



# Senator Eliot Shapleigh

District 29

## El Paso Press Release

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### For Immediate Release

June 1, 2009

## SENATOR SHAPLEIGH ANNOUNCES BILLS TO WATCH ON THEIR WAY TO THE GOVERNOR'S DESK

*"Listening to real concerns back home, research before session, hard work during session and great staff make all the difference. Each of these bills can make a real difference in the lives of every day El Pasoans."*

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AUSTIN - Today, Senator Eliot Shapleigh (D- El Paso) announces the passage of several pieces of legislation to the Governor's desk.

"Listening to real concerns back home, research before session, hard work during session and great staff make all the difference. Each of these bills can make a real difference in the lives of every day El Pasoans," Senator Shapleigh said.

Early in session, rather than focusing on real priorities like jobs. Republicans "[lit the fuse](#)" on a [voter ID](#) bill that had a predictable result— [meltdown in the House](#). In March, the Federal Reserve Bank reported that Texas was officially in recession, [with 300,000 lost jobs on the horizon](#). Fierce opposition from far right interest groups kept key local option revenue bills from a vote on the House floor. Despite a tough session, in tough times, here's what the legislature did send to the Governor's desk in this 81st Legislative Session:

### ENSURING ETHICAL COUNTY GOVERNMENT

[S.B. 1368](#): This bill filed by Senator Shapleigh and sponsored by Representative Marisa Marquez (D - District 77, El Paso) is the El Paso County ethics bill. The bill allows the county to establish an independent ethics commission that will adopt, publish and enforce an ethics code governing county public servants. With this bill's passage, the county could create a ten-member ethics commission that would review complaints and either issue cease-and-desist orders or impose civil penalties of up to \$4,000 for violations. The legislation also requires the commission to provide the public with information on the commission and the ethics code, and requires vendors or lobbyists to complete training on the ethics code before submitting bids or otherwise contracting or meeting with county officials.

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This bill will go a long way is restoring public confidence in El Paso County government and ensure that businesses wishing to operate in El Paso may do so without corruption interfering with free commerce.

## **CREATING MORE TIER ONE UNIVERSITIES IN TEXAS**

[H.B. 51](#): This bill relating to enhancing the quality of state universities was amended with [S.B. 9](#), the university Tier One funding bill.

Currently, Texas has three Tier One institutions: The University of Texas at Austin, Texas A&M University and Rice University. In comparison, California has nine Tier One institutions and New York has five. In Texas, there are no current statutes to support, aid and encourage emerging research universities. Tier One institutions bring together a critical mass of talent and enrich the area in which they are located. By not having more Tier One institutions, Texas loses out in research funding, venture capital, top students who leave to attend Tier One institutions outside of the state, and top faculty, researchers and scientists.

[S.B. 9](#), authored by Senator Judith Zaffirini (D-Laredo) and co-authored by Senator Shapleigh creates a fund to provide money to research universities and emerging research universities for the recruitment and retention of highly qualified faculty and the enhancement of research productivity at those universities. The bill creates a system for distributing money based on

- the average amount of total research funds expended by each institution annually during the three most recent state fiscal years; and
- the average number of degrees awarded by each institution annually during the two most recent state fiscal years

The bill also requires review of the institutional groupings under the Texas Higher Education Coordinating Board's accountability system.

## **EXEMPTION FROM STORM WATER FEES**

Legislation enacted during the 80th Legislature enabled the City of El Paso to charge property owners for drainage fees. The fees are used to make improvements designed to reduce flooding and to effectively manage the drainage of storm water. The bill, however, exempts only the city, universities and state buildings from paying the fee.

School districts and the county needed relief from the burden of these fees, which can average several thousand dollars each month.

[S.B. 1522](#) exempts property owned by school districts located wholly or partly in certain municipalities from drainage charges and all ordinances, resolutions and rules adopted under provisions relating to municipal drainage utility systems.

[S.B. 874](#) exempts property owned by a county in which a municipality with a population over 500,000, within 50 miles of an international border, is located from municipal utility drainage service charges and all ordinances, resolutions and rules adopted under provisions relating to municipal drainage utility systems. This bill has already been signed by the Governor and effective immediately.

