



BRNOVICH SAYS STATES CAN TAKE BORDER ACTION; DEMOCRATS PAN 'CRACKPOT' THEORY - CRONKITE NEWS

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Photo: Former Arizona Attorney General Mark Brnovich told the House Judiciary Committee that states have a constitutional right to enforce border laws if the federal government does not. Democrats derided the "crackpot legal theory" at the hearing that they said was little more than a political stunt. (Photo by Ian McKinney/Cronkite News)

Former Arizona Attorney General Mark Brnovich told a House committee Tuesday that states have a constitutional right to secure their borders if "the federal government is either unwilling or unable to do so."

"The on-ground violence and lawlessness on our southern border that has been caused by the cartels and gangs is extensive, well-documented and persistent. Therefore, it satisfies the definition of an actual invasion as laid out by the Constitution," Brnovich testified in a hearing before the House Judiciary Committee.

That reasoning, echoed by several witnesses at [the hearing](#), was belittled by Democrats on the panel as a "crackpot legal theory that would have the public believe that federal supremacy over immigration and foreign relations is an open question."

"The Constitution is clear," said Rep. Jerry Nadler, D-N.Y. "The federal government is supreme in these matters, and it is well-settled law that the Constitution gives the federal government primary authority over immigration matters."

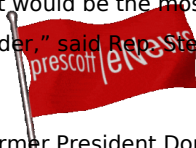
Democrats also accused the Republican majority of misapplying the term "invasion" in an attempt to demonize migrants and to justify violence against them.

The hearing was the latest in a string of immigration-focused hearings in the Republican-led House, and came the same day that the House Homeland Security Committee was debating articles of [impeachment](#) against Homeland Security Secretary Alejandro Mayorkas.

It also came the same week that a group of senators was expected to unveil a bipartisan immigration reform bill, a measure that Speaker Mike Johnson has already declared "[dead on arrival](#)" in the House, even before seeing details of the bill.

Democrats on the Judiciary Committee called Tuesday's hearing a political stunt, saying lawmakers should instead be focused on solutions like those reportedly in the Senate plan.

“We’ve got a bill in the Senate that we’re working on that would be the most comprehensive form of border security ever. President Biden has said that he [would sign it](#) and he would close the border,” said Rep. Steve Cohen, D-Tenn. “That’s what I think the Republicans want and what they have campaigned on.”



The bill’s future has been put in doubt, however, since former President Donald Trump urged lawmakers to [reject it](#).

“But now Mr. Trump doesn’t want that to happen because it might help Joe Biden,” Cohen said.

Republicans like Rep. Jim Jordan of Ohio said they want to hold off on immigration reform until after this fall’s elections, to get voter input. In the meantime, he said, the Biden administration should just shut down the border until then.

“When new migrants come in it’s time to say time out,” Jordan said. “Let’s call a halt to it and wait until we have an election and wait and see what the American people say.”

The stated intention of Tuesday’s hearing was to discuss the constitutionality of states overriding federal direction on matters related to immigration.

Democrats and their sole witness – Omar Jadwat, of the American Civil Liberties Union’s Immigrant Rights Project – stressed that more than a century of court rulings, up to the Supreme Court, have repeatedly said that states cannot overrule the federal government when it comes to border policy.

“The majority and its extreme MAGA Republican allies make the preposterous argument that the states can ignore the federal government and the Supreme Court,” Nadler said. “There are so many practical and legal problems with this outrageous and absurd theory, I don’t even know where to begin.”

But Brnovich and the other witnesses disagreed, repeatedly painting the historic surge in immigration as an invasion, which they said opens the door for states to take action.

“Our nation is founded upon the rule of law, and as I sit here today not only as a former federal prosecutor ... but as a husband and a parent, I worry that our nation is under assault from the cartels and gangs that have seized control of our southern border,” he said.

Brnovich also criticized the Biden administration’s [decision](#) to cut through barbed wire that Texas authorities placed on the Mexican border as part of that state’s Operation [Lone Star](#) – a state immigration action.

“A lot of Arizonans that I talk to ask me, ‘Why was President Biden so quick to tear down the border fence in Texas, but so slow to shoot down the Chinese spy balloon?’ I think that’s an indication of where the priorities really are for this administration,” Brnovich said.

Democrats said Operation Lone Star is merely an attempt by Texas Gov. Greg Abbott to grab headlines, and that Tuesday’s hearing was just an attempt by the committee to cover Abbott’s actions.