

## INTERIM STUDY PROPOSAL 2019-138

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3 REQUESTING THE SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND  
4 LABOR STUDY THE IMPACT OF VAPOR PRODUCTS, ALTERNATIVE NICOTINE  
5 PRODUCTS, AND E-LIQUID PRODUCTS ON THE CITIZENS OF ARKANSAS.  
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7 WHEREAS, the use of e-cigarettes or vapor products, alternative  
8 nicotine products, and e-liquid products, also known as vaping, has become an  
9 epidemic in the State of Arkansas, especially among the youth of Arkansas;  
10 and  
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12 WHEREAS, five and seven-tenths percent (5.7%) of adults in Arkansas  
13 reported using e-cigarettes in 2017; and  
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15 WHEREAS, thirteen and nine-tenths percent (13.9%) of high school  
16 students in Arkansas used electronic vapor products on at least one (1) day  
17 in the past thirty (30) days in 2017, which is higher than the national rate  
18 of thirteen two-tenths percent (13.2%); and  
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20 WHEREAS, more than three million six hundred thousand (3,600,000)  
21 middle and high school students had used e-cigarettes in the past thirty (30)  
22 days last year, according to the Centers for Disease Control and Prevention  
23 and the United States Food and Drug Administration; and  
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25 WHEREAS, about one million five hundred thousand (1,500,000) more  
26 American young people used e-cigarettes in 2018 than in 2017; and  
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28 WHEREAS, the Department of Health announced in December 2018 that e-  
29 cigarette use among students in Arkansas is expected to match a national rate  
30 of just over twenty percent (20%) or more than one (1) in five (5) teens; and  
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32 WHEREAS, under Arkansas Code § 5-27-227, minors are prohibited from  
33 using, possessing, or purchasing vapor products, alternative nicotine  
34 products, or e-liquid products; and  
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36 WHEREAS, under Arkansas Code § 26-57-203, "vapor product" means an

1 electronic oral device of any size or shape that contains a vapor of  
2 nicotine, e-liquid, or any another substance that when used or inhaled  
3 simulates smoking, regardless of whether a visible vapor is produced,  
4 including without limitation a device that:

5 (1) Is composed of a heating element, battery, electronic  
6 circuit, chemical process, mechanical device, or a combination of heating  
7 element, battery, electronic circuit, chemical process, or mechanical device;

8 (2) Works in combination with a cartridge, other container, or  
9 liquid delivery device containing nicotine, e-liquid, or any other substance  
10 and manufactured for use with vapor products;

11 (3) Is manufactured, distributed, marketed, or sold as any type  
12 or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any other  
13 product name or descriptor; and

14 (4) Does not include a product regulated as a drug or device by  
15 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as it  
16 existed on January 1, 2015; and

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18 WHEREAS, under Arkansas Code § 26-57-203, "alternative nicotine  
19 product" means a product that consists of or contains nicotine that can be  
20 ingested into the body by chewing, smoking, absorbing, dissolving, inhaling,  
21 snorting, sniffing, or by any other means but does not include a:

22 (1) Tobacco product;

23 (2) Vapor product;

24 (3) Product that is a drug under 21 U.S.C. § 321(g)(1);

25 (4) Product that is a device under 21 U.S.C. § 321(h); or

26 (5) Product that constitutes a combination drug, device, or  
27 biological product as described in 21 U.S.C. § 353(g); and

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29 WHEREAS, under Arkansas Code § 26-57-203, "e-liquid product" means a  
30 liquid product, which may or may not contain nicotine, that is inhaled when  
31 using a vapor product, and that may or may not include without limitation  
32 propylene glycol, vegetable glycerin, nicotine from any source, and  
33 flavorings; and

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35 WHEREAS, Acts 2019, No. 580, modifies the Arkansas Code to define a  
36 minor as a person who is under twenty-one (21) years of age but excludes from

1 that definition military personnel or a person who attains nineteen (19)  
2 years of age as of December 31, 2019; and

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4 WHEREAS, Acts 2019, No. 580, modifies the Arkansas Code to authorize a  
5 certified law enforcement officer or school official to confiscate and  
6 destroy vapor products, alternative nicotine products, or e-liquid products  
7 if found in the possession of a minor; and

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9 WHEREAS, the Arkansas Attorney General Leslie Rutledge recently stated:  
10 "While I am generally not one to push for more regulations, we absolutely  
11 must wrap our hands around the vaping epidemic. It is a true epidemic in  
12 Arkansas and across the country. Every single superintendent, school official  
13 that I have spoken with has said we have a vaping problem at our schools";  
14 and

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16 WHEREAS, United States health officials are presently investigating  
17 possible cases of severe lung disease associated with vaping across the  
18 states; and

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20 WHEREAS, the first death related to the outbreak of severe lung disease  
21 in individuals who use e-cigarettes or vaping devices was reported in  
22 Illinois in August 2019; and

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24 WHEREAS, vapor products, alternative nicotine products, and e-liquids  
25 are subject to the state sales and use tax; and

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27 WHEREAS, the General Assembly should study the impact of vapor  
28 products, alternative nicotine products, and e-liquids on the State of  
29 Arkansas to determine what strategies would combat the epidemic and what  
30 strategies would benefit the citizens of Arkansas,

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32 NOW THEREFORE,  
33 BE IT PROPOSED BY THE SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR  
34 OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

1            THAT the Senate Committee on Public Health, Welfare, and Labor study  
2 the impact of vapor products, alternative nicotine products, and e-liquid  
3 products on the State of Arkansas to determine what strategies would combat  
4 the epidemic and what strategies would benefit the citizens of Arkansas,  
5 including without limitation:

6            (1) The consequences and effects on the health of the citizens  
7 of Arkansas;

8            (2) The costs associated with the use of e-cigarettes or vapor  
9 products, alternative nicotine products, and e-liquid products, also known as  
10 "vaping"; and

11           (3) A comparison of the costs associated with the use of e-  
12 cigarettes or vapor products, alternative nicotine products, and e-liquid  
13 products, also known as "vaping", versus the revenues received as a result of  
14 the sale of vapor products, alternative nicotine products, and e-liquid  
15 products.

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17           BE IT FURTHER PROPOSED THAT, upon request, the Department of Health and  
18 Arkansas Tobacco Control shall provide assistance to perform this study.

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21 Respectfully submitted,

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25 Senator Missy Irvin  
26 District 18

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30 Senator Jim Hendren  
31 District 2

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34 Prepared by: JMB/JMB  
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