

1
2 COMMONWEALTH OF PENNSYLVANIA
3 HOUSE OF REPRESENTATIVES
4 HOUSE APPROPRIATIONS COMMITTEE

5
6 THE MAIN CAPITOL
7 ROOM 140
8 HARRISBURG, PENNSYLVANIA

9
10 WEDNESDAY, FEBRUARY 29, 2012
11 2:00 P.M.

12
13 PUBLIC HEARING
14 DEPARTMENT OF HEALTH
15 AND
16 DEPARTMENT OF DRUG AND ALCOHOL

17 BEFORE:

18 HONORABLE WILLIAM F. ADOLPH, JR., CHAIRMAN
19 HONORABLE JOSEPH F. MARKOSEK
20 HONORABLE JOHN BEAR
21 HONORABLE MARTIN T. CAUSER
22 HONORABLE GARY DAY
23 HONORABLE GORDON DENLINGER
24 HONORABLE BRIAN L. ELLIS
25 HONORABLE MAUREE GINGRICH
HONORABLE GLEN R. GRELL
HONORABLE DAVID R. MILLARD
HONORABLE T. MARK MUSTIO
HONORABLE BERNIE O'NEILL
HONORABLE MIKE PEIFER
HONORABLE SCOTT A. PETRI
HONORABLE TINA PICKETT

1 CONTINUED:

2 HONORABLE JEFFREY P. PYLE
3 HONORABLE THOMAS QUIGLEY
4 HONORABLE MARIO M. SCAVELLO
5 HONORABLE CURTIS G. SONNEY
6 HONORABLE MATTHEW D. BRADFORD
7 HONORABLE MICHELLE F. BROWNLEE
8 HONORABLE H. SCOTT CONKLIN
9 HONORABLE PAUL COSTA
10 HONORABLE DEBERAH KULA
11 HONORABLE TIM MAHONEY
12 HONORABLE MICHAEL H. O'BRIEN
13 HONORABLE CHERELLE L. PARKER
14 HONORABLE JOHN P. SABATINA, JR.
15 HONORABLE STEVE SAMUELSON
16 HONORABLE MATTHEW SMITH
17 HONORABLE GREG VITALI
18 HONORABLE RONALD G. WATERS

19 ALSO PRESENT:

20 HONORABLE KERRY A. BENNINGHOFF
21 HONORABLE MATTHEW E. BAKER
22 HONORABLE MARK M. GILLEN
23 HONORABLE PAUL I. CLYMER
24 HONORABLE MATT GABLER
25 HONORABLE DICK L. HESS
HONORABLE GENE DIGIROLAMO
HONORABLE MARK K. KELLER
HONORABLE JERRY STERN
HONORABLE ELI EVANKOVICH
HONORABLE DOYLE HEFFLEY
HONORABLE RICHARD A. GEIST
HONORABLE KATHARINE WATSON
HONORABLE WILLIAM C. KORTZ, II
HONORABLE JOHN MYERS
HONORABLE PAMELA A. DeLISSIO
HONORABLE BABETTE JOSEPHS
HONORABLE JAKE WHEATLEY
HONORABLE MARK LONGIETTI
EDWARD NOLAN, MAJORITY EXECUTIVE DIRECTOR
MIRIAM FOX, MINORITY EXECUTIVE DIRECTOR
BRENDA S. HAMILTON, RPR
REPORTER - NOTARY PUBLIC

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11
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15
16
17
18
19
20
21
22
23
24
25

INDEX

NAME	PAGE
ELI AVILA, SECRETARY DEPARTMENT OF HEALTH	4
GARY TENNIS, ACTING SECRETARY DEPARTMENT OF DRUG AND ALCOHOL	7
MICHAEL WOLF, EXECUTIVE DEPUTY DEPARTMENT OF HEALTH	61
NEIL MALADY, LEGISLATIVE DEPUTY DEPARTMENT OF HEALTH	87

P R O C E E D I N G S

1
2 CHAIRMAN ADOLPH: Good afternoon,
3 everyone. I'd like to call to order the House
4 Appropriation budget hearing.

5 Testifying before us today is Secretary
6 Eli Avila, Secretary of the Department of Health, and
7 Acting Secretary of the newly formed Department of
8 Drug and Alcohol, Acting Secretary Gary Tennis.

9 Good afternoon, gentlemen.

10 ACTING SECRETARY TENNIS: Good
11 afternoon.

12 SECRETARY AVILA: Good afternoon.

13 CHAIRMAN ADOLPH: I don't know. You can
14 see how new the acting secretary of the department
15 is. He does not even have a name tag yet. So just
16 to -- just to start it off with a little levity.

17 Starting with the senior Secretary of
18 Health, would you like to introduce your staff for
19 us, please?

20 SECRETARY AVILA: Yes. Thank you for
21 having us here today for the Department of Health.
22 To my right is Neil Malady who is no stranger here on
23 the hill. To the left is the well-abled Michael
24 Wolf, who is my Executive Deputy Secretary, and glad
25 to have him in that role.

1 CHAIRMAN ADOLPH: Okay. Thank you.
2 Secretary Avila, if you would start with some brief
3 comments, and we'll then ask that -- Secretary Tennis
4 for a brief comment, you know, and then we'll get
5 right into the budget questions. Thank you.

6 SECRETARY AVILA: Good afternoon. I
7 want to thank Chairman Adolph, Chairman Markosek, and
8 the committee for the invitation to speak to you
9 today regarding the Department of Health's portion of
10 the Governor's proposed 2012/2013 budget.

11 I'd like to share with you some
12 highlights of our accomplishments since we held
13 budget discussions last year.

14 First of all, vital records. You asked
15 for improvements to our vital records processing of
16 birth and death certificates. While we have -- while
17 we have room for improvement, I am proud to report
18 that we have cut in half the processing times.

19 With the signing of Act 62 of 2011,
20 we've allowed for a certificate of birth resulting in
21 stillbirth. On February 13th, 2012 we began
22 providing access to more records for the genealogical
23 research as you -- genealogical research as result of
24 Act 110 of 2011.

25 And we recently moved our Harrisburg

1 public office to provide more access to parking,
2 complimentary services offered through the Social
3 Security Office, and I'm also told the post office is
4 nearby.

5 We're continuing to look at ways to
6 maximize the use of technology and create a better
7 customer service experience for Pennsylvanians who
8 need access to vital records.

9 As for HIV testing, I would like to
10 thank the PA General Assembly for pass -- for the
11 passing of Act 59 of 2011. As a result, we
12 anticipate more HIV screening will be conducted which
13 we hope will assist in detection and slow the spread
14 of the disease.

15 As for quality assurance, for the first
16 time since the 1980s, we're working with stakeholders
17 to do a thorough review of our hospital regulations
18 with an eye towards making improvements and
19 accounting for technological advancements that will
20 continue to assist us in protecting Pennsylvanians'
21 health and safety.

22 I hope you will agree this is a strong
23 budget, focused on putting Pennsylvania back on the
24 path to prosperity. This budget supports the
25 programs to help our neediest citizens, provides for

1 the health and safety of all citizens while making
2 the tough choices to make government smarter, more
3 efficient, and more effective.

4 Thank you very much.

5 CHAIRMAN ADOLPH: Thank you.

6 Mr. Secretary.

7 ACTING SECRETARY TENNIS: Yes. Chairmen
8 Adolph, Markosek and DiGirolamo, thank you very, very
9 much for the opportunity to be here. It is a great
10 honor for me to have been appointed by Governor
11 Corbett as the -- currently the acting secretary,
12 hopefully the secretary of the new Department of Drug
13 and Alcohol Programs.

14 Many of you in the legislature are
15 familiar with me after 20 years as the legislative
16 liaison for the Pennsylvania District Attorneys
17 Association, and I've spent my -- basically my entire
18 career looking for the best ways to drive down crime
19 and concluded that the most cost effective way to
20 drive down crime and criminal justice costs is
21 through appropriate drug and alcohol treatment.

22 I am so, so impassioned about this
23 subject because it affects one out of four and causes
24 suffering in one out of four families throughout the
25 Commonwealth of Pennsylvania and throughout the

1 United States.

2 So it's -- it's my privilege to be
3 here. I -- I hope you'll grant me some forbearance
4 today in the budget hearings today. We basically
5 just walked in the door and have begun the process of
6 looking at a lot of issues, but we'll do the best we
7 can. Thanks.

8 CHAIRMAN ADOLPH: Thank you. It's
9 certainly my pleasure to have with us today both the
10 Republican and Democratic Chair of the Health
11 Committee, Representative Matt Baker, Representative
12 Myers. Thank you for being here.

13 And it's also a -- a special treat to
14 have the Chairman of the Human Services Committee,
15 Representative Gene DiGirolamo of Bucks County.

16 Without further ado, we're going to open
17 this up. If you don't mind, Secretary Tennis, I have
18 a question for you.

19 ACTING SECRETARY TENNIS: Yes, sir.

20 CHAIRMAN ADOLPH: And some of this may
21 be easy stuff. But I -- I want to ask you some
22 questions about the methadone treatments that we have
23 here in Pennsylvania.

24 And I -- I'm -- I'm asking these
25 questions on behalf of some concerned citizens. And

1 my first question is, can you explain the system to
2 me and the committee regarding how this works, these
3 methadone clinics throughout the Commonwealth? How
4 many Pennsylvania residents are receiving the
5 treatment? What is the cost and what is the goal of
6 this methadone treatment?

7 Just to hit you with it.

8 ACTING SECRETARY TENNIS: Well --

9 CHAIRMAN ADOLPH: I know you've just
10 walked in the door and --

11 ACTING SECRETARY TENNIS: I did. And
12 you're catching me somewhat off guard. Right now
13 we're kind of in the beginning process of getting a
14 handle on exactly that question.

15 It's an excellent question. I know it's
16 a timely one.

17 Right now I know that the department
18 does not have authority to determine location for
19 clinics. In terms of clinical location, it's a local
20 zoning issue.

21 In terms of those questions you have,
22 I'll just ask if you'll let me look into that and get
23 back with you about it.

24 CHAIRMAN ADOLPH: I'd be -- I'd be glad
25 to. And what I'm looking for is obviously what the

1 purpose of the clinic is -- of the methadone
2 treatments are.

3 ACTING SECRETARY TENNIS: Right.

4 CHAIRMAN ADOLPH: And I know it's to
5 help heroin addicts wean off of heroin. And I'd like
6 to know is it successful --

7 ACTING SECRETARY TENNIS: Right.

8 CHAIRMAN ADOLPH: Or do we move them
9 from heroin to methadone and from methadone to being
10 clean. Okay?

11 ACTING SECRETARY TENNIS: Right.

12 CHAIRMAN ADOLPH: And how long is the
13 time that -- the length of time that someone is on
14 methadone? And what are the dangers of being on
15 methadone?

16 And, of course, Chairman DiGirolamo and
17 I talked about this just prior to coming down here
18 and he has, you know, vast knowledge of the -- the
19 drug therapy and so forth.

20 ACTING SECRETARY TENNIS: Yes.

21 CHAIRMAN ADOLPH: And -- but I'm
22 interested in the payment, the cost to Pennsylvania,
23 who's covered and who's not? Who's paying for it?
24 Is it a federal program? Is it a state program? I
25 want to -- I want to get my hands around it.

1 ACTING SECRETARY TENNIS:

2 Mr. Chairman --

3 CHAIRMAN ADOLPH: So thank you so much.

4 ACTING SECRETARY TENNIS: Thank you for
5 your concern about that issue. I think it's a really
6 important issue, and I look -- I look forward to
7 working with you and getting the information you ask
8 for.

9 CHAIRMAN ADOLPH: Yes. These folks --
10 these folks that are contacting me are involved in
11 hospitals.

12 ACTING SECRETARY TENNIS: You bet.

13 CHAIRMAN ADOLPH: Okay. They're
14 caregivers. Okay. And I want to find out a little
15 bit more about it and -- and the cost.

16 ACTING SECRETARY TENNIS: Yes, sir.

17 CHAIRMAN ADOLPH: Okay. Thank you so
18 much.

19 ACTING SECRETARY TENNIS: You bet.

20 CHAIRMAN ADOLPH: Okay. Chairman
21 Markosek.

22 REP. MARKOSEK: I thank you, Chairman
23 Adolph. Messrs. Secretary, welcome.

24 ACTING SECRETARY TENNIS: Thank you.

25 REP. MARKOSEK: And I don't have any

1 initial questions. What I'd like to do is, if it's
2 okay with Chairman Adolph, is have Representative
3 Michelle Brownlee from Philadelphia County ask the
4 first question.

5 Thank you.

6 REP. BROWNLEE: Thank you. Good
7 afternoon.

8 Thank you, Mr. Chairman.

9 Good afternoon, Mr. Secretary and Acting
10 Secretary.

11 I have a question regarding the Patient
12 Safety Authority. PSA, of course you know, was an
13 independent agency that was created under the Mcare
14 Act in 2002, and it is under the Gov -- the Governor
15 would like to move that under the purview of the
16 health department.

17 It was also -- it was created to reduce
18 medical errors in hospitals and for the sake of
19 public health and safety.

20 So there's an article in the Inquirer,
21 and the article goes on to say that Pennsylvania is
22 the undisputed national leader on eliminating -- or
23 the elimination of medical errors in hospitals and
24 other medical facilities.

25 Does the health department have staff

1 that could maintain the professional relationships
2 that PS -- PSA has helped to make Pennsylvania the
3 national leader in the reduction of these errors?

4 SECRETARY AVILA: I would answer yes.
5 In fact, when I've traveled to the CDC to meet with
6 Director Frieden and others, it -- it -- I always
7 find it exciting when the -- for example, for the
8 hospital-acquired infections, how Pennsylvania is
9 referred to as the leader in the standard with the
10 Department of Health when it comes to the program
11 that we have. We set the standard for the nation.

12 And it's always nice to hear that.
13 Especially from the -- from a national level to know
14 that I am working for a state where my department has
15 taken the lead and other states follow what we do.

16 REP. BROWNLEE: Okay. And how much
17 money would the -- does the administration expect to
18 save with this merger?

19 SECRETARY AVILA: That's -- I don't have
20 the exact numbers for you. However -- and we'll get
21 back to you with that.

22 It's being looked at right now
23 obviously, and -- but what we expect is to be able to
24 cut down on administrative costs, to streamline,
25 provide efficiency in state government, which is what

1 this administration has -- has promised to do and it
2 is a priority.

3 REP. BROWNLEE: Okay. Do you see this
4 in any way compromising a patient's safety?

5 SECRETARY AVILA: No, I do not.

6 REP. BROWNLEE: Not at all?

7 SECRETARY AVILA: Not at all.

8 REP. BROWNLEE: Okay. One other thing.
9 Separate and -- and -- to that issue.

10 Do you think that the decision of the
11 Milton Hershey School to rescind the admission of a
12 HIV positive child are based on the need to protect
13 other children is supported by science that governs
14 the transmission of HIV -- this is a double
15 question -- and as a doctor, do you think being
16 HIV -- V positive is a direct threat to the safety
17 and healthy -- health of others?

