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ALERT TOP STORY

## Bill Eigel says he would enforce Missouri's 'sovereignty' – no matter what

Jack Suntrup

Mar 29, 2024



Sen. Bill Eigel, R-Weldon Spring, gives a speech on the Senate floor at the Statehouse in Jefferson City during the start of 2024 Missouri legislative session on Wednesday, Jan. 3, 2024.

David Carson, Post-Dispatch

Jack Suntrup

**J**EFFERSON CITY — Notwithstanding any decision by the U.S. Supreme Court, Republican candidate for Missouri governor Bill Eigel says he won't be

deterred in enforcing Missouri's "sovereignty."

The state senator from Weldon Spring, who has proposed legislation to remove people in Missouri who have entered the U.S. illegally, made the comments earlier this week as a federal court weighed how far states can go in policing immigration.

"We're going to be aggressive about detaining and deporting folks who are here in this state illegally," Eigel told the Post-Dispatch in an interview. "I expect the Supreme Court to reaffirm that right. In the event that the Supreme Court has a different perspective, well, we'll cross that bridge when we come to it; however, I will say that that's not going to deter me from enforcing the sovereignty of the state of Missouri."

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Eigel's bill, which **has been heard in a Senate committee**, would create the offense of "improper entry," which subjects the offender to an order of removal.

In addition to his legislation, Eigel said if he is elected governor, he will declare an invasion under Article IV of the Missouri Constitution, which permits the governor to "call out the militia to execute the laws, ... and repel invasion" except when the militia "is called into the service of the United States."

Anders Walker, a professor of constitutional law at St. Louis University, said Congress had absolute power over immigration under the U.S. Constitution.

“There is no such thing as ‘state sovereignty’ when it comes to immigration because Congress has plenary power over immigration. That is Article I of the United States Constitution,” Walker said. “The story might be good political theater, but it’s doomed.”

Walker said if Missouri were to defy an order from the Supreme Court, anyone incarcerated under the invalidated state law could file a **writ of habeas corpus** in federal court seeking release.

In 2012, the U.S. Supreme Court struck down parts of an Arizona law that created state-level offenses for illegal immigration. And President Joe Biden’s administration is currently challenging a Texas law allowing for the arrest and attempted removal of individuals crossing the southern border illegally.

A federal appeals court **has placed the law on hold** following an order from the Supreme Court last week that briefly allowed it to take effect. It’s unclear how a Supreme Court that has shifted to the right in recent years will ultimately address the issue.

Eigel, asked if defying the Supreme Court would result in a “constitutional crisis,” responded that the country has already been in one.

“We’ve seen certain, you know, branches of government not respect the independence of other branches,” Eigel said.

Eigel has not led in publicly available polling, trailing Secretary of State Jay Ashcroft and Lt. Gov. Mike Kehoe among candidates seeking the Republican nomination. During his eight years in the Senate, Eigel has cultivated an uncompromising persona and currently helps lead a hard-right faction of Republicans in the recently launched Missouri Freedom Caucus.

Immigration has emerged as a central issue in the upcoming election, with **rising numbers of Americans viewing** it as the country's top problem. Homeland Security data show the **nature of illegal border crossings has evolved**, with significantly more migrants from countries other than Mexico, Guatemala and Honduras entering illegally through the U.S. southern border in recent years.

Democrats are walking a line between voicing encouragement for enhanced border security and admonishing rhetoric from Republicans such as Eigel.

## Candidate stances

When asked about Eigel's position, the campaigns for Kehoe and Ashcroft stopped short of embracing the type of aggressive detain-and-deport program Eigel has pitched.

“Our country needs to restore the Trump executive order, which was working, and enforce the law,” Ashcroft said. “Secondly, we need to hold Mexico responsible and cut off all remittances into the country until they do their part to patrol their side of the border.”

Ashcroft went on to say that he would declare an invasion under Article IV, Section 4 of the U.S. Constitution, which states the federal government will protect states against invasion.

“I will support Texas and other border states' efforts with additional personnel, I will stop state tax dollars from subsidizing illegal aliens, and I will make sure we prosecute this fight in the federal courts,” Ashcroft said.

Michael Hafner, a spokesman for Kehoe, said when Kehoe is elected, “no illegal migrants will receive state funded benefits of any kind” and said he would cut off funding to cities acting formally or informally as sanctuary cities. (Missouri **banned** municipalities from enacting “sanctuary” policies more than a decade ago.)

On the Democratic side, House Minority Leader Crystal Quade, D-Springfield, said she would support bipartisan border legislation at the federal level, like the one “torpedoed in Congress for political gain.”

Quade said she supports Parson’s decision to send National Guard troops to the border.

“We can, and should, take action to secure our borders without taking children from families and vilifying immigrants,” Quade said. “We need a common sense roadmap to citizenship, especially for our dreamers, spouses of American citizens, and the workers we desperately need to support our farming communities.”

Michael Hamra, a Springfield businessman challenging Quade for the Democratic nomination, said, “We need to put aside the political fights and secure the border with a sensible system for people to come here legally and be treated humanely.

“Sadly, all we are getting is mean-spirited political stunts from extremist Republican politicians like Senator Eigel that do nothing to secure our border or make anyone safer,” he said in a statement.

## Legal arguments

In **its lawsuit against Texas**, the U.S. Department of Justice argues federal law preempts the Texas law.

The federal government argued the Constitution’s **Foreign Commerce Clause** is one source of authority for the U.S. government, and that it restricts states from engaging in immigration regulation.

The Supreme Court in 2012 previously recognized the federal government’s “exclusive power” over certain immigration matters, but the question of whether states may arrest and deport people remains partly unresolved, said Katie Herbert Meyer, director of the Washington University School of Law’s Immigration Law Clinic.

She said while the court previously stopped Arizona's state-level crimes for violating U.S. immigration laws, the court still allowed the state to detain individuals suspected of not having documentation.

Meyer said the court did not take issue with a state "merely cooperating with immigration authorities by turning over suspected undocumented immigrants to federal officials."

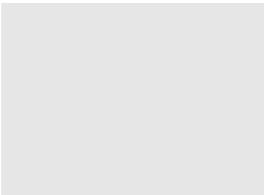
But the high court did rule state action crosses a constitutional line when the state enacts its own laws "and/or attempts to enforce federal immigration laws on their own (such as by charging or attempting to deport an individual)," Meyer said in an email.

"Opponents of these state bills make additional strong claims that such laws are illegally discriminatory and are against public policy," Meyer said. "One thing is crystal clear: if these laws pass they will be mired in expensive" litigation "for years to come."

Walker said the current Supreme Court could ultimately uphold Texas' approach.

"This court might say as long as state law coincides with federal law — it does not defy it — then, that's fine," he said.

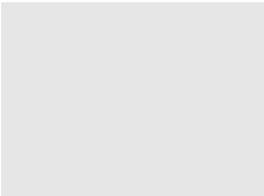
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### **Who should be Missouri's next governor? Hawley isn't saying**

Kurt Erickson

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### **Bill Eigel isn't making friends in the Missouri Senate. It fits with his run for governor.**

Kurt Erickson

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## Missouri Senate majority leader floats kicking Bill Eigel out, sparking tirade

Jack Suntrup , Kurt Erickson



Missouri Sen. Bill Eigel debates Sen. Doug Beck on the issue of whether to add rape and incest exceptions to the state's abortion ban. Video provided by the Missouri Senate media office; edited by Beth O'Malley

Beth O'Malley

**By Jack Suntrup**

Jefferson City reporter