

**Testimony before the Nebraska Legislature
Revenue Committee
Regarding Taxing Tobacco and Vapor Products
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March 3, 2021**

Chairperson Linehan and Members of the Committee,

Thank you for your time today to discuss the issue of increasing the state excise tax on tobacco and vapor products. My name is Lindsey Stroud and I am a Policy Analyst with the Taxpayers Protection Alliance (TPA). TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy.

As the nation continues to deal with the economic impact of COVID-19, many lawmakers are considering increasing excise taxes on tobacco and vapor products. Although, excise tax increases on such products do result in an immediate surge in revenue, sin taxes are unreliable and revenues decrease over time. Further, lawmakers should refrain from increasing taxes on tobacco harm reduction products – including electronic cigarettes and vapor products – as such products are significantly less harmful than combustible cigarettes and have helped millions of American adults quit smoking.

Tobacco and Vapor Product Use Among Nebraska Youth

The most recent data on youth tobacco and vapor product use in Nebraska comes from the 2019 Youth Risk Behavior Survey.¹ In 2019, 49.2 percent of Nebraska high school students reported ever trying e-cigarettes, 17.1 percent reported past-month use, and 5.1 percent reported using vapor products daily. This is lower than national rates. Indeed, in 2019, among US high school students, 50.1 percent reported ever-use and 32.7 percent reported using e-cigarettes in the past month.

It is worthy to note that youth combustible cigarette use is at an all-time low. In 2019, 22.8 percent of Nebraska high school students reported ever trying cigarettes, a 68.5 percent decrease from 1991 when 72.4 percent of high school students had tried cigarettes. Further, past month use of combustibles has decreased 85.6 percent from 29.2 percent in 1991 to 4.2 percent in 2019. Daily cigarette use has decreased 92 percent, from 11.3 percent of high school students that reported daily cigarette use in 1991 to 0.9 percent in 2019.

Tobacco Economics 101: Nebraska

In 2019, 14.7 percent of adults in Nebraska smoked tobacco cigarettes, amounting to 214,375 smokers.² Further, 10.7 percent of Nebraska adults (156,042) were daily smokers in 2019.³

When figuring a pack-per-day, more than 1.1 billion cigarettes were smoked in 2019 by Nebraskan adults, or about 3.2 million per day.⁴

In 2019, Nebraska imposed a \$0.64 state excise tax on a pack of cigarettes.⁵ In 2019, the Cornhusker State collected \$36.5 million in cigarette excise taxes, when figuring for a pack-a-day habit. This amounts to \$233.6 per smoker per year.

In 2019, Nebraska spent \$2.6 million in state funding on tobacco control programs, including education, cessation, and prevention. This amounts to \$12.13 per-smoker, and \$1.34 per resident under age 18.

Low Income Nebraskans More Impacted by Tobacco and Vapor Taxes

An increase on tobacco and vapor products would unfairly burden lower income Nebraskans. Excise taxes are inherently regressive and tend to burden lower income persons. For example, a Cato Journal article found from 2010 to 2011, “smokers earning less than \$30,000 per year spent 14.2 percent of their household income on cigarettes, compared to 4.3 percent for smokers earning between \$30,000 and \$59,999 and 2 percent for smokers earning more than \$60,000.”⁶

In Nebraska, in 2019, among current adult smokers, 26.2 percent reported annual incomes of less than \$15,000 and 21.7 percent of current smokers reported earning between \$15,000 and \$24,999 per year.⁷ Almost half of all current adult smokers earned less than \$24,999 per year in 2019.

Nebraska increased the cigarette tax by \$0.30 2002, to \$0.64-per-pack, the increased taxes did lead to a 6.6 percent decrease in smoking rates among current smokers earning less than \$15,000 a year. This decline was short lived, as in 2005, 32.9 percent of current smokers reported earning less than \$15,000 per year.