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## HEALTH CARE

[S.B. 1](#): This bill, the state's budget for the next two years, includes \$65 million in base budget and \$17 million for new faculty at the Texas Tech University Health Sciences Center Paul L. Foster School of Medicine in El Paso. Funding the medical school was among the El Paso delegations' top legislative goals this session.

[H.B. 2154](#): This bill cosponsored by Senator Shapleigh revamps the Texas Physician Education Loan Repayment Program, which was first established in 1985. Currently, the state forgives up to \$45,000 of a medical graduate's loans if he or she practices in a shortage area. However, most physicians graduate with more than \$160,000 in school loans.

The bill puts in place an innovative loan repayment program for health care providers to serve the state's most underserved areas. It will remove one of the most significant barriers to physicians choosing to practice primary care and strengthen the state's primary care infrastructure, thereby reducing unnecessary hospitalizations and costly trips to the emergency room.

Funding for the program will come from closing a loophole in the taxing of smokeless tobacco. About \$150 million could be raised by plugging the loophole, with some of the money going to the loan repayment program and some going towards a tax break for small businesses.

Under the plan, participating physicians would not be eligible for loan repayment assistance for more than four consecutive years. In those four years, however, they could get up to \$160,000 in loan repayment monies – \$25,000 in the first year, \$35,000 in the second year, \$45,000 in the third year and \$55,000 in the fourth year.

The physicians could only access the funds if they work in a "medically underserved area," as defined by state health officials. Medically underserved communities include areas with high elderly populations, poverty rates, and infant mortality rates and with a low ratio of physicians per 100,000 populations. 179 of the existing 254 Texas counties, including all the border counties, are considered medically underserved.

[S.B. 202](#): This bill would allow qualified, out-of-state doctors to begin seeing patients while waiting for their licensure applications to be processed. The bill would allow the Texas Medical Board (TMB) to extend provisional medical licenses to out-of-state doctors who are licensed and in good standing in another state, sponsored by a currently licensed Texas doctor, and will practice in medically underserved areas of Texas.

Texas is a state with significant shortages in a variety of health care professions and physicians are not evenly distributed throughout the state. Despite this, in recent years, the processing time for physician licensure applications has increased significantly and physicians who desire to practice in the state are experiencing processing times of several months.

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Expedited medical licensing would have tremendous effect in El Paso, which is currently the least staffed city in the state and the United States, with major shortages of physicians, dentists, nurses, and allied health professionals. This problem will only get worse because of the estimated 65,000 troops and dependents expected to move to Fort Bliss over the next five years as a result of Base Realignment and Closure (BRAC) decisions. BRAC alone will require an additional 615 doctors by 2017.

[H.B. 4029](#): Senator Shapleigh carried this bill authored by Representative Marquez. The bill establishes that payment information is part of a patient's confidential health care information and not subject to release without patient authorization.

Under current law, public hospitals have been required under certain circumstances to release patients' names and addresses, as well as account balances and other payment information, in response to requests under public information laws. This bill would uphold a patient's right to keep confidential the fact that the patient received health care services at all, in addition to the location or provider of the services.

The bill will not change existing practices in Texas hospitals, but patients who receive services from public hospitals will have a level of privacy similar to that of patients who receive services from private hospitals not subject to public information laws.

## **TRANSPORTATION**

[H.B. 300](#): This bill, which died in the House, would have preserved the Texas Department of Transportation (TxDOT) and add several changes to its operation. TxDOT was restored in other legislation.

One such proposed change in the bill would have created a rail transportation division, a concept originally introduced as [S.B. 612](#) by Senator Shapleigh. The division's duties would include assuring that rail transportation is an integral part of the department's planning process, coordinating and overseeing certain rail projects, and developing and planning for improved passenger and freight rail facilities.

