraged in high stakes, low trust deeply-partisan negotiations
- Except for must-pass items (appropriations, emergencies, defense), negotiators often benefit from delay and status quo – especially absent deliberative space for off-the-record exploration of underlying interests
- Complex, multi-stage negotiations are vulnerable to disruptive introduction of election cycles, new parties, issues, and spoilers capable of undermining fragile coalitions and prospects for agreement
- Negotiators (staffers and members alike) may lose job by reaching the “wrong deal” (House Health Bill) or by not reaching deals on key issues (tax reform and immigration reform)
- Majority party negotiators tend to engage in “unrestrained forcing strategy” grounded in aggressive, distributive behaviors
- Holding tenaciously to extreme positions, concealing interests, sacrificing relationships for substantive gains
- Encourages similar behavior from other side and leads to reinforcement of impasse as preferred outcome
- Negotiators in multi-party, highly dynamic (and unstable) coalitional negotiations cannot easily evaluate their no-deal options with interdependent intra-party and external stakeholders they need negotiations to continue with
- Negotiators may face more than one “tactical” NO or “reset” NO as they seek to persuade their counterpart’s back table of value of making concessions for proposed agreement

Evidence of Bipartisan Legislative Success:

- Cases of success that meet criteria for deliberative, integrative negotiation

- Parties achieve at least partial mutual advantage with each gaining distinct benefits through trades to add value
- Some examples:
 - Budget Agreement 2013-14
 - Veteran Affairs Agreement 2014-15
 - Public Lands Protection 2014 (part of National Defense Authorization Act)
 - Agricultural Act 2014 (Farm Bill and Food Stamps/SNAP)
 - Workforce Innovation and Opportunity Act (WIOA) 2014
 - Frank Lautenberg Chemical Safety Act for 21st Century (TSCA reform) 2016
 - 21st Century Cures Act 2016 (money for biomedical research and speedy approval of new drugs and medical devices)

Explaining Bipartisan Success:

- Success in Congress – getting what you want in a version you can live with and tolerating other things you don't want
- Commitment to a fair, deliberative, and integrative form of negotiation leading to adoption of a compromise mindset grounded in principled prudence and mutual respect as well as use of side-payments to deliver improvements beyond the status quo
- Non-partisan fact-finding (CBO scoring of policy proposals and analysis by Bipartisan Policy Center)
- Repeated interactions among party leaders, committee members, and their staffs allows for trust-building and clearer recognition of negotiation tactics vs real political constraints
- Privacy/closed-door meetings (with limited transparency) to allow for exploration of underlying interests and balancing of ideological wins for both sides
- Penalty defaults to ensure both sides fear facing consequences of failure; possible government shutdown
- Leveraging legislative calendar pressures and deadlines
- Presence of career staffers with deep institutional knowledge of legislative rules and procedure.

Rebuilding Bridges: General Information for All Interested Parties

For decades, Republicans and Democrats have agreed that America's ailing infrastructure needs fixing. Despite this consensus, Congress has failed time and time again to authorize a major overhaul of the nation's failing highways, interstates, bridges, and airports. Last year, the American Society of Civil Engineers gave the U.S. a "D+" grade for its infrastructure, highlighting crumbling roads and bridges and subpar aviation and public transit systems. Despite these terrible marks *and* even in light of the current Administration's commitment to passing a large infrastructure bill, it has been like "gridlock as usual" in Washington, DC.

Then, two months ago, a large bridge connecting the River Cities in eastern Illinois with western Indiana on Interstate-80 collapsed – killing over 60 people and injuring over 100 more. The collapse has shocked the country, receiving wall-to-wall news coverage highlighting both this specific tragedy and prompting national outrage that Congress has let America's basic infrastructure decay to this level.

The Bolstering U.S. Infrastructure and Local Development Act

Shortly after the collapse, the White House and Congressional leadership from both parties announced that they would work to pass the much-needed reauthorization of major infrastructure programs and provide funding for repairs. The outline of the package they described was nothing short of sweeping – the US has not seen infrastructure investment on this level since Eisenhower established the interstate highway system in the 1950s. The Senate agreed to take the first stab at drafting a bill.

In the months since the collapse, the Senate Committee on Finance and the Committee on Environment and Public Works drafted and marked-up their portions of the legislation (taxes and infrastructure policy, respectively) with record speed. The resultant bills were voted out of both committee unanimously. For the past few weeks, the Senate Majority Leader, Senator Alston Howell, and the Senate Minority Leader, Senator Yvette Robinson, have been working to merge the two bills into the *Bolstering U.S. Infrastructure and Local Development (BUILD) Act*, a single bill that incorporates both committees' work into a Manager's Amendment to bring to the Senate floor.

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Experts estimate that a comprehensive repair would cost \$4.6 trillion. The White House's most recent budget included a \$1 trillion infrastructure proposal, which was received as a good start but generally viewed as insufficient to make a dent in the problem.

The Parties

Leadership across Washington is excited about the prospect of a passing a large, bipartisan bill to revitalize investment in American infrastructure. The legislation will create thousands of solid, working-class jobs across the entire country and will deliver much-needed repairs that will help create safer travel and a more stable environment for businesses that utilize public roads, bridges, ports, and air transit in their operations.

While the Majority and Minority leaders are leading the work to develop the Manager's Amendment for the *BUILD Act*, there are four other stakeholders with strong interests in the outcome of the legislation and Senate floor debate. The six parties are described briefly below:

Senator Alston Howell, Senate Majority Leader (R-IA): Sen. Howell is a veteran Senator from Iowa and is currently two years into his fifth term. He was elected Majority Leader when his party took over the Senate six years ago, but has yet to achieve any major bipartisan legislative deals during his tenure in the role. As such, he deeply wants this bill to pass and quickly. Additionally, there was a recent AV crash that killed a pedestrian in his home state, leading local leaders to push for the industry to be regulated. While he has not publicly stated a formal position, the word on K Street is that Sen. Howell might support adding federal oversight of AVs to the bill.

Senator Yvette Robinson, Senate Minority Leader (D-OR): Sen. Robinson is a senior Senator from Oregon, currently finishing her fourth term. She has been the leader of her caucus for the past four years, stepping up when the previous Leader retired. At risk of being viewed as the party of "no" against a Senate Majority and White House lead by the other party, Sen. Robinson supports the legislation both on merit and as evidence of her party's bipartisanship and willingness to govern. She will need to be sure that the final bill she agrees to provides enough long-term funding and satisfies enough Democratic stakeholders, i.e.: labor, that it can pass the House of Representatives, which is controlled by her party.

Yohannes Carter, The White House: During his quest for the White House, the President (Republican) campaigned nonstop on fixing America's failing infrastructure – but almost two years have passed with little to no action from the Administration beyond a vague budget proposal. The bridge collapse reignited pressure to act, and the President has publicly stated he will personally ensure that this legislation is signed into law. The President will be represented in these talks by Yohannes Carter, Special Assistant to the President for Legislative Affairs and Director of the White House Office of Legislative Affairs.

Senator Deb Brooks (R-AR): A strong fiscal conservative from the Arkansas, Sen. Brooks is in the middle of her second term in the Senate. A businesswoman by background, Sen. Brooks understands the urgency in repairing roads and bridges but is highly concerned that America will spend itself into a debt crisis if a *BUILD Act* passes that is not fully offset and does not include funding formulas appropriate to different states. Additionally, she has mentioned concern that ramping regulation in some areas of infrastructure, especially AVs, will hamper future innovation and reduce the effectiveness of the federal funds. She serves on the Senate Finance Committee.

Senator David Martinez (D-NJ): A progressive junior Senator from New Jersey, Sen. Martinez has been heralded as a major presidential contender and is a national voice on important progressive causes. He has been broadly supportive of the legislation, but wants to ensure that the gas tax is permanently raised to avoid this level of disrepair in the future. He's been vocal about incorporating union labor and environmental standards into the final bill. Finally, at the unusually young age of 42, he is also viewed as a bridge between Silicon Valley and Washington.

Ian George, President, The Automated Vehicles Innovation Association (AVIA): AVIA was formed in late 2015 by a myriad of stakeholders who are involved in developing driverless cars. Ranging from major tech companies who are piloting AVs across the country to all three traditional American automobile manufacturers and both major ridesharing companies, the coalition is a veritable "who's who" of powerhouse companies across both the automobile and technology sectors. The President of AVIA will represent the industry at these talks.