Vapor Economics 101: Nebraska

Electronic cigarettes and vapor products are not only a harm reduction tool for hundreds of thousands of smokers in the Cornhusker State, they’re also an economic boon.

IN 2018, according to the Vapor Technology Association, the industry created 667 direct vaping-related jobs, including manufacturing, retail, and wholesale jobs in Nebraska, which generated \$19 million in wages alone.⁸ Moreover, the industry has created hundreds of secondary jobs in the Cornhusker State, bringing the total economic impact in 2018 to \$169,086,200. In the same year, Nebraska received more than \$7 million in state taxes attributable to the vaping industry. These figures do not include sales in convenience stores, which sell vapor products including disposables and prefilled cartridges. In 2016, sales of these products in Nebraska eclipsed \$3.3 million.⁹

Switching from combustible cigarettes to electronic cigarettes and vapor products will also reduce smoking-related health issues and save persons and states money. WalletHub estimated the “true cost of smoking” including “...cost of a cigarette pack per day, health care

expenditures, income losses and other costs.”¹⁰ WalletHub estimated the true cost for smoker in Nebraska to be \$39,586 per-smoker per-year.

In 1995, 21.9 percent¹¹ of Nebraska adults smoked combustible cigarettes, amounting to approximately 265,554 adults.¹² In 1995, among all adults, 19.4 percent (235,240 adults) reported smoking every day. In 2019, 14.7 percent of adults in the Cornhusker State were current smokers, amounting to 214,375 smokers. Further, 10.7 percent of Nebraska adults (156,042) were daily smokers in 2019.

Among Nebraska adults, current smoking decreased by 32.9 percent between 1995 and 2019. Moreover, there are an estimated 105,000 fewer smokers in 2019, compared to 1995, and 126,875 fewer daily smokers. Using the WalletHub figures, this reduction represents nearly \$4.2 billion in yearly savings.

Excise Taxes Are Unreliable Sources of Revenue

Existing excise taxes are unreliable revenue sources. Cigarette tax increases result in long-term revenue shortfalls. From 2001 to 2011, “revenue projections were met in only 29 of 101 cases where cigarette/tobacco taxes were increased,” according to the National Taxpayer Union Foundation.¹³ Moreover, a decline in cigarette consumption caused cigarette tax revenues “to drop by an average of about 1 percent across all states from 2008 to 2016,” according to a report by Pew Charitable Trusts.¹⁴ A 2020 report by the Tax Foundation noted that cigarette tax revenue has fallen in all states and considers cigarette tax revenue to be “so unstable.”¹⁵

Between 2000 and 2019, Nebraska collected an estimated \$1.153 billion in cigarette taxes.¹⁶ During the same 19-year period, the Cornhusker State increased the cigarette tax rate once, in 2002.

Although the increased tax rates have resulted in revenue increases, these increases are only seen in the short term as fewer Nebraska adults smoke over time. For example, in 2008, Nebraska collected an estimated \$70.4 million in cigarette tax revenues, a 61.5 percent increase from 2002’s \$43.6 million. Since 2008, cigarette tax revenues have declined on average, by 3.2 percent, annually. Further, in 2019, Nebraska collected only \$49.2 million in cigarette tax revenues, a 30.1 percent decrease from 2008’s revenue.

(See supplemental graph 1.1)

Wasted Tobacco Dollars

Deeply problematic with the proposed legislation is the fact that Nebraska spends very little on tobacco control, including education and prevention, and programs that can help smokers quit.

In the mid-1990s, Nebraska sued tobacco companies to reimburse Medicaid for the costs of treating smoking-related health issues. And, in 1998 with 45 other states, Nebraska reached “the

largest civil litigation settlement in U.S. history” through the Master Settlement Agreement (MSA).¹⁷

Under the MSA, states receive annual payments – in perpetuity – from the tobacco companies, while relinquishing future claims against the participating companies. Between 1998 and 2020, Nebraska collected \$847.2 million in MSA payments.¹⁸

Between 2000 and 2019, Nebraska allocated only \$68.7 million in state funds towards tobacco control programs.¹⁹ This is only six percent of what Nebraska collected in cigarette taxes in the same 19-year time span and only 8.8 percent of MSA payments. In total, in 19 years, Nebraska allocated approximately 3.6 percent of what the state received in tobacco taxes and settlement payments towards tobacco education and prevention efforts.

