

# **The 81<sup>st</sup> Legislative Session in Review**

**Senator Eliot Shapleigh**

August 2009

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## 81<sup>st</sup> Legislative Session Highlights

Dear Friends:

As your Texas State Senator representing the people of El Paso, I am proud to share with you this account of the 81<sup>st</sup> Legislative Session.

When we began to plan our legislative agenda for the 81<sup>st</sup> Legislative Session, all of us agreed that the number one priority for our community was guaranteeing UTEP participation in Tier One formula funding. Our S.B. 1564, which allowed for challenge funding to create more Tier One universities in the state, passed as H.B. 51 by Representative Dan Branch (R-Dallas). We first started Tier One work with H.C.R. 159 from last session. The 2010-11 budget approved by the Legislature includes \$50 million for the emerging universities in addition to their normal appropriations. The \$50 million will be parceled out based on which schools raise the most money from private donations for enhancing research and recruiting faculty members.

Another top item in the delegation's consensus agenda was securing additional funding for our new medical school. We secured \$48 million in the base budget for the medical school and an additional \$17 million for new clinical faculty. On July 13, our medical school opened its doors to the 40 first-year medical students of the inaugural class.

Since 1992, we have been moving forward with our Medical Center of the Americas (MCA) concept—a world-class health, education and research center dedicated to Hispanic health and anchored by the first new medical school in the United States in 30 years. In 1998, we worked with the City of El Paso to create a federal Empowerment Zone with the medical school as the centerpiece. We obtained \$50 million in 1999 to establish the Border Health Institute's permanent endowment. In 2001, we initiated plans for a research tower and classroom building at Texas Tech's El Paso campus. With the El Paso legislative delegation, we fought to win approval of a \$40 million research tower, \$3 million for development and planning, and \$600,000 for Texas Tech's El Paso Diabetes Research Center.

In 2003, during the 78<sup>th</sup> Legislature, and with a \$10 billion budget shortfall, we worked to grant Texas Tech the authority to begin curriculum design and development for the four-year medical school. Working in conjunction with Senator Robert Duncan (R-Lubbock), a rider was

adopted to grant Texas Tech University Health Sciences Center-El Paso (TTUHSC) the authority to take the organizational and procedural steps necessary to attain accreditation of the school. In effect, this rider granted authority for a full four-year medical school in El Paso. Additionally, we worked to obtain funds for the El Paso Medical School from the Texas Enterprise Fund. In October 2003, Governor Perry approved \$2 million for this purpose. Later that year, during the 78<sup>th</sup> Third Special Session, we crafted a rider authorizing Texas Tech to sell \$45 million in tuition revenue bonds to build additional classroom facilities. We worked with the Mayor, the City Council, and area business leaders to create a Medical Center of the Americas Foundation to master plan a truly world-class campus of interrelated programs and facilities. Finally, during that same session, H.B. 153 passed, thereby authorizing an additional \$6.3 million in tuition revenue bonds for the school.

During the 80<sup>th</sup> Legislative Session, we secured \$48 million in funding to hire first- and second-year faculty for the Texas Tech El Paso Medical School. With that money, the first phase of development was completed and full accreditation was made possible.

In addition to celebrating the \$65.3 million that was appropriated for the Texas Tech University Health Sciences Center-El Paso for 2010-11, I want to share with you the following victories from the 81<sup>st</sup> Legislative Session:

### *Health and Human Services*

- ❖ Passed H.B. 216 authored by Rep. Jose Menendez (D-San Antonio) and sponsored by our office, which continued our efforts to regulate boarding homes or “mental health slums” from last session. Current state law does not regulate the operation of group homes for residents who are not related to the provider and that are provided by individuals or business concerns for adult persons who are disabled by reason of mental health or mental retardation or are elderly and who are in need of quality, safe, supervised housing. At present, state statutes only require the licensing, inspection and regulation of such facilities where there is clear evidence of providing varying degrees of medical services, prescription administration, treatment or therapeutic services, for example. There are no restrictions or regulation on the size, management, or overall operation of these facilities. Without regulation, many boarding houses have become unsafe and unsanitary, left residents in isolated environments, left residents to lose control over their finances so they would lose their ability to relocate if needed, and left residents with inadequate medical care or mental health care services. The 80<sup>th</sup> Legislature passed H.B. 1168, which required the Health and Human Services Commission (HHSC) to study the issue of boarding houses. This study was completed in January 2009. H.B. 216, the companion bill to our S.B. 1521, incorporated a number of recommendations made in the study.
- ❖ Passed legislation and funding to address the Department of Justice (DOJ) investigation of all 13 state schools for the mentally retarded for abuse and neglect. Last December, the DOJ attributed these systemic issues to high staff attrition and vacancy rates for direct care staff and clinical professionals. Last session, we worked with Senator Jane Nelson (R-Flower Mound) and Lt. Gov. David Dewhurst to put \$49 million in the budget to hire almost 1,700 new state school employees. During this session, the Legislature passed

S.B. 643, the emergency legislation to address some of the issues brought to light by the DOJ. In addition, the budget included \$200 million in state general revenue to reduce waiting lists for community services by almost 8,000 in the next two years. To meet the terms of the settlement with the DOJ, the Legislature also added \$48 million to the budget, primarily to hire and train staff. An amendment by our office and Representative Abel Herrero (D-Robstown) will require these schools to undergo an independent audit of the resident-to-direct care staff ratio and the adequacy of training.

- ❖ Passed an amendment to reduce caseloads for Child Protective Services (CPS) caseworkers. Our office filed S.B. 301 to require the Dept. of Family and Protective Services to establish average caseloads for CPS caseworkers that would allow caseworkers to achieve 100 percent monthly visitation rate for children in foster care. The bill was referred to the Senate Health and Human Services Committee but ultimately did not receive a hearing. However, we amended S.B. 69 by Senator Jane Nelson (R-Flower Mound) with nearly identical language. The amendment secured an additional \$12.3 million in the state's budget to reduce caseloads for CPS caseworkers and ensure that at least 95 percent of children in the custody of the state are visited by their caseworker on a monthly basis. This new standard will also enable Texas to meet federal standards for visitation.
- ❖ Our office worked on numerous bills to help recruit new physicians and nurses to El Paso to address the current health care professional shortages and the 67,000 new troops and dependents coming to El Paso.
  - H.B. 2154 by Representative Al Edwards (D-Houston) and co-sponsored by our office will give doctors up to \$160,000 in loan repayment monies for serving in medically underserved areas, including El Paso.
  - Our office's S.B. 202 will require the Texas Medical Board to grant a provisional license to practice medicine in certain locations to applicants who meet requirements relating to licensure outside Texas, pass a recognized examination, and are sponsored by a licensed physician. This legislation will allow physicians to begin seeing patients much more quickly.
  - H.B. 3674 by Representative Senfronia Thompson (D-Houston) and co-sponsored by our office allows foreign-trained physician applicants to more easily apply for licensure in Texas. As it passed, this House bill is identical to our S.B. 2390.
  - S.B. 1, the state budget for 2010-11, includes \$49.7 million for nursing education. This is a \$35 million increase from the last budget period. \$14.7 million per year in the Texas Higher Education Coordinating Board's base budget is earmarked for increased enrollment at existing nursing schools. In addition, \$30 million per year will go to nursing schools immediately to increase enrollment for the upcoming 2009-10 school year.

### ***Public and Higher Education***

- ❖ Fought to create additional Tier One universities in Texas—especially at UTEP. Part of our Tier One bill was amended into H.B. 51, which passed and amends current law relating to measures to enhance and maintain the quality of state universities, including

funding and incentives to support emerging public research universities in developing and maintaining programs of the highest tier.

- ❖ Passed H.B. 3646, which reformed the public school finance system by directing \$1.9 billion of new money into schools and providing teachers with a minimum \$800 per year raise. This infusion of funding was paid for with federal stimulus dollars. In terms of closing budget gaps, Texas relied most heavily on stimulus dollars when compared to the rest of the nation. Texas used the federal funding to provide 96.7 percent of its gap-closing solution.
- ❖ Passed S.B. 194 to reform the student lending industry in Texas. S.B. 194 precludes a person employed by an institution of higher education in the financial aid office from owning stock or other ownership interest in a student loan lender, other than through ownership of shares in a publicly traded mutual fund or a similar investment vehicle. The bill also prevents a person employed by an institution of higher education in the financial aid office from soliciting or accepting any gift from a student loan lender.
- ❖ Passed S.B. 2178, which establishes a computer lending pilot program to provide state surplus computers to public schools to be available for use by students and their families. The option to work towards purchasing the computer will also be available, as well as instructional computer training classes.
- ❖ Amended H.B. 3646 to expand a financial literacy pilot program in public schools from 25 to 100 school districts and authorizes the Texas Education Agency to develop the application and selection process for the participating schools. Another amendment to H.B. 3646 requires Education Service Centers to offer training and assistance to area school districts in personal financial literacy.
- ❖ Secured \$41.9 million in the biennial budget for Communities in Schools (CIS), the largest dropout prevention program in the state. CIS helps students improve in academics, attendance, and behavior, encouraging more students to stay in school, graduate, and prepare for college and/or employment. Not only is CIS the most effective dropout prevention program in Texas, but it also leverages millions of dollars in local funds—including corporate and foundation grants—to support its school-based programs.

### *Veteran Affairs*

- ❖ Coauthored S.B. 90, which enters Texas into the Interstate Compact on Educational Opportunity for Military Children as a means of easing the difficult transition process for military children relocating to Texas. The compact facilitates the student placement process, qualifications and eligibility for enrollment, and on-time graduation and provides for the collection and sharing of information between and among member states.
- ❖ Worked to lower property taxes for Texas' disabled veterans by passing H.B. 3613, which exempts 100 percent disabled or totally disabled veterans from all ad valorem property taxes on their homestead.

- ❖ Coauthored S.B. 297, which lowers the cost of higher education for military veterans and their dependents. S.B. 297 allows veterans and their families to pay resident tuition rates regardless of how long they have lived in Texas.
- ❖ Increased funding for students moving to Texas as a result of BRAC and students whose parents are serving our country in Operation Iraqi Freedom or Operation Enduring Freedom. The concept originally filed as S.B. 194 and passed in H.B. 3646 will allow school districts to better address the special set of challenges faced by these students.