The Unanimous Consent Agreement

After a few weeks of work merging the two bills that came out of committee, Sen. Howell asked his staff to run a preliminary hotline on his party's side, and asked Sen. Robinson to do the same. He was aware that the Manager's Amendment might need some tweaks, but both he and Sen. Robinson were surprised when a series of concerns about spending and the regulation (or lack thereof) for AVs surfaced from their respective caucuses. They had expected little difficulty in negotiating an agreement around the package and the time agreement for bringing it to the floor.

Sen. Howell had hoped to bring the *BUILD Act* to the floor under a Unanimous Consent (UC) agreement. A UC agreement would allow Sen. Howell to bring the bill to the floor with specific, previously agreed upon limitations around its debate, including the number and nature of amendments, time spent debating each amendment, and time spent debating the entire bill. The UC process would help Sen. Howell better manage the floor debate and save time. However, any Senator can object and block the UC agreement, but they cannot block final passage of the legislation without 40 additional votes.

If a Senator does object to the UC agreement, Sen. Howell can still move the *BUILD Act*, but he must file a series of procedural votes that will burn through almost a full week of Senate floor time before getting to the actual bill, and then abide by the Senate standing rules to debate the legislation. Sen. Howell has invited the other five parties to a meeting to work through the following issues and gain consensus around a UC Agreement that will avoid this significant time delay. However, the Majority Leader needs

the support of only four of the other parties to ensure that the bill can clear the vote threshold for cloture and Motion to Proceed.

There are several coalitions large enough within the chamber who can exercise “veto” power by refusing to vote for cloture if they unite – namely, those concerned about the federal deficit and those concerned about the regulation of AVs. Additionally, AVIA has a series of influential Senators in their corner and can likely swing those votes. **Thus, any two parties, together, can exercise veto power over the *BUILD Act* by preventing Sen. Howell from having enough votes to get to 60 on cloture.**

Additionally, the White House Legislative Director can unilaterally veto any version of the bill as a proxy for the President’s veto power. The Senate Minority Leader can also unilaterally veto any version of the bill, as it will need Democratic votes to pass.

The Issues

The BUILD Act makes sweeping updates to all elements of American infrastructure – planes, trains, automobiles, and more. While the two committees agreed broadly around the new authorities, grant programs, and specific areas that require increased funding, they did not reach a consensus around paying for those improvements or the time horizon for the *BUILD Act*’s implementation by the Department of Transportation (DOT). These remaining issues need to be finalized and incorporated in the Manager’s Amendment.

Additionally, the parties need to agree to the parameters of a Unanimous Consent agreement that will prescribe the time and specific amendments that will be voted upon during the Senate’s floor consideration of *The BUILD Act*.

Issue #1: Funding and Offsets

As with any legislation, agreeing on policy is often less easy than agreeing on how to pay for it. The two bills that were voted out of committee only addressed the policy side of the equation – they did not include offsets, which are more sensitive to negotiate and often cross committee jurisdictions. Experts estimate that a comprehensive investment to repair all infrastructure will cost \$4.6 trillion and the Congressional Budget Office (CBO) has scored the combined two committee bills at roughly \$3 trillion.

Sen. Robinson and the White House are concerned that a less comprehensive *BUILD Act* will be received as more of an empty gesture than a real response, but they are also conscious of driving up the debt.

- a) Under \$1 trillion, fully offset: This option would require significant scaling back of the authorizing policy in the bill.
- b) \$3 trillion mixed spending, fully offset: This option contains tax credits and budgetary spending. It fully funds the legislation through a mix of taxes and other savings.
- c) \$1.5 trillion in mixed spending, partially offset: option contains tax credits and budgetary spending. It would slightly reduce the authorizations in the bill but would increase the deficit.

- d) \$2 trillion in budgetary spending, not offset: The authorizing elements of the legislation would remain intact, but the federal deficit would increase by almost 25 percent.
- e) \$3 trillion in mixed spending, partially offset: This option contains tax credits and budgetary spending. It fully funds the legislation through a mix of taxes and other savings.

Issue #2: Regulation of Automated Vehicles

For years, technology and motor companies have been working on developing driverless cars (unmanned autonomous vehicle, or UAVs). These AVs have the potential to remake the economy. However, a recent incident in Iowa where an AV killed a pedestrian raised concerns that they are not being regulated and may not be safe.

The crash has fanned speculation that the *BUILD Act* might establish a federal standard for regulation of AVs. AVIA has been fiercely fighting this regulation, claiming that any federal regulation would significantly impede innovation in the space.

- a) Pre-market regulatory approval: This would require the National Highway Traffic Safety Administration (NHTSA) to approve AVs as safe before they are allowed to be tested and sold for use by the public.
- b) Hybrid certification and pre-market approval: This would tier the levels of approval required for different AVs – passenger cars would require pre-market approval and UAVs would simply need to submit data certifying safety standards have been met.
- c) Certification only: Requires only certification that safety standards have been met for all AVs.
- d) No language on AVs: The bill would remain silent on the issue of AV regulation.

Issue #3: Gas Tax

The DOT's upkeep of American transportation infrastructure is largely funded by the gas tax, which is currently at \$0.184 per gallon for gas and \$0.244 per gallon for diesel. It was last updated in 1993 and is not indexed to inflation. As such, the tax currently brings in about \$34 billion, while annual costs have soared to \$50 billion in the last twenty years – meaning the tax has lost about 40 percent of its value. This would be a permanent, simple way to prevent America's infrastructure from falling into disrepair in the future, but it is costly.

Sen. Howell has voiced opposition to raising a tax that affects so many middle-class families and small businesses, but Sen. Martinez is convinced that raising the gas tax now is the only way to ensure that DOT can maintain the investments in the *BUILD Act*. Without raising it, America's infrastructure will end up in disrepair again in thirty years.

- a) No changes: The bill does not alter the gas tax. DOT would continue to run a deficit in repairing roads, bridges, and other infrastructure in the future.
- b) Index to inflation: In the short term, this would not raise much revenue. Over the budget window, this option would generate nearly \$30 billion in revenue for DOT repairs.
- c) Raise to \$0.45/gal: This would generate \$840 billion in revenue for DOT over the next ten years.

- d) Raise to \$0.45/gal and index to inflation: This would generate nearly \$1 trillion in revenues for DOT over the next ten years.

Issue #4: Implementation Timelines

The White House insists that the statutory deadlines for the implementation of the *BUILD Act* be two years from date of enactment. The scope of the legislation and the significant amount of funding it will need to grant, contract, and distribute to states will require additional staff, who will also take time to hire. However, Senator Robinson, eager to get these funds flowing to communities, insists on a phased-in approach.

- a) 180 days
- b) 1 year
- c) Phase-in: This option would set all funding distribution deadlines for 180 days after enactment, but give the Administration a longer 18-24 month window on standing up new policy programs and issuing regulations.
- d) 2 years

Issue #5: Amendments and Time Agreement

As with any UC agreement, the Senate Majority Leader and Minority Leader need to come to agreement around the constraints on debate time and amendments that will be locked into the structure of the floor consideration of the *BUILD Act*. Both would prefer no amendments, to reduce both the likelihood that political floor fights on amendments will harm the bill's chance of passage and the amount of time spent debating the bill. However, Sens. Martinez and Brooks both have a series of amendments they believe at least deserve a vote. Each amendment will receive one hour of floor debate. The AFL-CIO has been particularly vocal in pushing for an amendment requiring union labor quotas in the construction projects that will be funded by the *BUILD Act*.

- a) No amendments: There will be four hours of floor debate for each side, for a total of eight hours of consideration before vote on cloture and final passage.
- b) 1 amendment per side: Majority amendment on funding formulas that account for toll roads; Minority amendment requiring union labor for construction projects.
- c) 3 amendments per side: Majority amendments on funding formulas that account for toll roads, private sector contract quotas, and block granting some funds to states; Minority amendments requiring union labor and environmental standards for construction projects, and workforce training funding for those displaced by AV.

The Negotiation

The Majority Leader's staff sent around a proposed agreement on the issues above in advance of this discussion. The current offer includes:

- \$3 trillion in spending, partially offset
- Pre-market approval for AVs
- No change to the gas tax
- No amendments

- 2 year implementation timeline

The Majority Leader's staff holds the pen on the legislation, and he controls the floor proceedings for the Chamber. Sen. Howell has invited the parties to join him in his Capitol office to get the conversation moving. His stated objective for the meeting is to seek a negotiated agreement among all the parties to ensure the swift passage of the *BUILD Act*. He would strongly prefer to avoid burning the requisite 30 hours on cloture for a Motion to Proceed (MTP) and then be restrained by the Senate standing rules to debate the legislation.