(See supplemental graph 1.2)

E-Cigarettes and Tobacco Harm Reduction

The evidence of harm associated with combustible cigarettes has been understood since the 1964 U.S. Surgeon General’s Report that smoking causes cancer. Research overwhelmingly shows the smoke created by the burning of tobacco, rather than the nicotine, produces the harmful chemicals found in combustible cigarettes.²⁰ There are an estimated 600 ingredients in each tobacco cigarette, and “when burned, [they] create more than 7,000 chemicals.”²¹ As a result of these chemicals, cigarette smoking is directly linked to cardiovascular and respiratory diseases, numerous types of cancer, and increases in other health risks among the smoking population.²²

For decades, policymakers and public health officials looking to reduce smoking rates have relied on strategies such as emphasizing the possibility of death related to tobacco use and implementing tobacco-related restrictions and taxes to motivate smokers to quit using cigarettes. However, there are much more effective ways to reduce tobacco use than relying on government mandates and “quit or die” appeals.

During the past 30 years, the tobacco harm reduction (THR) approach has successfully helped millions of smokers transition to less-harmful alternatives. THRs include effective nicotine delivery systems, such as smokeless tobacco, snus, electronic cigarettes (e-cigarettes), and vaping. E-cigarettes and vaping devices have emerged as especially powerful THR tools, helping nearly three million U.S. adults quit smoking from 2007 to 2015.

Indeed, an estimated 10.8 million American adults were using electronic cigarettes and vapor products in 2016.²³ Of the 10.8 million, only 15 percent, or 1.6 million adults, were never-smokers, indicating that e-cigarettes are overwhelmingly used by current and/or former smokers.

E-cigarettes were first introduced in the United States in 2007 by Ruyan, a Chinese manufacturer.²⁴ Soon after their introduction, Ruyan and other brands began to offer the first generation of e-cigarettes, called “cigalikes.” These devices provide users with an experience

that simulates smoking traditional tobacco cigarettes. Cig-alikes are typically composed of three parts: a cartridge that contains an e-liquid, with or without nicotine; an atomizer to heat the e-liquid to vapor; and a battery.

In later years, manufacturers added second-generation tank systems to e-cigarette products, followed by larger third-generation personal vaporizers, which vape users commonly call “mods.”²⁵ These devices can either be closed or open systems.

Closed systems, often referred to as “pod systems,” contain a disposable cartridge that is discarded after consumption. Open systems contain a tank that users can refill with e-liquid. Both closed and open systems utilize the same three primary parts included in cigalikes—a liquid, an atomizer with a heating element, and a battery— as well as other electronic parts. Unlike cigalikes, “mods” allow users to manage flavorings and the amount of vapor produced by controlling the temperature that heats the e-liquid.

Mods also permit consumers to control nicotine levels. Current nicotine levels in e-liquids range from zero to greater than 50 milligrams per milliliter (mL).²⁶ Many users have reported reducing their nicotine concentration levels after using vaping devices for a prolonged period, indicating nicotine is not the only reason people choose to vape.