18 SECRETARY AVILA: As a physician who has
19 worked with HIV patients for years and as an
20 ophthalmologist -- and I mention being an
21 ophthalmologist because the suture material is so
22 small you don't know if you've stuck yourself or
23 not. Obviously that was always a concern of mine.

24 But patients need to be treated fairly
25 and equally. I never turned down a patient I assumed

1 that -- that there might be positivity, particularly
2 where I worked before.

3 And we have to be compassionate, and
4 that's what I -- I think my -- my career as a --
5 speaks to and, that is, you treat all individuals
6 with dignity and care.

7 I remember the times as a second year
8 resident in the Bronx I was assigned to the largest
9 HIV neonatal unit in the country. I had babies that
10 were maybe this big, who not only had HIV, they had
11 syphilis, they had chlamydia, they had gonorrhea,
12 they had herpes. They had everything.

13 And one of the saddest things was seeing
14 the parents there for a while, then as the weeks went
15 by the parents just stopped coming and they became
16 wards of the state.

17 My job was to make sure that I looked
18 into their eyes, because the retina hadn't been fully
19 formed and decide whether I was going to do surgery
20 on them or not. I operated on children, on lives
21 that would fit into my hand.

22 I remember that. And I say that because
23 those afflicted with HIV, we have no cure now but
24 they cannot be treated as lepers of -- as -- as we
25 find in the history, and we have to have compassion.

1 REP. BROWNLEE: I have one other
2 question. Do you expect that there will be any
3 programs that would teach institutions, such as
4 Milton Hershey, about HIV and AID's prevention and,
5 you know, stuff like that?

6 SECRETARY AVILA: I would certainly hope
7 so. My office is always willing to work with anyone
8 who's open and willing to -- to participate and hear
9 what we have to say.

10 REP. BROWNLEE: Thank you.

11 Thank you, Mr. Chairman.

12 CHAIRMAN ADOLPH: And thank you,
13 representative.

14 The next question will be asked by
15 Representative Tina Pickett.

16 REP. PICKETT: Thank you, Mr. Chairman.

17 This is really a discussion I would like
18 to have with both of the secretaries, but, Secretary
19 Avila, it's a subject that I brought up last year
20 when you were new in the job, the subject was new to
21 me, and that would be bath salts.

22 I was just starting to hear about it
23 from my hospitals and the crises that were developing
24 in our emergency rooms. And there was just a meeting
25 in one of my counties, Bradford County, a meeting put

1 on by Pyramid Healthcare, and some of the comments
2 made there were pretty rough.

3 We went about the business legislatively
4 of attempting to make this an illegally sold drug and
5 that we'd be able to tamp down on it.

6 But they were telling us that the -- the
7 formula is being tweaked in a way that it's being
8 sold in all kinds of other ways, maybe as plant food,
9 glass cleaner, jewelry cleaner, aroma therapy powder,
10 other things that are on the market that are allowing
11 this to be still be sold.

12 And that one of the law enforcement
13 people said it's -- given the sheer number of
14 compounds that can be included in bath salts,
15 enforcement will continue to be very difficult and
16 that it creates such an incredible craving in the
17 individual that during the treatment process it's --
18 it's almost impossible for them to focus on treatment
19 because they're so looking for the next fix of the
20 drug.

21 Now, another reason I -- I mention this
22 today is that we do note in the budget that the
23 Poison Control Center has been eliminated in
24 funding.

25 I don't know if that center is used for

1 any of the public that's trying to immediately find
2 some -- some emergency help with somebody that's
3 dealing with bath salts or maybe other abuses of
4 prescription medication, but could you both comment
5 on what -- where -- what you think where we are with
6 this incredible problem?

7 SECRETARY AVILA: I would love to.
8 Because this is one of the issues that I have brought
9 up before ASTHO. ASTHO is the Association of State
10 and Territorial Health Officials. There's 58 of us,
11 50 states and 8 territories.

12 It's a national problem. I've dealt
13 with this in my prior position.

14 The problem is that many of the drug
15 manufacturers are constantly doing their research to
16 modify, for example, a radical that comes off a
17 carbon chain, a carbon -- a carbon ring, and if it's
18 not named particularly in the law, then that case
19 will get bounced.

20 I've been approached by law enforcement
21 personally. I've been -- my office has been
22 approached by DA's throughout the -- our Commonwealth
23 as to their cases potentially being thrown out
24 because the particular substance has not been
25 mentioned.

1 As I said, it's a national problem. I'm
2 concerned. I think we're smarter than drug dealers.
3 I think we're smarter than -- than -- than -- than
4 those that are out there creating these drugs.

5 And they're constantly changing. There
6 are different models that are out there. DEA has a
7 model. Other states have adopted models.

8 I know that I'm willing to work with
9 whatever is brought before me so we can deal with
10 this issue. It's -- it's a shame that before -- by
11 the time -- well, before a law is signed that there's
12 a new drug that's out there and we can't address it.

13 We're smarter with that. And we've been
14 charged with protecting our people. And, as I said,
15 this is something I brought up. This is an issue in
16 California, Ohio, everywhere. I speak to my -- like
17 I said, my colleagues. Out in Guam, I had a
18 discussion with that territory's health official.

19 So this is an important issue.

20 As to the -- as to the -- the poison
21 control, this is becoming more of a national
22 situation because a lot of the toxicology fellowship
23 programs, these are programs where doctors, after a
24 certain type of training, spend another year or two
25 learning about toxicology. They usually, in that

1 training period, they man many of these stations or
2 are the physicians that are on call.

3 Those programs are closing due to the
4 nature of where medicine is going and medical
5 education.

6 I've actually been approached by New
7 Jersey to see if we can work with them. So that's
8 something that we're looking into. It's important.

9 But this applies, for example, if you go
10 home and you find that your child has consumed a -- a
11 certain chemical or -- or -- or your elderly parent,
12 someone who's -- who's -- has Alzheimers, or by
13 mistake you've ingested or been exposed to a certain
14 chemical, and -- and that's something we're looking
15 at -- at different -- at different partnerships to be
16 able to address this with -- with the cut to this --
17 in the -- in the budget.

18 REP. PICKETT: Thank you.

19 ACTING SECRETARY TENNIS: Thanks for
20 that question, representative.

21 This is an area that it comes up in
22 different forms over the decades I've been looking at
23 drug and alcohol policy and -- and illegal drug
24 policy for 25 years, and it seems like as technology
25 advances there's an ever faster development of new

1 synthetic drugs, and sometimes you hit ones like
2 these that really have devastating results.

3 I certainly have seen the same press
4 accounts, alarming press accounts that have been out
5 there. The department -- I think the bailiwick --
6 primary bailiwick of the Department of Drug and
7 Alcohol Programs in this area would be education
8 prevention, would be the first ground and that is
9 make sure -- sometimes when a new drug like this
10 comes into existence, especially if it's a new
11 substance -- bath salts sounds so innocuous -- kids
12 don't know that it's going to destroy part of their
13 brain. They don't know -- they don't know the damage
14 that can be caused.

15 So I think one of the first things we
16 have to look at in the prevention area is making sure
17 we have a -- as strong an education prevention
18 program as possible to make sure our children know
19 what they're getting into with this.

20 REP. PICKETT: Thank you. I appreciate
21 the emphasis from both of you on the subject. Thank
22 you.

23 CHAIRMAN ADOLPH: Thank you.

24 At this time Chairman Myers, the
25 Democratic Chair of the Health Committee, has asked

1 to make some comments and ask some questions because
2 of some time constraints that he's under.

3 REP. MYERS: Thank you. Thank you,
4 Mr. Chairman.

5 And to the members of the committee, I'm
6 not trying to change the protocol. I just happened
7 to have an accident on my way up here this morning,
8 and I got to finish reporting in. I've got to find a
9 car to get home with and my little finger, I hope it
10 ain't broke, you know. You know, but -- but --
11 but -- but I know both chairmen's expecting me to be
12 here. So I said, don't put me in the ambulance. Get
13 me to Harrisburg. So -- so -- so here I am.

14 Mr. Secretary, it's always good to see
15 you. And -- and your partners, you know. You know,
16 me and you had a very fruitful conversation, and I
17 had told you then I like your style.

18 SECRETARY AVILA: Thank you.

19 REP. MYERS: And I still do. I think
20 your heart is in the right place.

21 However, there are a couple questions
22 that I would like to pose, and one of the questions
23 has to deal with the combining of the health care
24 cost containment and PSA.

25 Do you really have any idea if there's

1 going to be, you know, any savings with this move?

2 SECRETARY AVILA: Sure. I'd like to
3 answer that. First of all, I want to say hello to
4 you. I didn't have that opportunity when you first
5 came in.

6 I'm happy to see that you were, I'm
7 sure, wearing the seat -- your seat belt and that
8 you're safe.

9 REP. MYERS: Yeah. Right.

10 SECRETARY AVILA: Little fender benders
11 can actually be pretty traumatic on the body. So --

12 REP. MYERS: Don't ask me about no seat
13 belt. Yes. I had the seat belt. Yes.

14 SECRETARY AVILA: Okay. Good. Good.
15 Well, it's good to see that you're -- that you're
16 here.

17 I think that there will be savings on
18 the administrative end, and we're dealing with
19 redundancy of research that's being done.

20 This is what I think the administration
21 is getting to, and that is there can be a cost
22 savings by having these two organizations,
23 maintaining their integrity, joining us, because of
24 the data showing that -- that of the data sharing
25 that all of us have.

1 And -- but most important is
2 guaranteeing that -- I hate to use the word silo, but
3 this is an opportunity to say a silo. In law
4 practice we called that a fire wall.

5 REP. MYERS: Right.

6 SECRETARY AVILA: Making sure the
7 integrity is there. But we're -- we are able then to
8 share the administrative costs and are able to -- for
9 example, the hospitals report the -- the -- get their
10 reports from the CDC's National Healthcare Safety
11 Network. They -- they report to them.

12 The Department of Health and the two
13 other organizations all have access to this data.
14 However, the Department of Health is the group
15 responsible for validating the data reported by
16 hospitals.

17 That's not always done from what I
18 understand. And by that I mean, for example, if you
19 have a survey and you send the blank, that's not
20 reported as zero. My staff will actually make the
21 phone calls and drive down to get the actual
22 numbers.

23 And we share so much of the same reports
24 it would be nice to be able to have unified reporting
25 that is not confusing to the public, because they

1 vary in -- in the nuances of statistical tests, and
2 to be able to have the cost saving by having them
3 within the department.

4 REP. MYERS: Okay. Let me kind of --
5 kind of shift gears a little bit. The -- the
6 proposed budget includes funding changes with the
7 tobacco settlement --

8 SECRETARY AVILA: Yes.

9 REP. MYERS: -- for -- for -- for health
10 research. How would -- how would this affect
11 research institutions in projects that are already on
12 board and those that have been talked about being
13 brought on board?

14 SECRETARY AVILA: I'm glad you asked
15 that question, because this, I know, is in the minds
16 of many, especially my colleagues, because I -- I
17 started off as a scientist and as a researcher.

18 Well, the program has been around, I'm
19 told, for around ten years. The funds that have
20 already been committed prior to this budget cycle,
21 this hiatus for one year, will not be affected.

22 I think it's time for the department to
23 look at the peer review process, to strengthen that,
24 to look at the research criteria, and to focus on
25 Pennsylvania's centric health issues.

1 Research will continue. Research will
2 continue throughout the world. It isn't like
3 research has stopped.

4 And I say that. I have -- I have a
5 particular affection for research. When I first
6 started, the year before I started medical school, I
7 was fortunate enough to go to Rockefeller
8 University. For a part of that year I was on the
9 team that first cloned human tissue plasminogen
10 activator, tPA, and I think we all know, now that
11 it's been patented for many years, how many lives
12 that has saved.

13 So I've seen the full cycle, and to me
14 that's important.

15 So -- and I consider most -- I consider
16 most of these PATs or MB PATs that work in the
17 universities my colleagues, whether they know me or
18 not, but I think that at this point this
19 administration is looking at -- to where the needs
20 are. If we take this one-year hiatus, we can meet
21 the needs of the funds being sent to long-term care
22 in DPW that needs it.

23 REP. MYERS: So this -- so this move
24 won't cause us to lose any money?

25 SECRETARY AVILA: It's not going to be

1 costing a loss of money. It's going to where the
2 need is right now, and DPW needs that for long-term
3 care.

4 REP. MYERS: Okay. The budget also
5 proposes reducing funding to some -- what I think are
6 important programs anyway -- diabetes, arthritis,
7 epilepsy, those types of supports.

8 What's that all about?

9 SECRETARY AVILA: That is this -- this
10 -- I think we encompassed that last year also. And
11 that is -- once again, these are tough times. So
12 it's the education piece that is being -- it's being
13 addressed.

14 It's -- being a public health official,
15 one of the precepts is obviously public health
16 education, getting the -- the -- the -- the
17 information out there. The cuts are directed towards
18 the education piece, not for services.

19 Service is the focus. This
20 administration is providing services to those who
21 need it the most.

22 Then, again, as we know, this is a
23 budget that the executive office presents. The
24 General Assembly will then have their priorities, and
25 in the end there will be a meeting of minds.

1 REP. MYERS: Well, you know, me -- me
2 and Chairman Baker always talks about a lot of this
3 comes from the front office, you know, and we
4 understand that, you know, being general managers and
5 not necessarily being in the front office, you know.

6 But I think this is an area that we want
7 to give some more consideration to.

8 I had one more area that I wanted to
9 deal with, and that is the regulations around the
10 hospitals.

11 SECRETARY AVILA: Good.

12 REP. MYERS: I guess you were expecting
13 that. Right?

14 SECRETARY AVILA: I expected that. I'm
15 glad that you asked me.

16 REP. MYERS: Yeah. What's going on with
17 that? And where are we? And you can probably tie
18 this with the two of the same. There's an issue
19 around the deliverance of birth certificates and
20 death certificates, the time frame.

21 So could you tie the two of them
22 together because --

23 SECRETARY AVILA: Yeah.

24 REP. MYERS: -- my time is --

25 SECRETARY AVILA: I'll parse it out.

1 REP. MYERS: -- pretty much out.

2 SECRETARY AVILA: Okay. I'll parse it
3 out. For hospital regulations, we're dealing, I've
4 been informed, with regulations that were last
5 reviewed in 1981.

6 I just graduated from Brown as an
7 undergrad. Obviously we have to bring these
8 regulations into the 21st century.

9 We're working with stakeholders actively
10 into doing this, to making the correct changes.
11 However, what is key is we get it right the first
12 time --

13 REP. MYERS: A way up.

14 SECRETARY AVILA: -- instead of having
15 to go back and re-examine these in a year or two.
16 So -- but we are engaging the stakeholders and we are
17 dealing with it. There's definitely a need for it.