He hopes that they can agree to a Unanimous Agreement that will help the legislation move quickly through the Senate. However, the Majority Leader needs the support of only four of the other parties to ensure that the bill can clear the vote threshold for cloture and MTP. Any agreement must obtain the consent of the White House Legislative Director (as a proxy for the President and his veto power) and the Senate Minority Leader, whose caucus is generally disciplined and could collectively block the bill from coming to the floor.

Mechanics of the Negotiation

All parties have agreed to attend the meeting. Each party has seen a copy of the Majority Leader's current proposal.

The discussion may progress in any direction, but the Majority Leader will be searching for a proposal that will win enough votes to clear the Senate floor and obtain the President's signature. Anyone can suggest an alternative proposal and request a vote.

Although all parties have agreed to attend the meeting, they need not meet as a group throughout the full negotiating session. Parties can opt to walk away from the discussion if they so desire. In addition, they are free to meet privately in smaller groups at any time. However, no more than two parties may meet privately at the same time. The rest of the parties may continue negotiating while those two parties meet privately.

Once a proposal is passed, the votes are binding and the parties cannot renege their promise of the support. To be binding, a vote must be on a "package" which addresses all five of the issues. The parties remain free, however, to explore "improvements" in the agreement. But proposed improvements must be supported by all the parties to the original agreement, otherwise the original agreement stands.

Negotiations must stop at the end of the session. If no agreement is reached, the bill will not be signed into law before the upcoming recess in advance of the midterm elections.

Glossary

AMENDMENT: A proposal to alter the text of a pending bill or other measure by striking out some of it, by inserting new language, or both. Before an amendment becomes part of the measure, the Senate must agree to it.

CLOTURE: The only procedure by which the Senate can vote to place a time limit on consideration of a bill or other matter, and thereby overcome a filibuster. Under the cloture rule (Rule XXII), the Senate may limit consideration of a pending matter to 30 additional hours, but only by vote of three-fifths of the full Senate, normally 60 votes.

FILIBUSTER: A process intended to block or delay legislation or any other matter by irregular or obstructive tactics, especially by making long speeches.

HOTLINE: Process by which the leadership of each party runs an informal temperature check with their Senators about a piece of legislation or action that is being considered for a faster-track consideration on the Senate floor.

MANAGER'S AMENDMENT: An amendment that is introduced at the beginning of a new stage of bill consideration that would strike out the entire text of a bill or other measure and insert a different full text.

MARKUP: The process by which congressional committees and subcommittees debate, amend, and rewrite proposed legislation.

MOTION TO PROCEED: A motion, usually offered by the majority leader to bring a bill or other measure up for consideration. The usual way of bringing a measure to the floor when unanimous consent to do so cannot be obtained. For legislative business, the motion is debatable under most circumstances, and therefore may be subject to filibuster.

UNANIMOUS CONSENT: A senator may request unanimous consent on the floor to set aside a specified rule of procedure so as to expedite proceedings. If no Senator objects, the Senate permits the action, but if any one senator objects, the request is rejected. Unanimous consent (UC) requests with only immediate effects are routinely granted, but ones affecting the floor schedule, the conditions of considering a bill or other business, or the rights of other senators, are normally not offered, or a floor leader will object to it, until all senators concerned have had an opportunity to inform the leaders that they find it acceptable.

UNANIMOUS CONSENT AGREEMENT: A unanimous consent request setting terms for the consideration of a specified bill or other measure. These agreements are usually proposed by the majority leader or floor manager of the measure, and reflect negotiations among senators interested in the measure. Many are "time agreements," which limit the time available for debate and specify who will control that time. Many also permit only a list of specified amendments, or require amendments to be to the measure. Many also contain other provisions, such as empowering the majority leader to call up the measure at will or specifying when consideration will begin or end.

Mechanics

Agreeing to a Deal

- A party may not agree to a deal below his or her minimum number of points required.
- In order for a deal to be signed, it must have the support of the Majority Leader Howell, Minority Leader Robinson, the WHLA Director Mr. Carter, and at least two other parties.
 - In effect, Senator Howell, Senator Robinson, and Mr. Carter all have *de facto* veto power.
 - For a deal to be passed, at least two of the remaining parties must agree to the deal.

Side-Bar Conversations

- Any two parties may leave the full table negotiation to have a sidebar conversation at any time.
- However, only two parties may be away from the table at any time – multiple sidebar conversations cannot be happening simultaneously.

Final Results Form

- Majority Leader Howell has a results form that must be turned in by the negotiation deadline.
- Any parties agreeing to the final deal must sign the results form.

Rebuilding Bridges: Senator Alston Howell, Senate Majority Leader (R-IA)

TO: Senator Alston Howell

FROM: Brian Alvin, Chief of Staff and Lisa Wells, Legislative Director

RE: Final Negotiation on The *BUILD Act*

As you know, the *BUILD Act* presents a critical opportunity for you to deliver a significant reform to America's transportation infrastructure, prove your ability to deliver bipartisan policy victories as the Senate Majority Leader, and bolster the Republican party heading into the midterm elections this fall.

The benefits of getting this bill signed into law are obvious. The River Cities bridge collapse was tragic. We know that Americans expect their leaders to step up and respond and you have stated publicly again and again that you intend to do just that. Given your strong public commitments, we believe it is essential that you are able to deliver a bill to the President for signature.

Beyond that, you know voters are sick of a "do nothing" Congress. Recent internal Republican polling data shows that voters will likely blame a lack of progress on you in November. Enacting a broad, bipartisan bill that comprehensively updates the nation's infrastructure policy not only responds effectively to the current crisis, but will prove that the Congress you are leading is not "do nothing" at all.

Scoring. In order to help with your negotiating strategy, we have constructed a 150 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 150 points during the negotiation, depending on how each of the five issues is resolved. Your most preferred version of the bill is scored at 150 points.

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 – sufficient funding, not raising taxes, ensuring some regulation for AVs, and limited amendments on the floor – 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 agree to bring this bill to the floor if you can secure an agreement worth **at least 60 points**. Any agreement worth fewer than 60 points would not be worth pursuing. You

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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would be better off working through an emergency supplemental appropriation to provide targeted disaster response to the River Cities.

Your task is to build enough support for the *BUILD Act* to get the deal through the Senate, while minimizing political compromises required to do so. Try to earn as many points as possible in this negotiation. A better bill only strengthens your political position going into future legislative negotiations with both Senator Robinson and the White House.

Note: We believe you can negotiate an agreement that scores much better than 60 points. An agreement worth 80 points would set you up nicely for the tax extenders negotiation that will happen after the midterm elections and further contribute to your reputation as a strong negotiator.

As you know, this legislation will not come to the floor if you are not satisfied with it, giving you effective veto power over any potential agreement that does not meet your threshold.

Issue #1: Funding and Offsets

Given that experts estimate that a comprehensive investment to repair all infrastructure will cost \$4.6 trillion we feel strongly that a \$3 trillion package is the least we can consider. That said, you cannot raise taxes on voters in an election year. Despite going against what some Republicans consider to be orthodoxy, we believe the best path forward here is a *BUILD Act* funded at the \$3 trillion level but only partially offset. This option allows for a robust infrastructure reform to move forward but does not require increasing taxes.

Beyond the policy details, the higher spending rate is necessary to line up the votes you need. The Chairmen and Ranking Members of the Finance Committee and Environment and Public Works Committee included policies in the *BUILD Act* for specific Senators to ensure that it was voted out of committee. If the level of funding is reduced at all, some of those policies will have to be cut from the bill – angering those Senators and making it harder for you to get the votes you’ll need for final passage. We have conferred with Sen. Robinson’s staff and know that she is also going to push for higher funding levels for this reason.

If the funding is cut to under \$1 trillion, you know the *BUILD Act* will not effectively repair America’s infrastructure – and worse, you’ll have raised taxes to *not* fix the problem.