Health Effects of Electronic Cigarettes and Vapor Products

Despite recent media reports, e-cigarettes are significantly less harmful than combustible cigarettes. Public health statements on the harms of e-cigarettes include:

Public Health England: In 2015, Public Health England, a leading health agency in the United Kingdom and similar to the FDA found “that using [e-cigarettes are] around 95% safer than smoking,” and that their use “could help reducing smoking related disease, death and health inequalities.”²⁷ In 2018, the agency reiterated their findings, finding vaping to be “at least 95% less harmful than smoking.”²⁸

As recent as February 2021, PHE provided the latest update to their ongoing report on the effects of vapor products in adults in the UK. The authors found that in the UK, e-cigarettes were the “most popular aid used by people to quit smoking [and] ... vaping is positively associated with quitting smoking successfully.”²⁹

The Royal College of Physicians: In 2016, the Royal College of Physicians found the use of e-cigarettes and vaping devices “unlikely to exceed 5% of the risk of harm from smoking tobacco.”³⁰ The Royal College of Physicians (RCP) is another United Kingdom-based public health organization, and the same public group the United States relied on for its 1964 Surgeon General’s report on smoking and health.

The National Academies of Sciences, Engineering, and Medicine: In January 2018, the academy noted “using current generation e-cigarettes is less harmful than smoking.”³¹

A 2017 study in *BMJ*'s peer-reviewed journal *Tobacco Control* examined health outcomes using “a strategy of switching cigarette smokers to e-cigarette use ... in the USA to accelerate tobacco control progress.”³² The authors concluded that replacing e-cigarettes “for tobacco cigarettes would result in an estimated 6.6 million fewer deaths and more than 86 million fewer life-years lost.”

An October 2020 review in the *Cochrane Library Database of Systematic Reviews* analyzed 50 completed studies which had been published up until January 2020 and represented over 12,4000 participants.

The authors found that there was “moderate-certainty evidence, limited by imprecision, that quit rates were higher in people randomized to nicotine [e-cigarettes] than in those randomized to nicotine replacement therapy.” The authors found that e-cigarette use translated “to an additional four successful quitters per 100.” The authors also found higher quit rates in participants that had used e-cigarettes containing nicotine, compared to the participants that had not used nicotine.

Notably, the authors found that for “every 100 people using nicotine e-cigarettes to stop smoking, 10 might successfully stop, compared with only six of 100 people using nicotine replacement therapy or nicotine-free e-cigarettes.”

The substitution of e-cigarettes for combustible cigarettes could also save the state in health care costs.

It is well known that Medicaid recipients smoke at rates of twice the average of privately insured persons, according to the Centers for Disease Control and Prevention (CDC). In 2013, “smoking-related diseases cost Medicaid programs an average of \$833 million per state.”³³

A 2015 policy analysis by State Budget Solutions examined electronic cigarettes' effect on Medicaid spending. The author estimated Medicaid savings could have amounted to \$48 billion in 2012 if e-cigarettes had been adopted in place of combustible tobacco cigarettes by all Medicaid recipients who currently consume these products.³⁴

A 2017 study by R Street Institute examined the financial impact to Medicaid costs that would occur should a large number of current Medicaid recipients switch from combustible cigarettes to e-cigarettes or vaping devices. The author used a sample size of “1% of smokers [within] demographic groups permanently” switching. In this analysis, the author estimates Medicaid savings “will be approximately \$2.8 billion per 1 percent of enrollees,” over the next 25 years.³⁵

Taxes on E-Cigarettes Unlikely to Deter Youth Use

Many lawmakers have attempted to thwart youth use of electronic cigarettes and vapor products by apply sin taxes to such products. Although addressing youth use is laudable, many youths in North Dakota are *not regularly using* e-cigarettes. Further, data from youth surveys indicate that excise taxes don't reduce youth use of vapor products.

In 2019, 33.1 percent of North Dakota high school students reported using a vapor product on at least one occasion in the 30 days prior and only 12.1 percent reported frequent use – or using 20 or more days.³⁶ According to national data, between 2019 and 2020, youth use of e-cigarettes decreased by 33.3 percent.³⁷

Further, there is no data to indicate that youth use of vapor products decreased after implementing taxes on e-cigarettes and indeed, youth vaping has actually increased after other states implemented vapor taxes. Tobacco Harm Reduction 101 examined the effects of vapor taxes in six states. From 2017 to 2019, current e-cigarette use among high school students increased in five states – even with excise taxes imposed on such products.