This provision of [H.B. 300](#) would have:

- created an application process and authorize MPOs of a certain size to apply to the department to be selected as the urban passenger rail demonstration program; If selected as a demonstration program, the counties within that MPO are granted certain local option funding option powers;
- required the rail division to select an urban passenger rail demonstration program in no more than five metropolitan planning organizations (MPOs); and
- required the counties in the region selected by TxDOT to call an election to ask voters to approve projects and approve the methods of finance.

The provision also would have added a concept previously filed by Senator Shapleigh in [S.B. 897](#), which would move reporting requirements in connection with the transportation of hazardous materials by a railroad to TxDOT and local metropolitan planning organizations (MPOs), instead of the Texas Railroad Commission.

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Even without this rail provision, TxDOT plans to organize a rail division in 2009 to plan for extensive relocation projects and move forward with various rail projects in Texas.

Under a separate provision, the TxDOT sunset bill would have also allowed for the creation of tax increment reinvestment zones (TIRZs) across the state to fund future rail projects, a concept originally filed by Senator Shapleigh as [SB 898](#). TIRZs are special districts created by local governments that take taxes attributable to new improvements made within the zone and use them to fund future public improvements in the zone.

Under this provision, the bill:

- authorized a municipality or county to set up a transportation reinvestment zone for any transportation project;
- allowed a municipality or county to request that TxDOT delegate to it full responsibility for transportation projects over which TxDOT has any oversight authority;
- authorized a municipality or county to contract with a public or private entity for road improvements and to pledge funds from the zone for that purpose;
- authorized a county to assess all or part of the cost of a road project against property within the zone; and
- specified that a municipality or county may not be penalized by a reduction in traditional funding because it established the zone; neither funds designated for a project before establishment of a zone nor funds to TxDOT districts containing a zone may be reduced.

[S.B. 1](#): The state budget has approved \$182 million for the state's rail relocation and improvement fund. The fund is currently unfunded. Under the conference committee proposal, however, that funding would be contingent on TxDOT having at least as much money for roads in the next two-year budget cycle as it has now. Senator Shapleigh was a cosponsor on the bill that created the fund [during 79th Legislative Session](#). The fund was created for the purpose of providing a method of financing the relocation and improvement of privately and publicly owned passenger and freight rail facilities. A state investment of only \$200 million could generate \$1 billion dollars for rail relocation projects across the state.

#### **COMBATING INTERNATIONAL CRIMINAL CARTELS**

[H.B. 2086](#): This bill by Representative Joseph Moody (D- District 78, El Paso), which expands what constitutes engaging in organized criminal activity, was amended with another bill coauthored by Senator Shapleigh to curb gang activity in Texas and stop violent transnational drug cartels. [S.B. 11](#), authored by Senator John Carona (R-Dallas), would help transform the Department of Public Safety (DPS), granting them new tools to identify, arrest and prosecute cartel leaders. The amendment includes the following provisions:

- Members of a criminal street gang would be made liable for monetary damages they inflict on a city or neighborhood. Civil suit may be brought by a district, city, or county attorney or the attorney general. Damages may include actual damages, exemplary damages, court costs and attorney's fees;
- The bill raises the cap on penalties that a prosecutor can recover against a person who violates a gang injunction from \$10,000 to \$100,000;
- Persons convicted of a gang offense would have their driver's licenses suspended for one year;