18 In fact, if you look at the regulations,
19 there's not even a mention of telemedicine in them.
20 That's how old they are.

21 So they need to be addressed and we're
22 working with -- with -- with the organizations that
23 are the stakeholders. This is a -- the people of
24 Pennsylvania deserve better.

25 REP. MYERS: Yes.

1 SECRETARY AVILA: Oh, vital statistics.
2 We'll get to that.

3 And, in particular, do you have
4 anything? Because that's a pretty large area.
5 Anything in particular you would like me to comment
6 on on vital statistics?

7 REP. MYERS: Yeah. Birth and death.

8 SECRETARY AVILA: Okay. Okay. I can --
9 I have the data on the -- the death certificates.

10 I know everyone sees it as the birth and
11 death certificates. This is actually really
12 important information that as an epidemiologists we
13 really need this information.

14 REP. MYERS: Right.

15 SECRETARY AVILA: I know we have the
16 genealogical individuals that are involved and want
17 the information, and we've made that possible, made
18 it easier for them.

19 But I can tell you that a few months ago
20 I had the opportunity to go visit vital records out
21 in the western part of the state with Mr. Malady.

22 I was surprised when I walked in and I
23 saw the charts and the requests up to the ceiling. I
24 saw overworked individuals. And I got there a little
25 late, because we were traveling from Erie. And they

1 were there waiting for me and I apologized for
2 getting there a little late, but the traffic had
3 stopped us.

4 But just to show, I say that because
5 these are dedicated individuals. After spending a
6 little over an hour there, I said it has to be
7 changed. We looked and we approached the budget
8 office, and I said, we need more people there.

9 So we were able to bring in, I think, 12
10 temporary workers who have been working there since.
11 And I can tell you since October we have had --
12 700,000 records have been updated, and that applies
13 to just adding the parents' names to the old
14 records. Those prior to 1972.

15 As for the times, I'll give the sequence
16 on it. When I was there, 22 weeks for a death
17 certificate. We have cut it down now to 13 weeks.
18 That's not good enough. Our projected -- our
19 projection is three to four weeks is what we would
20 like to see, if not less than that.

21 But that's what we're working on. So
22 we're dealing with a backlog that we inherited from
23 the prior administration. We're dealing with new
24 regulations, federal regulations on many of these
25 certificates, and also we're dealing with the fact

1 that over the past few years we've lost 25 percent of
2 our complement in -- in vital records.

3 So I think we're doing well. I went out
4 there personally, and I just felt so bad for -- for
5 those hardworking individuals that were there and
6 said we need to get -- we need to do something.

7 And I'm glad I got the support to do
8 that.

9 REP. MYERS: Okay. Thank you,
10 Mr. Secretary.

11 Thank you, Mr -- Chairmen.

12 CHAIRMAN ADOLPH: Thank you, Chairman
13 Myers. And I hope you have a safe ride home.

14 REP. MYERS: Yeah. Right. I got to get
15 a car first.

16 CHAIRMAN ADOLPH: Okay.

17 SECRETARY AVILA: And you're wearing
18 your seat belt.

19 CHAIRMAN ADOLPH: Right. I'd like to
20 echo Chairman Myers' support for those line items
21 that he mentioned, whether it be epilepsy or lupus,
22 sickle cell anemia. It's more than -- it's more than
23 just education because I know where these programs go
24 to, and they inform school teachers, they inform
25 neighbors, they inform parents, and sometimes because

1 of this information they save lives.

2 So it's very important line items. I
3 know there's been a gubernatorial legislative game
4 played for decades around here that the Governor
5 doesn't -- does not put the line items in. The
6 legislature puts them in. And we're back and forth.

7 But I know there's tens of thousands of
8 people that are looking for this type of funding. So
9 anything that you can do to help keep these in there
10 we would appreciate. Thank you.

11 SECRETARY AVILA: Yes.

12 CHAIRMAN ADOLPH: Thank you.

13 The next -- the next legislator with a
14 question is Representative Mario Scavello.

15 REP. SCAVELLO: Thank you,

16 Mr. Chairman.

17 And good afternoon, Mr. Secretary.

18 I'd like to hand something out to --
19 just a minute. I only have three copies.

20 I'm sure you didn't expect this question
21 today on this issue.

22 SECRETARY AVILA: It's one of my
23 favorite questions.

24 REP. SCAVELLO: Yeah. Well, good.

25 Hopefully you can help me out. And if you -- you

1 notice, it's not throughout the state but in the
2 southeast and the -- and the eastern part of the
3 state where the big red is, Lyme disease.

4 We have two of our members that had Lyme
5 disease, and I'm hearing more and more horror stories
6 where it's not being diagnosed and -- and when it's
7 not diagnosed early enough, 30 days of antibiotics,
8 that just doesn't cut it.

9 And we -- we're told, you know, you
10 can't even get a doctor that's going to give you more
11 than 30 days. And there's a lot of people out there
12 suffering. There's over -- they say there's over
13 30,000. There's more people that don't even know
14 that they have it. And any time -- you know, the
15 four people in my county building in Monroe.

16 But this goes throughout Philadelphia,
17 Delaware County. It's -- it's throughout. What are
18 we doing about it? You know, it's scary. It's
19 absolutely scary.

20 I've seen the results. And one of our
21 members, one of the strongest guys that you could
22 see, when he first got it, it was drain -- he was
23 drained. He couldn't even walk.

24 SECRETARY AVILA: Well, I share that. I
25 -- I've actually seen this myself. One of my dearest

1 college friends, his son was unable to start school
2 for four years because of -- of the ensuing
3 immunological sequelae for Lyme's. The same thing
4 with his spouse.

5 I always used to see as an
6 ophthalmologist the neuro-ophthalmological issues and
7 when I went back to working and I did work for the
8 Secret Service and DEA in Albany, New York, I
9 actually got to pick some of these ticks off.

10 And you see pictures and -- and I had
11 officers that went out on a drug raid coming back in,
12 and fortunate enough for me -- I would do their
13 physicals and I would see the -- the tick and remove
14 it.

15 So it's real. I understand it's real.
16 It's hit me personally. And it's a true issue.

17 I think that we need to -- we need
18 further education. I know that we're partnered with
19 the Game Commission, also with the Department of
20 Conservation and Natural Resources, to get the word
21 out, the appropriate clothing to wear, where to go.

22 But what I would -- I'd like to point
23 out is that in certain parts of the country they're
24 also working on a vaccine, but not for humans. For
25 the actual deer. I'm waiting to get those results,

1 because that will be then -- it's something that we
2 can then share with communities that are afflicted.

3 Something I would like to see is up on
4 the web an increased number of ticks, be careful when
5 you're in this area or you're walking through this
6 path in -- in -- in our parks.

7 Those are the things. I think
8 education. I don't see much promise in the vaccine.
9 They stopped that a number of years ago because of
10 the financial incentive, is what I -- all the
11 literature points to.

12 But I -- I -- I'm hopeful if we can
13 attack it via working with the animals themselves,
14 that's another way of dealing with -- with Lyme
15 disease.

16 But right now what we have is education,
17 getting the word out and being alerted.

18 REP. SCAVELLO: And what do we do for
19 those folks that have it, that -- that their 30 days
20 are up, they can't get the antibiotics, and doctors
21 are afraid to treat them, you know, because of
22 what -- for whatever reason?

23 And there's a lot out there. I got
24 people actually on the phone crying to me that they
25 can't get -- you know, they can't afford it and --

1 and it's -- it's a lot of money, this stuff.

2 SECRETARY AVILA: I understand that.

3 And like I said, it's -- it's hit me personally.

4 However, the science points to the actual infectious
5 state. Then there's the immunological sequelae.

6 So my answer to that is -- and I -- and
7 I broadcast this here because I have the
8 opportunity -- is let's start looking at the
9 immunological sequelae.

10 Because antibiotics, as science shows
11 us, doesn't work after a certain stage.

12 It's dealing, for example, with the
13 complement system, with our B cells, our T cells,
14 making sure that the appropriate immunological
15 response, the cell to cell, the intercellular
16 communication, which appears in certain individuals
17 to be affected, for that to be studied.

18 And that's where science shows us. In
19 fact, the CDC, the evidence points that prolonged
20 antibiotic -- antibiotic treatment may be dangerous.

21 REP. SCAVELLO: You know, Mr. Secretary,
22 one of our senior members that had it, without the
23 prolonged treatment, it would -- I don't -- he swears
24 he wouldn't be here. That's how bad it was.

25 And he was -- it was a prolonged

1 treatment. He had to get it for 90, 120 days. It's
2 a -- it's an -- it's an issue out there and folks
3 that can't afford it aren't getting it and without
4 that they couldn't -- they said they couldn't
5 function.

6 I -- I just -- I understand the
7 way you're going -- what you were talking about, and
8 I agree with you, but at the same time, you know,
9 that's going to take awhile before we get to that
10 point.

11 And you see that map there. That red
12 area in the southeast, you know, it's very easily
13 available now. You've got to be very, very careful.

14 SECRETARY AVILA: Uh-huh.

15 REP. SCAVELLO: And I just, you know, I
16 hope that there's something we can do to try to help
17 the folks that have it. And some folks -- a friend
18 of mine just recently, they tried -- he doesn't know
19 what's wrong with him. I said check for Lyme. I'm
20 sorry. Right away, check for Lyme.

21 Because that's -- that's the one that
22 nobody diagnoses. How can we get a better diagnosis
23 of it? I think that if the diagnosis was early
24 enough this wouldn't happen.

25 So, you know, because they don't

1 diagnose it right away and by not diagnosing it right
2 away the 30 days doesn't work.

3 SECRETARY AVILA: Right. And that's why
4 you have to have the education, which is outreach and
5 partnering, to educate individuals to enjoy our
6 natural resources but to take the appropriate
7 precautions.

8 White socks, white pants you're able to
9 see. These ticks are really tiny.

10 REP. SCAVELLO: Yeah.

11 SECRETARY AVILA: They really gorge --

12 REP. SCAVELLO: Right.

13 SECRETARY AVILA: -- when -- when
14 they -- they -- when they have their fill. But
15 they're -- they're tiny. You have to look for them.

16 REP. SCAVELLO: Yeah. Can you please
17 keep that on your radar screen?

18 SECRETARY AVILA: Of course.

19 REP. SCAVELLO: Thank you.

20 SECRETARY AVILA: Of course.

21 REP. SCAVELLO: Thank you. Thank you
22 very much.

23 CHAIRMAN ADOLPH: Thank you,
24 representative.

25 The next question will be from

1 Representative Paul Costa.

2 REP. PAUL COSTA: Thank you,
3 Mr. Chairman.

4 My questions are for you, Dr. Avila.
5 How are you doing?

6 SECRETARY AVILA: I'm fine.

7 REP. PAUL COSTA: Good.

8 SECRETARY AVILA: You're probably asking
9 because of my grandmother's passing.

10 REP. PAUL COSTA: No, I'm sorry. I did
11 not know about that.

12 SECRETARY AVILA: Okay.

13 REP. PAUL COSTA: You have my
14 sympathies.

15 But I was referring to you've had some
16 bad PR over the last couple of months. One of them
17 recently was about you being sued by a local
18 restaurant for allegedly blocking them from getting a
19 state contract.

20 And my question, tying it into
21 appropriations, who's paying the legal fees?

22 SECRETARY AVILA: I'm going to be real
23 formal because it's a legal --

24 REP. PAUL COSTA: I understand.

25 SECRETARY AVILA: -- situation so I'm

1 going to read through this so I don't get anything
2 wrong, even though I am an attorney.

3 In general, when a Commonwealth official
4 or employee is sued in his or her official or
5 individual capacity, the Commonwealth will provide
6 legal representation for the official or employee.

7 In this case, the Office of Attorney
8 General has undertaken my defense. This follows
9 normal and long-standing administrative procedures
10 found in the Pennsylvania Code.

11 The lawsuit asserts federal claims that
12 are within the jurisdiction of a federal court. The
13 case was removed to federal court in accordance with
14 federal law. The complaint and answer are public
15 documents and they speak for themselves.

16 And since this is a pending legal
17 matter, although I would love to be able to speak
18 about it, I can't comment any further.

19 REP. PAUL COSTA: But the legal fees, do
20 they come out of your budget or is there a legal
21 department for the Governor's office?

22 SECRETARY AVILA: It's coming from the
23 Office of Attorney General.

24 REP. PAUL COSTA: Is there -- do you
25 have any idea how much they allocate for this?

1 SECRETARY AVILA: I have no idea.

2 REP. PAUL COSTA: And if you happen to
3 be found at fault, what is the maximum penalty that
4 we could -- the state could inherit in this
5 particular case? In this particular case, is there a
6 number that you were --

7 SECRETARY AVILA: It's -- that part I
8 can't comment on. It's pending legal.

9 REP. PAUL COSTA: Okay. Thank you.

10 SECRETARY AVILA: Sure.

11 REP. PAUL COSTA: Thank you,
12 Mr. Chairman.

13 CHAIRMAN ADOLPH: Thank you.
14 Representative Glen Grell.

15 REP. GRELL: Thank you, Mr. Chairman.

16 Secretary, I wanted to just follow-up on
17 the question about the hospital regulations and
18 the -- the 30-year-old regulations that hospitals are
19 working under.

20 I know one of our former colleagues had
21 legislation to accept or allow the department to
22 accept other national or international hospital
23 accreditation standards in satisfaction of
24 Pennsylvania accreditation.

25 Could you just tell the -- the committee

1 what your position is on that kind of an approach to
2 making sure that our hospitals are accredited in
3 accordance with current widely accepted accreditation
4 standards?

5 SECRETARY AVILA: This is exactly what
6 we're in the middle of discussing at this point. I
7 always have an open mind and I want to do what's best
8 for Pennsylvania. So we -- we are having those
9 discussions right now.

10 REP. GRELL: Okay. That's -- that's
11 good enough.

12 SECRETARY AVILA: Uh-huh.

13 REP. GRELL: And we'll be anxious to
14 hear when those discussions revealed.

15 SECRETARY AVILA: I'll be happy to share
16 them with you, too, when I know.

17 REP. GRELL: Thank you.

18 Thank you, Mr. Chair.

19 CHAIRMAN ADOLPH: Thank you.

20 Representative Sabatina.

21 REP. SABATINA: Thank you,

22 Mr. Chairman.

23 Thank you, Secretary, for your
24 testimony.

25 I have to tell you I'm a bit concerned

1 about the elimination of the research program from
2 the tobacco fund. I know we've all heard the
3 statement that an ounce of prevention is worth a
4 pound of cure and, you know, I'm just concerned
5 that -- that we're -- we're eliminating a worthwhile
6 program here and we're -- we're -- I heard -- I heard
7 what you said in response to Representative Myers
8 about a one-year, I guess, freeze or a temporary
9 thing, but there's no guarantee that it will be in
10 next year's budget, unless you know something that I
11 do not, and we all know once something's gone it's
12 hard to bring it back.