Kansas Vapor Tax: \$0.05 per milliliter

Kansas' tax on e-cigarettes and vapor products went into effect July 1, 2017.³⁸

According to Kansas's YRBSS, in 2017, 34.8 percent and 10.6 percent of high school students reported ever and current e-cigarette product use, respectively.³⁹

In 2019, ever-use increased by 28.4 percent, to 48.6 percent of Kansas high school students and current e-cigarette use increased by 51.8 percent, to 22 percent of high school students using an e-cigarette on at least one occasion in the 30 days prior.

Louisiana Vapor Tax: \$0.05 per milliliter

Louisiana's tax on e-cigarettes and vapor products went into effect August 1, 2015.⁴⁰

According to Louisiana's YRBSS, in 2017, 45.1 percent and 12.2 percent of high school students reported ever and current e-cigarette product use, respectively.⁴¹

In 2019, ever-use increased by 13.3 percent, to 52 percent of Louisiana high school students and current e-cigarette use increased by 46.7 percent, to 22.9 percent of high school students using an e-cigarette at least one occasion in the 30 days prior.

North Carolina Vapor Tax: \$0.05 per milliliter

North Carolina's tax on e-cigarettes and vapor products went into effect July 1, 2015.⁴²

According to North Carolina's YRBSS, in 2015, 49.4 percent and 29.6 percent of high school students reported ever and current e-cigarette product use, respectively. In 2017, ever-use decreased by 12 percent, to 44.1 percent of North Carolina high school students and current e-cigarette use decreased by 33.9 percent, to 22.1 percent of high school students using an e-cigarette in the last 30 days.⁴³

In 2019, 52.4 percent of high school students reporting having ever used an e-cigarette, this is a 15.8 percent increase from 2017, and a 5.7 percent increase from 2015 rates. Regarding current e-cigarette use, in 2019, 35.5 percent of North Carolina high school students reported using an e-cigarette on at least one occasion in the 30 days prior, this is a 37.7 percent increase from 2017 rates, and a 16.6 percent increase from 2015 rates.

Pennsylvania Vapor Tax: 40 percent of purchase price

Pennsylvania's tax on e-cigarettes and vapor products went into effect October 1, 2016.⁴⁴

According to Pennsylvania's YRBSS, in 2015 40.8 percent and 23.1 percent of high school students reported ever and current e-cigarette product use, respectively. In 2017, ever-use increased by 2.4 percent, to 41.8 percent of Pennsylvania high school students, and current e-cigarette use decreased by 104 percent, to 11.3 percent of high school students using an e-cigarette in the last 30 days.⁴⁵

In 2019, 52.6 percent of high school students reporting having ever used an e-cigarette, this is a 20.5 percent increase from 2017, and a 22.4 percent increase from 2015 rates. Regarding current e-cigarette use, in 2019, 24.4 percent of Pennsylvania high school students reported using an e-cigarette on at least one occasion in the 30 days prior, this is a 53.7 percent increase from 2017 rates, and a 5.3 percent increase from 2015 rates.

West Virginia Vapor Tax: \$0.075 per milliliter

West Virginia's tax on e-cigarettes and vapor products went into effect July 1, 2016.⁴⁶

According to West Virginia's YRBSS, in 2015, 49.1 percent and 31.2 percent of high school students reported ever and current e-cigarette product use, respectively. In 2017, ever-use decreased by 10.6 percent, to 44.4 percent of West Virginia high school students, and current e-cigarette use decreased by 118.2 percent, to 14.3 percent of high school students using an e-cigarette in the last 30 days.⁴⁷

In 2019, 62.4 percent of high school students reporting having ever used an e-cigarette, this is a 28.8 percent increase from 2017, and a 21.3 percent increase from 2015 rates. Regarding current e-cigarette use, in 2019, 35.7 percent of West Virginia's high school students reported using an e-cigarette on at least one occasion in the 30 days prior, this is a 59.9 percent increase from 2017 rates, and a 12.6 percent increase from 2015 rates.