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- A judge would have the discretion to require persons convicted of multiple gang-related offenses serve consecutive sentences;
- Where a person over the age of 21 creates an illegal or false ID, that person cannot use the defense of writing "not a government document" on the ID;
- Expands the criteria under which offenders may be added to the State's Gang Database to include the use of the internet to identify one's self as a gang member or to recruit new membership;
- Mandates that an annual Gang Report be produced by the Texas Fusion Center and provided to the Governor. This report would include an evaluation of the threat of criminal street gangs and recommendations to prevent human trafficking, reducing gang violence, preventing the growth of gangs, and ensuring law enforcement training;
- Allows judges the power to prohibit persons on probation from having contact with "any person convicted of an offense involving or furthering criminal street gang activity;"
- Allows for a wiretap to effectively attach to a person rather than a specific phone or device where a standard wiretap is impractical. This is focused on the use of cell phones by organized crime. Under current law, when a suspected gang member switches from phone to phone, law enforcement must apply for new wiretaps each time;
- Creates a new offense for firearm smuggling if the person intentionally or knowingly possesses transports or transfers a firearm in violation of the law. The penalty for this offense is a third degree felony unless committed with respect to three or more firearms, which causes the penalty to be increased to a second degree felony. Either of these penalties is increased to the next highest level of penalty if the offender was acting for profit;
- Creates a law enforcement integrity unit to be placed within the Texas Rangers to investigate law enforcement corruption by criminal street gangs and organized crime. The unit will assist Federal agencies, state and local agencies, and district and county attorneys in investigations and prosecutions;
- Gang members would be registered on a database, like sex offenders. Offenders must register themselves annually for ten years or more frequently if deemed necessary by DPS. Upon third conviction of a gang-related felony, a judge would have the discretion to require the offender to wear an ankle monitoring device if placed on probation or parole;
- Makes the penalty for a gang member directing minors to commit crimes equal to the penalty for the crime committed if done in furtherance of gang activity;
- Makes it a state jail felony to threaten a family member of a child who is being solicited to participate in gang activities;
- Makes it a state jail felony for a member of a criminal street gang to intimidate, harass, or threaten another person;
- Juveniles who have participated in gang-related conduct would be required to participate in a gang intervention program; and

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- Creates "Gang-Free Zones," within which penalties for gang-related offenses increase by one increment. These "gang-free zones" include:
  - areas within 1,000 ft off school property;
  - areas within 1,000 ft of higher education property;
  - areas within 1,000 ft of youth centers;
  - areas within 1,000 ft of playgrounds;
  - areas within 300 ft of public pools or video arcades;
  - areas within 1,000 ft of movie theaters or shopping malls; and
  - school buses

#### **FIGHTING THE SPREAD OF COLONIAS**

[H.B. 2833](#): This historic legislation by Representative Marquez and Senator Shapleigh would ensure buildings in El Paso County's unincorporated areas are held to the same construction standard as that of other Texas counties, by mandating that building code standards that apply to the unincorporated areas in other counties of the state to also be applicable in El Paso County.

Passage of this bill is a historic milestone for enforcing building codes in economically-disadvantaged El Paso County subdivisions, known as colonias, which have an enduring history of substandard housing. Along the Texas-Mexico border, more than 1,400 colonias suffer from faulty construction, open sewage, lack of sanitary water, dusty unpaved roads and no plumbing. Passage of this bill would also ensure that new homes being built in anticipation of new troops and dependents moving to El Paso meet building standards. The BRAC process will bring an estimated 67,000 more people to El Paso County.

#### **CLIMATE CHANGE**

[H.B. 3526](#): This bill relating to the powers and duties of the Texas Water Development Board (TWDB) includes an amendment by Senator Shapleigh that was originally filed as [S.B. 1405](#). The bill establishes an advisory committee on climate variability for the purpose of assisting the TWDB with its duty of drafting a state water plan in 2012.

Current water planning efforts in Texas were passed by the Legislature in 1997. Because it emphasized involving local stakeholders, the new plan made significant changes to water planning in Texas. Under the plan, 16 regional water planning groups (RWPGs) organize independently to anticipate water demands and evaluate strategies to meet future water needs. The process is coordinated by the Texas Water Development Board (TWDB), which is the agency charged with reviewing and approving plans developed in each region. Currently, each RWPG is required to create a plan to address water supply and demand issues in their region for the next 50 years. The first plans were approved in 2002 and a new plan has to be created for each region every five years. In drafting a regional water plan, each RWPG examines water demands, identifies areas where there is a shortage or surplus of water, and determines whether there are sufficient supplies during droughts.

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The current planning process, however, fails to account for climate variability and therefore, is unable to accomplish its mandated purpose. Because the environment directly impacts the state's water supply, a special emphasis on climate variability must be accounted for when determining the state's water plan.