### *Quality of Life*

- ❖ Passed H.B. 2833 by Representative Marisa Marquez (D-El Paso), which extends the building code standards already in effect in other counties to the unincorporated areas of all border counties. Along the Texas-Mexico border, more than 1,400 colonias suffer from faulty construction, open sewage, lack of sanitary water, no plumbing, and unlighted, unsafe, and unpaved roads. During the 2003 Legislative Session, when the Legislature created the Texas Residential Construction Commission, a number of counties along the border were exempt from the building code requirements that were applicable to other counties in the state. The bill allows Texas counties to adopt an order or resolution to require that new residential construction of a single-family house or duplex in the unincorporated area of a county conform to building code standards that will lead to the construction of quality housing.
- ❖ Passed S.B. 666, which prohibits a financial institution administering a charitable trust from moving the location of the grant-making function of the trust to another state, unless otherwise authorized in the terms of a trust or through a process involving the appropriate courts and the Attorney General. Currently, banks are not prevented from moving a charitable trust created in Texas to another state. As a result, in many cases, donor intent is frustrated as higher fees are charged, and worse, Texas money intended for Texas charities is used outside of Texas. The bill ensures that Texas donors' intent is honored.
- ❖ In 2003, the 78<sup>th</sup> Legislature created the Driver Responsibility Program (DRP) as a funding tool for trauma care centers and transportation projects. The program established a system which assigns points to moving violations and applies some automatic surcharges to offenders. The program has disproportionately hit low- and middle-income Texans with punitive, exorbitant fees, and has led to more warrants being issued to low-income Texans and more uninsured drivers on Texas' roads. Many Texans affected by these automatic surcharges are first-time offenders, students, single parents or low-income families who are now faced with the choice of either complying with the law, or paying for their education, rent, food for their families or emergency expenses like car repair or medical bills. Currently, of the 1,600,000 in the program, more than 1,080,000 cannot pay. To fix this, I filed S.B. 896 and amended some of its components onto the Department of Public Safety's Sunset bill, H.B. 2730. The amendment will exempt people living at or below 125 percent of the federal poverty level from paying surcharges. The provision will take effect January, 1, 2011.

- ❖ Currently, the first step in contesting the appraised value of a residential homestead is to file a protest. The appraisal district makes forms available for this purpose, but an individual can also fax or mail a letter contesting the appraised value. This process is burdensome and time-consuming. Mail gets lost and data entry errors can occur. Property owners have to drive to the appraisal district headquarters, wasting time in traffic and squandering gas. In response, I filed S.B. 258 to require appraisal districts in counties with a population of 500,000 or more to implement a system that allows the owner of a property to file electronically a protest of the appraised value of the property and the option to request that their protest be considered for online settlement. In a bipartisan effort, I joined forces with Representative Bill Callegari (R-Katy), and amended S.B. 258 onto H.B. 1030, which passed.
- ❖ Helped lower the franchise tax burden on small businesses by increasing the total revenue exemption from \$300,000 to \$1 million. I filed this concept as S.B. 200, which eventually passed as an amendment to H.B. 4765. This \$172 million tax cut will assist small businesses that are already feeling the squeeze due to the tough economic times.
- ❖ After the devastating flooding of 2006, we knew El Paso had to do something to protect ourselves from flooding disasters. The rainstorms and subsequent flooding resulted in significant hardships, costs and damage to many areas within the city and county of El Paso. The flooding, which was caused by storm water drainage, created numerous health and safety issues for the residents of El Paso. In response, our office passed S.B. 688 during the 80<sup>th</sup> Legislative Session to assist the city with creating storm water districts, which will manage and control storm water drainage. This session, as requested by various community stakeholders, our office passed legislation to exempt property owned by the county (S.B. 874) and school districts (S.B. 1522) from the drainage fees imposed by the Public Service Board.
- ❖ Passed H.B. 783, which was authored by Representative Joe Pickett (D-El Paso) and sponsored by our office, to enable the development of trails and green space in El Paso. Utility easements in El Paso are very attractive for several reasons, including increased connectivity between the mountain and river, conversion to a more attractive use, and acquisition of new park/trail areas for little expense. However, public utilities have been reluctant to allow a trail to be routed over their land because of potential liability costs if someone were to get injured. H.B. 783, the companion bill to our S.B. 1563, will protect a utility that allows public recreational use on their property by limiting the landowner's liability.
- ❖ During the 79<sup>th</sup> Legislative Session, our office coauthored the legislation that created the rail relocation fund. 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. This session, the state's budget has approved \$181 million for the state's rail relocation and improvement fund. The funding is contingent on the Texas Dept. of Transportation (TxDOT) having at least as much money for roads in the next two-year budget cycle as it has now.



- ❖ Passed S.B. 1368 to allow 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 can create a ten-member ethics commission that will 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. The formation of this ethics commission will go a long way toward restoring public confidence in El Paso County government and ensure that businesses wishing to operate in El Paso may do so without corruption and interference with free commerce.
- ❖ Illegal gun trafficking from Texas into Mexico is a serious problem. As transnational gang activity along the border has rapidly increased, Texas and the United States have put pressure on Mexico to deal with the problem. However, Mexican drug cartels have transformed into well-equipped, well-organized, and technologically advanced armies. In 2007, half of the 14,111 firearms recovered in Mexico were traced back to Texas, usually originating from Houston and Dallas. In response, in a bipartisan effort, I joined forces with Senator John Carona (R-Dallas) and passed S.B. 2225, which makes it a third degree felony for an individual to knowingly transport or transfer a firearm across the Texas-Mexico border.
- ❖ In recent years, criminal street gangs have become an increasing problem in Texas. Gang activity has grown in cities and rural areas, and cartel-style gangs based along the border with Mexico have moved into Texas. Today, there are at least nine well-established gangs in the U.S., working from inside prisons, with operators in the streets and links with local and border police who facilitate their drug trafficking, extortion, kidnappings, sexual assault and murder. For example, in El Paso, there is a direct link between the drug cartels and the gangs, especially one known as “Barrio Azteca.” In response to my request, the Senate Committee on Transportation and Homeland Security held two public hearings in El Paso to gather information to formulate an appropriate response to this growing and dangerous problem. In a bipartisan effort, I joined forces with the Chair of the committee, Senator John Carona (R-Dallas), and coauthored S.B. 11, which passed as part of H.B. 2086, to combat international criminal cartels. The main provisions in this omnibus bill focus on a number of issues related to the growth in gang activity in Texas, including prevention of youth involvement in gangs, intervention programs to reduce gang involvement, the increase of penalties for certain offenses, the creation of new offenses focused on deterring illegal gang activity, and the collection of information necessary to deal with the gang problem. I also amended S.B. 849 to make it a first degree felony if a person knowingly initiates, organizes, plans, finances, directs, manages, or supervises a criminal street gang or members of a criminal street gang with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing in the criminal street gang.

We are proud of this hard work, but let us not forget how much more there is to do. As a community, we must remain diligent in the fight to ensure that all of El Paso’s children have access to a quality education, that more El Pasoans receive grants and scholarships to attend college, that all of El Paso’s residents secure quality health and social services, that veterans get

the benefits that our nation has promised to deliver, and that all El Pasoans have access to good jobs, quality and affordable health care, and a chance to share in the American dream.

Let us celebrate, but let us never cease to fight for a brighter future for all Texans!

Very truly yours,

A handwritten signature in black ink that reads "Eliot Shapleigh". The signature is written in a cursive, slightly slanted style.

Eliot Shapleigh

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## **Increases Funding and Improves Opportunity, Accountability and Outcomes in Higher Education**

Economic vitality is associated with success in education. No community in Texas demonstrates this relationship more clearly than El Paso. In the 1950s, per capita income along the Texas-Mexico Border as a percentage of the national average plummeted so much that, in certain areas, it is now only 52 percent of the national average. In El Paso, the county's median family income exceeded the Texas average by 13 percent in 1950, but by the year 2000, it declined to 30 percent *below* the state average. In relation to education attainment levels, El Paso County began the post-war period at well above state and national parity for high school completion, but by 2000, it faced a significant decline to 15 percent below the national average for a turnaround of 24 percent.

In fact, the Texas Borderlands have the lowest levels of educational attainment in the state of Texas. Borderland universities lag behind the rest of the state in college graduation rates and establishing Ph.D. and professional programs. The lack of attention to higher education along the Border still exists despite the South Texas/Border Initiative, which was approved in 1989. The initiative arose from a legal challenge by the Mexican American Legal Defense and Educational Fund against the state in 1987, which alleged that Border universities were not receiving their fair share of state funding. Thus, the Texas Legislature created the Initiative to help Border universities achieve parity with other Texas institutions. The initiative included increased funding, tuition revenue bonds, courses and degree programs added to each institution's academic offerings, and the alignment of five Border universities with the major university systems, primarily the University of Texas System and the Texas A&M System. As a result of these efforts and strong representation in the Legislature, Border universities are no longer considered second-class institutions during the budgetary process. Border schools, especially recently, compete both statewide and nationally for student talent and research funding.

Border schools are also at the forefront of the race to create another public university in Texas considered among the top tier of research institutions nationally. Texas cannot be competitive—neither in the U.S. nor globally—with only two public tier-one universities. Recently, the Select Commission on Higher Education and Global Competitiveness, created last session by a resolution sponsored by our office, released a report examining how to make Texas competitive once again. The report found:

*Texas is not globally competitive. The state faces a downward spiral in both quality of life and economic competitiveness if it fails to educate more of its growing population (both young and adults) to higher levels of attainment, knowledge and skills. The rate at which educational capital is currently being developed is woefully inadequate. Texas also needs an innovation-based economy in all the state's regions that can fully employ a more capable workforce. It must generate more external research funding, and commercialize ideas and intellectual property at a volume substantially greater than currently taking place.*

All of these goals—increasing educational capital, generating more external research funding, and commercializing ideas and intellectual property—lie in truly prioritizing higher education, and growing the number of tier-one public institutions must be part of that priority.

The legislative actions taken in the higher education arena are discussed below:

### ***Helps to create more Tier One public universities in Texas***

Only two public universities in Texas are considered among the top tier of research institutions nationally—The University of Texas at Austin and Texas A&M University. California, on the other hand, exemplifies what can happen when a state prioritizes higher education and sets out a goal to build numerous top-quality research universities aimed at generating jobs, spurring technology growth, and advancing the cause of higher education. Currently, California has eight Tier One universities, resulting in a huge boon to the state's research base and commercial development. It is not just a coincidence that companies such as Google and Qualcomm have developed on the west coast.

During the 81<sup>st</sup> Legislative Session, Senator Shapleigh filed S.B. 1564, which would have amended the Education Code to create the framework for Tier One Challenge Funding to help grow the number of top tier research schools in Texas. While, S.B. 1564 did not pass, part of the bill was amended into both S.B. 9 by Sen. Judith Zaffirini (D-Laredo) and H.B. 51 by Rep. Dan Branch (R-Dallas). H.B. 51 amends current law relating to measures to enhance and maintain the quality of state universities, including funding and incentives to support emerging public research universities in developing and maintaining programs of the highest tier. H.B. 51 was signed by the Governor on June 17, 2009 and will become law on September 1, 2009.

### ***Fights to keep college affordable***

For too many Texas families, college is a distant dream. If we don't meet the challenge of educating our children, for the first time in Texas history, the next generation will be less prosperous than the generation today. What drives success and prosperity is knowledge—understanding, initiative and innovation. With an expected population of 50 million by 2040, the future of our state will be defined by the education of our people. Since tuition deregulation in 2003, tuition at UTEP will have increased 73 percent by 2009. In fall 2003, the total academic charge for 15 semester credit hours at UTEP was \$1,837. Since the UT Regents approved tuition increases in March 2008, the same 15 semester credit hours will cost a student \$3,184 in fall 2009. Even without the 2008 and 2009 proposed increases, total academic charges in fall 2007 were already a 56 percent increase over fall 2003.

