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**CAPITOL NEWS  
NOW****Child care licensing requirements  
come under House committee scrutiny****BY ERIN BOECKMAN**  
News Director

■ (OK) Daycare operators told the House Human Services Committee Tuesday of visits they have received from Department of Human Services license workers that they described as harassing.

Their testimony came during the committee's consideration of **Interim study 2011H-64**, which was requested by Rep. Purcy Walker, D-Elk City, on licensed child daycare facilities, specifically whether DHS is sometimes unrealistic in their regulations.

Debbie Simpson, who has operated a child care facility in Elk City for five years, said she was written up by

DHS for having standing water in a playground sandbox after three days of rain, even though children were not playing outside that day. Toni Wolfe, executive director of Renaissance Schools at Sangre in Stillwater, said serious non-compliance was cited at her facility for lack of a signed medication form for diaper cream. While she said she could see non-compliance for double dosing a child or giving a child the wrong medication, having expired diaper cream does not warrant a serious non-compliance.

Simpson suggested that common sense application of the child care licensing guidelines was needed.

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**Shelton to seek  
revisions to  
Demarion's Law****BY ERIN BOECKMAN**  
News Director

■ (OK) Rep. Mike Shelton said Tuesday that he would seek changes to Demarion's Law based on information he heard during the House Human Services Committee's Tuesday study of the statute, which requires certain daycare facilities to have liability insurance.

Shelton, D-Oklahoma City, led the discussion under his **Interim Study 2011H-108** to follow up on the impact of Demarion's Law since it was enacted in 2008. The bill, HB 2863, by Shelton and former Sen. Debbe

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**Senate Education Committee discussed  
higher ed's effectiveness, efficiency****BY SHAWN ASHLEY**  
Senior News Editor

■ (eCap) Senate Education Committee members listened Tuesday to three presentations focusing on the effectiveness and efficiency of Oklahoma's higher education system. Two of the presentations focused on efforts to increase the number of college graduates in the state, while the third looked at the system's fiscal effectiveness

and efficiency.

Sen. John Ford, R-Bartlesville, noted that total education spending makes up more than 50 percent of the lawmakers' appropriations and that higher education plays a vital role in the state's well being.

"It's important, I believe, to look at all aspects of education from an effectiveness and efficiency perspective," he said. "Also,

we are looking for way to make it for individuals to get degrees and industry certifications."

Bruce Vandal, with the Education Commission of the States, addressed the importance of Oklahoma's efforts, as well as that of other states, to increase the number of degree-holding adults in the state.

"There is no question if you look at the research and

what it takes to enter the middle class that it is going to requires post-secondary education," Vandal said.

Vandal said states' approaches to higher education are going through "...a time of innovation..." with an intense focus on better utilization of limited resources.

As others have reported, Vandal said, "Oklahoma

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## CHILD CARE • FROM PAGE 1

Jana Eckhart, a home daycare provider in Sayre, also addressed the process used to revoke a child care license.

Eckhart, who became a licensed child care provider in 2006, said her license was recommended for revocation in February. In April her license was revoked, and in May she filed an appeal. Her July 9 appeal before a DHS administrative law judge was the first opportunity she had to tell her side, she said.

Molly Priest, a Sayre attorney whose child was in Eckhart's care, helped Eckhart's licensing fight. While DHS' administrative law judge upheld her license revocation, a district court judge later ruled that the non-compliances cited by DHS were not severe enough to support revocation. The day after the judge ruled that the license could be reinstated, the local DHS office notified Eckhart that her license would be submitted for revocation again, Priest said.

"This is a bigger problem," Priest said. In Oklahoma, any violation could be grounds for revocation, and there is no clear description of what constitutes a "serious non-compliance" issue given to child care providers, so they are subject to interpretation from licensing agents, she said.

"There needs to be less room for interpretation," Priest said.

Additionally, she suggested that the appeals process for license revocation be revamped with more specific time frames. She noted that Eckhart's case took a year from the date she was notified of the license revocation to the date of the district court's ruling. Priest also suggested the establishment of a registration list for daycares, which would be separate from the licensing process.

Rep. Cory Williams, D-Stillwater, shared a similar story about the daycare facility caring for his child, Renaissance School in Stillwater. He said he believes local DHS workers are making "arbitrary and capricious" decisions. He said he has asked DHS to revoke the daycare's license because he thinks it will have a fairer shot in district court rather than through the DHS process.

"We want reform to policy," said Wolfe, who directs the facility where

Williams' son receives care. "It should be written so there is not any level of interpretation. The gray area is where we're being cited."

Wolfe also suggested that a true due process be provided for grievances, an issue also addressed by Kathy Cronemiller, president of the Oklahoma Child Care Association.

Cronemiller said she previously served on a board comprised of daycare workers and representatives from DHS who heard and considered license revocation requests before they moved forward. That board is no longer in place, but she suggested it be reinstated. She also advised putting back in place monthly meetings of an ad hoc committee to study related issues.

Following Tuesday's interim study, Walker said he would likely pursue Cronemiller's recommendation in legislation during the 2012 session. A panel of daycare workers, DHS representatives and even parents could review complaints raised against daycare facilities to determine if the accusations are serious in nature, he said.