#### **FILING PROPERTY TAX APPRAISALS ONLINE**

[H.B. 1030](#): This bill by Representative Bill Callegari (R- Katy) relates to the scheduling of hearings before appraisal review boards on property tax protests. Carried on the bill is an amendment by Senator Shapleigh that would allow Texans to protest their property tax appraisals online. Senator Shapleigh previously filed this bill as [S.B. 258](#). The bill would mandate that Texas' largest counties - including El Paso - launch a program for electronic protests of property tax appraisals.

The bill would provide for convenient online appeals, where taxpayers can understand how the law works, how to file an appeal and how to find help. The bill would allow communication between citizens and appraisal officers to also be done online. Creation of an online system to file protests will lower costs for appraisal districts and increase their efficiency in addressing citizens.

[H.B. 2317](#): This bill, co-authored by Representative Moody and Representative Chente Quintanilla (D-District 75, El Paso), requires a comprehensive training course for new appraisal review board members and continuing education for all members. This bill sets forth the required curricula and materials for use in the continuing education course. This bill also provides that the board of directors of the appraisal district is encouraged to select as chairman of the board a member of the board, if any, who has a background in law and property appraisal.

This bill was filed in response to many Texans' concerns about local appraisal review boards' ability to appropriately handle appraisal appeals.

#### **KEEPING CHARITABLE TRUST MONEY IN TEXAS**

[S.B. 666](#): This "orphan trusts" bill would create a system to ensure that charitable foundations established in Texas remain in Texas. The bill would prohibit a financial institution administering a charitable trust from changing the location of its administration—the grant-making function of the trust—to another state, unless otherwise authorized in the terms of a trust.

Often charitable foundations set up by donors who have no heirs or other family that wish to carry out their wills are entrusted to lawyers or local banks who will keep their money invested in the local community. However, when attorneys retire or local banks are sold to multinational financial institutions, the foundations are no longer run by the people and banks familiar with the donors' specific wishes. Often when this happens, communities who stood to benefit from the trust are denied the good will of the original donors.

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Under [S.B. 666](#), should a financial institution wish to relocate a trust's administration, it must first consult the donor if the donor is living and submit the selection of a new location to the Attorney General. If the original donor is not living and there is no other individual specifically authorized to make changes to the trust, a financial institution is required to file an action in the district or statutory probate court in the county which the trust was created seeking a court order authorizing the trustee to change the state in which the trust is administered.

This court would then make a decision on relocating a bill's administration based on its interpretation of the donor's original wishes. If a financial institution fails to comply with the bill provisions, the district court or statutory probate court may appoint a new financial institution to administer the trust.

#### **REFORMING STATE BOARDING HOMES FOR THE DISABLED AND ELDERLY**

[H.B. 216](#): This bill, filed by Representative Jose Menendez (D-San Antonio) and sponsored by Senator Shapleigh, would amend the Health and Safety Code to give local governments the power to license and regulate homes for the disabled and elderly, which are currently unregulated under Texas law. According to the Texas Health and Human Services Commission (HHSC), approximately one thousand such boarding houses exist in the state.

Current law only requires licensing, inspection and regulation of such facilities when they provide medical services, prescription administration or therapeutic services. There are no restrictions on the size, management or operation of these facilities.

Under [H.B. 216](#), HHSC would develop model statewide standards for regulation of boarding homes. Local governments would then have the option to regulate boarding homes. If they choose to regulate, then local governments would:

- inspect and investigate each boarding house before issuing a certificate of registration or renewal;
- maintain a registry of the boarding houses;
- inspect a registered boarding house at least once during each two-year registration period;
- set fees for the certificate of registration, which would cover the costs of administering the chapter;
- provide education and outreach to owners and operators of boarding houses by June 1, 2011; and
- require that owners and operators of boarding houses hold a certificate of registration.

#### **WORKING TO FIX THE DRIVER RESPONSIBILITY PROGRAM**

[H.B. 2730](#): This bill, the DPS sunset bill, includes two provisions to fix the Texas Driver Responsibility Program (DRP). In 2003, the 78th Legislature created the Driver Responsibility Program to help fund state trauma care centers and the Texas Mobility Fund. The program, however, disproportionately punishes low and middle income, and minority Texans with expensive fees. About two thirds of offenders have defaulted on their payments. The program simply used punitive fines to plug holes in the budget.