13 Could you just comment on it and your
14 thoughts on this?

15 SECRETARY AVILA: From my understanding,
16 this is for one year. This is a hiatus so we can
17 strengthen the program.

18 I'd like to point out that in the
19 history of the program, we have awarded over \$740
20 million to 53 organizations.

21 I want to make sure that the proposed
22 projects really focus on the issues of Pennsylvania.
23 That's why I said, research is going on around the
24 world. Scientists are more than happy -- in fact,
25 many times when they should be talking to their

1 intellectual property attorney, they're not. They're
2 -- they're -- scientists love to share. And that's
3 great. I like the idea of you've come up with a
4 cure, you share it.

5 That hasn't stopped. We -- the -- and
6 the research will not stop in Pennsylvania. But for
7 now we're taking that one-year break to deal with
8 some of Pennsylvania's neediest individuals and
9 that's where the -- the administration has sent the
10 funds.

11 REP. SABATINA: And, you know, I -- I
12 respect that, but I -- I don't agree with it. I
13 don't agree with the principle of it. But I respect
14 it.

15 I mean there's -- you can make the
16 argument that if -- you know, in medieval times if,
17 instead of conquering castles, we were -- we
18 experienced the renaissance early, where we would be
19 in -- in terms of technology.

20 But, you know, even the one-year hiatus
21 I think is a step backwards.

22 SECRETARY AVILA: Well, I -- I think the
23 view is that we're maximizing the taxpayers' dollars
24 with what we have right now while we re-examine
25 this -- this -- the CURE program.

1 REP. SABATINA: Thank you.

2 SECRETARY AVILA: Sure.

3 CHAIRMAN ADOLPH: Thank you.

4 Representative Gordon Denlinger.

5 REP. DENLINGER: Thank you,

6 Mr. Chairman.

7 And good afternoon, gentlemen.

8 I believe this question is most
9 correctly directed to Secretary Avila.

10 Acting Secretary, if it relates to you,
11 I'll ask you to reply as well.

12 I'd like to touch on subject of tobacco
13 prevention and cessation programs.

14 SECRETARY AVILA: Uh-huh.

15 REP. DENLINGER: Obviously the
16 Department of Health is charged with allocating
17 dollars earmarked as a result of the settlement
18 involved in 2001.

19 Could you bring our panel up-to-date on
20 the process made as a result of those programs,
21 whether, in fact, tax policy has been more
22 instrumental in cessation efforts societally,
23 speaking broadly? So if you could just give us an
24 update, we'd appreciate it.

25 SECRETARY AVILA: Sure. And this is

1 always an important topic because as a physician, if
2 it were up to me, in an ideal situation, they
3 wouldn't be smoking. But we don't live in an ideal
4 world.

5 And I've accepted that. I've actually
6 tried to convince Tom Frieden of that, who was at the
7 CDC. He's my former health commissioner and has
8 quite a record on this, way on one side.

9 I'm -- I'm happy to report that since we
10 had a -- for the first time more nonsmokers in
11 Pennsylvania, former smokers, I should say, than
12 actual smokers.

13 From 2008 we went from 21 percent down
14 to 18 percent in 2010, and that to me is progress.
15 It's slow. And it reminds me of when I was in
16 practice I would tell my patients when they
17 approached me about smoking cessation, well, I want
18 to quit, doc. What can you do?

19 And I said, we'll plug into certain
20 programs. But I want to remind you, it's so easy for
21 me to tell you to stop smoking. It's just so much
22 harder to do. And I realize that. And I will work
23 with you and get you aligned with the individuals
24 that can help you.

25 And -- and those -- those are just some

1 of my basic views on this.

2 REP. DENLINGER: Yeah. You mentioned 18
3 percent of the population in year 2010. Do you
4 have -- do you have the gender split on that
5 percentage?

6 SECRETARY AVILA: I can get that.

7 REP. DENLINGER: If you could, please.

8 SECRETARY AVILA: Uh-huh.

9 REP. DENLINGER: And then one other item
10 that's just a point of, I guess, concern or maybe
11 even curiosity.

12 As -- as we all walk down the mall we
13 see these kiosks that are there promoting and selling
14 something called e-cigarettes. E-cigs.

15 SECRETARY AVILA: Right.

16 REP. DENLINGER: And I usually see a
17 group of 25 and younger people kind of clumped around
18 that kiosk purchasing these products that, I guess,
19 involve a -- a water-vapor delivery system for
20 nicotine as opposed to tobacco, cigarette.

21 They tout that this is less impactful
22 from a health standpoint. Does the Department of
23 Health engage in regulation or oversight of the sale
24 of these products and could you comment on the claims
25 in and around them?

1 SECRETARY AVILA: From what I -- I don't
2 think that we regulate those. In fact, I first saw
3 them when my boy, who is now 12, a few years ago
4 pointed it out to me at the mall.

5 These products are more highly
6 concentrated, just as you find with hookah bars, with
7 the water pipes, and they're dangerous. There are
8 dangerous elements there in that vapor.

9 The way I dealt with it before -- where
10 I was before was dealing with the licensing
11 procedures within malls, and can you smoke in a
12 public space or confined space?

13 It got to that point when I referred it
14 to the county attorney. We were successful in
15 actually removing the vendors from some of the malls
16 in Long Island.

17 REP. DENLINGER: Is it your
18 understanding that these products would also be
19 prohibited under Pennsylvania's recently passed
20 smoking ban legislation?

21 SECRETARY AVILA: I'll have to review it
22 with my attorneys and I can get back to you on that.
23 That's a fascinating legal question, and I look
24 forward to researching that.

25 REP. DENLINGER: I would appreciate a

1 response directed through the Chairman of the
2 committee.

3 SECRETARY AVILA: Yes.

4 REP. DENLINGER: Very good.

5 SECRETARY AVILA: Of course.

6 REP. DENLINGER: Thank you.

7 SECRETARY AVILA: Thank you.

8 REP. DENLINGER: Thank you,

9 Mr. Chairman.

10 CHAIRMAN ADOLPH: Thank you,
11 representative.

12 The next question will be by
13 Representative Matt Smith.

14 REP. SMITH: Thank you, Mr. Chairman.

15 Thank you, Mr. Secretary, for your
16 testimony today.

17 I just want to return briefly to the
18 issue of the tobacco settlement funds and I think
19 what you termed as the suspension of their use for
20 their intended purpose, which is health -- health
21 research investment. And the one-year, I guess,
22 diversion towards long-term care, and I think you had
23 said -- correct me if I'm wrong -- that -- that in
24 your opinion that would be a one-year suspension.

25 SECRETARY AVILA: Correct.

1 REP. SMITH: And why? Can you dig a
2 little deeper into the need for the one-year
3 suspension? You mentioned, I think, peer review and
4 different research criteria.

5 SECRETARY AVILA: Right.

6 REP. SMITH: Can you tell us a little
7 bit about what you have in mind in terms of those
8 changes?

9 SECRETARY AVILA: Sure. I would like to
10 see research being done on things that affect
11 Pennsylvanians. There are many health issues that
12 are particular to Pennsylvania. Some of these have
13 been brought up by some of the other programs that
14 have been on the list and taken off.

15 I think that, for example, researching
16 health effects in Marcellus shale would be a good
17 idea. I think that -- for example, I get -- I see
18 proposals for diabetes. Diabetes is extremely
19 important. But that research is being done. How
20 about focusing on things that affect us?

21 REP. SMITH: And then the only thing you
22 can come up with is Marcellus shale health effects?

23 SECRETARY AVILA: That's not the only
24 one. I, for example --

25 REP. SMITH: Give me some others.

1 SECRETARY AVILA: For example, some of
2 the other -- I would love to be able to see, looking
3 at our statistical data gathering, the pockets or
4 clusters that are out there throughout the state and
5 maybe create projects and research on those pockets
6 of illnesses that occur elsewhere.

7 REP. SMITH: Like what illnesses?

8 SECRETARY AVILA: Polycythemia vera, for
9 example. Other genetic clusters that exist.

10 We have the data mining. It's a matter
11 of mining through that data and saying, okay, we're
12 seeing an -- an unusual number. Let's -- why don't
13 we create research programs for that?

14 REP. SMITH: Okay. And do you think --
15 do you think -- I mean in the '10/'11 budget year,
16 the -- the formula funds -- and as you know, the --
17 the total health research funds allocated to the
18 department from the tobacco settlement was about --
19 was 19 -- it's 19 percent of the tobacco funds, which
20 was about 58 million in the '11/'12 budget year, 18
21 percent of which goes to the CURE program, one
22 percent of which goes to the National Cancer
23 Institute research programs.

24 And within that CURE program, in the
25 '10/'11 budget year the grants were given for -- to

1 such institutions as Fox Chase, 2.8 million; CHOP in
2 Philadelphia, 3.5 million; Penn, 8.2 million; Pitt,
3 8.2 million; Wistar, 1.5 million; Thomas Jefferson
4 University, 3 million; Magee-Women's Health facility
5 in Pittsburgh, 1.2 million.

6 Under the changes that you're going to
7 propose, will the grants to those institutions, not
8 the ones that have already been allocated obviously,
9 but prospectively would those institutions -- is it
10 your -- is it a change in policy that those
11 institutions would not be part of the applicant pool
12 if their research relates to issues that don't
13 necessarily specifically touch Pennsylvania?

14 SECRETARY AVILA: No. But I -- with my
15 experience of being an academician for many years is
16 that when there's interesting research to be had,
17 universities, particularly Pennsylvania, in
18 Pennsylvania, will step up and say, you know what?
19 We can add to that. We've got the power. We've got
20 the minds. Let's see if we can -- let's take this on
21 and -- this challenge and see if we can come up with
22 a solution to help society.

23 REP. SMITH: So those -- those
24 institutions would experience no change. They would
25 still be able to apply. For instance, CHOP received

1 a grant for MRI and neurocognitive assessments and
2 chronic kidney disease. That would still be an
3 acceptable form of research under your new
4 framework?

5 SECRETARY AVILA: We would review it
6 obviously. I know with CHOP, they've -- throughout
7 the history of the program, we've awarded them 54.6
8 million. I mean they've proven themselves.

9 REP. SMITH: Do you think that that's
10 excessive?

11 SECRETARY AVILA: I can't comment to
12 what went on before me, but if this is where the
13 research went and the dollars were allocated at that
14 time, then that's where it went. I would be
15 speculating at this point.

16 I would have to open up the -- the --
17 all those years of research, the grants, and then it
18 would be just my opinion against those who came
19 before me.

20 REP. SMITH: Right. But you seem to be
21 inferring that that -- because they received 54
22 million, that that was sort of the ceiling of what
23 they should be entitled to receive. You -- you're
24 not saying --

25 SECRETARY AVILA: Oh, no. No. No. I

1 did not mean to imply that at all. I'm just giving
2 you an example of how we work with --

3 REP. SMITH: Simply by --

4 SECRETARY AVILA: With --

5 REP. SMITH: Sorry. Simply by virtue of
6 the fact that they received 50 -- I'm sure some of
7 these institutions may or may not have received
8 more. You're not saying that they would be prevented
9 from receiving future grants if their research
10 project met a certain criteria?

11 SECRETARY AVILA: Oh, no.

12 REP. SMITH: And would the criteria
13 actually be drafted to essentially give a leg up to
14 those projects that deal -- like you mentioned
15 Marcellus shale health affects, I mean would that be
16 elevated in a point system, or whatever the criteria
17 is, to a higher level than, say, either some other
18 research program?

19 SECRETARY AVILA: That would be
20 speculation, but what you're -- was just suggested
21 would be --

22 REP. SMITH: Well, no. It's not
23 speculation because that's exactly what you said.

24 SECRETARY AVILA: No, it's not what I
25 said. What I'm saying --

1 REP. SMITH: You said -- excuse me. You
2 said that part of the new criteria would be peer
3 review and different research criteria, a part of
4 which would be giving a leg up, essentially, to
5 applicants who are performing research on issues that
6 specifically relate to Pennsylvania health issues.

7 SECRETARY AVILA: That was simply an
8 example. I would like to see that.

9 REP. SMITH: Okay. In your view that
10 would be a positive step in the criteria?

11 SECRETARY AVILA: That would be
12 positive, yes. Meeting the needs that Pennsylvanians
13 face.

14 By no -- no way would we be inherently
15 un -- unfair to researchers. We have too many great
16 minds here in Pennsylvania to be unfair. I believe
17 in fundamental fairness.

18 REP. SMITH: And do you have a time
19 frame for when you're going to submit the change in
20 criteria to the legislature?

21 Because I'm assuming that it would have
22 to be done by some legislative action, in terms of
23 changing within the Tobacco Settlement Act or
24 amending it to change moving forward whatever change
25 in criteria you want.

1 SECRETARY AVILA: Well -- well, the
2 element that I'm talking I don't think would need
3 legislative change. What we're dealing with, we'd
4 like to hear different proposals.

5 There are advisory committees that
6 assist the Department of Health, making them aware of
7 where we would like the -- the research to go and
8 it's a matter of opening it up for discussion, saying
9 we've got varied minds. I want to hear more. I want
10 to see a diversity of thought, a diversity of
11 concerns brought to the table.

12 REP. SMITH: And you feel like the
13 one-year hiatus on funding these -- what I think you
14 even conceded were valuable research projects, you
15 feel that that one-year hiatus is necessary in order
16 to take a step back and have some additional input
17 into what the criteria should be?

18 I guess I'm trying to get to -- on one
19 hand, you're saying you need to change the criteria.
20 On the other hand, you're saying it doesn't require
21 any affirmative action.

22 It's just sort of a thought that goes
23 out into the ether.

24 SECRETARY AVILA: That -- it wouldn't be
25 a thought into the ether. It would be very concrete

1 in our steps and with our communications with -- with
2 our colleagues in our institutions.

3 It's a matter of looking at our paradigm
4 and looking at the way we approach research programs
5 that affect health in Pennsylvania. That's what I
6 would like it to be, some fresh thought brought to
7 the table so we are maximizing our taxpayers dollars
8 and making sure that the research is addressing those
9 needs.

10 REP. SMITH: Are there any specific
11 grants, either the '10/'11 or '11/'12 budget year, or
12 any other budget year, that where you can point to
13 that you or the department feel there was a waste of
14 resources? Or is there some -- I'm trying to get at
15 what's the --what's generating this need for change.

16 SECRETARY AVILA: Well, we're looking
17 into everything.

18 REP. SMITH: But is there one specific
19 grant that jumps out or --

20 SECRETARY AVILA: No.

21 REP. SMITH: Or what was the trigger for
22 this change in criteria?

23 SECRETARY AVILA: The -- I like to work
24 collaboratively and I like to hear from
25 stakeholders. And I would like to just get fresh

1 thought brought to the table.