Williams said he was going to pursue another avenue. He said he plans to propose legislation that would transfer the duty of childcare licensing from DHS to the Oklahoma State Department of Education.

Walker said he believes the current regulations in place are good, but DHS needs to work better with daycare workers to ensure compliance, not just close them down.

A few years ago, daycare licensing requirements underwent many changes stemming from the 2007 case of Joshua Minton. Two-year-old Minton died in May 2007 at a child care home in Tulsa. Vicki Chiles, the child care provider at the home, was sentenced to life in prison for covering Minton's mouth with duct tape when he would not be quiet.

The subsequent 2008 legislation was HB 2643, by Rep. Ron Peters, R-Tulsa, and Sen. Patrick Anderson, R-Enid. The bill, among other things, requires records searches of the Oklahoma State Courts Network on applicants wishing to establish or operate a child care facility. It requires a records search of OSCN, a criminal history records search

as well as a search of the child care workers registry prior to employment of any person in a child care facility. It also requires a search of OSCN for all employees and adults 18 or older who reside in a child care center, family child care home, large family child care home, part-day program, school-age program or summer day camp program, and it requires such facilities and programs to submit to DHS criminal history records searches on such individuals. The measure also modifies what information is to be disclosed to child care facilities against which complaints have been filed. The bill also establishes penalties for facilities that refuse to correct violations or complete a plan of correction. The bill also requires DHS to continue monitoring any facility with a license that has been revoked, denied or against whom an emergency order has been issued for 30 days after the final action. It also establishes penalties for violations.

The bill also directed the Commission for Human Services to promulgate rules to establish an online database that contains information including the names and contact information of child care homes and centers and a summary of substantiated complaint records and inspection reports generated by the department. It also requires child care licensing records and inspection reports to be maintained by the facility and posted or made available to past, current and prospective consumers. The bill also directs DHS to develop by July 1, 2011, a Web-based assessment tool for the public to evaluate compliance of child care centers, child care homes and large family child care homes with requirements based on a numerical score.



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Leftwich, D-Oklahoma City, requires a child care facility to maintain liability insurance coverage worth \$200,000 for each occurrence of negligence.

Exemptions from the requirement are provided for financial reasons or due to lack of availability of an underwriter willing to issue a policy. Under these circumstances, the facility must place a notice notifying customers that the facility does not have liability insurance and notify the Department of Human Services.

"I was proud to carry the legislation and believe our initial effort has proven beneficial, but we need to ensure that we have gone far enough," Shelton said.

Currently, 1,571 child care centers, which operate more than 30 hours a week, have the required liability insurance, representing 92 percent of DHS-licensed centers, said Lesli Blazer, director of child care services with DHS. This means that 139 centers claim the exemption for financial reasons or due to lack of availability.

However, only 933, or 37 percent, child care homes have liability insurance, while 1,569 homes, or 63 percent of those licensed by DHS, claim the exemption, according to Blazer.

Representatives from two childcare associations said they have embraced the requirement. Anita Fowler, with the Oklahoma City Family Childcare Home Association, said it is important for those who provide care for children to purchase liability insurance. It is a legitimate business expense that can be written off for tax purposes, she said.

"It's just good business sense to have

insurance," said Kathy Cronemiller, president of the Oklahoma Child Care Association.

She said her association has an insurance company through which its 458 members can gain liability insurance. At her own six childcare centers, Cronemiller said she pays roughly \$20 per year per child for accident and liability insurance.

Childcare facilities seeking the exemption under Demarion's Law for financial reasons do not have to provide proof that they cannot afford the insurance, Shelton noted. He said if someone is in the business of running a daycare, he or she needs to have liability insurance.

The average cost of liability insurance was also studied Tuesday. According to information provided by Rick Farmer, associate commissioner of governmental and public affairs for the Oklahoma Insurance Department, the cost is approximately \$250 a year for small daycares with eight to 12 children. The writing of the policy, not the amount of coverage, is a deciding factor in the cost, he added.

Farmer also noted that the \$200,000 coverage requirement is not out of line from his review of other states. Among states that require liability insurance for daycares, the range of required coverage is \$75,000 to \$500,000, with \$300,000 being the most often required amount. Nine other states also require that facilities without insurance post notice of not having insurance, he added.

As for the facilities that cannot

obtain liability insurance due to losses, Cronemiller said such operators do not need to be in the industry because it means they have had too many accidents and cannot afford coverage.

Shelton said he believed that the cost to obtain liability insurance is not that much, and every daycare should be required to have it.

"Insurance is just a part of doing business," he said.

The insurance provides protection for the daycare owner, the family and the child, Shelton added.

Edna Pittman, the mother of Demarion Pittman after whom the 2008 bill was named, said her son is still recovering from the 2007 accident at his daycare. In August that year, his daycare provider forgot him in a hot vehicle. He was in a coma for two months. He is still unable to speak and has seizures, but he is learning how to walk.

"He has a long road to recovery, and he has improved," Edna Pittman said.

