

## 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*

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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

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*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<br>Vote | Second<br>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.