To help keep higher education affordable in Texas, Senator Shapleigh proudly coauthored S.B. 105 by Sen. Juan Hinojosa (D-McAllen). S.B. 105 would have frozen tuition for the next two years at the level of the 2008-09 school year. Effective fall 2011, the tuition rate assessed would have been allowed to increase no higher than the rate of inflation. Unfortunately, S.B. 105 failed to receive a hearing and thus did not pass.

***Ensures that Texas teachers are well-prepared and that parents and students are well-informed regarding their options for higher education***

An education system cannot exceed the quality of its teachers. Therefore, it is critical that Texas have a selective process for entry into teacher training programs and require that educator preparation programs deliver the type of instruction and support necessary to ensure quality classroom teachers for all of our students. Additionally, parents, students, and policy makers need to make informed decisions regarding higher education in Texas, whether the decisions are personal matters regarding which institution best meets the needs and circumstances of a particular student or the decisions involve matters of state funding and public policy issues. Regardless of the nature of such decision making, parents, students, and policy makers alike lack an easily accessible and comprehensive list of information regarding Texas institutions of higher education.

To respond to both needs, Senator Shapleigh joined with Sen. Florence Shapiro (R-Plano) to coauthor S.B. 174. The bill requires the State Board for Educator Certification to assign educator preparation programs an accreditation status and allows the Texas Education Agency (TEA) to intervene in cases of low-performance. Further, S.B. 174 increases transparency by requiring TEA to develop a website with consumer information to assist teacher candidates in selecting a teacher training program and districts in hiring decisions. Finally, the bill requires the Texas Higher Education Coordinating Board, in consultation with each institution of higher education, to develop and maintain online resumes for each of those institutions for the benefit of parents, students, and the legislature. S.B. 174 passed and became effective on June 19, 2009.

***Reforms the student lending industry in Texas***

During 2007, news reports uncovered potentially severe conflicts of interest by employees of financial aid offices in universities across the country. Major lending companies offered gifts to financial aid employees and encouraged the employees to purchase stock in the lending companies. At the same time, today's college students graduate saddled with enormous amounts of student loan debt. According to The Project on Student Debt, Texas seniors graduating in 2007 graduated with an average of \$18,153 in debt. Texas had to act to prevent even the semblance of conflicts of interest and other ethical lapses by those in financial aid offices who may have power to steer students to a particular loan company.

Senator Shapleigh thus filed S.B. 194, which precludes a person employed by an institution of higher education in the financial aid office from owning stock or other ownership interest in a student loan lender, other than through ownership of shares in a publicly traded mutual fund or a similar investment vehicle. The bill also prevents a person employed by an institution of higher education in the financial aid office from soliciting or accepting any gift from a student loan lender. S.B. 194 passed and became law on June 19, 2009.

***Pushes to increase higher education graduation rates***

Recently, Governor Rick Perry's Select Commission on Higher Education and Global Competitiveness released a report examining how to make Texas competitive once again. The report found:

*Texas is not globally competitive. The state faces a downward spiral in both quality of life and economic competitiveness if it fails to educate more of its growing population (both young and adults) to higher levels of attainment, knowledge and skills. The rate at which educational capital is currently being developed is woefully inadequate.*

Producing this educational capital requires the state to focus on improving higher education graduation rates, which are woefully low. One step in that process is ensuring that students have access to a clear picture in terms of the courses required to graduate and how they will pay for them.

Senator Shapleigh filed S.B. 195, which would have amended the Education Code by requiring all institutions of higher education to provide an online portal for students to get information about their finances and academic status. S.B. 195 would have given students an easy one-stop website to see all of their financial information, including how much money they owe for the current semester, how much is currently being paid for with grants, scholarships, or loans, and the status of their financial aid. It would also have allowed students to check out their academic status in one location. The website would tell students how many hours they're currently taking, what classes they have completed both at their current school and any hours they have transferred in, and information about courses the student is required to complete to graduate. Unfortunately, S.B. 195 was left pending after a hearing in the Senate Higher Education Committee, and thus failed to pass.

### ***Fights to require financial literacy training during college***

In addition to an established need for more financial literacy education in our public school, college students must also understand the importance of making informed financial decisions before they are overwhelmed with student loans and credit card debt. By providing effective financial literacy education in higher education, we can make young Texans less vulnerable to disreputable lending companies and practices before it is too late.

To address this need, Senator Shapleigh filed S.B. 198, which would have amended the Education Code to require general academic teaching institutions to offer training in personal financial literacy to provide students with the knowledge and skills necessary as self-supporting adults to make important decisions relating to personal financial matters. The bill, however, never received a vote in the Senate Higher Education Committee and thus failed to pass.

### ***Increases access to information regarding on campus work-study jobs***

Since tuition deregulation was implemented in 2003, tuition and fees at Texas' public, four-year universities have increased 53 percent. Combined with the fact that demand for student aid exceeds what is available in state sponsored programs, students must register for fewer hours at school, work longer hours at jobs, take out more loans, and stall their expected graduation date. Work-study jobs provide opportunities for students who are in need of earnings and part-time employment in order to help pay education expenses. Further, they provide real world job experience suited to a student's skills, preferences, and possible career goals, while also offering

the opportunity to develop important career contacts. Many students, however, are unaware of the different opportunities available right on campus through work-study jobs.

To expand access to information about work-study jobs, Senator Shapleigh filed S.B. 305, which requires institutions of higher education to maintain on their website a list of available work-study job opportunities sorted by department. S.B. 305 passed and became law on June 19, 2009.

### ***Fights for financial aid for UTEP students***

At the University of Texas at El Paso (UTEP), more than 60 percent of students receive financial aid. Today, access to more sources of scholarship money is vitally important to UTEP students. The Texas Education Code allows universities to create a Student Endowment Scholarship and Internship Program. Filed by Senator Shapleigh, S.B. 1849 would have created such a program at UTEP. The program would impose a student fee to be dedicated exclusively to funding student scholarships and internships. Money awarded through an implemented Student Endowment Scholarship and Internship Program could also have been used to support students at otherwise unpaid internships, allowing students to more easily pursue valuable internship experience without loss of income. In March 2009, the UTEP Student Government Association passed a resolution stating their support for the introduction of this legislation. While the bill passed the Senate, it died in the Higher Education Committee in the House.

### ***Seeks to decouple the Texas estate tax and increase funding for TEXAS Grants***

The inheritance tax in Texas is a “pick up” tax on the federal inheritance tax; instead of having a distinctly separate inheritance tax, Texas piggy-backs on the federal inheritance tax. Thus, the tax due to Texas is equal to the federal credit allowed for state inheritance taxes paid. This system takes advantage of the federal credit to reallocate part of the total tax from the federal government to the state. However, with current Federal laws phasing out the federal estate tax, the inheritance tax revenue that Texas has enjoyed will soon be eliminated completely if Texas’ tax laws are not amended.

Other states protect themselves from the immediate and large revenue loss by choosing not to conform to the federal change. Decoupling the state inheritance tax from the federal portion and creating a stand alone tax does not constitute a tax increase. The change in law merely retains a tax that the states already levy. As Texas is heavily reliant on the varying revenue generated by the regressive sales tax, it is particularly important to protect the revenue streams that are consistent.

As introduced by Senator Shapleigh, S.B. 1605 would have decoupled the Texas estate tax from the federal estate tax and utilized the additional revenue to fund the TEXAS Grants scholarship program. S.B. 1605 was referred to the Finance Committee but unfortunately did not receive a hearing.

### ***Fights for reliability of credible research reports***

Many Texas institutions of higher education perform scientific and social research and publish reports of research results. Funding for such reports can come from a variety of sources, such as

private corporations, government agencies, and non-profits agencies. To maintain the integrity of these research reports, we must address the potential conflict of interest that can arise from this funding relationship. Further, since research performed by institutions of higher education often carries with it a certain level of credibility, we must ensure any funding relationship is fully disclosed to avoid any appearance of impropriety.

S.B. 1603 was filed by Senator Shapleigh to amend the Education Code to require institutions of higher education to disclose payment for reports. This bill required that institutions of higher education that receive payment from another entity to conduct research and prepare a report of that work to include in the report a statement disclosing the funding entity and the amount of the payment. While S.B. 1603 passed the Senate, it failed to make it out of the House Higher Education Committee.

### ***Pushes to improve college readiness***

As reported by the Select Commission on Higher Education and Global Competitiveness, a major factor in poor statewide retention rates in college is graduating high school students who are not college ready. High schools in Texas could utilize early intervention programs to prepare students for the assessment tests they have to take to place into entry-level college courses.

One program that has already begun to see improved assessment test scores is the College Readiness Initiative (CRI), driven by the El Paso Area College Readiness Consortium. The CRI requires that high school juniors and seniors follow a protocol for their assessment test which includes a comprehensive orientation process, college admission application, test and scores interpretation, and post-test interventions if needed. Thanks to this initiative, more students are placing college ready, and fewer students require remedial coursework. In only two years, from Spring 2006 to Spring 2008, 24 percent fewer students needed developmental reading classes, and 37 percent fewer students needed developmental writing courses. This program shows that when students understand what they are testing for and how important it is for their future, they can adequately prepare for assessment tests and pass them at a much higher rate.

To combat this problem statewide, Senator Shapleigh introduced S.B. 1567 to establish a pilot program for institutions of higher education. The program would prepare high school students for academic skills assessment tests to determine a student's readiness to enroll in freshman-level academic coursework at an institution of higher learning. S.B. 1567 was referred to the Senate Committee on Education but failed to receive a hearing.

### ***Works to keep university executives accountable***

The chief executive officer of a college or university has the ability to direct policy and achieve improved success. Currently, heads of Texas' institutions of higher education do not receive a defined performance evaluation. Performance evaluations can serve to focus attention onto issues that are important statewide: graduation rates, retention rates, and degree programs offered.

As introduced by Senator Shapleigh, S.B. 1562 amends the Education Code by requiring an annual performance evaluation for the chief executive officer of a college or university. The bill focuses the performance review specifically on ensuring that chief executive officers use



resources efficiently, plan for the future, effectively conduct public relations, and create an overall environment conducive to academic excellence. The bill died in the Senate Higher Education Committee.

### ***Fights to limit raises on tuition in higher education***

Many people involved in higher education are concerned that the tuition and fees charged to students have increased dramatically since tuition deregulation. As proposed by Senator Judith Zaffirini (D-Laredo) and coauthored by Senator Shapleigh, S.B. 1443 would have formalized the relationship between the amount of funding provided by the state and the amount of tuition and fees charged by an institution of higher education. The bill set forth limitations for the amount general academic teaching institutions are permitted to raise designated tuition for a given biennium based on the amount of general revenue appropriated for instruction and operation. Regrettably, while S.B. 1443 passed the Senate, it died in Calendars in the House.

