



NEWS RELEASE

Arizona House of Representatives

Representative Jake Hoffman (R-12)

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FOR IMMEDIATE RELEASE

Attorney General Opinion Finds Federal Government Has Failed to Protect Arizona from Invasion on Southern Border, State Has Legal Authority to Defend Itself

STATE CAPITOL, PHOENIX – State Representative Jake Hoffman today applauded a formal legal opinion issued by Arizona Attorney General (AG) Mark Brnovich finding that Arizona has the legal authority to protect itself from the current invasion occurring on its southern border.

“I’m glad to see that Attorney General Brnovich today agreed with my assessment that the crisis occurring on our southern border constitutes an invasion and a total failure by the Biden administration to fulfill its constitutional obligation to protect the people of Arizona,” Representative Hoffman said. **“This groundbreaking legal opinion further reinforces what I, and my colleagues at the state Capitol, have been calling for, that Arizona under Article I, Section 10 of the United States Constitution has the authority to step up and protect itself from this invasion. The human smuggling, cartel drugs and violence, sex trafficking, and other illicit activity must end. I call on Governor Ducey to utilize the Article I, Section 10 powers afforded to Arizona by the U.S. Constitution to end the invasion and secure our border.”**

Today’s Opinion from the AG was issued in response to Representative Hoffman’s [request in October](#) for a formal legal opinion of whether the Biden-Harris Administration has failed – intentionally or unintentionally – to uphold its obligations to protect the state from invasion under Article IV, Section 4 of the United States Constitution.

The AG’s Opinion examines the question of what constitutes “actually invaded” for purposes of Article I, Section 10 (“State Self-Defense Clause”) and “invasion” for purposes of Article IV, Section 4 (“Invasion Clause”) of the U.S. Constitution. Also, whether states retain the constitutional power to defend themselves when “actually invaded” by hostile non-state actors such as armed cartels and gangs, or only by foreign powers. Additionally, whether the current crisis at our border with Mexico satisfies the definitions of “actually invaded” and “invasion.”

The Attorney General concluded that, *“The federal government’s failure to secure the border and protect Arizona from invasion is dangerous and unprecedented. Thankfully, the Founders foresaw that States might need to protect themselves from invasion and made clear in the Constitution that*

States retain the sovereign power to defend themselves within their own territory. As discussed above, ‘actually invaded’ and ‘invasion’ in the State Self-Defense and Invasion Clauses is not limited to hostile foreign states but includes hostile non-state actors. The violence and lawlessness at the border caused by transnational cartels and gangs satisfies the definition of an ‘invasion’ under the U.S. Constitution, and Arizona therefore has the power to defend itself from this invasion under the Governor’s authority as Commander-in-Chief. An actual invasion permits the State to engage in defensive actions within its own territory at or near its border.”

A copy of the AG’s opinion is posted [here](#) and is attached.

Jake Hoffman is a Republican member of the Arizona House of Representatives serving Legislative District 12, encompassing Gilbert & Queen Creek, and parts of Pinal County.

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