

Trump's Options for Wall Shrink as Republicans Balk at National Emergency Declaration

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WASHINGTON — President Trump's legislative path to a border wall has narrowed significantly on the eve of Tuesday's State of the Union speech, and his fallback plan to circumvent Congress by declaring a state of emergency could create a major division in his own party.

As he prepares to make his case to the largest national audience of the year, Mr. Trump appeared to be in an increasingly precarious position, [unable to sway the wider public to his cause](#) and [unwilling, at least so far, to apply](#) the persuasion and compromise that have gotten previous presidents out of political jams.

Anxiety over the damage being inflicted on the party is growing. Last week, in a one-on-one meeting with the president, Senator Mitch McConnell of Kentucky, the majority leader, reportedly warned Mr. Trump that declaring a national emergency to build his wall would almost certainly spark a rebellion within his party — and a vote to overrule him. House and Senate negotiators have been moving toward a bipartisan agreement as early as Friday to keep the government funded after Feb. 15 — with or without the president's support.

But the president's supporters continue to plead for unity.

"This is the defining moment of his presidency," said Senator Lindsey Graham, a South Carolina Republican who is one of Mr. Trump's biggest supporters on Capitol Hill, speaking at an event in Greenville on Monday.

"To every Republican, if you don't stand behind this president, we're not going to stand behind you when it comes to the wall," said Mr. Graham, adding that he feared "a war within the Republican Party" if Republicans did not support Mr. Trump's plans, including an emergency declaration.

The president's advisers have said the speech will [focus on unity](#). But he is also expected to double down on the wall. [In an Oval Office interview last week](#), he cast doubt on a settlement being hashed out by a bipartisan committee of 17 House members and senators before the Feb. 15 deadline, saying that anything short of his full demand would be "a waste of time."

At the same time, Mr. Trump continued to brandish the threat of an emergency declaration that would allow him to divert existing federal funding to the wall, an idea that has sparked heated opposition among Senate Republicans, who have grown increasingly comfortable in their defiance. On Monday, the Senate formally adopted an amendment to a broader Middle East policy bill, 70 to 26, that [rebuked the president for what Republicans saw as a precipitous withdrawal of troops from Afghanistan and Syria](#).

In December, Republican senators broke with him to [call for the withdrawal of American support](#) for Saudi Arabia's war in Yemen, as they recoiled from his inaction in the face of the kingdom's murder of a Washington Post columnist, Jamal Khashoggi.

The Trump administration's hard-line stance on keeping migrants out is pushing asylum seekers to take remote and dangerous routes into the United States. And a wall might not be able to fix that.

Mr. Trump is not expected to declare the state of emergency during Tuesday's address. But he continues to threaten that he will divert funding for other military and infrastructure projects to build the wall, with or without congressional approval. He has told people close to him that he views the threat as his last remaining leverage in the fight.

That has some Republicans openly fretting that such a declaration would embolden a Democratic president to declare a national emergency on climate change or gun violence.

“It would be a bad precedent, I think, for the president to decide to invoke national security as a way to bypass a congressional logjam,” said Senator Patrick J. Toomey, Republican of Pennsylvania. “And I can imagine future presidents using that for purposes I would find very objectionable.”

That sentiment has been expressed by about a dozen Republican senators, publicly and privately, including Roy Blunt of Missouri, Lamar Alexander of Tennessee, Marco Rubio of Florida, Bill Cassidy of Louisiana and John Cornyn of Texas, who is considered to be among the most influential members of his party on immigration.

“The whole idea that a president — whether it’s President Trump or President Warren or President Sanders — can declare an emergency and then somehow usurp the separation of powers and get into the business of appropriating money for specific projects without Congress getting involved is a serious constitutional question,” Mr. Cornyn said on Monday.

But the most important critic of the declaration is Mr. McConnell. “I don’t think much of that idea,” Mr. McConnell [said last month](#) when asked about the declaration. “I hope he doesn’t go down that path.”

Mr. McConnell, according to three people familiar with his thinking, has grown increasingly frustrated with the White House in recent days, telling associates that he thinks members of the president’s staff have failed to adequately brief him on the legislative and political perils of moving ahead with a disaster declaration.

During his White House meeting, [disclosed by The Washington Post](#), Mr. McConnell predicted that Speaker Nancy Pelosi would have the House immediately pass a “resolution of disapproval” attempting to block him from using existing funding for the wall.

Any senator from either party could then demand a vote, because the resolution would be deemed “privileged.” Mr. McConnell told Mr. Trump that he would have no choice but to schedule a floor vote on the measure within 15 days, and Republican aides have estimated that between three and 10 Republicans would side with the chamber’s Democrats against Mr. Trump.

That would force the president into a politically costly effort to keep the Senate from overriding his veto of the resolution, even as Democrats moved to block him in the courts.

President Trump along the Mexican border in McAllen, Tex., in January. Doug Mills/The New York Times



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“He’s been talking about all this for a month, in front of the cameras,” said Don Stewart, a spokesman for Mr. McConnell, who played down the exchange.

The leader delivered a similar message to Vice President Mike Pence and the president’s son-in-law and senior adviser, Jared Kushner, three weeks ago during negotiations to reopen the government. Since then, both men have counseled the president to move cautiously on the emergency declaration, according to a senior administration official.

Democrats have begun drafting legislation that would remove the president’s ability to shift money from one project to another. Representative John Garamendi, Democrat of California, would repeal a line in the 1986 Water Resources Development Act that grants the president authority to use civil works money to respond to a national emergency.

Administration officials struck a defiant note on Monday, saying the president needed the threat of a declaration to pressure Ms. Pelosi.

“The Congress has failed to do its job — this Congress, last Congress and for quite a while to make sure that we have what we need at the southern border, which of course the centerpiece is a physical barrier, wall, steel slats,” Kellyanne Conway, the counselor to the president, told reporters.

The House-Senate negotiating committee assigned to hammer out a border-security deal to keep the government funded is expected to work through the week and into the weekend. Lawmakers will begin working out some of the more tenuous aspects of the funding bill as early as Tuesday. Among the expected snags are a Democratic provision that would prohibit the use of funds to deny asylum applications from survivors of gang violence and domestic violence, whether to increase or decrease the number of detention beds used by Immigration and Customs Enforcement and [what constitutes a border “barrier.”](#)

Democrats prefer a “smart wall” made up of sensors, drones and other technology but no physical structure. Republicans say some physical barrier is necessary, though not a concrete wall from the Pacific Ocean to the Gulf of Mexico.

House Republicans on the committee spent Sunday and Monday on the border in Texas in McAllen and El Paso, accompanied by Representative Henry Cuellar, Democrat of Texas. Senator Richard C. Shelby, Republican of Alabama and the chairman of the Appropriations Committee, has also suggested bringing experts in to testify on what is needed in border security.

But all of that work could be blown up by an emergency declaration, a move that would endear Mr. Trump to the Republican base while infuriating Democrats.

“I think he’s going to do it,” said Jeff Roe, a veteran Republican consultant and longtime political adviser to Senator Ted Cruz of Texas. “He’s responding to what too many Republicans ignore, which is the screaming and yelling from our base to do something. Let’s stop fighting ourselves and letting Democrats kick us in the face. We’ve been making these types of promises for ten to 15 years. Tax cuts and regulatory reform ain’t enough. We want the wall.”

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