### ***Fights to increase TEXAS Grant program funding***

Universities across the nation are setting up outposts in foreign countries. For example, Education City in Doha, Qatar has programs including Cornell's medical school, Carnegie Mellon's business school, and Texas A&M's engineering school.

While this supporting these measures, legislators must also ensure that foreign campuses are not expanded at the expense of Texas taxpayers. Texas taxpayer money has long funded these institutions, resulting in their ability to build successful programs that are now the world's envy. At the same time, however, Texas students are facing mounting tuition and fees and a financial aid system that falls far short of covering all students.

As introduced by Senator Shapleigh, S.B. 1269 would have amended the Education Code to require institutions of higher education that maintain a campus outside the United States to set aside five percent of the amount of the tuition charged to a student enrolled at the campus for the funding of the TEXAS Grant program. S.B. 1269 was referred to the Senate Higher Education Committee, but failed to receive a hearing.

### ***Works for better class times for working college students***

Since tuition deregulation was implemented in 2003, tuition and fees at Texas' public, four-year universities have increased 53 percent. As a result, more students have to work while also seeking a degree. Classes that can fit a student's work schedule are therefore at a premium, and institutions must open their doors and schedule classes during nontraditional hours. Providing students with the option to attend class during the evening and on weekends will allow them to take more hours and thus graduate more quickly. This is an essential step to increase our state's low graduation rates.

As introduced by Senator Shapleigh to keep student's needs in consideration, S.B. 875 would have required institutions to periodically survey enrolled students concerning the students' preferred class times and consider the survey results in establishing class times. S.B. 875 was referred to the Higher Education Committee, but it unfortunately did not receive a hearing.

### ***Fights to protect college students from avoidable credit card debt***

According to the Nellie Mae student loan service, more than 83 percent of undergraduate students have at least one credit card, and the average student credit card balance is over \$2,000. Few students have the resources to be accumulating such a high balance and still be able to pay it all back in a timely manner. Increased awareness of how credit cards work and better limitations on the marketing activities of credit card issuers on university campuses can help students in Texas avoid graduating with debt.

Currently, only an institution's governing board decides when and where on campus credit card issuers can market their products. Issuers are not required to report all of their gifts contributed to institutions, nor do they have to prepare a disclosure concerning the specifics of their credit card's financial terms. By allowing the institution's student government to become involved, actual students would help decide how credit card issuers market their products, and they may be able to prevent their fellow students from unknowingly falling into steep debt. Also, by requiring the issuer to be forthcoming and open with their credit card's financial terms in a disclosure, students would know what to expect when using the credit card and be less likely to acquire debt they could not pay off. As introduced by Senator Shapleigh to better protect students, S.B. 676 would have required that a postsecondary educational institution's student government help its governing board decide when and where a credit card company can market its services on campus. While the bill was referred to the Senate Business & Commerce Committee, it did not receive a hearing.

### ***Works for improved access to financial information and fixed tuition for college students***

This state's master plan for higher education, "Closing the Gaps," calls for an additional 630,000 students to participate in higher education in this state by 2015. Student participation in higher education has been proven to correspond to higher levels of income, lower levels of unemployment and poverty, and higher levels of civic participation. Yet at the same time that this state needs more of the state's students to participate in higher education, institutions of higher education are being priced out of reach for many residents of this state.

Since tuition deregulation began in the 2003 fall semester, the total amount paid by students for education at public institutions of higher education has skyrocketed. At the University of Texas at El Paso (UTEP), for example, tuition at UTEP will have increased 73 percent by 2009. In fall 2003, the total academic charge for 15 semester credit hours at UTEP was \$1,837. Since the UT Regents approved tuition increases in March 2008, the same 15 semester credit hours will cost a student \$3,184 in fall 2009. As a result, many students are forced to postpone higher education, take time off of school, or obtain high-cost student loans. In order to achieve the goals established by "Closing the Gaps," this state's leaders must provide financial relief for students enrolled at public institutions of higher education and assist those students in graduating quickly and joining the workforce.

As proposed by Senator Shapleigh, S.B. 667 would have required all institutions of higher education to provide an online portal for students to get information about their finances and academic status and instituted a fixed tuition rate for the first four years of an undergraduate student's enrollment if they met certain academic requirements. This bill was referred to Higher Education, but did not receive a hearing.

### ***Pushes for a peer mentorship program for students at institutions of higher education***

To avoid having to stay longer than necessary at a university to finish a degree plan, students should be given sufficient, individualized information on how to graduate successfully and in a timely manner. A peer mentorship pilot program that connects incoming freshmen students with senior mentors at their institution of higher learning would be advantageous to both students involved. The senior student would be trained and then paid to offer their time and knowledge, and the freshman student would receive invaluable advice about thriving academically and graduating on time. The mentorship program would also benefit the university as a whole because retention rates and grades would improve, and students would have better individualized attention when trying to pick classes to take, organizations to join, and other programs to engage in to support the university. S.B. 668, filed by Senator Shapleigh, would have established a student mentorship pilot program under which students in their senior year at a participating general academic teaching institution could be paid to mentor incoming freshman students in an effort to increase the retention and success of those students. While the bill was referred to the Higher Education Committee, it was left pending.

### ***Works for increased funding for college tuition rebate programs***

Since tuition deregulation was implemented in 2003, tuition and fees at Texas' public, four-year universities have increased 53 percent according to the Texas Higher Education Coordinating Board. Since the demand for student aid exceeds what is available in state sponsored programs, students must register for fewer hours at school, work longer hours at jobs, take out more loans, and stall their expected graduation date. As a result, Texas has a vested interest in encouraging students to graduate as quickly as possible so that they can enter into the workforce or pursue postgraduate education. In order to provide a financial incentive for students to complete a bachelor's degree with as few courses outside the degree plan as possible, the 75<sup>th</sup> Texas Legislature created a \$1000 tuition rebate program. Under the rebate program, Texas residents are eligible if they attempt no more than three semester credit hours in excess of the minimum number of hours required for their degree and graduate within a timely manner. The amount of the rebate, however, has failed to grow along with tuition.

As introduced by Senator Shapleigh, S.B. 324 could have provided Texas students with tuition relief by increasing the \$1000 tuition rebate based on the percentage that tuition has increased statewide since tuition deregulation. If a student graduated within three years or less, then the amount of the rebate would have automatically doubled. Although the bill passed the Senate, it ultimately died in the Higher Education Committee in the House.

### ***Works to improve economic stability by providing financial literacy training programs***

Given the state of our economy, we must provide people with knowledge and skills so that they can make sound financial decisions and contribute to our economy. The lack of financial literacy has greatly contributed to our current economic crisis. As a result of this lack of knowledge, many Texans have been victimized by predatory lending; unable to fully understand the process and make informed decisions about their finances. We must financially educate Texans to strengthen our economy and address many of the core causes of our economic instability. It is key to teach young people the importance of financial decisions and provide them with a

framework for making those decisions before they are overwhelmed with student loans and credit card debt. By providing effective financial literacy education in our schools, we can make young Texans less vulnerable to disreputable lending companies and practices before it is too late.

Senator Shapleigh thus introduced S.B. 325, which would have amended the Education Code to require that each regional education service center offer training and assistance in providing instruction in personal financial literacy. In addition, S.B. 325 would have required institutions of higher education with educator preparation programs accredited by the State Board for Educator Certification, to the extent practicable, to offer seminars or conferences to train and assist teachers in providing instruction in personal financial literacy.

***Works to clarify the eligibility of community college employees for state benefits***

Central to the debate about funding community college employee health benefits is the proportional cost-sharing between the state and the institutions, also known as "proportionality." Currently, the notion of proportionality is not defined in statute but rather lies in a rider within the General Appropriations Act. The rider requires that proportionality be applied to agencies but includes the qualifying language, "unless otherwise provided." The controversy lies in the interpretation of proportionality and determining which community college employees are eligible to have their group health insurance benefits paid by the state. All public institutions of higher education and state agencies determine the proportional cost-sharing split for employee benefit costs. However, in the past, the legislature has not applied proportional cost-sharing to fund the state's share of community college employee benefits.

Realizing this, Senator Shapleigh worked with Senator Judith Zaffirini (D-Laredo), and coauthored S.B. 41 which would have defined which community college employees are eligible to have benefits paid for by the state by amending current law relating to determination of state contributions for participation by certain junior college employees in the state employees group benefits program. Unfortunately, S.B. 41 did not receive a hearing in Senate Finance committee.

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## **Supports Teachers and Brings Flexibility, Accountability and Innovation to Public Education**

Since the days of Thomas Jefferson, when the radical idea of a free public education system swept across America, education has defined the future of Americans and built a middle class. Texas is no different. Our public schools have educated generations of Texas leaders, from Ann Richards to Henry B. González; from Lyndon Johnson to Barbara Jordan. Statewide, our public education system serves 332 charter school campuses and 8,061 campuses in 1,037 independent school districts.

One of the state's largest investments is in the public education system, with more than forty percent of the state's general revenue dedicated to pre-kindergarten through 12<sup>th</sup> grade education. The majority of local property taxes go to support school districts. Despite this investment, the funding available has not been able to meet the needs associated with an increasing enrollment of students across the state. Too many public schools are ranked as low-performing, the state has a shortage of qualified teachers, and high school dropout rates are extremely high. The state's over-reliance on the local property tax has placed tremendous pressure on communities to cover the state's obligation to provide a basic education. Furthermore, this reliance on local property taxes puts even more strain on communities along the Border that have some of the lowest per capita property values in America.

More than half of our state's 4.65 million students are economically disadvantaged, and 15 percent are considered limited English proficient. These figures are predicted to grow dramatically over the next thirty years. Unless the current generation of Texas leaders makes a dedicated effort to ensure that the funding needed to bring high-quality, experienced teachers and rigorous academic programs to the areas of the state that need it most, Texas will fall behind the rest of the nation in producing graduates ready for a 21<sup>st</sup> century workforce and higher education.

Senator Shapleigh's bills to reform public education are discussed below:

### ***Ensures Texas schoolchildren are given access to high quality technology***

The Texas Technology Immersion Project (TxTIP), created by Senator Shapleigh in the 78<sup>th</sup> Legislature, was built on the assumption that immersion in technology, rather than a gradual introduction over time, leads to more effective technology use and positive academic outcomes in schools. Under TxTIP, participating public schools were equipped with laptops for every teacher and student, as well as technology-based learning resources, training for teachers, and technical support. In order to monitor the progress of the program, the Texas Center for Educational Research (TCER) partnered with the Texas Education Agency (TEA) to conduct a four-year evaluation of TxTIP and to look at the impact of technology immersion on teaching and learning. One major finding of the study was that home learning, or the extent to which students use laptops outside of school for homework or learning games, was the strongest predictor of students' TAKS reading and mathematics scores.

Acting on the study, Senator Shapleigh sponsored H.B. 2893 by Representative Scott Hochberg (D-Houston). The bill establishes the technology demonstration sites project, which builds on

the findings of the TCER study and expands TxTIP. The technology demonstration sites project extends technology immersion for in-school and at-home use to include technologies and electronic devices other than laptop computers. Additionally, the bill requires TEA to develop guidelines for a distribution and checkout plan for home use of electronic devices. Through the project, the bill seeks to extend learning opportunities from school to home and use multiple technologies to enrich teaching and learning both inside and outside of school. The bill was signed by the Governor on June 19, 2009 and will become law on September 1, 2009.