- a) Under \$1 trillion, fully offset = 0 points
- b) \$3 trillion mixed spending, fully offset = 5 points
- c) \$1.5 trillion in mixed spending, partially offset = 15 points
- d) \$2 trillion in budgetary spending, not offset = 25 points
- e) \$3 trillion in mixed spending, partially offset = 35 points

Issue #2: Regulation of Automated Vehicles

For years, technology and motor companies have been working on developing driverless cars. You know these AVs have the potential to remake the economy. As you know, the recent AV collision that killed a pedestrian in Des Moines has put you in a very difficult position. Initial backlash called on the White House 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 you. We suspect that the President simply does not want to be seen as hampering innovation or making enemies of powerful corporate donors. Regardless, given your position of influence and the fact that the *BUILD Act* is moving fast, you are under significant political pressure from the governor and state and local media to include regulation of AVs in the legislation. Last week, a new coalition of local moms who are concerned about their kids walking to school with AVs on the street held a press conference calling on you to act.

Expect the Automated Vehicles Innovation Association (AVIA) to come out strong against any regulation of AVs whatsoever. AVIA formed last year – still “new kids on the block” in DC terms. However, given its high-profile membership that spans the automotive industry, big tech firms, and ridesharing companies, we believe they may have significant pull with some other parties in the negotiation.

While your record does not strongly support expanding regulation, we believe that this bill provides an opportunity for you to score a necessary political win at home through tighter regulation of AVs without taking public heat for doing so. There is a coalition of Senate Democrats that have been vocal on this issue—we think this issue could also be important to Sen. Robinson. If possible, it would be ideal if the Democrats could make this a condition of their support for the *BUILD Act* so you are not forced to push for more regulation on your own.

If you fail to obtain any language in then legislation that regulates AVs, we believe you will face severe public blowback from voters in Iowa.

- a) Pre-market regulatory approval = 30 points
- b) Hybrid certification and pre-market approval = 15 points
- c) Certification only = 5 points
- d) No language on AVs = 0 points

Issue #3: Gas Tax

As we noted above, it would be politically unwise to raise taxes so close to an election. In addition, we know that this tax will hit American families and small businesses the hardest. If necessary, we believe you could feasibly support a change that indexes that gas tax to inflation but does not raise it right away. This option would prevent any immediate tax hikes from becoming a problem in November.

As you know, the two parties are quite split on this issue. We expect that the White House will support your position, but it is worth noting they have been inconsistent on the issue of tax increases in the past. We recommend that you confer with Sen. Brooks on this point as soon as possible – given her leadership amongst the fiscal conservatives in the Senate, we believe she will be a good ally as you negotiate this with Democrats.

We suspect that Sen. Martinez will lean heavily on Sen. Robinson to raise the gas tax as much as possible.

- a) No changes = 30 points
- b) Index to inflation = 15 points
- c) Raise to \$0.45/gal = 5 points
- d) Raise to \$0.45/gal and index to inflation = 0 points

Issue #4: Implementation Timelines

Sen. Robinson has been pushing for aggressive implementation timelines in the *BUILD Act*. Meanwhile, the White House insists that the statutory deadlines for the implementation of the *BUILD Act* be two years from the date of enactment. Even with this slightly longer deadline, the White House Office of Legislation Affairs shared with us that the staff-power required to grant, contract, and distribute to states will require additional hires, which will take time. While we are fine with two years (which appears to be the best compromise), one year is also an acceptable outcome.

We recommend you push for one year but be ready to offer a longer deadline if the White House requests.

- a) 180 days = 0 points
- b) 1 year = 25 points
- c) Phase in = 10 points
- d) 2 years = 30 points

Issue #5: Amendments and Time Agreement

We strongly recommend a Unanimous Consent (UC) Agreement that includes no amendments, which reduces the likelihood that political floor fights on amendments will harm the bill's chance of passage. Fewer amendments also means we will spend less floor time on the *BUILD Act*.

However, Sen. Brooks' staff has approached us about a series of amendments she believes deserve at least a vote. The Senator would prefer that these policies were incorporated into the legislation, but we have informed her that these elements are mostly baked for the Manager's Amendment.

- a) No amendments = 25 points
- b) 1 amendment per side = 15 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 SENATOR ALSTON HOWELL (R-IA)
POINT SUMMARY AND WORKSHEET

Issue Option	Points	First Vote	Second Vote
<u>Funding</u>			
1. Under \$1 trillion, fully offset	0		
2. \$3 trillion mixed spending, fully offset	5		
3. \$1.5 trillion in mixed spending, partially offset	15		
4. \$2 trillion in budgetary spending, not offset	25		
5. \$3 trillion in mixed spending, partially offset	35		
<u>AV regulation</u>			
1. Pre-market regulatory approval	30		
2. Hybrid certification and pre-market approval	15		
3. Certification only	5		
4. No language on AVs	0		
<u>Gas Tax</u>			
1. No changes	30		
2. Index to inflation	15		
3. Raise to \$0.45/gal	5		
4. Raise to \$0.45/gal and index to inflation	0		
<u>Implementation</u>			
1. 180 days	0		
2. 1 year	25		
3. Phase in	10		
4. 2 years	30		
<u>Time and Amendments</u>			
1. No amendments	25		
2. 1 amendment per side	15		
3. 3 amendments per side	0		

Minimum needed for an agreement = 60 points.

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

Rebuilding Bridges: Senator Yvette Robinson, Senate Minority Leader (D-OR)

TO: Senator Yvette Robinson

FROM: Shaniqua Wilkins, Chief of Staff and Jared Livingston, Legislative Director

RE: Final Negotiation on The *BUILD Act*

As you know, the *BUILD Act* presents a critical opportunity for you to deliver a significant reform to America's transportation infrastructure, prove your ability to deliver bipartisan policy victories as the Senate Minority Leader, and bolster the Democratic party heading into the midterm elections this fall.

The benefits of getting this bill signed into law are obvious. The River Cities bridge collapse was tragic. We know that Americans expect their leaders to step up and respond and you have stated publicly again and again that you intend to do just that. Given your strong public commitments to achieving this, we believe it is essential that you are able to demonstrate that Democrats can be more than a party of "no" with a Republican Senate and White House.

You know voters are sick of a "do nothing" Congress. But recent internal Democratic polling data shows that voters will likely blame a lack of progress on Republicans in November. While we all believe it is our responsibility to enact a broad, bipartisan bill that comprehensively updates the nation's infrastructure policy and responds to this tragedy, supporting a bad bill would be worse than not passing one at all. We have already received significant pressure from Speaker Norris' office – he cannot promise to get the bill through the Democratic House of Representatives if you negotiate a Senate bill that is too far right.

Scoring. In order to help with your negotiating strategy, we have constructed a 110 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 110 points during the negotiation, depending on how each of the five issues is resolved. Your most preferred version of the bill is scored at 110 points.

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 – sufficient funding, raising the gas tax, securing

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a vote on the union labor amendment, and making sure the money moves quickly – 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 agree to support this bill in a Unanimous Consent (UC) Agreement if you can secure an agreement worth **at least 75 points**. Any agreement worth fewer than 75 points would not be worth pursuing. You would be better off working through an emergency supplemental appropriation to provide targeted disaster response to the River Cities and waiting for voters to hold the current leadership responsible.

Your task is to build enough support for the *BUILD Act* to get the deal through the Senate, while minimizing political compromises required to do so. Try to earn as many points as possible in this negotiation. A better bill only strengthens your political position going into future legislative negotiations with both Senator Howell and the White House.

Note: We believe you can negotiate an agreement that scores much better than 75 points. An agreement worth 90 points would set you up nicely for the tax extenders negotiation that will happen after the midterm elections and further contribute to your reputation as a strong negotiator.

Fortunately, you have excellent leverage as the Minority Leader. Given the composition of the Senate, Sen. Howell cannot advance a bill to the floor without Democratic agreement – either through a negotiated Unanimous Consent (UC) Agreement or by providing the votes needed to gain cloture on the Motion to Proceed (MTP) to the legislation. As the leader of the caucus, we are certain that other Democratic Senators will vote as you need them to and not peel off to support a bad deal for Democrats. **This means you can effectively veto any agreement that does not meet your threshold.**

Issue #1: Funding and Offsets

Given that experts estimate that a comprehensive investment to repair all infrastructure will cost \$4.6 trillion we feel strongly that a \$3 trillion package is the least we can consider. The strongest of these options is a fully offset bill, as this gives a stronger justification for raising the gas tax, which we also recommend you support (see more on this below). While we would strongly prefer a bill with higher funding, failing to pay for the policy increases the likelihood that the gains we make in the *BUILD Act* are not long-lasting – future Congress could simply repeal them to avoid paying for them later.