2 So there was nothing in particular
3 that -- that -- that would annoy me or that --
4 that -- that bothered me.

5 REP. SMITH: What input have you
6 received from the stakeholders on the one-year
7 hiatus? Anything?

8 SECRETARY AVILA: I have not received
9 any input at this point.

10 REP. SMITH: So none of the -- Temple,
11 Fox Chase, Magee, Penn, Pitt, Wistar, Thomas
12 Jefferson, none of them have made any statements?

13 SECRETARY AVILA: Not that I'm aware of.

14 REP. SMITH: Okay. You had mentioned, I
15 think, that where this money is going in toward -- is
16 into long-term care under DPW. Correct?

17 SECRETARY AVILA: Right.

18 REP. SMITH: What happens -- and I guess
19 -- suppose that's 58 million. What happens next year
20 when this money finds itself back in its original
21 purpose, which is health care research? What happens
22 to that funding for long-term care?

23 SECRETARY AVILA: That would be
24 speculation. I do not know at this point.

25 REP. SMITH: We don't have a long-term

1 plan. Once this -- this is shifted for one year,
2 then it's shifted back, when it's shifted back, we
3 don't have a plan?

4 SECRETARY AVILA: That would be
5 something I would direct towards DPW.

6 REP. SMITH: Okay. Thank you,
7 Mr. Chairman.

8 Thank you, Mr. Secretary.

9 SECRETARY AVILA: Sure.

10 CHAIRMAN ADOLPH: Thank you,
11 representative.

12 The next question will be Representative
13 Scott Petri.

14 REP. PETRI: Thank you, Mr. Chairman.

15 Mr. Secretary, I want to follow on some
16 of the questions of the previous speaker, my
17 colleague who co-chairs the life science caucus with
18 me. And I certainly appreciate his thoughts and
19 comments today.

20 You mentioned advisory committees that
21 work with the health department. What -- what
22 committees provide advise to the department under the
23 current system with regard to the formula and
24 non-formula driven research?

25 SECRETARY AVILA: This will be answered

1 by Mr. Wolf who is intimately involved with that.

2 EXEC. DEPUTY WOLF: You have -- excuse
3 me. Good afternoon, Representative Petri.

4 There is a health advisory committee
5 made up of the academic institutions around the state
6 of Pennsylvania that work and make advisory
7 suggestions to the Secretary and that is an
8 organization -- that was part of the original
9 workings of the -- the CURE funding and moving
10 forward.

11 REP. PETRI: Okay. And -- and if I can
12 follow up a little bit on that. As part of the
13 process that exists today, since we have no new
14 process to talk about, are these projects usually
15 scored or is there any process of vetting? And if
16 so, what is the vetting process?

17 EXEC. DEPUTY WOLF: Yeah.
18 Representative, there is a very formal process that
19 they go through. They're peer reviewed from an
20 outside organization and then they are brought into
21 internal deliberation and there is a scoring process
22 inside the Department of Health for each and every
23 project that is brought forward.

24 REP. PETRI: Okay. And as part of that
25 vetting process, are projects that have value added

1 engineering or NIH funding, are they considered
2 perhaps more worthy than other projects?

3 EXEC. DEPUTY WOLF: Representative, I'd
4 like to get back to you on that one to -- to answer
5 the question more formally --

6 REP. PETRI: Okay.

7 EXEC. DEPUTY WOLF: -- and get back to
8 the committee.

9 REP. PETRI: Okay. Would the department
10 have an opinion going forward if something -- you
11 know, say Drexel had a program in their biomed
12 program and they had their -- they had it
13 collateralized, they had intellectual property
14 licenses, and they had -- and they had it engineered
15 so there was actually a product source.

16 Would those kinds of things be viewed
17 more valuable to the department?

18 EXEC. DEPUTY WOLF: During this current
19 fiscal year we've actually been -- an additional push
20 was made forward by this administration to begin to
21 add more commercially viable projects, to add the
22 ability to fund companies.

23 That's -- this is the first year it had
24 been engaged in. So we have been looking at trying
25 to see how we can push out either additional

1 commercialization opportunities or how we reach into
2 universities with an eye towards an end product.

3 REP. PETRI: Okay. The Secretary also
4 mentioned, Mr. Wolf, the collateral -- collaboration
5 which I agree with him, that I think a lot of our
6 universities need to collaborate.

7 Should that be, you know, part of -- in
8 your -- in the department's opinion a process going
9 forward where research projects would encourage
10 collaboration between the various universities and
11 hospitals that do this research?

12 EXEC. DEPUTY WOLF: I think any time
13 that we can collaborate, particularly amongst the
14 many institutions that the state of Pennsylvania
15 have, I think it's a better -- it puts us in a better
16 position.

17 There are any number of academic
18 institutions and/or organizations, be they for-profit
19 companies or not-for-profit research institutes, that
20 can be beneficial in there, in that process.

21 REP. PETRI: Now, a final question I
22 have and then just a quick comment.

23 With respect to job creation, has
24 anybody in the department or the administration taken
25 a look at the possible job creation numbers that have

1 come from these tobacco settlement funds that have
2 been used for research --

3 EXEC. DEPUTY WOLF: I think we'd like
4 to --

5 REP. PETRI: -- in the Commonwealth?

6 EXEC. DEPUTY WOLF: I think we'd like to
7 get back to you with an analysis like that.

8 REP. PETRI: Okay.

9 EXEC. DEPUTY WOLF: Be happy to.

10 REP. PETRI: And hopefully the report
11 that the advisory committee is working on will
12 address some of the successes, Mr. Chairman, for
13 Pennsylvania; but I have to say that this is an area
14 I'm very concerned about.

15 I believe that if we -- if we redirect
16 these funds, not only will we lose the 50 million,
17 and I think it would be really tough to put back next
18 year, I think we'll probably use half a billion
19 dollars worth of -- of economic engine money.

20 In this economy I think we ought to be
21 pumping this money into this particular line item.

22 Thank you.

23 CHAIRMAN ADOLPH: Thank you,
24 representative.

25 And like -- like I've been saying all

1 during these budget hearings, every governor proposes
2 a budget. It's a starting point. It's a blueprint.
3 There's legislative input into this, and this is why
4 we have these budget hearings.

5 Okay. So without further ado, the next
6 question will be asked by Representative Steve
7 Samuelson.

8 REP. SAMUELSON: Thank you,
9 Mr. Chairman.

10 A question about some of the line items,
11 and I appreciate Chairman Adolph just said that this
12 budget is subject to review by the legislature,
13 and -- and many of us don't agree with some of the
14 cuts that are in here.

15 I -- you know, the six -- we -- we've
16 already talked about the six line items that are
17 totally eliminated in Governor Corbett's proposed
18 budget. Lupus, poison control centers, trauma
19 programs, epilepsy support, biotech research,
20 Tourette syndrome.

21 Poison control centers, my understanding
22 is that, you know, the nationwide campaign, we're
23 trying to encourage kids not to get anywhere near
24 poison. It's Mr. Yuk is the decal. That was -- that
25 was started in Pittsburgh at the Pittsburgh

1 Children's Hospital and Pittsburgh Poison Center in
2 Pennsylvania, and yet we have a Pennsylvania budget
3 which says we should give zero to poison control
4 centers.

5 How -- how do you justify a total cut in
6 funding for poison control centers?

7 SECRETARY AVILA: As I've said, we've
8 been approached by other -- I guess one other state
9 about partnering. I think it's going to be a matter
10 of looking at partnering because these are 1-800
11 numbers that -- that one would call in to it.

12 And I break it down to even why don't we
13 have a national program? Why is it to the states? I
14 would love to see this as a national number where we
15 have experts that are available around the clock
16 where all the states collaborate.

17 REP. SAMUELSON: But if we had a
18 partnership with some other state, wouldn't that
19 other state expect Pennsylvania to contribute
20 something towards poison control centers or --

21 SECRETARY AVILA: And that's something
22 that we -- that needs exploring.

23 REP. SAMUELSON: Okay.

24 SECRETARY AVILA: I laid it out there
25 just so you would understand I have a concern.

1 REP. SAMUELSON: Okay.

2 SECRETARY AVILA: It's a legitimate
3 concern. But it's being explored. Other options are
4 being explored.

5 REP. SAMUELSON: Vital statistics, you
6 talked about the need for the funding in -- in the
7 area where the folks are doing the birth certificates
8 and the death certificates and compiling data.

9 I've looked at that line item, and it's
10 actually down 5.6 percent. So there's a need for
11 more folks to do the work, but there's 5.6 percent
12 less money.

13 How does -- how do you -- how does that
14 reconcile?

15 SECRETARY AVILA: Initially we needed
16 more to catch up. But we're digitizing. We're
17 computerizing. We're setting up algorithms that will
18 require less, I guess you'd say, of the manpower once
19 we catch up. I think that's what that explains, or
20 that explain that.

21 REP. SAMUELSON: A passionate discussion
22 a few minutes ago about Lyme disease and the need for
23 education and prevention in the area of Lyme
24 disease.

25 Now, I looked through your budget cover

1 to cover here and I don't see any funding for Lyme
2 disease prevention or education. Is there anything
3 in the Department of Health budget about Lyme
4 disease?

5 SECRETARY AVILA: We currently work --
6 have programs that work with Lyme disease, as I
7 mentioned, and participate and partner with two other
8 departments.

9 REP. SAMUELSON: Is there any state
10 funding going to those efforts?

11 SECRETARY AVILA: Okay. Thank you for
12 reminding me of that.

13 The epidemiology department, that's one
14 of their charges. And we have a phenomenal group of
15 epidemiologists that work on Lyme disease.

16 REP. SAMUELSON: Within the Department
17 of Health?

18 SECRETARY AVILA: Within the department,
19 yes. That's part of their mandate. As you know,
20 that's run by Dr. Stephen Ostroff, the acting
21 physician -- physician general of this state who
22 comes from CDC. It's a career CDC person.

23 REP. SAMUELSON: Okay. That's probably
24 under the general government operations line item of
25 the department?

1 SECRETARY AVILA: I -- I -- yes, it is.

2 REP. SAMUELSON: Okay. And also I
3 notice a cut here for the health departments, the
4 county and city health departments. Local health
5 departments had been 26.7 million. Governor Corbett
6 is proposing 25.4 million. So it looks like a five
7 percent cut.

8 Now, I'm -- I noticed many of those
9 local health departments at the county and city level
10 have their own funding challenges, and here the
11 proposal is to cut them back by five percent.

12 SECRETARY AVILA: Well, it's, once
13 again, dealing with very hard times and doing more
14 with less and that type of pressure many times brings
15 the best in us with cross training and being more
16 efficient with our -- with our administration.

17 REP. SAMUELSON: I know those counties
18 are also going to be watching closely next week when
19 we look at the Department of Public Welfare and the
20 new proposed block grant, which at first glance looks
21 like \$138 million less.

22 I'm sure we'll have lots of questions
23 for the DPW secretary about that.

24 But if you have a county health
25 department, you have less funding on that end, at the

1 same time you're facing a new block grant over at DPW
2 which could have less funding for the human services
3 program. It's a lot for these counties to -- to
4 wrestle with in -- in these challenging times.

5 SECRETARY AVILA: And I understand
6 that. Once again, it's getting back to the core
7 functions of government. And I am in touch with the
8 other -- as you know, the state is a hybrid state.
9 Some -- the ten counties/municipalities that have
10 their own health commissioners, too, and we're
11 working with all of them. I keep in touch with all
12 of them. I encourage the dialogue and any way that
13 we can help.

14 REP. SAMUELSON: Okay. Well, thank
15 you. I appreciate you. Today you've been a very
16 passionate defender of many of the programs that have
17 been funded in the past by the Department of Health.

18 I hope that we on the Appropriations
19 Committee and we in the House of Representatives can
20 restore some of the funding that has been cut so that
21 we can -- we can actually deliver on -- on those
22 programs that you have very passionately defended.

23 Thank you.

24 Thank you, Mr. speak -- Mr. Chairman.

25 CHAIRMAN ADOLPH: Thank you,

1 representative.

2 I'd like to acknowledge the presence of
3 Representative Jerry Stern who has joined us.

4 And at this time I'd like to have
5 Representative Martin Causer for some questions.

6 REP. CAUSER: Thank you, Mr. Chairman.

7 Welcome, gentlemen. My question deals
8 with the -- the lack of doctors and health care
9 providers specifically in -- in rural areas of the
10 state.

11 You have a -- a line item in your --
12 your budget that is titled primary health care
13 practitioner appropriation with its goal being
14 primary care in medically underserved areas of the
15 state.

16 And it includes a loan repayment
17 program. Can you speak to that program and how it's
18 being administered? And it's -- it's proposed at
19 just over \$3.6 million.

20 And I'm interested in where the money is
21 going and how it's being administered.

22 SECRETARY AVILA: And so where the money
23 is going, we can get back to you on that.

24 However, this is something that is also
25 a passion of mine and I have worked with

1 Representative Baker on this.

2 It's important to reach out to the rural
3 areas and areas that need primary care
4 practitioners. And that is something where I am
5 focused on.

6 I had the opportunity to visit LECOM. I
7 was so impressed with not only the diversity of their
8 med school class but their commitment to reaching
9 out.

10 I've actually been approached -- and I
11 won't mention the state. Another state, they would
12 like to see that model we have in LECOM, which is the
13 largest medical school in the United States. I'm
14 proud to say they're here in Pennsylvania.

15 But one of the things I'm also working
16 on to address that issue is I'd like to see
17 telemedicine and by -- when I mention telemedicine I
18 don't mean ever replacing the physician/patient
19 relationship, the laying on of hands which is so
20 crucial when you're taking care of a patient,
21 actually being there with them.

22 But it's the communal support. It's
23 getting that consult from the specialist or
24 subspecialist that may be in the inner city, to reach
25 out to these communities so they can also get --

1 benefit from that knowledge that may save lives and
2 improve the quality of life.

3 So these are all important things I'm
4 working on and I'm committed to.

5 REP. CAUSER: I would appreciate the
6 information. If you can -- if you can provide, you
7 know, where these practitioners are, how these funds
8 are being expended and -- and, you know, through the
9 loan repayment program where are these providers that
10 are having their loans repaid?

11 I'm particularly concerned with, you
12 know, OB doctors in rural areas. You know, I come
13 from one of the most rural parts the state. In
14 Potter County we have an impending shortage of OB
15 doctors for -- for women and, you know, to -- to
16 travel to the next available hospital is about 50
17 miles.

18 SECRETARY AVILA: Uh-huh.

19 REP. CAUSER: And -- and, you know, so
20 it's a serious concern that we -- that we have. So
21 the details of -- of that particular program and how
22 your department may be able to use that program to --
23 to help our rural area would be very interesting.