### ***Increases access to high quality, full-day pre-kindergarten classes for Texas children***

Research overwhelmingly demonstrates that children who participate in high-quality prekindergarten (pre-k) programs are more successful academically, especially children who come from low-income families or who are English language learners. Children who attend such programs are more prepared for kindergarten and reading. Data show also that participants in high-quality pre-k are less likely to be retained in grade and therefore are less likely to drop out of school. Additionally, many parents with currently eligible children do not send them to public pre-k because they cannot leave work and pick their children up at noon. Being able to enroll children in full-day pre-k would allow many low-income and working families to take advantage of pre-k.

Currently, the state funds only half-day pre-k for eligible students with formula funding. In order to receive funding for full-day pre-k or expanded pre-k ("expanded" refers to pre-k offered to children three years of age or children who are from higher-income families), districts must either fund the expansion with local funds, or be awarded funding by the Texas Education Agency's (TEA) Early Start Grant (formerly known as the Pre-k Expansion Grant).

In response to this need, Senator Shapleigh joined with Sen. Judith Zaffirini (D-Laredo) to coauthor Senator Zaffirini's S.B. 21. S.B. 21 was filed to give school districts the opportunity to expand their pre-k programs from half-day to full-day for children who are currently eligible for pre-k under Texas law. The program would be voluntary and districts would not be forced to expand if they are not ready or do not see a need. Quality would be enhanced by limiting class sizes to 22 children, with an 11 to one child per staff ratio, and requiring certified teachers to have an additional nine hours of class training in early childhood education. While S.B. 21 did not pass, the bill's House companion, H.B. 130 by Rep. Diane Patrick (R-Arlington) did pass. Unfortunately, Governor Perry vetoed this vital piece of legislation, and thus the bill did not become law.

### ***Increases state funding for military children***

Tens of thousands of military students from other states and overseas will relocate to Texas over the next several years due to Base Realignment and Closure (BRAC) and the re-basing of our active duty service members. Additionally, soldiers stationed across the state are serving our country in Operation Iraqi Freedom and Operation Enduring Freedom. These soldiers' children face a special set of challenges, whether it be adjusting to a new school and community or the fact that one or both parents are stationed abroad in a war zone. To address their needs, Senator Shapleigh filed S.B. 194, which provides for increased state funding for these students. This increased allotment will allow school districts to address the need for additional counselors, both to assist relocating military students and to help students with the effects of Texas-based service

members who are killed or injured in action. Fortunately, this concept passed as part of a larger piece of legislation, H.B. 3646, which became law on September 1, 2009.

### ***Improves financial literacy amongst Texas students***

Given the state of our economy, we must provide people with knowledge and skills so that they can make sound financial decisions and contribute to our economy. The lack of financial literacy has greatly contributed to our current economic crisis. As a result of this lack of knowledge, many Texans have been victimized by predatory lending; unable to fully understand the process and make informed decisions about their finances.

The 79<sup>th</sup> Legislature took a step toward achieving this goal when it passed S.B. 851, which amended the Education Code to establish a financial literacy pilot program in 25 school districts. The bill provided content requirements for the curriculum and instructional material development and authorized the Texas Education Agency (TEA) to administer the program.

To expand this successful program, Senator Shapleigh introduced S.B. 197, which amends the Education Code to expand the financial literacy pilot program in public schools from 25 to 100 school districts and authorizes the TEA to develop the application and selection process for the participating schools. The bill also requires the TEA to provide each member of the legislature with a report on the implementation and effectiveness of this program by January 1, 2011. S.B. 197 passed as an amendment onto H.B. 3646, and will become law on September 1, 2009.

### ***Helps teachers to incorporate financial literacy instruction in everyday curriculum***

Thanks to H.B. 492 from the 79<sup>th</sup> Texas Legislature, sponsored by Senator Shapleigh, instruction in personal financial literacy is a prerequisite for graduation from a Texas high school. Senator Shapleigh's goal, however, is to weave personal financial literacy instruction into as many grade levels and issue areas as possible—not just high school economics.

In order to achieve this, Senator Shapleigh filed S.B. 199, which requires Education Service Centers (ESCs) to offer training and assistance to area school districts 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. ESCs are supported by state and federal funds, as well as by fees assessed for services. ESCs provide professional development in areas such as technology, bilingual education, special education, gifted and talented education, and programs for at-risk students. Providing area teachers with the training to effectively weave financial literacy skills into everyday lessons will help the next generation of Texans to avoid falling into high-risk, high-cost loan agreements that provide no net financial benefit and can actually trap them in a cycle of debt. S.B. 199 passed as an amendment onto H.B. 3646, and will become law on September 1, 2009.

### ***Fights to overcome inadequacies in bilingual education***

The quality of education in Texas public schools for students of limited English proficiency has been suffering for years. It is estimated that more than 145,000 Texas students in grades seven through 12 are considered deficient in English. These students consistently perform far worse in school than their English-speaking peers. From 2003 to 2006, the eighth-grade achievement gap

for reading never got better than 48 percentage points between limited English proficient students and all students; the 10th-grade achievement gap for mathematics never got better than 31 percentage points; and the 11th-grade achievement gap for science never got better than 30 percentage points.

In a lengthy opinion issued in March, Senior U.S. District Judge William Wayne Justice asserted that these student assessment scores clearly demonstrate that Texas bilingual education programs are a failure. He said that the State of Texas is not complying with its duties under the federal Equal Education Opportunity Act to help students overcome language barriers, and he suggested that new policy and programs be designed to rectify the problem.

Senator Shapleigh introduced S.B. 2180 to rectify the inadequacies in Texas' bilingual education programs that Judge Justice highlighted in his recent opinion. It would have amended the Education Code to provide for more rigorous and individualized procedures to assess language proficiency, track school improvement, and address program insufficiencies. S.B. 2180 was referred to the Education Committee but unfortunately did not receive a hearing.

### ***Fights to prohibit fraudulent test score reports***

Section 39.023 of the Texas Education Code provides that students in Texas public schools shall be assessed periodically in specified academic subject areas. The requirement is intended to ensure that schools provide adequate instruction to students at each grade level. Assessments administered under the statute are designed to measure the effectiveness of individual schools and school districts at preparing students for college. Schools and school districts that maintain high test scores are rewarded for their performance.

The incentives for Texas schools to produce consistently high student assessment scores constitute potential motivations for fraud. There is evidence that some school districts have intentionally claimed that some students who dropped out of school were actually "exempt" from the assessment requirements under Section 39. By misclassifying a high percentage of its actual dropouts as exemptions, a district could conceivably report retention rates much higher than its raw data would support. In order for the assessment mechanisms to function properly, the State must receive test results from schools that are fair and accurate. Fraudulent test results not only harm Texas students, but they constitute an assault on all Texas residents as well.

As introduced by Senator Shapleigh, S.B. 2179 would have increased the accountability on schools and school districts by providing for a system of review that could be initiated whenever suspicion of fraudulent reporting by school administrators arises. This review process would have improved the ability of the State to identify and to resolve these instances of fraud, and it could have enhanced the effectiveness of Section 39's assessment requirements. The bill was referred to the Senate Education Committee but was never given a hearing and failed to pass.

### ***Establishes a computer lending pilot program***

Making sure Texas students are prepared for a technology-oriented world is a top priority for the state. A study of students around the world by the Organization for Economic Co-Operation and Development has shown that regular computer users actually perform better in important subjects in school. The study especially notes the disparity in math grades—students who have



been using a computer for several years test well, while students who have had little computer experience tend to lag behind their class year. By ensuring that students and their families gain access to computers more easily, this disparity can be eliminated.

One obvious downside to computers for many people is the price. With high-quality computers costing anywhere from hundreds to thousands of dollars, many people will never have the discretionary funds to buy a computer for their home. However, if places in a community allowed the lending and eventual purchasing of their computers to community members who needed them, no one would have to go without one. State surplus computers can be allotted to programs established in school for this purpose, which would help to foster its success. By allowing schools with educationally disadvantaged students to lend and eventually sell computers to families, citizens who normally would not have a chance to own a computer will have a way to finance one.

Authored by Senator Shapleigh, S.B. 2178 establishes a computer lending pilot program to provide state surplus computers to public schools to be available for use by members of the local community. The option to work towards purchasing the computer will also be available, as well as instructional computer training classes. The bill was signed by the Governor on June 19, 2009 and will be effective on September 1, 2009.

#### ***Establishes consistent definitions of physical education curriculum across the state***

Texas has the sixth-highest percentage of obese and overweight children ages 10-17 in the country, and 40 percent of Texas children are overweight or obese, compared to the national average of 16 percent. Current statute requires that school curriculum include physical education but does not include a specific definition of physical education. Texas needs a consistent standard of physical education curriculum across the state and ensures that physical education curricula are sequential and built upon from one year to the next.

As proposed by Senator Jane Nelson (R-Grapevine) and coauthored by Senator Shapleigh, S.B. 891 creates a standard definition of physical education used by the National Association of State Boards of Education that will apply to all public school physical education curricula, and addresses student-to-teacher ratios in physical education classes. S.B. 891 was signed by the Governor on June 19, 2009 and is effective immediately.

#### ***Advocates for increased funding for Communities in Schools***

Communities in Schools (CIS) is an exemplary stay in school program that works in association with local school districts. First funded in the early 1980s using discretionary federal Job Training Partnership Act funds available to the governor, CIS has been funded by the Texas Legislature since 1989 and is the largest and most effective dropout prevention program in the state. In the early 1990s, its funding was expanded with funds from the compensatory education fund. Since that time, a majority of funding for CIS has come from this fund, but the Education Code does not specify that the funds have to be set aside for CIS. Since the creation of CIS, other programs have been funded from compensatory education funds specifically set aside within the Education Code.

The 28 local CIS programs are 501(c)(3) non-profit organizations established to support schools by working with at-risk students in order to decrease the dropout rate. Unlike most Texas Education Agency (TEA) programs, CIS has undergone a rigorous evaluation and has been proven to be effective at reducing dropout rates and increasing graduation. The 80<sup>th</sup> Legislature's budget appropriated \$300,000 for TEA to conduct an effectiveness review of CIS. The evaluation was recently released and found, amongst other things, that CIS "provides the necessary services to address risk factors for school dropout." Additionally, TEA recently released a report on best practices in dropout prevention, citing CIS as one of the three dropout programs with the most potential for success. The report stated that "only one program (Communities in Schools) reported meaningful effects on both reducing dropout and increasing graduation."

To further this program's reach, Senator Shapleigh was honored once again to carry the legislation to expand funding for CIS, S.B. 817. The Senator passed the bill out of the Senate with 16 coauthors on April 15, giving the House a month and a half to act on the measure. Unfortunately, the bill did not receive a vote out of the House Public Education Committee.