Beyond the policy details, the higher spending rate is necessary to line up the votes you need. The Chairmen and Ranking Members of the Finance Committee and Environment and Public Works Committee included policies in the *BUILD Act* for specific Senators to ensure that it was voted out of committee. If the level of funding is reduced at all, some of those policies will have to be cut from the bill – angering those Senators and making it harder for you to get the votes you’ll need for final passage. We have conferred with Sen. Howell’s staff and know that he is also going to push for higher funding levels for this reason.

If the funding is cut to under \$1 trillion, you know the *BUILD Act* will not effectively repair America’s infrastructure – kicking the can down the road and failing to truly respond to the tragedy in River Cities.

- a) Under \$1 trillion, fully offset = 5 points

- b) \$3 trillion mixed spending, fully offset = 15 points
- c) \$1.5 trillion in mixed spending, partially offset = 10 points
- d) \$2 trillion in budgetary spending, not offset = 5 points
- e) \$3 trillion in mixed spending, partially offset = 0 points

Issue #2: Regulation of Automated Vehicles

For years, technology and motor companies have been working on developing driverless cars. You know these AVs have the potential to remake the economy. You suspect the recent AV collision that killed a pedestrian in Des Moines has put Sen. Howell in a very difficult position.

Initial backlash called on the White House 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 Congress. While you support regulation of AVs in principle, you do not want to risk the success of the *BUILD Act* on policy arguments in this space. Given the indifference to this regulation being built into the bill, no points are gained or lost on this issue.

Issue #3: Gas Tax

Raising taxes is never popular, but we know that raising the gas tax is the only way to permanently ensure that America does not find itself with such decaying infrastructure in the future. As the past decade has proved, finding moments of consensus in Congress to pay for this type of maintenance is hard.

This is a unique moment – the Republican Leader is in strong support of an infrastructure bill and the press around the River Cities bridge collapse gives you strong momentum to argue for a long-term fix that prevents future senseless deaths as a result of crumbling roads and bridges. Beyond this, we believe that the gas tax is a logical, policy-relevant way to pay for a large portion of the spending in the *BUILD Act*.

As you know, the two parties are quite split on this issue. We expect that the White House will support your position, but it is worth noting they have been inconsistent on the issue of tax increases in the past. We recommend that you confer with Sen. Martinez on this point as soon as possible – given his outspoken support for raising the gas tax and leadership of more fiscally responsible Democrats in Senate, we believe he will be a good ally as you negotiate this with Republicans.

- a) No changes = 0 points
- b) Index to inflation = 15 points
- c) Raise to \$0.45/gal = 20 points
- d) Raise to \$0.45/gal and index to inflation = 25 points

Issue #4: Implementation Timelines

At your direction, we have been pushing for phased in implementation for the *BUILD Act*. We believe the phased in approach is best because this sets all funding distribution deadlines for 180 days after enactment so we can get money flowing into communities, while the Administration has 18-24 months to issue regulations and stand up policy programs. Meanwhile, the White House insists that the statutory deadlines for the implementation of the *BUILD Act*, including all funding, be two years from the date of

enactment. We believe that both this option and an implementation timeline of 180 days are equally irresponsible and will be unsatisfactory to voters.

- a) 180 days = 0 points
- b) 1 year = 25 points
- c) Phase in = 45 points
- d) 2 years = 0 points

Issue #5: Amendments and Time Agreement

We strongly recommend a Unanimous Consent (UC) Agreement that includes just one amendment, which reduces the likelihood that political floor fights on amendments will harm the bill's chance of passage. Fewer amendments also means we will spend less floor time on the *BUILD Act*.

Ideally, we would prefer to entertain no amendments. However, you recently spoke with the President of the AFL-CIO, a major labor organization. Based on this conversation, we believe you must secure a UC Agreement that allows for a Senate floor vote on the requirement that some union labor be used in the construction projects funded by the bill.

Sen. Martinez's staff has approached us about a series of amendments he believes deserve at least a vote. The Senator would prefer that these policies were incorporated into the legislation, but we have informed him that these elements are mostly baked into the Manager's Amendment.

- a) No amendments = 5 points
- b) 1 amendment per side = 25 points
- c) 3 amendments per side = 10 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 Senator Yvette Robinson (D-OR)
POINT SUMMARY AND WORKSHEET

Issue Option	Points	First Vote	Second Vote
<u>Funding</u>			
1. Under \$1 trillion, fully offset	5		
2. \$3 trillion mixed spending, fully offset	15		
3. \$1.5 trillion in mixed spending, partially offset	10		
4. \$2 trillion in budgetary spending, not offset	5		
5. \$3 trillion in mixed spending, partially offset	0		
<u>AV regulation</u>			
1. Pre-market regulatory approval	--		
2. Hybrid certification and pre-market approval	--		
3. Certification only	--		
4. No language on AVs	--		
<u>Gas Tax</u>			
1. No changes	0		
2. Index to inflation	15		
3. Raise to \$0.45/gal	20		
4. Raise to \$0.45/gal and index to inflation	25		
<u>Implementation</u>			
1. 180 days	0		
2. 1 year	25		
3. Phase in	45		
4. 2 years	0		
<u>Time and Amendments</u>			
1. No amendments	5		
2. 1 amendment per side	25		
3. 3 amendments per side	10		

Minimum needed for an agreement = 75 points.

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

Rebuilding Bridges: Yohannes Carter, The White House

TO: Yohannes Carter, Special Assistant to the President and Director of the White House Office
of Legislative Affairs (WHLA)

FROM: Alice Chen and Gabe Reid, Senate Liaisons

RE: Final Negotiation on The *BUILD Act*

As you know, the *BUILD Act* presents a critical opportunity for you to deliver a significant reform to America's transportation infrastructure and a big win for POTUS.

The benefits of getting this bill signed into law are obvious. He spent the entirety of the race for the White House campaigning on his promise to overhaul America's failing infrastructure. While he chose to pursue other legislative priorities early in his term, we have always believed that infrastructure is a strong, bipartisan winner.

The tragic River Cities bridge collapse provided the momentum we needed to pivot away from more partisan fights and toward infrastructure. Since the collapse, POTUS has stated publicly again and again that he will work with Congress to make sure a bill "gets done." Given his strong public commitments, it is essential that you are able to deliver a bill to the President for signature. Beyond this, the Administration has yet to achieve a signature legislative accomplishment. This may be the last chance before Congress adjourns for a long recess in advance of the upcoming midterm elections.

We have spent the past two months helping to get the *BUILD Act* through the Senate Finance Committee and Senate Environment and Public Works Committee. These were not easy mark-ups. There was some last-minute haggling to add in a number of provisions to secure the support of specific Senators. We are optimistic that the bill will sail through Senate floor consideration if the Manager's Amendment is not scaled back too much compared to the legislation that was reported out of the two committees.

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 and the President's priorities. 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, an implementation timeline that provides enough time to roll this out correctly, 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 POTUS’ support for the bill if you can secure an agreement worth **at least 70 points**. Any agreement worth fewer than 70 points would not be worth pursuing because POTUS would veto it.

Your task is to build enough support for the *BUILD Act* to get the deal through the Senate, while minimizing political 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 70 points. An agreement worth 90 points would set you up nicely. We know that certain senior advisers in the West Wing like to micromanage our work with Congress. A better bill only strengthens your political position within the White House and will reduce this type of interference.

As you know, this legislation will not become law if POTUS is not satisfied with it, giving you effective veto power over any potential agreement that does not meet your threshold.

Issue #1: Funding and Offsets

Given that experts estimate that a comprehensive investment to repair all infrastructure will cost \$4.6 trillion we feel strongly that a \$3 trillion package is the least we can consider. The strongest of these options is a fully offset bill, as we know these funds are already paid off and are less likely to disappear in future deal-making.

As we mentioned above, the *BUILD Act* contains provisions to secure the votes of specific Senators to get it out of committee. If the level of funding is reduced at all, some of those policies will have to be cut from the bill – angering those Senators and making it harder to reach final passage. We have conferred with Sen. Howell’s staff and know that he is also going to push for higher funding levels for this reason.

If the funding is cut to under \$1 trillion, you know the *BUILD Act* will not effectively repair America’s infrastructure. It would be a political disaster for POTUS to receive instruction from Congress to overhaul our infrastructure but have no money with which to do it—he will be left holding the bag.