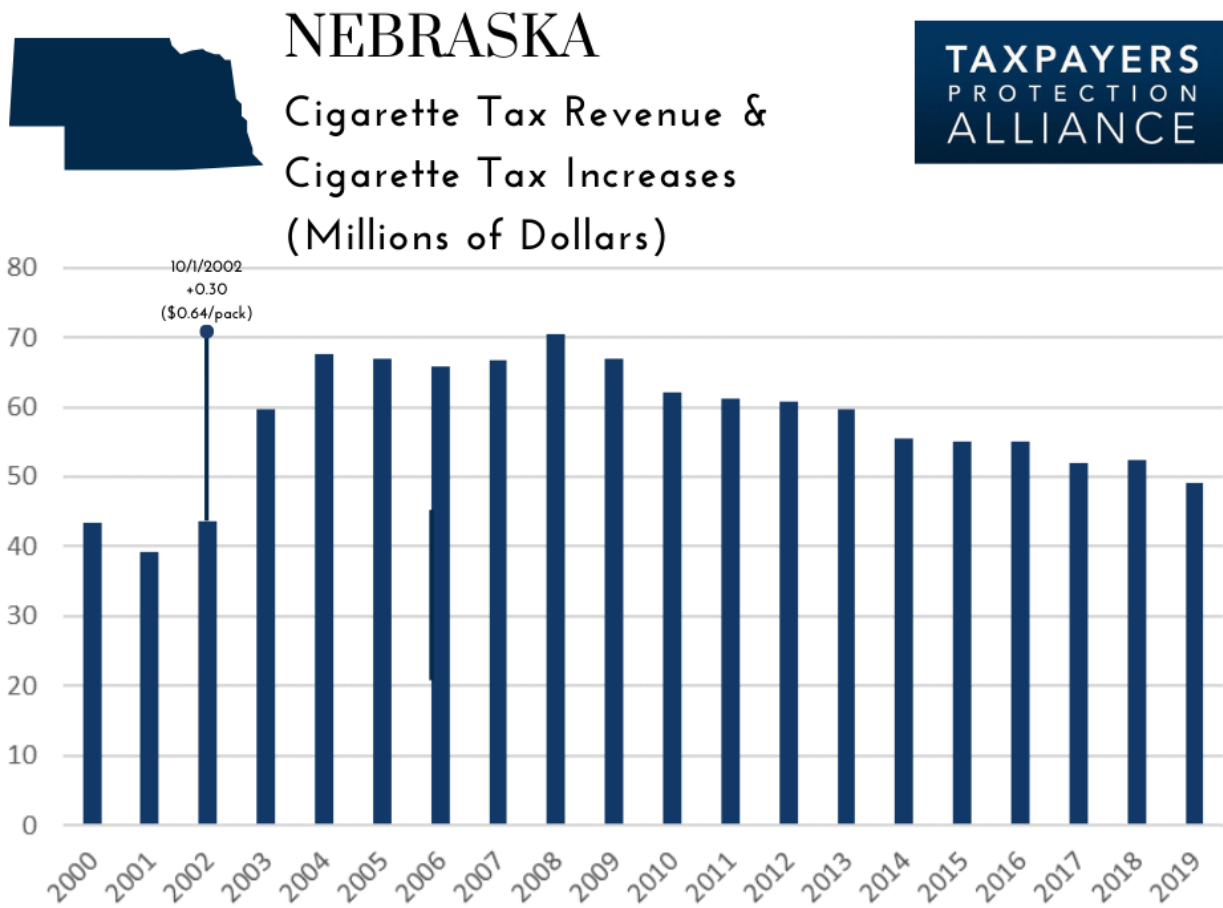
Conclusion and Policy Implications

- Excise taxes on tobacco and vapor products are regressive and unfairly burden low-income persons. In 2019, 47.9 percent of adult smokers in Nebraska reported earning incomes of \$24,999 or less. Indeed, over one-quarter (26.2 percent) of adult smokers in Nebraska earned less than \$15,000 a year in 2019.
- Cigarette taxes are unreliable sources of revenue. Since 2008, cigarette tax revenue has decreased, on average, 3.2 percent annually.
- Nebraska spends very little of existing tobacco and vapor products taxes on programs to prevent youth use and help adults quit. Between 2000 and 2019, the Cornhusker State allocated \$68.7 million toward tobacco control programs, which is only 3.6 percent of the tax revenues and tobacco tax settlement payments in the same period.