### ***Works to improve public education data systems***

Texas' Public Education Information Management System (PEIMS) encompasses all data requested and received by the Texas Education Agency about public education, including student demographic and academic performance, personnel, financial, and organizational information. The Texas Education Code, however, does not require PEIMS to collect students' numerical grade data. As a result, the state must request the data from school districts if the state seeks to perform a comprehensive baseline analysis of a district, feeder pattern, or school. To simplify this process, Senator Shapleigh introduced S.B. 674 to require PEIMS to collect the numerical grades that students earn in a class or course. The bill was referred to Senate Education Committee but did not receive a hearing.

### ***Fights to ease requirements placed on school districts***

During the interim, the Texas Education Agency (TEA) promulgated rules requiring a 15 percent local funding match for school districts participating in the District Awards for Teacher Excellence (DATE) program. This places districts that receive a lower amount of funding under the current school finance system at a disadvantage.

Introduced by Senator Shapleigh, S.B. 335 would have prevented the TEA Commissioner from requiring a school district or open-enrollment charter school to provide matching funds as a condition of eligibility for receipt of a DATE grant and from giving preference in awarding program grants to a school district or open-enrollment charter school that volunteers to provide matching funds. S.B. 335 was referred to the Education Committee but did not receive a hearing.

### ***Works to increase funding for technology in public education***

Technology funding for school districts has remained near the same level for the last decade. Texas school children, however, must have increased technology access in order to become technology literate and gain the skills needed for the 21st century workforce. Texas must regain

its momentum in educational technology by dedicating funds for creating models and funding 21st century classrooms.

As proposed by Senator Shapleigh, S.B. 322 offered a solution for creating better technology advancements and training for students and teachers in Texas schools. S.B. 322 does this through two means: first, increasing the technology allotment, and second, expanding the research and development of 21st century school models in the state. S.B. 322 was referred to the Senate Education Committee but did not receive a hearing.

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## **Reforms Campaign, Government, Insurance and Electoral Reform Laws**

Currently, there are inadequacies in Texas' disclosure system in relation various laws dealing with state government. For example, in the area of campaign finance, while the Government Code states that "[t]he people insist on remaining informed so that they may retain control over the instruments they have created," the state lacks full transparency of its multi-million dollar political campaigns.

Senator Shapleigh's bills associated with campaign finance, government, insurance and electoral reform are discussed below.

### ***Pushes to increase openness and honesty in political advertising***

In March 2002, President Bush signed into law Public Law No. 107-155, The Bipartisan Campaign Reform Act of 2002 (BCRA). The law took effect after the 2002 elections. BCRA requires federal candidates (or their authorized committees) to meet certain conditions when directly referring to opponents in their ads in order to receive the lowest unit charge from broadcast stations. A candidate must provide a written certification to the broadcast station stating that the candidate, or any authorized committee of the candidate, will not refer directly to any opponent without meeting the following requirements: 1) radio broadcast advertisements must include an audio statement of approval from the candidate on whose behalf the ad is run; and 2) television broadcast advertisements must air an identifiable image of the candidate and a written approval from the candidate at the end of the ad for at least 4 seconds. If a federal candidate does not meet these requirements when directly referring to an opponent in a broadcast advertisement, the candidate will not be entitled to receive the lowest unit charge for that broadcast, or any other broadcast occurring thereafter, during the 60-day period before a general election or the 45-day period before the primary election. In an attempt to align state law dealing with political advertisement with the federal BCRA of 2002, Senator Shapleigh filed S.B. 306. Unfortunately, the bill was not granted a hearing in the Senate State Affairs Committee.

### ***Proposes limits on political campaign contributions***

Currently, the state of Texas places no limits on the amount that individuals may contribute to political campaigns. Many other states impose limits, and the federal government maintains a \$101,400 limit on the total amount an individual may donate to federal candidates, political action committees (PACs) and political parties during a two-year election cycle. According to Texans for Public Justice, in the 2004 election cycle, 87 individuals or couples donated more than \$100,000 each to state candidates and political committees. Many Texas citizens worry that such contributions provide those donors with disproportionate political power. In response, Senator Shapleigh filed S.B. 246 to limit to \$100,000 the total amount of political contributions by an individual per two-year election cycle. Specifically, the bill would have prohibited individuals, partnerships, partners or limited liability corporations from contributing more than \$100,000 total during an election cycle to political committees established by a political party; candidates for or holders of a state office; and committees established to support or oppose a

candidate. The limits would have applied to the period beginning January 1 of an odd-numbered year and ending December 31 of the following even-numbered year.

The bill also would have required committees and candidates to reject contributions that they know to exceed the limits or return them within 10 days of knowing that the contributions exceed the limits. If a third party is used to distribute political contributions to a candidate, the bill would have required the receiver of the funds to report the contribution and notify the candidate for whom the funds are intended the amount, date, and the name and address of the donor. Finally, the Election Commission would have been required to conduct a comprehensive computer review of political contributions made by individuals to determine if donors had exceeded the campaign contribution limit. Unfortunately, the bill was not granted a hearing in the Senate State Affairs Committee.

### ***Fights to limit lobbying by former members of the Governor's staff***

"Revolving door" is a term commonly used to describe a potentially corrupting interrelationship between the private sector and public service. It is a process through which former lawmakers and government employees use their inside connections and knowledge to advance the policy and regulatory interests of their industry clients. Most states across the nation have passed broad laws restricting former members of a Governor's staff from lobbying the legislature or other entities in state government. In Texas, Governor Rick Perry has an ethics policy prohibiting exiting executive staff from lobbying his office for one year and one legislative session after they leave, but this bar does not extend to lobbying the legislature or state agencies. In addition, this policy is not state law. Aware of this, Senator Shapleigh filed S.B. 610, which would have prohibited a former member of the Governor's executive staff from engaging in activities that require registration under Chapter 305 (as a lobbyist) for a period of one year upon separation of employment from said office. Exceptions would have been made for individuals employed by a governmental entity or a hospital or institution of higher education that is exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986. Unfortunately, the bill was not granted a hearing in the Senate State Affairs Committee.

### ***Fights to regulate political telephone solicitation***

Push polls are used either to persuade respondents away from a particular candidate, or for those in a neutral position, into supporting the poll sponsor's candidate, or, alternately to suppress voter turnout for the opposing candidate altogether. Current law defines political advertising as communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, or a public officer. Because push polls and attack phone banks are conducted principally by telephone, there is rarely any paper trail to follow and there is no liability for the pollster or the entity underwriting the calls. Push polls are often targeted at particular groups of voters based on age, race, ethnicity or some other distinguishing characteristic. In response, Senator Shapleigh filed S.B. 307, which would have established certain regulations of political telephone solicitation as an effort to curb the most abusive political "push polls." This bill would have required that callers disclose the source of the call, thereby informing the recipient of the potential bias. Unfortunately, the bill died in the State Senate Affairs Committee without receiving a hearing.

***Promotes voter security and paper records for electronic voting machines***

Every election brings a flurry of disturbing stories about things that go wrong at the polls; many of these incidents involve electronic voting. Electronic voting provides no way to know if anyone has made a mistake, whether there is a software or machine error, or if volunteer poll workers have been properly trained on how to handle new technology. Even if there are no mistakes, critics say that electronic voting leaves no way to double-check a close election. To help prevent such discrepancies, 27 states including California, New York, Illinois and Ohio now require electronic voting machines to produce a voter-verified paper trail. Lastly, current law provides set protocols to address the security concerns of most voting machine systems, such as optical scan systems, but there is no formal protocol for direct recording electronic (DRE) voting systems.

To eliminate these problems, Senator Shapleigh filed S.B. 245, which would have provided that a direct recording electronic voting machine must create a paper record of each electronic ballot cast for the voter to privately and independently view. Upon confirmation, the ballot would then be deposited into a secure storage area. If the paper record and the electronic record differ then the vote would have been invalidated and the paper record destroyed, and a new paper record generated. Except for a recount, the electronic vote would have been the official record of the vote. Lastly, S.B. 245 would have provided specific protocol for the testing of DRE system software and for the conduction of accuracy tests on the machines, and outlines security measures for the transport of and external access to DRE systems. The bill died in the Senate State Affairs Committee without being granted a hearing.

***Fights for open transparency and the standardization of ethical practices on state contracting, including training of personnel and negotiation of contracts***

Currently, weaknesses exist in the statutes and regulations related to state agency contract solicitation, negotiation, and management. The manner in which state agencies enter into contracts with vendors is of vital concern because it directly affects the use of state appropriated financial resources, and, in some cases, the elimination of state employee positions and functions. In recent years, several reports have alleged that state agency employees have engaged in improper actions while working on state contracts. The 2007 termination of the close to \$1 billion health and social services contract with Accenture, as well as Governor Perry's more recent decision to suspend the data center contract with IBM due to serious problems with contractor performance, demonstrate the need for increased oversight and training in the contracting process.

In response, Senator Shapleigh filed S.B. 953 which would have amended the Government Code to improve the processes by which state agencies solicit, negotiate, enter into, monitor and enforce contracts with vendors. This bill would have strengthened the decision making process for determining whether contracting is cost-effective, expands the training processes for employees involved in contracting, improves contract reporting mechanisms for state agencies, establishes stricter policies for negotiating contract amendments, and strengthens existing laws to reduce conflicts-of-interest in the contract procurement process. Finally, this bill would have

established a stronger, more stringent process for contract review and approval. Unfortunately, the bill was heard, but left pending in the Senate Finance Committee.

### ***Works to increase government transparency and accountability***

Under Texas Government Code Sec. 552.008, the Texas Public Information Act provides that governmental bodies shall provide public information, including confidential information, to legislators when the requesting legislator specifies that the information is being requested for legislative purposes. The Code also provides that the governmental body may require the requesting legislator to sign a confidentiality agreement with regard to any confidential information released under Sec. 552.008. As a result, a requesting legislator could receive information containing evidence of criminal acts by the governmental body, yet the legislator would be precluded from releasing the information to ensure proper investigation and potential action by the relevant authorities.

Senator Shapleigh thus filed S.B. 304, which would have amended the Government Code by disallowing the responding governmental body from requiring the requesting legislator to sign a confidentiality agreement if the information indicates or contains evidence that the governmental body or an officer or employee of the governmental body committed a crime that has not clearly been detected, investigated, or prosecuted by an appropriate authority. If a confidentiality agreement was previously signed and the requesting legislator makes a good faith determination that the information subject to the confidentiality agreement contains evidence of a crime by the governmental entity that has not clearly been detected, investigated, or prosecuted by an appropriate authority, then the confidentiality agreement is void. S.B. 304 was referred to the Senate State Affairs Committee but unfortunately never received a hearing.

### ***Works to gain public access to state agency reports***

The 79<sup>th</sup> Legislature required the Texas State Library and Archives Commission to compile a report that inventories and assesses the usefulness of over 1,600 reports that state agencies must by law prepare and submit to other state agencies, local government entities, and the public. Unfortunately, there is no central location where researchers, legislators, and the public can access these reports.