- a) Under \$1 trillion, fully offset = 5 points
- b) \$3 trillion mixed spending, fully offset = 15 points
- c) \$1.5 trillion in mixed spending, partially offset = 10 points
- d) \$2 trillion in budgetary spending, not offset = 5 points
- e) \$3 trillion in mixed spending, partially offset = 0 points

Issue #2: Regulation of Automated Vehicles

For years, technology and automotive companies have been working on developing driverless cars. You know these AVs have the potential to remake the economy. We suspect the recent AV collision that killed a pedestrian in Des Moines has put Sen. Howell in a very difficult position, though his staff has not been forthcoming about the Leader's position on this issue. We were a bit surprised that Sen. Howell's initial package includes the strictest level of regulation for AVs.

You'll recall that initial backlash called on us to regulate AVs from the National Highway Traffic Safety Administration (NHTSA). However, the Office of General Counsel at DOT does not believe the current statutory authorities give them the clear ability to do so. However, we are also under strict orders from one of POTUS' senior advisers to work to keep any provisions regulating this industry out of the *BUILD Act*. They believe that aligning ourselves against the Automated Vehicles Innovation Association (AVIA) is a poor political choice and that these issues are better left regulated at the state level. AVIA has made clear that it expects full White House support at the table.

There has been a coalition of Senate Democrats that has vocally criticized AVIA for its attempts to push back 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 = 10 points
- c) Certification only = 15 points
- d) No language on AVs = 20 points

Issue #3: Gas Tax

Raising taxes is never popular, but we know that raising the gas tax is the only way to ensure that DOT has the funds it will need to carry out this legislation. Furthermore, the U.S. Chamber of Commerce strongly supports this policy, providing the necessary political cover for POTUS to back a bill that raises this specific tax.

We recommend supporting an increase in the gas tax as far as the negotiation will allow, but do not waste political capital on this issue. There are other items that are more important to us in the overall agreement. As you know, the two parties are quite split on the gas tax. We expect that Sens. Howell and Brooks will oppose your position and we anticipate that you will be more aligned with the Democrats on this issue.

- a) No changes = 0 points
- b) Index to inflation = 5 points
- c) Raise to \$0.45/gal = 10 points
- d) Raise to \$0.45/gal and index to inflation = 15 points

Issue #4: Implementation Timelines

Sen. Robinson has been pushing for phased in implementation of the *BUILD Act*. Meanwhile, our agencies cannot easily be held to statutory deadlines shorter than two years from date of enactment of the *BUILD Act*. We know the staff power required to grant, contract, and distribute to states will require additional hires, which will take time. A two year statutory deadline will still keep pressure on the agencies to get the funding out the door while giving them enough time to issue regulations and grant announcements – and increase the amount of time you have to weigh in on the details of the *BUILD Act* implementation.

- a) 180 days = 0 points
- b) 1 year = 20 points
- c) Phase in = 10 points
- d) 2 years = 30 points

Issue #5: Amendments and Time Agreement

We normally would 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. However, we believe that it will be essential to hold a vote on the funding formula for states that have toll roads.

Sen. Brooks' staff reached out to us about this particular amendment. The provision was not included in the reported out bills or the Manager's Amendment as a result of a deal struck in Finance Committee consideration of the bill. Sen. Brooks and several other members from states that have highways in significantly worse states of disrepair feel strongly that they should be prioritized for these new road repair funds. States that have been using their own dollars to care for their highways disagree, claiming they are being punished for picking up the federal government's tab.

You do not want the bill to be embroiled in a debate on this topic – ensuring a floor vote on this amendment will allow Sen. Brooks and others to feel heard but will likely not pass and therefore not hurt the overall bill. We would suggest that you seek to restrict any UC agreement to just this amendment.

- a) No amendments = 15 points
- b) 1 amendment per side = 20 points
- c) 3 amendments per side = 5 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 YOHANNES CARTER, THE WHITE HOUSE
POINT SUMMARY AND WORKSHEET

Issue Option	Points	First Vote	Second Vote
<u>Funding</u>			
1) Under \$1 trillion, fully offset	5		
2) \$3 trillion mixed spending, fully offset	15		
3) \$1.5 trillion in mixed spending, partially offset	10		
4) \$2 trillion in budgetary spending, not offset	5		
5) \$3 trillion in mixed spending, partially offset	0		
<u>AV regulation</u>			
1. Pre-market regulatory approval	0		
2. Hybrid certification and pre-market approval	10		
3. Certification only	15		
4. No language on AVs	20		
<u>Gas Tax</u>			
1. No changes	0		
2. Index to inflation	5		
3. Raise to \$0.45/gal	10		
4. Raise to \$0.45/gal and index to inflation	15		
<u>Implementation</u>			
1. 180 days	0		
2. 1 year	20		
3. Phase in	10		
4. 2 years	30		
<u>Time and Amendments</u>			
1. No amendments	15		
2. 1 amendment per side	20		
3. 3 amendments per side	5		

Minimum needed for an agreement = 70 points.

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

Rebuilding Bridges: Senator Deb Brooks (R-AR)

TO: Senator Deb Brooks

FROM: Maria Alvarez, Chief of Staff and Adam Conway, Legislative Director

RE: Final Negotiation on The *BUILD Act*

We believe the *BUILD Act* presents a critical decision point for you to step up and firmly establish your leadership on issues of taxation and deficit spending in the Senate. While we recommended that you vote for the *BUILD Act* in the Finance Committee, we made clear that your position might change once the offsets were added to the package.

With the offsets now on the table, the benefits of this bill becoming law are not entirely clear. We all admit that the River Cities bridge collapse was tragic and that our infrastructure needs repair, but the proposal that the Majority Leader has put on the table is utterly irresponsible. He wants to fund a \$3 trillion bill without paying for all of it – a move that would increase the national debt by nearly 25 percent. This feels more like a return to earmarks than a responsible solution to our infrastructure needs.

You have you been vocal about your concern for America's spending habits – everything from runaway entitlement spending to spending tomorrow's money today to enact new policies. We do not need to explain to you, but one of the chief concerns about this continued deficit spending is the serious national security exposure that it creates. Other countries hold a disproportionate amount of US national debt, giving foreign powers an unacceptable amount of control over us should they choose to exercise it.

Based on our conversations with their staffs, we know that Sen. Howell, Sen. Robinson, and the White House are all eager to get a bill to the President's desk. We believe this provides an opportunity for you to shore up the irresponsible spending in the bill – after all, some response is better than no response at all. And we cannot let every disaster or tragedy bankrupt the Treasury.

There is a strong coalition of about 23 GOP Senators that you have held a series of meetings with on this topic. As you will recall, at the last meeting there was unanimous agreement that the group would stick together in opposing any legislation that was not fully paid for moving forward. Sen. Howell's staff may

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have an inkling that we have been coordinating this group of Senators, but we have not formally confirmed your control over this block of votes to him.

Scoring. In order to help with your negotiating strategy, we have constructed a 110 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 110 points during the negotiation, depending on how each of the five issues is resolved. Your most preferred version of the bill is scored at 110 points.

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 – blocking any deficit spending, not raising taxes, and securing votes for critical amendments on the floor – 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 agree to support this bill if you can secure an agreement worth **at least 65 points**. Any agreement worth fewer than 65 points would not be worth pursuing. You (and the country) would be better off without any bill than with one that continues to spend us into a national fiscal and security crisis. That said, a bill that is fully paid for and does not raise many taxes would significantly improve your national political clout.

Your task is to ensure that the *BUILD Act* only gets through the Senate if your priorities are accounted for, while minimizing political compromises required to do so. Try to earn as many points as possible in this negotiation. A better bill only strengthens your position going into future legislative negotiations.

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 for the tax extenders negotiation that will happen after the midterm elections and further contribute to your reputation as a strong negotiator.

While you could technically refuse to agree to a Unanimous Consent (UC) Agreement reached here today, we know the Leader would simply call a vote and fill the tree with amendments that do not account for your interests. Additionally, we fear you would be viewed as obstructionist and lacking empathy for those affected by the tragedy if you do so alone. And you would damage your relationship with the Majority Leader. Therefore, you should, under no circumstances unilaterally threaten to stop the *BUILD Act* by blocking the Majority Leader’s motion for UC. However, if you could find another coalition of 18 Senators, you could combine forces and withhold the requisite 40 votes to block a cloture or Motion to Proceed (MTP) vote while maintaining political cover.

Issue #1: Funding and Offsets

As you know, many experts estimate that a comprehensive investment to repair all infrastructure will cost \$4.6 trillion. CBO scored the current package of both committee bills at \$3 trillion. This is an unacceptable level of spending. Ideally, you will be able to negotiate the funding down to under \$1 trillion. While this will mean a more scaled back version of the *BUILD Act*, it accepts the stark reality that governing is about making hard choices. The money faucet cannot stay on forever.

