

January 10, 2019

HEALTH & HUMAN SERVICES COMMITTEE  
REPORT NO. 1

ALL MEMBERS PRESENT.

CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:

a. INTRO. 9-4 (2018)

**BURKE:** “Ensuring Healthcare for All New Yorkers through the New York Health Act”  
(Chair’s ruling)

b. LL INTRO. 10-1 (2018)

**BURKE:** “A LL Entitled "Restriction of Paraphernalia From Grocers””  
(Chair’s ruling)

2. INTRO. 18-1 (2018)

**BRUSO**

WHEREAS, in recent years, there has been an explosion in the growth of electronic cigarettes across the country, as “vape” shops and e-cigarette sellers have proliferated; and

WHEREAS, e-cigarette companies argue that their products are safer than traditional tobacco products, which feature tar and cause cancer, and many long-standing tobacco users and smokers have switched to vaping as a safer alternative to tobacco products; and

WHEREAS, David Abrams, a professor at N.Y.U.’s College of Global Public Health and former director of the Office of Behavioral and Social Sciences Research, at the National Institutes of Health believes that vaping is an important public-health innovation, and that the benefits for adult smokers will far outweigh the harm from youth vaping; and

WHEREAS, a 2016 study led by researchers at Roswell Park Comprehensive Cancer Center examining smokers who switched to e-cigarettes for two weeks reported that nicotine exposure remained the same, while exposure to specific carcinogens and toxicants is reduced, among smokers who switch from tobacco cigarettes to electronic cigarettes; and

WHEREAS, a recent study by a Georgetown oncology professor concluded that 6.6 million lives would be saved if 10% of American smokers switched to e-cigarettes every year in the next ten years; and

WHEREAS, e-cigarettes heat liquid, known as e-juice, which contains flavorings, propylene glycol, glycerin and nicotine -- though many users are unaware of this final addictive ingredient – and turns the ingredients into vapor, which a user inhales and then exhales in a puffy cloud; and

WHEREAS, some schools and public health advocates contend that the vaping industry is the latest incarnation of Big Tobacco, developing and promoting its products to create new markets for a younger generation; and

WHEREAS, e-cigarette companies have asserted the so-called “healthier” side of vaping and this has led to a mindset in the minds of teenagers and young people that while cigarettes are “not okay”, it is “cool” or safe to vape; and

WHEREAS, among the devices being used by teens are “Juuls”, a type of vaporizer designed so discreetly that most people don’t even recognize them as an e-cigarette; and

WHEREAS, not only are Juul vaporizers small enough to fit in the palm of your hand, they can be charged when plugged into a laptop’s USB slot, making it easy for students to pass them off as flash drives at schools; and

WHEREAS, an August 2018 USA Today article noted that teachers across the country have noticed students routinely disappearing for 15-20 minutes at a time, ostensibly to use the bathroom, but in reality, they were using Juul devices and vaping; and

WHEREAS, along with being small and easy to charge, Juul pods come in flavors like crème brulee, ‘cool cucumber’, mint, and mango, which has led these e-cigarettes to become very popular with kids, with Juuls becoming the best-selling e-cigarette on the market, gaining up to 60% of the market in early 2018 according to Wells Fargo; and

WHEREAS, an analyst at Wells Fargo projects that this year the American vaporizer market will grow to \$5.5 billion dollars, an increase of more than 25% from 2017; and

WHEREAS, the market’s “growth appears to be due to growth with the 18 to 24 year old age group,” according to a Wells Fargo report; and

WHEREAS, while Juuls are supposed to be only available for purchase on its website by persons aged 21 or older, many teenagers are buying Juuls online by lying about their age and using a prepaid debit card and young people are exchanging, sharing or selling these devices and pods to others; and

WHEREAS, public health experts and some lawmakers believe Juul and its rivals are really marketing the products to persons younger than 21; and

WHEREAS, one Juul pod contains the same amount of nicotine as a pack of cigarettes, according to the company's website; and

WHEREAS, a new study issued by researchers at Roswell Park Comprehensive Cancer Center found that nicotine levels in the pods nearly match those of traditional combustible cigarettes while the users, often teenagers, do not understand or know that; and

WHEREAS, the Roswell Park researchers studied the habits of more than 500 e-cigarette users aged 12 to 21 at three outpatient clinics on Long Island, and found that all reported vaping with the newer pod devices that Juul and others have used to capture the e-cigarette market; and

WHEREAS, health advocates and experts are deeply concerned that these "fun-flavored" pods have gotten teens across the country addicted to nicotine and while the company says it markets the product to adults, its use of the USB-drive and flavors appeals to teens who openly admit to using the product, including at school; and

WHEREAS, in a survey that the anti-tobacco advocacy group Truth Initiative conducted of persons aged 15-24, 25% recognized a Juul e-cigarette when shown a photo, and 63% of users did not know the product contained nicotine; and

