

U.S. Congressman Mike Pence introduced Indiana State Senator Kenley today at the House Judiciary Committee Hearing, "Constitutional Limitations on States' Authority to Collect Sales Taxes in E-Commerce." [Click here](#) to see photos from the hearing. Below are the videos from the Introduction as well as the Question and Answer portions of the hearing.

"Thank you, Mr. Chairman.

"Thanks for the courtesy of having a chance to introduce and welcome my friend and fellow Hoosier to testify before the Judiciary Committee today in what, after a long and distinguished career of public service in Indiana, I am pleased to say this is his first opportunity to testify before Congress, and I am privileged to be here.

"Senator Luke Kenley is from Noblesville, Indiana. He is a five-term Indiana state senator who has provided exceptional leadership on fiscal responsibility and pro-growth policies in Indiana throughout his career.

"He is chairman of the Senate Committee on Appropriations at the Statehouse in Indianapolis. I hasten to add, since we are doing a little trash talk between states, Indiana has found a way even in these difficult economic times to balance our budgets without raising taxes, and Senator Kenley has been a driving force in making Indiana the fiscal envy of the nation.

"His career spans several decades and involves several different disciplines. After completing his undergraduate degree at Miami University of Ohio and two years of law school at Harvard University, he answered the call of his country and enrolled in the Officer Candidate School for the U.S. Army, where he graduated first in his class.

"After serving as a U.S. Army Lieutenant, he returned to Harvard to complete his law degree and then home to the Hoosier State to develop and operate Kenley's Supermarkets and serve as a Noblesville city judge.

"Senator Kenley comes before us today on behalf of the Streamlined Sales Tax Governing Board in his capacity as president of that organization. The Streamlined Sales Tax Governing

Board has been a leading advocate for fair and effective collection of online sales taxes, and I am confident that his experience in this area and his testimony today will be of great benefit to the committee as we work toward an equitable and common sense solution for all parties concerned.

"Thank you, Mr. Chairman, for the courtesy of allowing me to introduce this esteemed fellow Hoosier, Senator Kenley, to the committee's hearing today. And I yield back."

Rep. Pence: "Thank you, Chairman. Thanks for holding this hearing.

"I'm grateful for the testimony of all of the participants, but I particularly want to acknowledge not only Senator Kenley who I had the opportunity to introduce, who is a leader in Indiana, a man I greatly admire, but also I want to appreciate two other witnesses, Mr. Misener with Amazon. Amazon is a great corporate citizen in Indiana, and we appreciate the tone and tenor of your testimony and remarks today.

"I also want to acknowledge Mr. Byrne, whom I've had the pleasure to meet because of his association with education reform, at the Milton and Rose Friedman Foundation, that is proudly located in Indianapolis, Indiana. So this is a distinguished panel, to say the least.

"I find this discussion enormously helpful, Mr. Chairman. And it is clear that since the advent of - not the *Quill* decision, but the Commerce Clause itself - that under our form of government, the Congress has essentially been granted exclusive power to regulate interstate commerce at the national level.

"I have, as you know, Mr. Chairman, and other Members on this end of this committee, I have long opposed taxing the internet. I greatly associate myself with comments that were made about the extraordinary innovation that's occurred in e-commerce in this country. And I believe it represents a bulwark of American prosperity in the last 20 years.

"I believe that a moratorium on internet taxation has been prudent, and I've strongly supported it. It does strike me, though, that as this marketplace has matured that there is an argument, as has been made eloquently by several on the panel, for us to consider letting states decide.

"But it strikes me that we ought to follow - at least this conservative is committed to following - a couple of basic principles.

"Number one is no new taxes. My colleague from Texas and I, I feel instinctively, share a

particular view of taxes. Maybe I'm presuming, but we ought to make sure there's no new taxes on the people of the several states.

"And secondly, I do acknowledge that there ought to be no undue burden on commerce, particularly e-commerce in this case. I'm also very interested in what would be the recommendation of members of the panel about the proper small business exemption.

"I think the two large principles here for me are: I don't think Congress should be in the business of picking winners and losers, and inaction by Congress today results in a system that does pick winners and losers.

"I'm a very strong advocate of federalism, as you are, Mr. Chairman, and it is my judgment that having Congress continue to stand in the way of letting states decide if we can meet these other criteria, is worthy of our deliberations here, as we preserve and promote and seek to invigorate principles and the practice of federalism across this country.

"Let me ask this question, though. I'll direct this to Senator Kenley in the time that's remaining. We just heard Mr. Coble speak about a Blinds.com radio ad, the tagline of which, I'll just paraphrase him, I don't accuse the company of any particular distortion, but we've all heard ads like this, saying, 'In most states, there's no sales tax on internet sales.'

"Let me ask you, Senator Kenley, in a point of fact, is it that there is no sales tax on internet sales, or is it simply that states do not have the authority to collect taxes that are owed?

"Because this to me is a very - in our very first conversation about this, Senator Kenley, I'm somebody who believes, if you owe taxes, pay taxes. Maybe you can address that.

"What is the situation in America today, first in Indiana and all over the country? Is there no sales tax on internet sales, or is there in fact a sales tax, it's just simply Indiana and other states do not have the ability or capacity to collect it under the law?"

*State Senator Kenley:* "Thank you for the question, Congressman Pence. First off, I would say that this is not a tax on the internet. This is a tax on the consumer who is going to receive the government services that are provided in whatever state that is.

"As to your question about whether or not there is a tax or whether the tax is collected, we have noticeably been unable to collect the tax, other than by having the retailer remit. And so that's why we've gone to these great lengths to make it cost-effective or cost-free, particularly for small retailers, to be able to have a collection and remission process.

"If we didn't do this, I'm afraid we'd end up like Greece and nobody would pay their taxes. And we don't want to go there.

"So it's just been a difficult proposition to work it out. I think once you start down other paths of trying to find ways to collect that use tax, which is already due and owed, then you get into things that you're trying to get information about consumers. Are you participating in invasion of privacy? Are we using the heavy hand of government and the tax collector to beat on people unduly? And the sales tax system, which historically has been, as Mr. Marshall states, that the retailer collects and remits the tax, that's the historical precedent, and we can make that work in this system, due to the advances in technology, even since the Internet age of commerce started."

Rep. Pence: "But the tax under Indiana law, and I'll only ask you, the tax is owed? The tax is owed by the consumer?"

State Senator Kenley: "It's owed in all 45 states, they all have the same situation in that regard."

Rep. Pence: "Thank you. Thank you Chairman"