However, we advise that you support **any** package that is fully paid for, regardless of the amount of spending it contains. This means that, if necessary, you could support the higher spending version of the *BUILD Act* if it is fully offset. In fact, supporting a larger offset package would allow you to maintain your reputation as a hardline negotiator on the deficit but diminish criticism about a muted response to a national tragedy.

As you can see, this issue is the **most important for you** in this negotiation. Failure to secure one of the first two options likely means the deal will not serve your interests.

- a) Under \$1 trillion, fully offset = 70 points
- b) \$3 trillion mixed spending, fully offset = 45 points
- c) \$1.5 trillion in mixed spending, partially offset = 25 points
- d) \$2 trillion in budgetary spending, not offset = 10 points
- e) \$3 trillion in mixed spending, partially offset = 0 points

Issue #2: Regulation of Automated Vehicles

For years, technology and motor companies have been working on developing driverless cars. You know these AVs have the potential to remake the economy. You suspect the recent AV collision that killed a pedestrian in Des Moines has put Sen. Howell in a very difficult position.

Initial backlash called on the White House 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 Congress. While you do not really support regulation of AVs in principle, we have bigger fights to protect the deficit at hand in the *BUILD Act*. Given this, we have not built in any scoring on this issue.

Issue #3: Gas Tax

As we noted above, you generally do not support raising taxes. However, if the gas tax could help reduce the amount of deficit spending in this bill, it could be a good thing. We do not have a strong recommendation about where you should position yourself on this issue – 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. 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 = 15 points
- c) Phase in = 10 points
- d) 2 years = 20 points

Issue #5: Amendments and Time Agreement

We strongly recommend you push for a UC Agreement that includes three amendments for each side. Leader Howell's staff knows that you will be pushing for these votes – we reminded them that they were promised to you in exchange for not pushing them hard during the Finance Committee markup of the *BUILD Act*.

Securing this vote is critical for a few reasons. First, your home state has never utilized toll roads. You have long supported this – roads are a public good! You have never supported charging folks additional taxes just to use the roads they have already paid for. As a result, Arkansas roads are in a far worse state of disrepair than those of other states that have utilized tolls over the years. Because of this obvious discrepancy, it is only fair that the Senate at least vote on your proposal to more effectively distribute highway repairs funds across states.

The other two amendments are less important, but given the number of concessions you agreed to during the Finance Committee markup of this bill we believe it is perfectly acceptable that you be granted votes on the amendments to ensure good private sector jobs for these projects and to grant some of the funds to states for their own discretionary use.

- a) No amendments = 0 points
- b) 1 amendment per side = 15 points
- c) 3 amendments per side = 20 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 SENATOR DEB BROOKS (R-AR)
POINT SUMMARY AND WORKSHEET

Issue Option	Points	First Vote	Second Vote
<u>Funding</u>			
1. Under \$1 trillion, fully offset	70		
2. \$3 trillion mixed spending, fully offset	45		
3. \$1.5 trillion in mixed spending, partially offset	25		
4. \$2 trillion in budgetary spending, not offset	10		
5. \$3 trillion in mixed spending, partially offset	0		
<u>AV regulation</u>			
1. Pre-market regulatory approval	--		
2. Hybrid certification and pre-market approval	--		
3. Certification only	--		
4. No language on AVs	--		
<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	15		
3. Phase in	10		
4. 2 years	20		
<u>Time and Amendments</u>			
1. No amendments	0		
2. 1 amendment per side	15		
3. 3 amendments per side	20		

Minimum needed for an agreement = 65 points.

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

Rebuilding Bridges: Senator David Martinez (D-NJ)

TO: Senator David Martinez

FROM: Michael Watkins, Chief of Staff and Lori Bath, Legislative Director

RE: Final Negotiation on The *BUILD Act*

We believe the *BUILD Act* presents a critical decision point for you to step up and firmly establish your leadership on issues of good governance in the Senate.

While we broadly recommend that you support this legislation, without a robust increase in the gas tax, the benefits of his bill becoming law are not entirely clear. We all admit that the River Cities bridge collapse was tragic and that our infrastructure needs repair, but the proposal that the Majority Leader has put on the table is utterly irresponsible. He wants to fund a \$3 trillion bill without raising the gas tax – meaning that in 30 years our children will find themselves facing the same problems that we face today. We know this is not your definition of responsible, good governance.

You have been vocal about your concern for insufficient long-term support for government operation – how can we expect our public servants to keep us safe, repair our roads, and mend our bridges if we do not give them the sustainable funding to do so?

Based on our conversations with their staffs, we know that Sen. Howell, Sen. Robinson, and the White House are all eager to get a bill to the President's desk. We believe this provides an opportunity for you to shore up the unsupported spending in the bill. Unsurprisingly, we anticipate the Republicans and the White House may oppose raising the gas tax – but we recommend that you push forward anyway.

There is a strong coalition of about 20 Democratic Senators that you have held a series of meetings with on this topic. As you will recall, at the last meeting there was unanimous agreement that the group would stick together in opposing any legislation that did not agree to provide DOT with a long-term, sustainable source of funding to prevent a tragedy like this from occurring again. Leader Robinson's staff knows you have been active on this issue, but we have not formally confirmed your control over this block of votes to her.

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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Scoring. In order to help with your negotiating strategy, we have constructed a 125 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 125 points during the negotiation, depending on how each of the five issues is resolved. Your most preferred version of the bill is scored at 125 points.

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 – blocking any deficit spending, not raising taxes, and securing votes for critical amendments on the floor – 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 agree to support this bill if you can secure an agreement worth **at least 70 points**. Any agreement worth fewer than 70 points would not be worth pursuing. You would be better off without any bill than one that pretends to solve the problem now, taking the pressure off and preventing Congress from developing a real, sustainable solution.

Your task is to ensure that the *BUILD Act* only gets through the Senate if your priorities are accounted for, while minimizing political compromises required to do so. Try to earn as many points as possible in this negotiation. A better bill only strengthens your position going into future legislative negotiations.

Note: We believe you can negotiate an agreement that scores much better than 70 points. An agreement worth 85 points would set you up nicely for the tax extenders negotiation that will happen after the midterm elections and further contribute to your reputation as a strong negotiator.

While you could technically refuse to agree to a Unanimous Consent (UC) Agreement reached here today, we know the Republican Leader would simply call a vote and fill the tree with amendments that do not account for your interests. Additionally, we fear you would be viewed as obstructionist and lacking empathy for those affected by the tragedy if you do so alone. And you would damage your relationship with the Minority Leader. Therefore, you should, under no circumstances unilaterally threaten to stop the *BUILD Act* by blocking the Majority Leader’s motion for UC. However, if you could find another coalition of 21 Senators, you could combine forces and withhold the requisite 40 votes to block a cloture or Motion to Proceed (MTP) vote while maintaining political cover.

Issue #1: Funding and Offsets

As you know, many experts estimate that a comprehensive investment to repair all infrastructure will cost \$4.6 trillion. CBO scored the current package of both committee bills at \$3 trillion. While this issue matters to the extent that it can give you leverage to raise the gas tax, we believe any level of spending in the *BUILD Act* will be helpful in repairing America’s infrastructure. As such, we have not built in any scoring on this issue.

It is worth noting that Leader Robinson may seek your support on this issue, based on our conversations with her staff.

Issue #2: Regulation of Automated Vehicles

For years, technology and motor companies have been working on developing driverless cars. You know these AVs have the potential to remake the economy. You suspect the recent AV collision that killed a pedestrian in Des Moines has put Sen. Howell in a very difficult position.

Initial backlash called on the White House 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 Congress. While you generally support smart regulation in principle, you have a strong relationship with Silicon Valley that makes this particular fight tricky. Beyond that, we have bigger issues at hand in the *BUILD Act*. Given this, we have not built in any scoring on this issue.

Issue #3: Gas Tax

Raising taxes is never popular, but we know that raising the gas tax is the only way to permanently ensure that America does not find itself with such decaying infrastructure in the future. As the past decade has proved, finding moments of consensus in Congress to pay for this type of maintenance is hard.

This is a unique moment – the Republican Leader is in strong support of an infrastructure bill and the press around the River Cities bridge collapse gives you strong momentum to argue for a long-term fix that prevents future senseless deaths as a result of crumbling roads and bridges. Beyond this, we believe that the gas tax is a logical, policy-relevant way to pay for a large portion of the spending in the *BUILD Act*.