To resolve this problem, Senator Shapleigh introduced S.B. 1270, which would amend the Government Code by requiring state agencies to submit to the Texas State Library and Archives Commission in an electronic format all reports that are required by law. The Texas State Library would have then established and maintained an index of all current reports required by law and provide electronic access to both the index and the text of the reports through a link on the home page of the Texas Records and Information Locator. However, while the bill passed the Senate, it died in Calendars in the House.

### ***Provides for avenues to determine the confidentiality of public information***

Under Texas Government Code Sec. 552.008, the Texas Public Information Act provides that governmental bodies shall provide public information, including confidential information, to

legislators when the requesting legislator specifies that the information is being requested for legislative purposes. The Code also provides that the governmental body may require the requesting legislator to sign a confidentiality agreement with regard to any confidential information released under Sec. 552.008.

The Code, however, does not provide for a process by which the requesting legislator can determine whether information potentially made subject to a confidentiality agreement is indeed confidential. As a result, the governmental body could make potentially non-confidential information subject to a confidentiality agreement.

As filed by Senator Shapleigh, S.B. 671 provides two avenues through which a requesting legislator can seek determination regarding whether information requested for legislative purposes is actually confidential and thus subject to a confidentiality agreement at the request of the governmental body. The bill was signed by the Governor on June 19, 2009 and will become law on September 1, 2010.

### ***Fights to prevent corruption and improve transparency of school board members***

Public corruption scandals have recently gripped El Paso, and some school board members have been among those implicated. To deal now with corruption and not pass it onto the next generation, changes should be made to current rules regarding the public's access to information.

Although El Paso's public corruption case has cast a negative light over some public officials, this should not keep the public from trusting those who have never been a part of any kind of wrongdoing. City officials rely on their indispensable relationship with the community to further the education of children in El Paso, and they know that sunshine and transparency are paramount to reviving the public's trust. By posting their campaign finance information online and with the Texas Ethics Commission, school board members could prove to those they represent that they are following every rule and regulation expected of them. This system of accountability can produce a mutually restorative relationship between the people of El Paso and the school board members they elect.

To improve school board members' transparency, Senator Shapleigh authored S.B. 321, which would have required a campaign finance report that is filed to be posted on the Internet website of the school district and the Texas Ethics Commission. The bill died in the Senate State Affairs Committee.

### ***Promotes use of paper ballots for greater efficiency and increased savings***

Texas spent over \$93 million dollars in Help America Vote Act (HAVA) funds to meet the federal mandates of the 2002 law. Many states and counties rushed to meet the federal deadlines as well as to adopt direct record electronic (DRE) voting systems. These paperless voting systems may be nearing the end of their life spans. For the next generation of voting systems, Texas needs to set a standard for transparency and establish sound methods for auditing our future voting systems. It will also be important to provide guidance to counties before they spend more money out of their own budgets on best practices for developing new systems.



Thirty other states in the U.S. have higher standards for verifying election results than Texas, yet Texas is the largest state where the majority of the voters are using paperless electronic voting.

The State of Texas is one of only 12 states where the majority of voters vote on systems that do not provide for a software-independent method of verification of the election result. While the majority of Texas counties currently use paper ballot systems counted on optical scan machines, the larger urban counties use paperless electronic voting systems that do not meet the National Institute of Standards and Technology's (NIST) recommended voluntary voting system guidelines for software independence.

“In December 2006, the TGDC approved a resolution to include requirements in the new VVSG only for those voting systems that are software independent... The voting systems today that meet the requirements for software independence include optical scan and VVPAT.”

Top-to-bottom reviews of electronic voting systems in California and Ohio over the past two years have determined that there are serious security flaws in these systems, which are the same as those currently used in Texas. Princeton University demonstrated how insecure some of these electronic voting systems are in a study and video.

On March 17, 2009, Premier Election Solutions, formerly Diebold Election Systems, admitted in a California hearing that the tabulation software at the core of all of their election systems has a delete button that allows audit logs to be erased without a trace. These audit logs provide the main mechanism for auditing and verifying the results of elections in some paperless software systems currently in use in Texas.

These types of security vulnerabilities are not getting enough scrutiny in Texas partly because our vendor examinations and certifications are conducted in secrecy. Computer security experts and academicians are not allowed to view and critique the certification of our computer systems until after the exam has taken place.

Finally a study performed in the fall of 2008 of voting systems across the country shows that DREs are losing market share.

Realizing that Texas has a compelling interest to make sure that elections are conducted fairly, securely and with as much transparency as possible, Senator Shapleigh filed S.B. 1604 which would required that all future voting systems in Texas provide for a voter-marked paper ballot by January 1, 2015. This would have given Texas counties ample time to budget a phase-out of their paperless DRE systems and train their election workers in the use of new systems designed to comply with this law. Equal privacy protection for persons with disabilities would have been maintained as there are current voting systems that are already certified and in use in Texas that provide mechanical assistance in marking a paper ballot. Unfortunately, the bill was not granted a hearing by the Senate State Affairs committee.

*Promotes the creation of a Capital Art trust fund*

In the state of New Mexico, in the spirit of the state's historical embracement of the arts, the Legislature created the Capitol Art Foundation in 1991. The mission of the Capitol Art Foundation is to collect, preserve, exhibit, interpret and promote appreciation of works of art that reflect the rich and diverse history, cultures and art forms of the people of New Mexico. The Collection features contemporary masterworks by artists who live and work in New Mexico. The Capitol Art collection is housed throughout the public areas of the building on all four floors. The Collection consists of a wide range of media, styles and traditions, including handcrafted furniture groupings.

Seeing this, Senator Shapleigh filed S.B. 2177, which would have amended Chapter 443 of the Government Code, enabling the State Preservation Board, any other state agency, and any appropriate committees that are established under that Chapter, to participate in the establishment and operation of an affiliated nonprofit organization that is created for the purpose of accepting art donations and raising money for the acquisition of art pieces in the Capitol. While the bill passed the Senate, it died in the House of Representatives.

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## **Improves Quality of Life for Military Personnel and Veterans Living in Texas**

Over 225,000 members of the various military branches are currently stationed in Texas. Texas' 18 military installations provide substantial capability in almost every military mission. Capabilities include aerospace research and development, light infantry and flight training, medical training, military intelligence, security, naval mine warfare, and firefighter training. Moreover, over 1.7 million veterans call Texas home.

As Chair of the Subcommittee on Base Realignment and Closure (BRAC), Senator Shapleigh helped lead the state initiative to deal with the Department of Defense's (DOD) 2005 round of base closures and realignments. Texas' history with past BRAC rounds shows that there is little certainty in the economic outcome for a defense-dependent community. Some closures have resulted in great economic benefits for both the DOD and the defense communities while other closures have left communities struggling to recover from the economic loss.

During the 81<sup>st</sup> Legislative Session, Senator Shapleigh worked diligently to support both military personnel and their families and to support the many veterans in Texas.

### ***Lowers property taxes for Texas' disabled veterans***

Disabled veterans have made an enormous sacrifice for our country. As a means of thanking them for sacrifice, the 80<sup>th</sup> Texas Legislature passed S.J.R. 29, which allowed the citizens of Texas to vote on a constitutional amendment exempting the residence homestead of a 100 percent or totally disabled veteran from ad valorem taxation. While S.J.R. 29 was approved by voters, the corresponding statutory changes did not pass the Legislature. As a result, Senator Shapleigh filed S.B. 192, which makes the statutory changes required to exempt 100 percent disabled or totally disabled veterans from all ad valorem property taxes on their homestead. The concept from S.B. 192 passed as an amendment to H.B. 3613, which will become law on January 1, 2010.

### ***Works for educational benefits for Texas veterans***

There are many men and women who are legal residents of Texas and who volunteer to enlist and serve in our armed forces; it is only reasonable that veterans who entered the military as legal permanent residents be afforded the same opportunities as those veterans who entered military service as United States citizens. In order to provide that there is no distinction between citizens and legal residents for purposes of educational benefits granted to veterans, Senator Leticia Van de Putte (D-San Antonio) filed S.B. 1537, and Senator Shapleigh gladly coauthored the legislation. The bill would have required Texas institutions of higher education to exempt certain military veterans from the payment of tuition, dues, fees, and other required charges, if the person was determined to be a resident of this state at the time the person entered the service. While S.B. 1537 died in the House, the concept was amended into S.B. 93, which did pass and became law on June 19, 2009.

### ***Lowers transportation costs of veterans seeking medical attention***

Currently, many disabled veterans receive frequent medical care from facilities operated by the U.S. Department of Veterans Affairs. These facilities are often located a considerable distance from the veteran's residence. As a result, veterans incur a significant financial burden in attempting to receive necessary medical care. Senator Shapleigh coauthored S.B. 1239 with Senator Leticia Van de Putte (D-San Antonio), which would allow a toll project entity to establish a discount program for electronic toll collection customers who are veterans. The program would include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered with a disabled veteran license plate, a Purple Heart recipient license plate, or is registered by a person who has received the Medal of Honor. The goal of this legislation is to honor veterans by helping them reduce the cost of traveling to receive medical care, and it passed as H.B. 3139. The bill was signed by the Governor on June 19, 2009 and will become law on September 1, 2009.

### ***Protects Texas' homeless veterans***

Housing authorities throughout Texas work to enhance the lives of millions of people by providing quality affordable housing to the most vulnerable members of society. Presently, there is a great need for housing for veterans who served on active duty in the armed forces of the United States or in the state military forces. Senator Shapleigh joined with Rep. Sylvester Turner (D-Houston) to sponsor H.B. 3358, which supports the efforts of housing authorities to develop housing for veterans throughout Texas without. The bill impacts housing authorities in counties with a population of more than 500,000 and empowers those authorities to develop housing communities for veterans, including borrowing money, accepting grants, and exercising its other powers to provide safe and sanitary housing for veterans. H.B. 3358 passed and will become effective on September 1, 2009.

### ***Eases the difficult transition process for military children relocating to Texas***

Frequent moves and parental deployments can impose barriers to educational success on the children of military families. These barriers include the difficulty under current law of transferring educational records between school districts and variations in certain entrance or age requirements. Eleven states have already enacted the Interstate Compact on Educational Opportunity for Military Children to address inequities facing the school-aged children of service members who are required to relocate to a different state.

To ensure that Texas participates, Senator Shapleigh joined with Sen. Leticia Van de Putte (D-San Antonio) to coauthor S.B. 90, which enters Texas into the Interstate Compact on Educational Opportunity for Military Children. The compact facilitates the student placement process, qualifications and eligibility for enrollment, and on-time graduation and provides for the collection and sharing of information between and among member states. S.B. 90 passed and was effective on May 5, 2009, the same day the Governor signed the bill.

### ***Fights to protect Texas service members from predatory lenders***

Payday loans, or deferred payment transactions, are designed to be short-term emergency loans for people who have no alternative loan options. Military men and women are often targets of abusive payday lenders, as they have a steady income from the government, often with little to spare. At deployment time, when military families are faced with extra expenses at home and abroad, they may be more vulnerable to the promise of quick cash from payday lenders. As a result, the United States Department of Defense concluded that payday lending and other high-cost lending products are a threat to national security and destructive to the morale of troops on active deployment.