WHEREAS, while tobacco use is banned in public places and inside buildings across most of the US, students are using e-cigarettes and Juuls in schools, in bathrooms, and in dorm rooms; and

WHEREAS, Juuls also produce less smoke than many similar devices, making them even more discreet and easy to use (and hard to detect), and the problem has grown widespread enough that school districts in states including Kentucky, Wisconsin, California and Massachusetts have voiced their concerns and, in some cases, begun amending school policy to address the issue; and

WHEREAS, educators and public health officials are concerned that young people may mistake the fruity flavors of Juul pods for a safe product, when in fact the pods contain nicotine and can also be reloaded with substances such as THC oil, an extract of marijuana, or other unregulated substances which may be dangerous; and

WHEREAS, some educators have warned that vapes might contain "cocaine liquid" or other liquids, as it is possible, although difficult, to crack open a Juul pod and fill it with your own liquid; and

WHEREAS, high schools have been holding informational sessions about vaping, sending letters home to parents, investing in vape detectors, removing doors in stalls in bathrooms (due to students vaping in the stalls) and even banning flash drives to try and address the growth in such smoking; and

WHEREAS, the rapid spread of vaping was highlighted by a 2016 report from the US Surgeon General that cited a 900% increase in e-cigarette use by high school students from 2011 to 2015, and the 2016 National Youth Tobacco Survey noted that 1.7 million high school students said they had used e-cigarettes in the previous 30 days, demonstrating a troubling trend; and

WHEREAS, in September 2018 the FDA Commissioner stated that more than 2 million middle and high school students were regular users of e-cigarettes in 2017; and

WHEREAS, according to Monitoring the Future, an annual survey done for the National Institute on Drug Abuse, part of the National Institutes of Health, in 2017, 19% of 12th graders, 16% of 10<sup>th</sup> graders and 8% of 8th graders reported vaping nicotine in the past year; and

WHEREAS, the New York State Department of Health has reported that the number of students using pod electronic nicotine delivery systems doubled from 10.5% in 2014 to 20.6% in just two years; and

WHEREAS, according to a 2017 study by the Centers for Disease Control, about 50% more high school and middle school students vape than smoke; and

WHEREAS, increasingly, young persons have used the e-cigarette technology that was supposed to help adults stop smoking and invented a new habit of vaping; and

WHEREAS, a 2018 study published in the journal Pediatrics found that teenagers who smoked e-cigarettes had higher levels of cancer-causing chemicals in their bodies than non-smokers, and Michael Blaiss, M.D., the executive medical director of the American College of Allergy, Asthma and Immunology, has said that "This is not a safe alternative" adding, "The problem is that nicotine itself can have major effects;" and

WHEREAS, while e-cigarettes contain fewer toxic substances than traditional cigarettes, and public health experts say that they do not yet know what the long term health effects of exposure to e-cigarettes may be, they are troubled, and the US Centers for Disease Control warns that vaping may still expose people to cancer-causing chemicals, as the heating of e-liquid flavors in e-cigarettes and pods generates chemicals that have not been studied in depth; and

WHEREAS, as vaping products contain nicotine, health specialists say vaping can cause side effects including dizziness, headaches, nausea, racing heart, anxiety and difficulty with sleep; and

WHEREAS, nicotine is extremely addictive and it can act as a gateway drug, and health experts say that teenagers who begin with e-cigarettes are more likely to transition to combustible cigarettes, putting them at higher risk for health issues; and

WHEREAS, Ilona Jaspers, a professor in the Departments of Pediatrics and Microbiology and Immunology at the University of North Carolina at Chapel Hill, says there is emerging evidence of potential adverse health effects associated with e-cigarette use and her research has shown that certain e-cigarette flavor chemicals significantly reduce the function of immune cells; and

WHEREAS, Jonathan Winickoff, a pediatrician at Massachusetts General Hospital, professor at Harvard Medical School and the former chair of the American Academy of Pediatrics Tobacco Consortium, which is trying to end youth smoking, recently said “Juul is already a massive public-health disaster—and without dramatic action it’s going to get much, much, much worse”; and

WHEREAS, Dr. Winickoff stated “If you were to design your ideal nicotine-delivery device to addict large numbers of United States kids, you’d invent Juul. . . It’s absolutely unconscionable. The earlier these companies introduce the product to the developing brain, the better the chance they have a lifelong user”; and

WHEREAS, in March 2018, the American Heart Association, the American Lung Association, and several other groups sued the Food and Drug Administration (FDA), arguing that an agency delay in imposing certain rules on e-cigarette companies to submit a premarket tobacco application in order to keep their products on the market needlessly exposed consumers to “lethal and addictive” substances; and