24 SECRETARY AVILA: I can give you some --
25 the four current programs that we have. Community

1 Primary Challenge Grant Program, the Primary Health
2 Practitioner and Loan Program, the J-1 Visa Waiver
3 Program, and the National Health Services Corps
4 program.

5 Now, getting to OB. That's of
6 particular interest to me where -- where I -- I -- I
7 came from, one hospital overnight decided, we're
8 going -- getting rid of OB. The closest hospital was
9 an hour away, an academic state university.

10 I had Hispanic women giving birth in
11 cabs. And I spoke to my dad. My dad was a cab
12 driver in New York for many, many years. He's a
13 minister now. Went to seminary at night school
14 and -- and spent many years doing that.

15 But before I was born, there was
16 actually a course that cabbies could take in New York
17 City so they could deliver. I -- I'm sure there's no
18 carrier that would allow that now.

19 But I jokingly mentioned to the
20 legislature where I was before, so what are we going
21 to do now, start certifying cabbies to deliver these
22 children in the cabs? Now on top of that we don't
23 have the old Checker Cabs which are like a small
24 waiting room from back in the 50s.

25 So it's a particular concern to me to

1 see this. So it's happening here. And I'm here and
2 I'm hearing about it. But I'm just letting you know
3 it's happening around this country, and it's
4 something we need to start addressing.

5 This is why I'm -- I'm committed to
6 these programs to bring in primary care practitioners
7 throughout this state. We have a large state.

8 REP. CAUSER: I guess one of the reasons
9 I raised it because -- and I'll use Potter County as
10 an example, again. The hospital, the one hospital in
11 Potter County, designated as a critical access
12 hospital, very rural area, as I said, has an
13 impending shortage of OB services, and to travel to
14 the next nearest hospital would be 50 miles in
15 either -- in any direction.

16 So I wanted to raise that issue with
17 you. And if there's anything that we can do through
18 the program, through the appropriation that you
19 have to -- to assist in that rural area that would be
20 very beneficial.

21 SECRETARY AVILA: And I appreciate
22 that. And if you would allow me, I would -- I would
23 like to visit with you.

24 REP. CAUSER: We'd -- we'd love to have
25 you come up. And any additional information you can

1 provide to the chairman I'd -- I'd appreciate it.

2 SECRETARY AVILA: More than happy to.

3 REP. CAUSER: Thank you, Mr. Secretary.

4 Thank you, Mr. Chairman.

5 CHAIRMAN ADOLPH: Thank you,
6 representative.

7 The next question will be by
8 Representative Parker.

9 REP. PARKER: Thank you, Mr. Chairman.
10 And -- and hello, Mr. Secretary.

11 SECRETARY AVILA: Hi.

12 REP. PARKER: You know, one of the --
13 the challenges for the Department of Health you're
14 charged with promoting the healthy lifestyles and
15 delivering quality health care for all.

16 And, Mr. Secretary, I was just sharing
17 with one of my colleagues, I remember when you were
18 just first here, you were just arriving last year, we
19 were dealing with the Gosnell --

20 SECRETARY AVILA: Yes.

21 REP. PARKER: -- case that took place in
22 Philadelphia.

23 SECRETARY AVILA: Yes.

24 REP. PARKER: And I remember being
25 extremely impressed by your proactive stance and sort

1 of outline for the immediate visitation of
2 free-standing abortion clinics and providers across
3 the Commonwealth.

4 I mean you -- I remember you even
5 reading the schedule for us of your visits and -- and
6 sort of the outcomes of those locations. And I
7 appreciated your due diligence.

8 I'm not sure if everyone else had the
9 sort of same confidence in your ability to oversee
10 those institutions, to make sure that -- that they
11 were regulated and functioning properly, because this
12 body still sought to pass Senate Bill 732 which
13 required those three free-standing clinics and
14 providers to comply with ASF, the ambulatory surgical
15 facility requirements, and that they did. And this
16 was done all under the guise of protecting women's
17 health and safety.

18 And so now we find ourselves, after the
19 passage of 732, with this sort -- sort of national
20 and global debate and attention on a bill that was
21 recently passed in Virginia requiring women, prior to
22 getting abortion services, to get a transvaginal
23 ultrasound before they do it. Now, granted, the
24 Virginia bill was amended. They took the
25 transvaginal ultrasound language out of it.

1 But it was -- it was passed yesterday.
2 So all eyes were on Virginia, but all eyes also right
3 now could be on Pennsylvania because we have a bill,
4 which is House Bill 1077, and, once again, the -- the
5 Pennsylvania Medical Society, along with the American
6 College of Obstetricians and Gynecologists, they have
7 once again said as it relates to House Bill 1077, the
8 way they did for Senate Bill 732, that they don't
9 support this legislation. They believe it's
10 medically unnecessary.

11 And, you know, for the sake of those
12 who -- who -- who may be watching, this Pennsylvania
13 Medical Society, along with this College of
14 Obstetricians and Gynecologists, these are not
15 traditional lobby organizations that we would
16 consider to be a pro life or pro choice group.

17 These are medical professionals of the
18 largest organizations, comprised of medical
19 professionals in the Commonwealth and across our
20 nation.

21 And they told us that, no, this bill
22 is -- is not necessary.

23 Has the department taken an official
24 position on House Bill 1077 and what is your thinking
25 regarding this issue?

1 SECRETARY AVILA: We haven't taken an
2 official stance on it, and we're reviewing it and --
3 as we review anything -- any legislation that is
4 health related or affects the health of the people of
5 Pennsylvania.

6 So we'll be going over it. I can assure
7 you of that.

8 REP. PARKER: Will you think that you
9 will have your position and will it be made public
10 prior the voting on -- of this bill?

11 Because as -- other organizations and/or
12 other departments usually make sure they weigh in on
13 what the department's perspective is on a particular
14 legislative initiative we're working on, they usually
15 let us know while the bill is being debated in
16 committee or before it actually comes to the floor
17 for a vote, what the administration's official
18 position is.

19 So if that's something you would be able
20 to forward to both Chairman Adolph and Markosek, but
21 do you see it coming in the near future?

22 SECRETARY AVILA: I'm sure it will be.
23 I hate to speculate, because I hate breaking any type
24 of promises. But it's certainly on the radar, and we
25 will do our best to review it in a timely fashion.

1 REP. PARKER: Okay. Can we just
2 quickly, sir, go back to Senate Bill 732 which
3 required those free-standing abortion clinics and
4 providers to comply with the ASF regulations.

5 Take us back, if you will, to -- this to
6 me is an already regulated industry that, again, I
7 applauded about your visits to them last year and
8 just making sure that they were all up to code and
9 health department standards.

10 Do you have an update for us where we
11 are on that issue on our free-standing providers and
12 clinics?

13 SECRETARY AVILA: Sure. I attended the
14 majority of these facilities. Actually 23 out of the
15 25. When time and my schedule permits I will finish
16 the other two.

17 I attended. The results are -- are
18 available. I wanted to make sure there was complete
19 transparency on the web, and I encourage you to look
20 on the web.

21 We have a new law that I have to --
22 which asks the Department of Health, mandates the
23 Department of Health to implement, to be implemented,
24 and we're working on that.

25 To give you a -- an update. We sent out

1 a licensure package to all the facilities in the
2 beginning of January. The exceptions process is
3 underway for the facilities, and we are meeting and
4 working with the affected parties.

5 And in that interim we also have a -- a
6 confirmed deputy secretary of quality assurance, who
7 I have great faith in, and is sitting behind me.

8 So I'm sure that we will be able to
9 implement the law that's been given to us to
10 implement.

11 REP. PARKER: Uh-huh. Well, thank you,
12 Mr. Secretary.

13 Let me just note in closing that I
14 really appreciate this year, and even this last year,
15 the passion you seem to communicate about your
16 commitment to women and OB/GYN services and making
17 sure that women get connected to those service and
18 that babies and infants get connected to the services
19 that they need, even in the midst of the financial
20 crisis that our Commonwealth is facing right now.

21 And sort of with that -- that being our
22 concern, I just hope we really stay focused, because
23 we know many of the OB/GYNs departments in hospitals
24 have been closed, particularly in the southeastern
25 Pennsylvania region, and we talked about that during

1 the last term.

2 But I just hope that we don't put all of
3 our focus on helping a woman or -- or making
4 government force women or telling a woman how to
5 decide what to do and then prior to a woman making a
6 decision about how she carries out a pregnancy and
7 whether or not she decides to carry out a pregnancy,
8 I hope we provide that same service when she decides
9 that's what she's going to do.

10 So that we're not only concerned about
11 what happens to a woman on the front end but we're
12 also supporting her during the pregnancy process.

13 So thank you, Mr. Chair.

14 SECRETARY AVILA: And I wanted to say
15 that I maintain my commitment to maintain the health
16 and safety -- safeguarding the health of
17 Pennsylvania.

18 As to the Gosnell case, yes, it hit
19 home. This is Pennsylvania. This happened here.

20 But this is more of a world wide issue.
21 I was approached by colleagues from all over -- I'm
22 not young. So I've been around for a while. I've
23 got -- and I also have friends.

24 And I was approached even from Hawaii
25 congratulating me for the -- the -- for the

1 appointment, but also asking me what's going on?
2 There was concern. This particular individual was
3 someone I trained with who was the first
4 African-American nuclear cardiologist in Hawaii.

5 And he contacted me. He said, Eli,
6 congratulations. What's going on?

7 I think this sent reverberations around
8 the world. And -- and I think that we've been
9 strong, and we've been dealing with the -- with the
10 issue in the appropriate and best manner possible.

11 At least that's always been my
12 commitment, and I'm a man of my word.

13 REP. PARKER: Thank you, sir.

14 SECRETARY AVILA: Uh-huh.

15 CHAIRMAN ADOLPH: Thank you.

16 Representative Mauree Gingrich.

17 REP. GINGRICH: Thank you,

18 Mr. Chairman.

19 Gentlemen, thank you so much for being
20 here. Good to see you all, and thank you for your --
21 your time and enlightenment in allowing this
22 dialogue.

23 I want to talk a little bit about health
24 care associated infections.

25 SECRETARY AVILA: Okay.

1 REP. GINGRICH: Which we sometimes refer
2 to as hospital-acquired infections or H -- HAIs.

3 I understand that we have experienced,
4 and this is a good thing, a drop slightly between the
5 years 2010 and 2011. Do you have any idea what those
6 numbers or percentages might be? Or is that
7 something you can let us know as a -- as a
8 committee?

9 I'd like to know just what the
10 definition of slight is or -- it's the right
11 direction obviously.

12 SECRETARY AVILA: I'd be more than happy
13 to provide you with that. I -- certainly when it
14 comes to numbers, I want to get them right.

15 So I don't have them off the top of my
16 head. I don't have them in my notes. I will get
17 back to the Chairman with those numbers.

18 REP. GINGRICH: Appreciate it.

19 SECRETARY AVILA: Provide those
20 promptly.

21 REP. GINGRICH: Appreciate that very
22 much. And I know that while -- while that is -- is
23 exactly what we want to hear, and, you know, the
24 higher the percentage the happier we'll be.

25 While we have maybe fewer instances, we

1 do have more resistant strains now from -- from what
2 we all read and know to be so. That's kind of an
3 interest of mine. Especially in light of the fact
4 that we have also the privilege of a great deal of
5 advancement in medical technology, in medical
6 equipment, and -- and all that.

7 So it leads me to ask in light of our
8 focus on hospital-acquired infections and the
9 sophisticated equipment, sometimes robotics,
10 obviously more complicated to clean and maintain,
11 knowing full well that the days of the dishwasher and
12 autoclave are done and the resistant strains we're
13 dealing with, how -- if you are, how are you dealing
14 with some of that by regulation or training?

15 I see that the Health Care Associated
16 Infection Prevention Program, which I'd like to know
17 more about, exists in your department. I'm
18 wondering, in training and in meeting certification
19 and abilities to do the job that is now much more
20 complicated, what you -- how you might be addressing
21 that, if in any way? I'd appreciate that.

22 SECRETARY AVILA: Well, there's some
23 real basic thoughts when it comes to that. And, yes,
24 we do have that education piece.

25 But that is keeping up on what are the

1 strains that are out there. What are -- why have
2 they become resistance? Maybe in a certain area
3 someone went off giving a certain amount of
4 antibiotic when they shouldn't have. So you develop
5 plasma -- I'm sure you're familiar with.

6 REP. GINGRICH: Yes.

7 SECRETARY AVILA: And they incorporate
8 their nuclear material in making the -- the -- the --
9 the -- the pathogen more resistant. It's a matter of
10 discussing -- looking at those patterns which our
11 epidemiologists look at, looking at those patterns
12 and saying, okay, we need to be aware that maybe more
13 education, because this resistant strain needs to be
14 given in this part of the state.

15 So this is how I know that we get
16 involved.

17 REP. GINGRICH: Let's talk about the
18 dural medical goods and the equipment and the care
19 of -- the maintenance, the cleaning, the
20 sterilization, the functionality.

21 Any doctor in an operating room deserves
22 to know he can be as close to a hundred percent sure
23 as he can be that that equipment is in good working
24 condition and has been cleaned and sterilized
25 properly.

1 Has there been any additional training,
2 regulation? The equipment most definitely has
3 changed. I don't know that the training on the
4 equipment -- some of it even shared between
5 hospitals -- has kept up with that level of
6 education.

7 And I'm -- I'm asking you if, within the
8 department, or are you leaving that up to each
9 individual hospital? How is that handled through the
10 Department of Health?

11 SECRETARY AVILA: You want to? Okay.
12 Neil wanted to take it. I have some basic precepts
13 because of the national organization that addresses
14 those specific issues, but Neil will --

15 REP. GINGRICH: I appreciate that, Neil.

16 LEGISLATIVE DIR. MALADY: Good
17 afternoon, representative.

18 REP. GINGRICH: Good afternoon.

19 LEGISLATIVE DIR. MALADY: I -- we are
20 aware and we have -- we look forward to working with
21 you.

22 I know that you have interest in
23 introducing legislation to deal with the central
24 sterile technician certification act and our folks
25 are currently looking at that and we look forward --

1 REP. GINGRICH: I appreciate your
2 interest. And sometimes these things can be done
3 in-house, sometimes by regulations. But it's an
4 issue that I know is -- is -- is something that we
5 need to pay attention to.

6 LEGISLATIVE DIR. MALADY: Hopefully
7 we'll have as much luck as we did on the independent
8 informal dispute resolution.

9 REP. GINGRICH: You know what? I wanted
10 to mention that, and then we'll move on in the
11 essence of time.

12 I want to express my appreciation. What
13 a pleasure it was to work with the Department of
14 Health, on a recently passed bill, signed into law,
15 and it's soon to be implemented and that's called the
16 independent informal dispute resolution, which is an
17 -- an amazing resource in the nursing home industry.