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Under the DRP:

- Points are accumulated for moving violation convictions. After six points, drivers are required to pay a \$100 surcharge each year for three years. Each additional point on a driver's record will cost an additional \$25 a year;
- Under the program, driving while intoxicated carries an automatic \$1,000 annual surcharge for a first offense. Each subsequent conviction carries an additional \$1,500 annual surcharge;
- Driving without a license carries a \$150 penalty, plus a \$100 annual surcharge, making the total violation \$450. Driving with an invalid license would cost a driver \$150, plus a \$250 annual surcharge, making the total violation \$900;
- Texans caught driving without proof of insurance would be required to pay a \$250 fee, plus an automatic annual surcharge of \$250 for three years from the date of their conviction, making the total cost of the violation \$1,000; and
- Should a driver commit one of these latter two violations again within that three years, they would be assessed an additional annual surcharge.

This session, Senator Shapleigh filed legislation that would have provided [several changes to the program](#), including mandating notice of when a surcharge will be applied, exempting people within certain income brackets and students, and creating a program to forgive surcharges with proof of a good driving record.

Amendments that survived in [H.B. 2730](#) would exempt people living at or below 125 percent of the federal poverty level. That provision won't take effect until 2011.

## EDUCATION

[H.B. 3646](#): This bill, the state's school finance bill, describes how the approximately \$35 billion set aside for public school operations in the state budget should be allocated. Included on the bill are amendments by Senator Shapleigh to encourage financial literacy education in our schools and ensure that our children are equipped to compete in a 21st Century global economy.

[S.B. 197](#) expands an existing financial literacy pilot program in public schools. During the 79th Legislature in 2005, Senator Shapleigh passed [S.B. 851](#), which established the financial literacy pilot program. The bill provided content requirements for the curriculum and instructional material development, and authorized the Texas Education Agency (TEA) to administer the program. Since 2005, selected pilot schools have provided an estimated 500 students with instruction in financial literacy. [S.B. 197](#) would also expand the pilot program from 25 to 100 schools. Allowing the TEA to seek out additional grant sources to fund an expanded pilot program will help develop best practices models for other schools to adopt. [S.B. 197](#) would also require the TEA to provide the legislature with a report on the implementation and effectiveness of this program by January 2011.

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[S.B. 199](#) would require that regional Education Service Center (ESCs) offer training and assistance in providing instruction in personal financial literacy. Currently, ESCs are only required to offer training and assistance in subject areas that are tested on statewide and federal assessment instruments.

The goal of both bills is to weave personal financial literacy instruction into as many grade levels and issue areas as possible. The ultimate goal is to create a comprehensive pre-K-through-college financial literacy program that will be implemented statewide.

[H.B. 3646](#) also includes an amendment to the bill offered by Senator John Whitmire (D-Houston) which specifies that every teacher in the state receive a minimum \$800 pay raise. Before the amendment, [H.B. 3646](#) contained enough funding for a pay raise, but did not specify how districts needed to distribute that money. The House version of the bill did contain a specific pay raise amount, but that was stripped from the bill before coming to the Senate floor. Without a specific dollar amount in the bill, school districts would not have been mandated to make sure every Texas teacher gets a raise.

Texas teachers' pay is currently more than \$6,000 below the national average and 20 percent below pay for comparable jobs here in Texas. Texas ranks 49th in the nation in average teacher salary as a percentage of average annual pay. Some 50,000 Texas classrooms lack an appropriately certified teacher for the subject taught.

A provision in [H.B. 3646](#) also includes a special allotment for student affected by BRAC in 2010 and 2011 should funding be available.

#### **TOUGH SESSION, TOUGH TIMES, HARD WORK**

"Even in tough sessions, hard work makes the difference. By working together with legislators working in good faith, we can keep El Paso's agenda on track," Senator Shapleigh said.

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