WHEREAS, Maciej Goniewicz, a researcher in the Tobacco Research Laboratory at Roswell Park and the first author of the recent Roswell Park study has noted that recent electronic nicotine delivery systems research surveys of nearly 70,000 Americans of all ages already has shown that daily use of an e-cigarette doubles the odds of a heart attack; and

WHEREAS, the FDA did not regulate e-cigarettes as tobacco products until 2016, and previously, under the former presidential administration, it attempted to regulate them as “drug-delivery devices,” but that approach was struck down in federal court; and

WHEREAS, recognizing what it called “the troubling reality” that electronic cigarettes have become “wildly popular with kids,” in late April 2018 the FDA announced a major crackdown on the vaping industry, particularly on the trendy Juul devices, aimed at curbing sales to young people; and

WHEREAS, as part of its actions, the FDA demanded that Juul Labs turn over company documents about the marketing and research behind its products, including reports on focus groups and

toxicology, to determine whether Juul is intentionally appealing to the youth market despite its statements to the contrary and despite knowing its addictive potential; and

WHEREAS, the FDA Commissioner stated in late April 2018 that the measures are the first of several steps the agency would be taking as part of a new Youth Tobacco Prevention Plan to get manufacturers to stop marketing e-cigarettes to young people; and

WHEREAS, the FDA has stated it is concerned and will examine whether Juul and other manufacturers are allowing bulk purchases of the products via their own websites, which could then allow a buyer to later sell pods and e-cigarettes to minors; and

WHEREAS, on September 12, 2018, the FDA Commissioner announced that the agency is considering restrictions, or tighter guidelines, on five major manufacturers and 1,300 retailers; and he said the agency fears these devices have fanned a growing “epidemic” of teen use, and FDA Commissioner Scott Gottlieb has given Juul and the other manufacturers 60 days to provide plans to curb youth sales before the agency decides how it will take action.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature expresses its concern over e-cigarette products, including Juuls, that have nicotine and which are increasingly being consumed by young persons in middle and high school without adequate knowledge of their risks and adverse health effects, and have the potential to create new public health problems in our society; and be it further

RESOLVED, that this Honorable Body expresses alarm about the potential for persons to also insert THC oil, cocaine, or other unregulated liquids or products into e-cigarettes and Juul pods and in so doing creating new public health evils in our country; and be it further

RESOLVED, that this Honorable Body calls on the US Food and Drug Administration to take further steps to regulate and enforce the manufacture, sale and use of e-cigarettes and Juul or related devices and to limit or prohibit their use by persons under age 21; and be it further

RESOLVED, that certified copies of this resolution be transmitted to Dr. Scott Gottlieb, Commissioner of the Food and Drug Administration, the American Heart Association, the American Lung Association, the Campaign for Tobacco-Free Kids, American Academy of Pediatrics Tobacco Consortium, the American Medical Association, NYS Department of Health Commissioner Howard Zucker and Erie County Commissioner of Health Gale Burstein.  
(6-0)

3. COMM. 24E-12 (2018)

**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Mental Health is responsible for the delivery of a comprehensive range of mental and behavioral health services for the residents of Erie County; and

WHEREAS, the Erie County Department of Mental Health has been awarded \$330,000 annually for a 5-year period beginning 9/30/18 by SAMHSA in order to enhance and/or expand an existing Erie County Crisis Intervention Team (CIT) Model for pre-booking diversion of adults with co-occurring disorders (CODs) in partnership with police departments and treatment networks; and

WHEREAS, the Department of Mental Health thus requires legislative approval to accept the Federal funds and to establish a grant budget in Fund 281; and

WHEREAS, no County funds will be necessary for Erie County to accept this federal aid to serve these high-risk individuals residing in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to accept SAMHSA grant funds and to have the Department of Mental Health oversee the provision of related services by amending its contract with Suicide Prevention & Crisis Services and thus authorizes the Division of Budget and Management to establish a grant as follows:

Erie County Department of Mental Health  
Grant Fund 281, Fund Center 12410  
September 30, 2018 - September 29, 2023  
124SAMHSAEDEP1823

Revenue Increase	
Account 414000 – Federal Revenue	\$1,650,000
Appropriation	Increase
Account 517818 – Suicide Prevention OMH	\$1,650,000

and be it further

RESOLVED, that to the extent this subcontract may constitute a professional, technical or other consultant service, the County Administrative Code requirement in Section 19.08 for a Request for Proposal (RFP) is hereby waived, as this Honorable Body has previously approved of the County’s entering into contracts with the aforementioned providers on December 7, 2017; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to adjust items of appropriations and revenues which may be impacted by changes to the grantor award, provided there are no changes to county share amounts; and be it further

RESOLVED, that certified copies of this resolution be furnished to the Office of the County Executive, the Department of Mental Health, the Office of the Comptroller, and the Division of Budget and Management.  
(6-0)

**JOHN BRUSO**  
**CHAIR**