18 And your interest and care about how all
19 that is done is really appreciated.

20 And then I ask my final question. Are
21 you ready for that implementation within the
22 department and we're ready -- ready to roll with
23 that?

24 LEGISLATIVE DIR. MALADY: We are moving
25 forward and we will have a report for you in short

1 order. I know it goes into effect sometime in
2 April. I'm not exactly sure of the date, but our new
3 deputy, Annie Marie Sossong, will be over to visit
4 with you.

5 REP. GINGRICH: Excellent resource and
6 thank you --

7 LEGISLATIVE DIR. MALADY: Sure.

8 REP. GINGRICH: -- for working on that.
9 And thank you all.

10 CHAIRMAN ADOLPH: Thank you.

11 Representative Bradford.

12 REP. BRADFORD: Thank you, Chairman.

13 And thank you, Secretary. I wanted to
14 follow up on some of the questions that
15 Representative Smith had asked about the redirection
16 of tobacco settlement funds, largely to the public
17 welfare budget.

18 And obviously from the southeast there's
19 a lot of interest in where are these funds and the
20 research that it currently funds, a lot of these
21 institutions obviously are not only providing very
22 important life-saving research, but it's a huge job
23 creator and obviously there's a huge synergy in the
24 southeast with a lot of the work that's being done.

25 So I guess my question goes actually

1 more to something you raised in terms of alternative
2 research you'd like to see get done, and I don't
3 think anyone wants to be alarmists, but with the new
4 Marcellus industry you had raised Marcellus as one
5 area of concern that you'd like to see additional
6 research.

7 SECRETARY AVILA: Uh-huh.

8 REP. BRADFORD: And -- and truly I
9 appreciate it's a tremendous jobs opportunity and
10 it's a tremendous opportunity for us to establish
11 energy independence.

12 But since the issue of public health has
13 been raised vis-a-vis Marcellus, and, again, I don't
14 think anyone wants to be alarmists and there's been
15 some sensational, not necessarily fact-based,
16 reporting, probably on both sides, which has done
17 real harm to having a good public discourse about the
18 public health.

19 But when you talked about the heavy
20 metals that are involved and the --and the fracking
21 fluids and some of the things that are potentially
22 getting into the public health, from the southeast we
23 obviously don't necessarily have the drilling, but
24 we're all concerned about our ground water.

25 What kind of research specifically would

1 you like to see in terms of the Marcellus? Would it
2 go towards the ground water, air quality? And I'd
3 just like you to opine on that if you would.

4 SECRETARY AVILA: Sure. As I had
5 testified before to the committee, I'd like to see --
6 and by the way, we do -- we do respond to all
7 environmental health complaints within the
8 department.

9 Each one is evaluated. And when I say
10 evaluated, that means the typically EIS or the -- the
11 Epidemic Intelligence Service approach where you
12 define a case, you go out there, you collect samples,
13 you -- you try to get histories. We're very thorough
14 about that.

15 As a scientist and as an epidemiologist,
16 I would like to see, as I have testified before, a
17 collection of data where you have cohorts that you
18 can follow, can compare, and that's an ideal
19 situation.

20 We are partnering with schools of public
21 health to see if we can get these things done. And,
22 that is, you can have, for example, a study where the
23 end size, the size of the study is 50. The power of
24 the study will not be very effective. Confidence
25 levels will be very wide.

1 You want to narrow that down by having a
2 large study size, and this is where my concerns are
3 with studies that are out there on their own and
4 anyone that might be just out to prove something that
5 they're looking for.

6 I approach it as a complete purist. I'm
7 not going to assume anything. Let's see what we
8 find. What the data shows us.

9 And that requires a lot of data
10 collecting when it comes to health, and that's the
11 approach, the flavor, paradigm that I tried to get
12 across.

13 REP. BRADFORD: Uh-huh.

14 SECRETARY AVILA: And what guides me.

15 REP. BRADFORD: And I guess my question
16 is as a nonscientist, but it -- we all hear the
17 concerns. What are the particular concerns that are
18 being raised that are making these -- what are the
19 particular health impacts that are being raised, red
20 flags that are going off, that are coming to your
21 office that needs -- needs to be addressed or
22 researched as you indicated?

23 SECRETARY AVILA: Up to this point, none
24 of the health concerns have been substantiated by
25 what is going on or affiliated with Marcellus shale

1 drilling. At this point. There's none.

2 REP. BRADFORD: So -- so you'd like to
3 substantiate, but what exactly is being raised? I
4 understand you looking to substantiate.

5 SECRETARY AVILA: Oh. There -- there
6 are -- obviously I can't go into it because of
7 privacy reasons, but there may be a claim of a
8 certain cancer or a certain skin condition. And when
9 the investigations are done and if the individual's
10 complaint are forthright and provide full medical
11 documentation, you'll go, well, the reason you have
12 that is not because of the claim or the allegations,
13 what is going on with Marcellus shale, but look at
14 other chemicals of where you work that you were
15 exposed to throughout an entire career, a lifetime.
16 Look at what you have been ingesting. Look at the --
17 things like that. Because I don't -- there are
18 privacy issues. But I have yet to see one.

19 REP. BRADFORD: Got you. How kind of --
20 maybe, again, from an outsider, how does the
21 jurisdiction issue between DEP and the Department of
22 Health break down with these issues? Who's the lead
23 agency? How does that work --

24 SECRETARY AVILA: DEP is --

25 REP. BRADFORD: -- practically?

1 SECRETARY AVILA: -- the lead agency.
2 Although I did -- where I was before, I was fortunate
3 enough to be in charge of DEP. So I was -- really
4 had the pleasure of having Health and DEP. We would
5 go in and investigate together. And that was a
6 wonderful experience.

7 Obviously we're talking about a small --
8 we're talking about a county. But here we're now in
9 the state and we have a very competent Secretary of
10 DEP.

11 So we communicate with each other.
12 We've opened those lines. And there's even talk
13 about sharing some of our labs specialists to work
14 with them in their labs, their state-of-the-art labs
15 to monitor -- monitor.

16 Because chemicals, specifically
17 inorganics, heavy metals may be presented in a
18 certain way in soil, in an inani -- inanimate or I
19 should say nonorganic form.

20 But once they're in the body there are
21 many other interactions and there are different ways
22 of looking for that. And that's where the Department
23 of Health has its -- has its specialty and its
24 knowledge. And that collaborative work with DEP, I
25 think, will -- will -- will bear fruit and -- and

1 we'll be able to work together and continue
2 protecting the health and safety of Pennsylvanians.

3 REP. BRADFORD: I appreciate that. But
4 the local impact legislation that was passed, does
5 that provide the Department of Health with the
6 funding it needs that might provide an alternative
7 stream of revenue so that we don't have to use
8 tobacco settlement funds or is the Department of
9 Health left out of the equation in terms of an impact
10 from the Marcellus shale drilling?

11 SECRETARY AVILA: From the law that was
12 passed between, I think, the legislative body and
13 executive body, we were not funded. But that doesn't
14 mean that we don't continue doing our work. We
15 continue doing our work.

16 I can tell you that we are responding
17 and investigating every complaint. We're working
18 with the Commonwealth's schools of public health to
19 share data and environmental health expertise.

20 We're also working with health provider
21 associations to develop education and training, which
22 were elements that were adopted into that final
23 report.

24 REP. BRADFORD: Uh-huh. That is
25 reassuring. And I can just say on a personal note

1 obviously we're all disappointed that certain areas
2 were not funded in the Marcellus bill.

3 One of the things I want jump to or just
4 switching gears, Representative Parker had mentioned
5 the Gosnell tragedy and some of the legislation that
6 has come out of that.

7 You had mentioned that you've been to 23
8 of the 25 facilities in the Commonwealth. Of those
9 23, how many at the time of your inspection was up to
10 the compliance standards set out in the legislation?

11 SECRETARY AVILA: I wasn't inspecting to
12 that. I was there to familiarize myself and see what
13 was going on.

14 The results -- I did stay for the
15 entirety of the inspections and did learn quite a
16 bit. But those results, those specifics, I request a
17 complete transparency.

18 If there were deficiencies, they're up
19 on the web. And the required plans of correction,
20 they're also on the web for everyone to see.

21 So I would encourage you to look at
22 those, because there were quite a number of them.

23 REP. BRADFORD: No, and I didn't even
24 realize that. So I appreciate you pointing that out
25 about the web.

1 Does you -- does anyone in your
2 department know how many of those 23, at least as
3 they're currently formulated, will now post your
4 inspection or your visits? Because your visits may
5 actually predate the effective date of the
6 legislation now that I think about it.

7 SECRETARY AVILA: Right.

8 REP. BRADFORD: Do you have any idea of
9 how many of those facilities will be closed as a
10 result of the legislation?

11 SECRETARY AVILA: That would be pure
12 speculation. There's an entire exceptions process
13 that has to -- that -- that is available by -- by
14 statute.

15 The exceptions process, it's the same
16 for any health care facility in the Commonwealth.
17 There's a fundamental fairness to it. There's an
18 exceptions committee. There's actually an entire
19 protocol that we would be more than happy to share
20 with -- with -- with the chairman and to give you.

21 But that would -- that would be pure
22 speculation at this point.

23 REP. BRADFORD: I would appreciate
24 that. I think we'd all like to know what the waiver
25 process is. Because obviously one of the concerns

1 for a lot of us is the politiza -- politicization of
2 any such process, that what's viewed as medicine
3 could be used to really pursue a political agenda.

4 SECRETARY AVILA: Understood.

5 REP. BRADFORD: Which kind of takes us
6 to 1077, which is the use of a medical ultrasound to
7 pursue, in some of our opinions, a political --
8 political ends.

9 On that issue, 1077, as my
10 understanding, requires a clear image to be made. A
11 clear image, my understanding, would require, at
12 least in the early stages, an invasive ultrasound.

13 Is that your opinion as a doctor? And
14 how does that play out under the proposed
15 legislation?

16 SECRETARY AVILA: Well, I have to look
17 at the legislation, and my opinion at this point
18 would be just -- wouldn't really be valid. Because I
19 have to look at the legislation and see what's at
20 play to be able to comment.

21 Along with my -- my other experts within
22 the department. And -- and hopefully we'll do that
23 in a timely fashion.

24 REP. BRADFORD: Okay. And I appreciate
25 that, Secretary. And I appreciate your -- your

1 candor. Thank you.

2 Thank you, Chairman.

3 CHAIRMAN ADOLPH: Okay. Thank you.

4 Representative Bear.

5 REP. BEAR: Thank you, Mr. Chairman.

6 Mr. Secretary, earlier this session the
7 House passed a patient safety bill, HB 838, by
8 two-thirds majority dealing with defining ophthalmic
9 surgery.

10 And the purpose of this bill was to
11 address a loophole in the current Optometric Practice
12 Act where it does not do that.

13 And basically this bill would say
14 that -- that only ophthalmologists and medical
15 doctors could perform any kind of eye surgery.

16 My question is are you familiar with
17 this bill, the issues within the Optometric Practice
18 Act, and if you'd be supportive of it in passage?

19 SECRETARY AVILA: I'm an
20 ophthalmologist, just for the record. Or a former
21 ophthalmologist.

22 But that said, I'm -- I'm fair. I'll
23 have to look at it and I promise to get back to the
24 Chairman and get back to you.

25 REP. BEAR: I appreciate that. Thank

1 you.

2 SECRETARY AVILA: Of course.

3 CHAIRMAN ADOLPH: Thank you.

4 Representative Waters.

5 REP. WATERS: Thank you. Thank you,
6 Chairman.

7 And thank you, Mr. Secretary. Good to
8 see you again.

9 SECRETARY AVILA: Uh-huh.

10 REP. WATERS: I heard you say a couple
11 of -- make a couple of statements that -- that I
12 really appreciate, and that is how you are interested
13 in the -- in the health and welfare of
14 Pennsylvanians. And I know that's a mammoth
15 responsibility, but we need somebody who -- with your
16 credentials and -- and your status to be on top of
17 stuff.

18 In your -- in your practice as Secretary
19 of Health, how often do you -- you heard somebody ask
20 earlier, but how often do you weigh in on legislative
21 initiatives that members -- and measures that members
22 sponsor?

23 SECRETARY AVILA: My department reviews
24 anything that's health related. My door -- my -- my
25 door is always open. My phone is always available to

1 anyone who wants to speak to me.

2 But anything, any legislation that's
3 health related, we as a team, the department reviews
4 it.

5 REP. WATERS: Okay.

6 SECRETARY AVILA: And the administration
7 does also.

8 REP. WATERS: Okay. There -- there is a
9 -- resolution that I'm very interested in and one
10 that I -- and believe that many people would be
11 interested in, in my opinion, and that is dealing
12 with electronic devices.

13 There has been some studies that have
14 been conducted, one by World Health Organization, and
15 Dr. Jonathan Samet, who is the chair of the
16 organization, had released information about the
17 potential risk involved with youths and with the cell
18 phone use.

19 And -- and as we know, or maybe many of
20 us don't know, there are warnings that come in a cell
21 -- with the cell phone, from the manufacturer when
22 you buy them.

23 However, most of us -- and I'm guilty of
24 it, too -- when we got our cell phones, many times we
25 weren't interested in doing any in-depth

1 investigation into the package. We wanted that cell
2 phone in our hands. And many times we wanted to
3 operate it, charge it up and operate it.

4 But the -- but there is a warning inside
5 of there, and it's kind of not -- it's not easy to
6 locate and it's -- and it's in small print, too.

7 So there are -- is there some
8 information in there about that and the use of
9 laptops and I think that -- that we as men need to be
10 well informed about the potential harm with male
11 fertility when it comes down to these -- these
12 devices, with the laptops. I see Vitali over here
13 look. He's a young guy. But we -- and -- and this
14 study came out by the Pennsylvania Department of
15 Health --

16 SECRETARY AVILA: Uh-huh.

17 REP. WATERS: -- in December of 2010,
18 but the other one from the World Health Organization,
19 where they were trying to petition Congress to make
20 sure that -- that it should be found warranted. To
21 make sure that there's an educated public. Because
22 we know that these devices have become a part of our
23 everyday practice and -- and living. We don't leave
24 home without them.

25 SECRETARY AVILA: Uh-huh.

1 REP. WATERS: But if -- if people aren't
2 aware of inherent dangers, just like they weren't
3 aware, as you talked about earlier, about cigarette
4 smoke.

5 Years ago, 40 years ago people was -- it
6 was TV, all the actors, everybody was using them. It
7 was a way of being cool. People were influenced and
8 it was engaging.

9 But as a result of some studies and --
10 and as a result of some health issues, pressure was
11 put on the Attorney General and the health
12 departments to make sure that the proper warnings
13 were given so people could make intelligent choices
14 if they decided to use a product.

15 Right now these devices, there has been
16 some evidence that these devices could be even
17 harmful to women who are pregnant and to children.