Demarion Pittman's daycare was a good one, and his mother said she understands that accidents happen. But, her family was devastated by the accident, from the toll on her son to the continuing financial strain. She said her family was struck with millions of dollars in medical bills.

While Demarion's Law cannot help her son, Edna Pittman said, "I hope that law will help some other child."

She has also taken the language to other states and is currently trying to work with Alabama lawmakers to pass Demarion's Law there.

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## Commission for Human Services approves use of one-time funding

BY JUSTIN MARTINO  
Capitol Reporter

■ (eCap) The Commission for Human Services voted Tuesday to use \$10.5 million in one-time funds to restore certain services, as well as adding additional funds to legal fees as a precaution.

The \$10.5 million comes from encumbered funds from prior years that are now available. Oklahoma Department of Human Services Director Howard Hendrick said these funds are normally identified in the spring but were identified earlier this year because of improved processes.

The largest portion of the funds will be used to restore funding to the child care subsidy to avoid copayment increases for child care services. The board had voted to increase the amount needed for copayments in June but then deferred the copayment increase until July. Last month, an opinion letter issued by the Office of the Attorney General advised the commission its vote was not sufficient authority to increase the copayment amount and an emergency rule would need to be created.

A total of just more than \$6.8 million will be restored to avoid the increase in copayments.

Additionally, the funds will be used to restore just less than \$600,000 in family support payment reductions to

families with children with developmental disabilities and restore just more than \$2 million of the reductions planned for field operations.

An additional \$1 million will be added to legal fees to be used in a lawsuit filed by Children's Rights, a national group alleging the DHS violates the constitutional right of children by placing them in unsafe living conditions. Although the commission approved \$2 million in one-time funding in May to address legal and other fees related to the lawsuit, DHS administration said it appears another \$1 million may be required.

After a motion had been made to approve the use of the one-time funds, Commissioner Steven Dow asked the commissioners to vote against the motion so a different motion could be made that allowed them to vote on each use of funds separately. Dow specifically questioned the additional \$1 million being used in legal fees, saying he believed there were many other things on which the department could use the money instead.

Despite Dow's request, the motion passed with only Dow dissenting.

The commission also approved a capital bond issue of \$10 million dollars. The funds will be used to construct a new building in Pawhuska, expand a current building in Pawnee and fund renovations

for the Skyline building in Tulsa.

Because of current low interest rates, the department will be able to refinance bonds that were issued in 2000. The savings from refinancing these bonds will mean the annual debt service will not increase for the department during the five years when payments will be due on both the 2000 bonds and the newly approved bonds.

Hendrick also gave an update of DHS activities at the meeting, noting that services provided continue to increase while both funds and staff decrease. He noted that adoptions have increased from 5,798 in 2002 to 12,384 and the number of people in the Supplemental Nutrition Assistance Program at some point during the year increased from 479,744 to 880,939 over the same time period. The number of Advantage Waivers also increased from 13,938 in 2002 to 21,341 in 2011.

Over that period, however, staff has decreased from 8,010 to 7,257.

"People have stretched a long way," Hendrick said. "There's a limit, though, on how far you can expect people to stretch. These are people who haven't had a pay increase in four years."

Also at the meeting, Commissioner Brad Yarbrough was appointed as the new chairman of the commission. He replaces Commissioner Richard DeVaughn.

## Dates set for special House, Senate elections

BY ERIN BOECKMAN  
News Director

■ (OK) The Oklahoma State Election Board will remain active through the holidays with the announcement from Gov. Mary Fallin regarding dates for two special elections in the House and Senate.

The recent announcement of two departures – Sen. Andrew Rice, D-Oklahoma City, from the Senate and Rep. Dan Sullivan, R-Tulsa, from the House – will require two more special elections. Filing for Sullivan's House District 71 seat and Rice's Senate District 46 seat will be from 8 a.m. to 5 p.m. Dec. 5 through Dec. 7, according to the news release the governor issued late Monday.

Rice announced his resignation, effective Jan. 15, from the Senate last week. He has two years left in his Senate term. Sullivan will be assuming his new position as chief executive officer and director of investments for the Grand River Dam Authority on Dec. 1. He would have been eligible for re-election in 2012.

The special primary election for the two seats will be Feb. 14, 2012, the same date as the special general election for House

District 1. That election will determine the replacement for Rep. Rusty Farley, R-Haworth, who died over the summer. If a special general election is required for Senate District 46 and House District 71, it will be April 3, according to the governor's news release.

The special election for Senate District 46 will be the third to fill a vacated Senate seat since the 53rd legislative session got underway in January 2010. Sen. Greg Treat, R-Oklahoma City, was elected to Senate District 47 in January 2011 to replace Lt. Gov. Todd Lamb, who won election to the higher post in November 2010. Sen. Greg Childers, R-Del City, was recently sworn into office after his election Senate District 43, which was vacated by former Sen. Jim Reynolds, R-Oklahoma City, who resigned to become Cleveland County treasurer earlier this year.

Rep. Al McAffrey, D-Oklahoma City, has already announced his intent to seek the Senate District 46 seat. He said he has already been contacted by a number of people interested in his own House District 88 seat, if it were to be vacated by his election to the Senate.