As you know, the two parties are quite split on this issue. We expect that the White House will support your position, but it is worth noting they have been inconsistent on the issue of tax increases in the past. We recommend that you confer with Sen. Robinson on this point as soon as possible.

- a) No changes = 0 points
- b) Index to inflation = 20 points
- c) Raise to \$0.45/gal = 40 points
- d) Raise to \$0.45/gal and index to inflation = 60 points

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. While we believe two years to be the best policy choice to get funds flowing into communities, one year is not terrible.

- a) 180 days = 0 points
- b) 1 year = 25 points
- c) Phase in = 15 points
- d) 2 years = 35 points

Issue #5: Amendments and Time Agreement

We strongly recommend you push for a UC Agreement that includes three amendments for each side. Leader Robinson's staff knows that you will be pushing for these votes – we reminded them that they

were promised to other Democratic Senators in exchange for not pushing them hard during the Environment and Public Works Committee markup of the *BUILD Act*.

Securing this vote is critical for a few reasons. First, you and other Democrats have been receiving intense pressure from local union chapters under the AFL-CIO to ensure that the full Senate votes on an amendment to set quotas for union labor in construction projects funded by the *BUILD Act*. This position is both consistent with your previous voting record and will help you gain esteem amongst your colleagues if you can secure this win for them to take back to those chapters.

The other two amendments are less important, but given the number of concessions your fellow Senators agreed to during the Environment and Public Works Committee markup of this bill we believe it is perfectly acceptable that you be granted votes on the amendments to ensure environmental standards in the new construction and fund workforce training programs for those whose jobs will be replaced by AVs.

- a) No amendments = 0 points
- b) 1 amendment per side = 15 points
- c) 3 amendments per side = 30 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 SENATOR DAVID MARTINEZ (D-NJ)
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	--		
2. Hybrid certification and pre-market approval	--		
3. Certification only	--		
4. No language on AVs	--		
<u>Gas Tax</u>			
1. No changes	0		
2. Index to inflation	20		
3. Raise to \$0.45/gal	40		
4. Raise to \$0.45/gal and index to inflation	60		
<u>Implementation</u>			
1. 180 days	0		
2. 1 year	25		
3. Phase in	15		
4. 2 years	35		
<u>Time and Amendments</u>			
1. No amendments	0		
2. 1 amendment per side	15		
3. 3 amendments per side	30		

Minimum needed for an agreement = 70 points.

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

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.

Rebuilding Bridges: Results Form

Group Number

Please circle or fill in the appropriate responses:

(Please hand in one form per group.)

Did you reach an agreement?	Yes	No			
Was the agreement unanimous?	Yes	No			
If no, which party was left out?					
UC Agreement	1. No Amendments	2. One Amendment	3. Three Amendments		
Gas Tax	1. No Changes	2. Index to Inflation			
	3. Raise to \$.45	4. Raise to \$.45 and index to inflation			
AVs	1. Bill Silent on AVs	2. Certification Only			
	3. Hybrid Certification	4. Pre-Market Approval			
Implementation	1. 2 Years	2. 1 Year			
	3. Phase In	4. 180 Days			
Funding	1. Under \$1 trillion, fully offset	2. \$3 trillion mixed, fully offset			
	3. \$1.5 trillion mixed, partially offset	4. \$2 trillion budgetary, not offset			
	5. \$3 trillion mixed, partially offset				
Individual Point Totals					
Senator Howell Majority Leader (R-IA):	Senator Robinson Minority Leader (D-OR):	Yohannes Carter WHLA:	Senator Brooks Majority Senator (R-AR):	Senator Martinez Minority Senator (D-NJ):	Ian George AVIA:
Signatures of All Parties to the Agreement					
_____ Majority Leader, Sen. Howell		_____ Minority Leader, Sen. Robinson		_____ WHLA, Mr. Carter	
_____ Majority Senator, Sen. Brooks		_____ Minority Senator, Sen. Martinez		_____ AVIA, Mr. George	



Rebuilding Bridges: Party and Issue Matrix Prep Sheet

<div>Parties</div> <div>Issues</div>	Senator Howell Majority Leader R-IA	Senator Robinson Minority Leader D-OR	Yohannes Carter WHLA	Senator Brooks R-AR	Senator Martinez D-NJ	Ian George AVIA
UC Agreement						
Gas Tax						
AVs						
Implementation						
Funding						

Scale: 1 (least important) to 5 (most important)

Can use negative numbers to indicate the direction of counterparts' preferences.



SENATOR HOWELL
MAJORITY LEADER, R-IA

IAN GEORGE
AVIA

SENATOR ROBINSON
MINORITY LEADER, D-OR

SENATOR BROOKS
R-AR

YOHANNES CARTER
WHLA

SENATOR MARTINEZ
D-NJ

Allies	_____
Adversaries	_____<>_____
Recruitables	-----

Rebuilding Bridges: Scoring Rubric

SCORING RUBRIC	Sen. Howell (Maj. Leader)	Sen. Robinson (Min. Leader)	Carter (WHLA)	Sen. Brooks (R-IA)	Sen. Martinez (D-NJ)	Mr. George (AVIA)
Funding						
1. Under \$1 trillion, fully offset	0	5	5	70	-	-
2. \$3 trillion mixed, fully offset	5	15	15	45	-	-
3. \$1.5 trillion mixed, partially offset	15	10	10	25	-	-
4. \$2 trillion budgetary, not offset	25	5	5	10	-	-
5. \$3 trillion mixed, partially offset	35	0	0	0	-	-
AVs						
1. Pre-Market Approval	30	-	0	-	-	0
2. Hybrid Certification	15	-	10	-	-	15
3. Certification Only	5	-	15	-	-	35
4. Bill Silent on AVs	0	-	20	-	-	50
Gas Tax						
1. No changes	30	0	0	-	0	-
2. Index to Inflation	15	15	5	-	20	-
3. Raise to \$.45	5	20	10	-	40	-
4. Raise to \$.45 and Index to Inflation	0	25	15	-	60	-
Implementation						
1. 180 Days	0	0	0	0	0	0
2. 1 Year	25	25	20	15	25	20
3. Phase In	10	45	10	10	15	15
4. 2 Years	30	0	30	20	35	25
UC Agreement						
1. No Amendments	25	5	15	0	0	25
2. 1 Amendment	15	25	20	15	15	20
3. 3 Amendments	0	10	5	20	30	0
Maximum						
Maximum Possible (Minimum Needed)	150 80 (60)	110 90 (75)	100 80 (70)	110 75 (65)	125 100 (70)	100 90 (65)



14 Possible Agreements in Rebuilding Bridges, Point Totals and Party Excluded in Red

Gas Tax	AVs	Funding	Maj. Leader	Min. Leader	White House	Maj. Senator	Min. Senator	AVIA
Inflation-indexed	Bill silent	\$3T mixed, fully offset	60	80	80	75	60	90
Inflation-indexed	Cert. only	\$3T mixed, fully offset	65	80	75	75	60	75
\$0.45	Bill silent	\$1.5T mixed, partially...	60	80	80	55	80	90
\$0.45	Bill silent	\$2T budgetary, not offset	70	75	75	40	80	90
\$0.45	Cert. only	\$1.5T mixed, partially...	65	80	75	55	80	75
\$0.45	Cert. only	\$2T budgetary, not offset	75	75	70	40	80	75
\$0.45	Hybrid-Cert.	\$3T mixed, fully offset	65	85	75	75	80	55
\$0.45 & inflation-indexed	Bill silent	\$2T budgetary, not offset	65	80	80	40	100	90
\$0.45 & inflation-indexed	Bill silent	\$3T mixed, partially...	75	75	75	30	100	90
\$0.45 & inflation-indexed	Cert. only	\$1.5T mixed, partially...	60	85	80	55	100	75
\$0.45 & inflation-indexed	Cert. only	\$2T budgetary, not offset	70	80	75	40	100	75
\$0.45 & inflation-indexed	Cert. only	\$3T mixed, partially...	80	75	70	30	100	75
\$0.45 & inflation-indexed	Hybrid-Cert.	\$3T mixed, fully offset	60	90	80	75	100	55
\$0.45 & inflation-indexed	Pre-Mkt Approv.	\$3T mixed, fully offset	75	90	70	75	100	40

Note: All 14 Possible Agreements have 1 amendment and 1-year implementation so those issues are not shown. The party with point totals in red is below the minimum acceptable and excluded.