- Vapor products have helped millions of American adults quit smoking and are significantly less harmful than combustible cigarettes, as noted by numerous public health groups. As such, lawmakers should refrain from imposing excise taxes on these tobacco harm reduction products.

Supplemental Graphs:

1.1

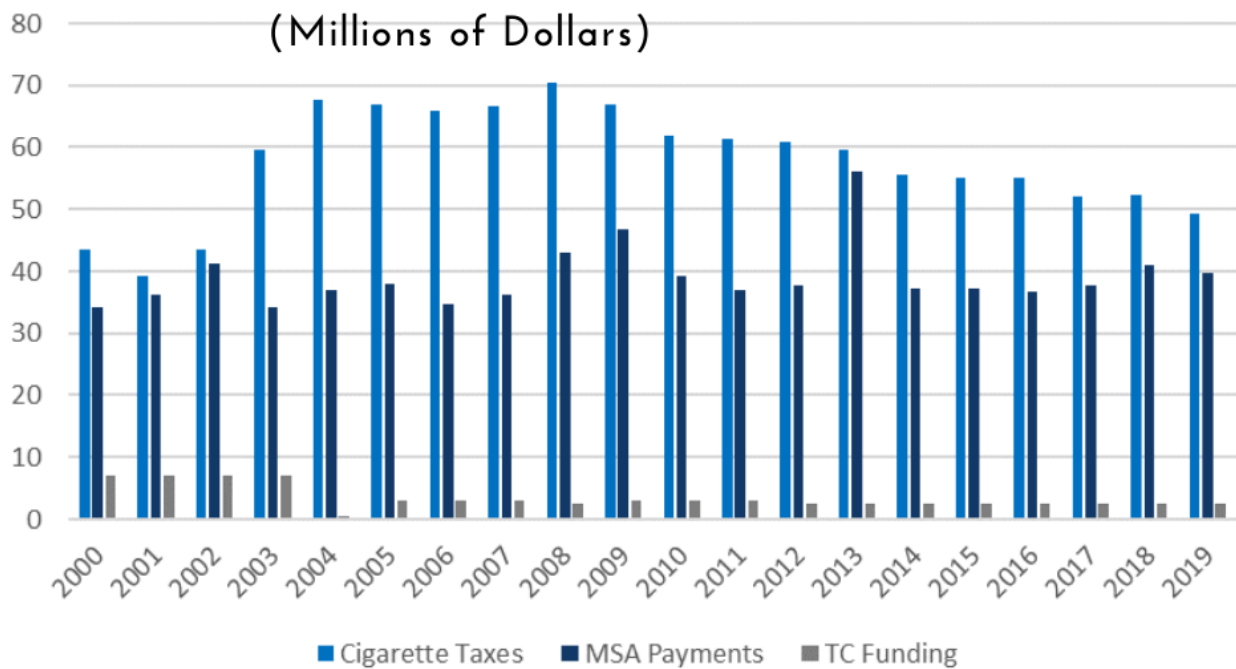


Sources: Campaign for Tobacco-Free Kids, Orzechowski and Walker
For more information, contact Lindsey Stroud at lindsey@protectingtaxpayers.org

NEBRASKA



Master Settlement Payments, Tobacco Taxes & Tobacco Control Funding (Millions of Dollars)



Sources: Campaign for Tobacco-Free Kids, Orzechowski and Walker
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