18 There's a resolution, 434, that is --
19 has been submitted in the House of Representatives.
20 I wanted to ask you, if you get a chance -- I don't
21 know if you had a chance to look at it -- but I would
22 like to get your opinion about it and -- so that we
23 can make sure that Pennsylvanians -- I believe that
24 we could get it started here in the Keystone State
25 and try to spread it nationally that the warnings are

1 in these devices and that -- in many cases perhaps
2 the warnings should be in the retail outlets where
3 people buy these phones in a very broad and profound
4 way.

5 Maybe the advertisers, when they're
6 trying to promote their products, ought to also tell
7 you read the manufacturers warnings or at least maybe
8 tell you the health risk.

9 And the health risk, I believe, is
10 because of not knowing how to use the device. I know
11 it's called a laptop but when you put it on your lap
12 and you're pregnant, you could be exposing your --
13 your child to harmful rays.

14 SECRETARY AVILA: Of the magnetic
15 fields.

16 REP. WATERS: The magnetic fields.

17 SECRETARY AVILA: With the developing
18 fetus, yes.

19 REP. WATERS: Yeah. And the men. We
20 don't -- we got to be careful -- we put them on our
21 laps, too. And, of course, the cell phones which we
22 all use. And -- and it talks about how far to keep
23 it away from your head when you're using it and it
24 talks about don't have prolonged use of this device.

25 But the stores sell you unlimited time

1 on the phone. So it's somewhat of a contradiction.
2 We -- I just want to ask you as the Secretary of
3 Health for your support in us -- in this state
4 educating our constituents.

5 SECRETARY AVILA: Uh-huh.

6 REP. WATERS: Young children are even
7 more exposed to the rays than adults. That we have a
8 campaign to make sure that people are aware of
9 warnings, that the warnings are more profound, and
10 for the -- it's for the best interests and the health
11 of Pennsylvanians.

12 And I just to -- based on -- I guess
13 it's my platform of issues, but I'd just like to ask
14 you if you could respond to my statements?

15 SECRETARY AVILA: My response, just like
16 last year, and I'm going to bring that up in a
17 moment, is that I'm always willing to work and avail
18 myself of the expertise in the Department of Health.

19 The -- in fact, this showed up on my
20 epidemiology final exam, and it was an actual study
21 and we had to analyze it using advanced techniques
22 and biostatistical techniques on the issue of the
23 electromagnetic waves of cell phones, if they cause
24 brain tumors.

25 The studies have not shown it

1 statistically. So as a man of science, I --I say
2 statistics don't show it. But I do know there's a
3 magnetic field. I do -- I can feel the heat near my
4 ear. So what do I do? Speaker when possible. In
5 the privacy of my car. 'Cause, of course, you're not
6 going to use the phone while you're driving holding
7 it. You don't do that.

8 So I will obviously avail myself. And
9 getting back to last year's issue, I'm more than
10 happy to continue working on culture -- cultural
11 competency issues. I have not forgotten that. I
12 have --

13 REP. WATERS: Thank you.

14 SECRETARY AVILA: -- reached out to a
15 very prominent Philadelphian who is world renown and
16 told him that it's something I'd like to see done
17 here in Pennsylvania, to discuss these issues. And
18 they --

19 REP. WATERS: Thank you.

20 SECRETARY AVILA: -- particularly have
21 hit home, especially with my -- the recent passing of
22 my grandmother who raised me, because cultural
23 competency issues led to her death. So it affects
24 all of us.

25 REP. WATERS: It does. It does. A

1 member earlier talked the -- the lack of people of
2 that profession and in many parts. And you mentioned
3 a Latino person having to give birth in a cab.

4 SECRETARY AVILA: Uh-huh.

5 REP. WATERS: And sometimes we know that
6 there are communication problems that occur from
7 patient to physician and the cultural competency
8 and -- and -- and how the religious -- you know, they
9 might be of a certain religion where they practice
10 things differently than other people practice
11 things. And if you're not aware of these
12 differences, then you can insult a person or not --
13 and you don't even know it because you're not able to
14 communicate effectively with that person.

15 And this morning before I left to come
16 here to the Capitol, I saw a study that was released
17 about radon in the schools. I don't know if you had
18 a chance to see that, too.

19 SECRETARY AVILA: I haven't seen it, but
20 I'm familiar with ray -- with radon.

21 REP. WATERS: Pennsylvania came up with
22 a place where we do not provide the schools in our
23 state with the radon equipment to make sure that our
24 children are not being placed in harm's way and radon
25 is high in our state. So I just wanted to throw that

1 at you before I end my comments.

2 And thank you, Mr. Chair.

3 And thank you, Secretary.

4 SECRETARY AVILA: Thank you.

5 CHAIRMAN ADOLPH: Thank you. I'm sure
6 Chairman Myers is home in Philadelphia now.

7 SECRETARY AVILA: Without his seat belt.

8 CHAIRMAN ADOLPH: And he's now watching
9 us on PCN.

10 It's customary that we allow the -- the
11 chairman of the corresponding House committees to
12 make some comments and ask some questions.

13 I just want to inform everyone that
14 we're now running about 25 minutes late, and we have
15 General Services to follow. So just keep that in
16 mind in your questioning and your answers. Thank
17 you.

18 Chairman DiGirolamo.

19 REP. DiGIROLAMO: Thank you, Chairman
20 Adolph and Chairman Markosek and the members of the
21 committee, and I assure you I will be brief.

22 Welcome, Mr. Secretary Avila.

23 And my questions will be for the new
24 acting secretary of the drug and alcohol programs,
25 and I hope nobody pinches me because I'm afraid I'll

1 wake up in Bensalem and this will all be a dream.

2 But this has been a dream and the goal
3 of an awful lot of people and it took an awful lot of
4 hard work to accomplish this.

5 And I want to applaud Governor Corbett
6 for moving ahead with the new department, and also
7 applaud him on his decision to name Gary as the
8 secretary.

9 And, Gary, maybe just give us a little
10 progress report, if you will. I know you've been
11 spending time, I guess, on -- on the nomination
12 process, and let us know where you are with that
13 nomination process.

14 And also a little commercial. Don't be
15 afraid to come and see us over in the House. I know
16 myself and Secretary Baker would love to have -- have
17 a meeting. We have not seen you since you've been
18 named secretary. So don't be afraid to come over and
19 see us here in the House

20 ACTING SECRETARY TENNIS: Very good.
21 Thank you, Chairman DiGirolamo and Chairman Baker.
22 The -- and you know that I am greatly honored to be
23 named by Governor Corbett to this position and how
24 important it is to me.

25 As far as the Senate confirmation, I'm

1 in the process of meeting with Senators, probably
2 about one-third of the way through, but it's moving
3 along fine.

4 As far as the transition, my deputy
5 secretary sitting behind me, Kim Bowman, who is --
6 was the director for the drug and alcohol program
7 department for Chester County is -- brings a
8 tremendous amount of expertise, and we're just work
9 -- we've been working, really just starting to throw
10 it into gear, into high gear, since she's joined us
11 with the health department's very capable cooperation
12 and assistance.

13 We're working, meeting with the Bureau
14 of Drug and Alcohol Programs, Division of Licensure
15 to -- to make sure that -- to ensure that we have a
16 smooth transition, that there's really no disruption
17 of services, that things move along smoothly.

18 But thank you.

19 REP. DiGIROLAMO: Okay. That's really
20 good to hear. And I was -- and just I'll finish up
21 with this.

22 I was really glad to -- to hear you
23 point out about the relationship of the criminal
24 justice system and drug and alcohol programs.
25 Because it was all our expectation that, you know,

1 one in four families members in Pennsylvania, as you
2 said, struggle with this disease, but that, you know,
3 we're -- we're in this to put people into treatment,
4 save lives; but we're also in this to save money,
5 keep people out of our criminal justice system.

6 With that I might ask you, I'll just
7 close with this. A couple issues I think are kind of
8 like low hanging fruit.

9 There's a House Bill that me and Senator
10 Baker have kind of like co-sponsored, 1651. It would
11 create a prescription drug monitoring program here in
12 Pennsylvania. I think that is critically important
13 because prescription drug abuses in all our
14 communities, absolutely epidemic. So I would ask
15 you, if you haven't already, please take a look at
16 that.

17 ACTING SECRETARY TENNIS: Sure.

18 REP. DiGIROLAMO: And one of the other
19 problems that I see when families call me for help is
20 speeding up the process to qualify people for
21 Medicaid, not only for drug and alcohol, but for
22 mental health issues and some of the other diseases,
23 because I'm hearing in a lot of the counties it's
24 taking two, three, four, five six weeks for people
25 who are eligible for Medicaid to get to become

1 qualified.

2 And, you know, we know when people have
3 a drug and alcohol problem, a mental health problem,
4 that, you know, two or three or four or five weeks,
5 they're going to be back out on the street and not
6 looking -- so I would just ask you to maybe look at
7 those two problems or situations.

8 ACTING SECRETARY TENNIS: Absolutely,
9 Mr. Chairman. Thank you for the nice gestures.

10 REP. DiGIROLAMO: Thank you,
11 Mr. Chairman.

12 CHAIRMAN ADOLPH: Thank you.
13 Chairman Baker.

14 REP. BAKER: Thank you, Mr. Chairman.
15 And, Gene, thank you for the
16 promotions to secretary and senator. I appreciate
17 that.

18 Mr. Secretary, my condolences on the
19 loss of your grandmother and -- and you certainly
20 bring a lot of high level credentials to the -- to
21 the Secretary of Health position.

22 We -- we appreciate your -- your breadth
23 of knowledge and experiences. It's, you know, pretty
24 remarkable.

25 Just a couple of issues. One issue was

1 mentioned of bath salts. I had asked our -- I think
2 it was the Judiciary Committee staff at one time to
3 look into the possibility of giving you and the
4 Department of Health the authority to ban designer
5 drugs or synthetic drugs as they come on the market,
6 without having to go back every six months, twelve
7 months, every session, and do another bill to ban a
8 whole 'nother laundry list of designer drugs.

9 And -- and I pulled back on that because
10 I was told that that might violate some sort of
11 separations of powers act that we have here in the
12 Commonwealth. And I really -- I don't know if the
13 DA, former DA association, Mr. Tennis or -- or your
14 staff could look into that, but I certainly would
15 like to revisit that if that is something that is
16 doable and would not violate the separations act.

17 Because the legislative process can be
18 very slow at times and -- and treacherous at times.
19 And -- and when it comes to these bath salts, they
20 can be very, very dangerous. I just went to a fire
21 department EMS banquet, and it was a combination of
22 designer drugs, and mostly meth, and the one
23 department, rural, small, little fire department,
24 responded already this year to ten mutual responses
25 to these -- these. It's a serious problem. A lot of

1 these problems are in the rural -- rural
2 Pennsylvania.

3 So if you could look into that and let
4 me -- get back to me on that issue, I'd appreciate
5 it.

6 SECRETARY AVILA: Of course.

7 REP. BAKER: And as you know, I continue
8 to champion health care issues and especially rural
9 health care issues, because that's where I
10 represent.

11 This access to quality of care and --
12 and primary care doctors, especially tertiary care
13 doctors is a serious issue in Pennsylvania. Any way
14 we can incentivize it and make it easier for -- for
15 hospitals and practitioners to -- to practice in
16 rural health care, I'd be interested in learning more
17 about the model that you talked about earlier.

18 SECRETARY AVILA: Uh-huh.

19 REP. BAKER: I'd like to be able to sit
20 down and talk with you about that a little bit more.

21 And the issue I've experienced
22 personally with hospital-acquired and
23 nursing-home-acquired infections concerns me. I --
24 I'm concerned that they're all being reported; and if
25 they're not all being reported, how can we make sure

1 that they're being reported? And then obviously how
2 could we lower that number to prevent the
3 proliferation of -- of acquired-infections in nursing
4 homes and hospitals in particular.

5 Again, you don't have to respond to any
6 of this. You can come see me. We'll talk about all
7 these issues.

8 I know that the Chairman is pressed for
9 time, and we're hoping to be able to wrap up this
10 hospital accreditation issue. As you know, we
11 started that process in the Health Committee. We've
12 pulled back a little bit because we wanted the
13 stakeholders to vet the issue, come to some
14 agreement. I think we're 90, 95 percent there.

15 We want to move this bill. We want to
16 get it passed, on the Governor's desk, and so I'm
17 hoping we can wrap that up soon, and we'd appreciate
18 your insight on it.

19 Thank you very, very much.

20 And thank you, Mr. Chairman.

21 CHAIRMAN ADOLPH: Thank you, Chairman
22 Baker.

23 Gentlemen, I want to thank both of you
24 and your staffs for testifying. Hold on. Hold on.
25 Maybe I jumped the gun.

1 There is -- there is a question, a
2 second round. Representative Brownlee, please
3 consider the time and we have the General Services
4 waiting. So --

5 REP. BROWNLEE: I will, Mr. Chairman.

6 CHAIRMAN ADOLPH: Thank you. And I --
7 and I know your name was there for a long time.

8 REP. BROWNLEE: Thank you. Thank you,
9 Mr. Chairman.

10 Mr. Secretary, just a quick follow-up on
11 two of my colleagues' line of questioning regarding
12 House Bill 1077, the Right-To-Know bill.

13 Normally the ultrasounds in -- from what
14 I'm understanding is used for diagnosis -- diagnostic
15 purposes or to detect a medical problem. In this
16 particular case the ultrasound is going to be used to
17 relay information to a patient.

18 There's no official position from the
19 administration, but I'm -- I'm just wondering if this
20 bill is passed how much would it cost for your
21 department to administer and enforce this bill?

22 SECRETARY AVILA: We'll have to look
23 into that.

24 REP. BROWNLEE: Do you know?

25 SECRETARY AVILA: We'll have to look

1 into that. Right now it would be pure speculation,
2 but we would have to look into that.

3 REP. BROWNLEE: Okay. Thank you.

4 Thank you, Mr. Chairman.

5 CHAIRMAN ADOLPH: Thank you.

6 Gentlemen, thank you and look -- look
7 forward to working with you over the next several
8 months in order to balance this budget.

9 And I understand your concerns, and we
10 try to work within the revenue that has been coming
11 in. And I always remind folks that, you know,
12 unfortunately the revenues that are coming in are 19
13 -- 2007, 2008 years.

14 So I understand your concerns, and we
15 will try to balance this budget the best way we can
16 for you. Thank you.

17 SECRETARY AVILA: Thank you.

18 CHAIRMAN ADOLPH: Thank you. The next
19 hearing will begin in five minutes, and it is going
20 to be with the General Services. Thank you.

21 (The proceedings were adjourned at
22 4:10 p.m.)

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1
2 I hereby certify that the proceedings and
3 evidence are contained fully and accurately in the
4 notes taken by me on the within proceedings and that
5 this is a correct transcript of the same.

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8 Brenda S. Hamilton, RPR
9 Reporter - Notary Public
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