Payday lenders are free to charge excessive interest rates without concern that customers will reject their services. Many payday loans result in triple-digit and even quadruple-digit percentage rates because the borrowers are identified as extremely high-risk, and lenders feel justified in charging high interest rates. The financial burden on the borrower and the potential damage to the borrower's credit should he or she be unable to repay the loan creates a serious pressure on the borrower to refinance the loans that cannot be paid back, creating an onerous cycle of increasing fees.

To combat this practice, Senator Shapleigh filed S.B. 189, which would have allowed state regulators to enforce a federal 36 percent interest rate cap on consumer credit for military borrowers and dependents. While the bill passed out of the Senate on a 31-0 vote, the House Defense & Veterans' Affairs Committee failed to turn in the bill's required paperwork and it subsequently died.

### ***Lowers the cost of higher education for military veterans and their dependents***

Under current law, a former member of the Armed Forces of the United States or the former member's spouse or dependent child is entitled to pay the resident tuition rate for any term or semester at a state institution of higher education that begins before the first anniversary of the veteran's separation from the Armed Forces. After the one year time limit, however, veterans and their families must establish residency through other means. Expanding in-state tuition benefits to military veterans and their spouses and children is a fitting way to recognize those who have served, led, and protected our country.

In response, Senator Shapleigh filed S.B. 200, which would have amended the Education Code and eliminated the one year time limit on resident tuition rates, thus allowing veterans and their families to pay resident tuition rates regardless of how long they have lived in Texas. While S.B. 200 did not pass, the same concept passed in S.B. 297, which Senator Shapleigh proudly coauthored. S.B. 297 was filed by Sen. Leticia Van de Putte (D-San Antonio) and became law on June 19, 2009.

### ***Fights for veterans resource centers***

A leading reason for enlistment in the United States Armed Forces for service members is to enable them to pursue higher education after their military service. However, once a service

member is discharged from the military, they and their families face many barriers to accessing higher education, leading to few veterans completing a college degree. Currently, no state program exists to address the issues in a centralized location that can be accessed by veterans and their families. Senator Leticia Van de Putte (D-San Antonio) filed, and Senator Shapleigh coauthored, S.B. 1538, which would have required the Texas Veterans Commission (TVC) to administer a center in at least one institution of higher learning in ten of the higher education regions specified in Section 434.153 (Locations of Centers), Government Code. The purpose of the centers would be to provide centralized focal points of assistance and information to veterans and their families during their educational experience. While the bill passed the Senate, it died in Calendars in the House.

### ***Fights for property tax exemptions for disabled veterans and their spouses***

Many of our distinguished veterans return from military service with various physical and mental disabilities. Most of the time, if they are married, it is their spouse who takes care of them once they return home. This care is absolutely necessary for the recovery and continued function of the veteran, but it is often very time consuming. Because of this, spouses may not have a significant and steady source of income at their disposal when the veteran passes away. Therefore, it is imperative that our government help these dedicated spouses by continuing their exemption from property taxes while they stay in the same residence homestead once the veteran is gone.

As filed by Senator Shapleigh, S.B. 1268 would have ensured that totally disabled veterans will be exempted from taxation on the total appraised value of their residence homestead. The legislation also provided that the veteran's surviving spouse will qualify for an exemption from taxation on their homestead after the veteran has passed away if the spouse has not remarried and still lives in the same residence homestead. The bill was referred to the Senate Finance Committee but was never given a hearing and failed to pass.

### ***Fights to help military service members in the relocation process***

When a military service member or spouse moves to Texas, as a result of a duty station change or to relocate here following the service member's enlistment term, career considerations play a significant role in that military family's quality of life. Senator Shapleigh joined forces with Senator Leticia Van de Putte (D-San Antonio) to coauthor S.B. 1240, which would have required a state agency to issue a temporary license in an expedited fashion to an active-duty member of the military, an honorably discharged veteran who has been separated for less than a year, and the spouse of a person serving on active duty as a member of the military. The bill passed the Senate, but ultimately died in Calendars in the House.

### ***Fights for increased death benefits for Texas National Guard members***

According to the adjutant general's office, since the start of the wars in Afghanistan and Iraq, nine Texas National Guard members have paid the ultimate sacrifice on behalf of our nation. It is vital to send a strong message that the Texas Legislature places a high value on our troops' sacrifice and defense of our nation and our freedoms.

Senator Rodney Ellis (D-Houston) thus filed, and Senator Shapleigh coauthored, S.B. 1022, which provided that death benefits of \$250,000 be paid in two equal installments to certain beneficiaries of members of the Texas National Guard killed in action. While the bill successfully passed the Senate, it failed to pass the House and thus died.

### ***Pushes for HUB certification for disabled veterans***

Disabled veterans have made an enormous sacrifice for our country. As a result of their service to the United States, they have endured many hardships that cause their transition from military action to economic business and prosperity to be difficult. There are over four million veteran-owned small businesses in the United States, and hardworking veterans who are business owners should be able to get the state contracts they deserve without trouble.

To be recognized currently, a historically underutilized business (HUB) must have its principle place of business in Texas and be at least 51 percent owned by an "economically disadvantaged person." HUB certification is beneficial to businesses because the certification is free, it lasts for 4 years, and it results in the business being listed in the Comptroller's web-based HUB directory. State agencies use this directory to solicit bids from certified HUBs for state purchasing and public works contracts. A certified HUB will also receive increased exposure to the public and other entities that have a supplier diversity program and are searching for minority businesses. By expanding the definition of the economically disadvantaged to include disabled veterans in S.B. 672, Senator Shapleigh pushed for these distinguished servicemen to be assured they would receive their fair share of state agency contracting for their businesses. The bill was referred to the State Affairs Committee but never received a hearing.

### ***Works to update current law regarding the payment to members of the Texas State Guard (TSG)***

Current regulations regarding the adjutant general's authority to compensate the Texas State Guard (TSG) while they are serving on active duty have not been updated since World War II. Accordingly, the needs and duties of TSG have expanded immensely and are no longer satisfied by current regulations. TSG is increasingly called upon in disaster relief capacities. In fact, TSG interacts with local leadership, staffs local shelters, provides fill-in capability for shortfalls in the local emergency management structure, and runs local points of distribution. TSG also provides communication support to supplement the National Guard, and damage assessment training. Unless called to active duty, TSG members serve in an unpaid capacity. In response, Senator Shapleigh filed S.B. 1408, which sets forth the procedure for paying members of TSG when called to active duty. Specifically, the bill would have amended section 431.082 of the Government code to provide that a member of the Texas State Guard (TSG) called to state active duty is a temporary employee of the state while on state active duty. The bill would also have required the adjutant general to pay members of the TSG called to state active duty according to the General Appropriations Act. Lastly, the bill would have authorized the adjutant general, if the length of state active duty exceeds 45 consecutive days, to pay the members of TSG called to state active duty up to 140 percent the amount authorized in the General Appropriations Act. Unfortunately, the bill was left pending in the House Defense and Veterans' Affairs committee.

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## **Promotes Use of Technology to Enhance Access to Government**

The Internet and access to technology have changed our lives and our communities significantly over the past decade. Ready and fast access to information has transformed the way that students learn, people communicate, and businesses operate. More than ever, access to information allows the opportunity for people with various backgrounds and levels of education to compete academically, economically and socially. The information revolution, spurred by the spreading use of high-speed Internet, will benefit more people and more communities than ever imagined. With the proliferation of Internet-based services, governments and businesses are able to reach more people and operate more efficiently and effectively.

Senator Shapleigh has worked diligently during his tenure in the Legislature to expand access to technology to all Texans. With Senator Shapleigh at the helm, Texas has continuously invested in technology, and all citizens are benefiting.

### ***Enables the filing of Property Tax Appraisal Protests online***

Currently, the first step in contesting the appraised value of a residential homestead is to file a protest. The appraisal district makes forms available for this purpose, but an individual can also fax or mail a letter contesting the appraised value. The letter only needs to identify the individual as the owner, identify the subject property, and state that the owner disagrees with the appraised value and wished to protest. Next, the appraisal district will schedule what they call an “informal hearing.” This can take months from the time that the protest is first filed. The purpose of the hearing is to give the owner the opportunity to present the evidence that the appraised value is too high.

This process is burdensome and time-consuming. Mail gets lost and data entry errors can occur. Property owners have to drive to the appraisal district headquarters, wasting time in traffic and squandering gas.

In response, Senator Shapleigh filed, S.B. 258 which amends Chapter 41 of the Tax Code to require appraisal districts in counties with a population of 500,000 or more to implement a system that allows the owner of a property to electronically file a protest of the appraised value of the property, and the option to request that their protest be considered for online settlement. By employing technology, S.B. 258 will increase productivity, reduce errors and save tax dollars, all while providing improved service and convenience to the taxpayer. High volumes of protests will be handled by the appraisal district in virtual space as opposed to the costly process opening mail, preparing documents and keying data. Property owners will avoid the time and expense of coming in for a protest hearing and the number of days needed to hold hearings will be reduced. In a bipartisan effort, Senator Shapleigh joined forces with Representative Bill Callegari (R-Katy), and amended S.B. 258 onto H.B. 1030, which passed and becomes effective on January 1, 2010.



### *Attempts to create uniform appraisal methods and improve state enforcement*

In 2006, the Texas Legislature passed landmark tax and school finance reform legislation to ensure the constitutionality of the state's school finance system while also providing property tax relief and improving the fairness of the state's business tax system. School maintenance and operation rates were to be rolled back by one-third over the next two years to provide \$7 billion in annual property tax relief. However, many taxpayers have not seen the dramatic reductions in their tax bills they had expected. To address these concerns, Lieutenant Governor David Dewhurst created the Subcommittee on Property Appraisal and Revenue Caps (subcommittee), with the intention that the subcommittee thoroughly examines the property tax appraisal system.

The subcommittee consistently heard from witnesses that one of the problems associated with the state's current appraisal system is the lack of standard and uniform appraisal methods and the lack of enforcement by the state. Despite substantial progress in improving property tax administration since the advent of the current system, taxpayers are demanding the ability to enforce uniform and equitable property appraisals across the state. Statewide uniformity and equity can only be enforced through the reform and enhancement of state oversight of appraisal methods. Recognizing this, in a bipartisan effort, Senator Shapleigh joined forces and coauthored S.B. 11 by Senator Tommy Williams (R-Woodlands), in an attempt to create a statewide uniform appraisal method and to improve state enforcement. Unfortunately, the bill died in the House Committee on Ways and Means.

### *Pushes to save mobile phone consumers some money*

Cell phones are one of the most expensive technological advancements used by the majority of people each day. From text messages to taxes to minutes, it is not uncommon to pay in excess of \$100 each month for a cell phone.

Cell phones are different from land-line phones in that the customer needs to determine in advance how many minutes he or she will use in each month. Deciding how many minutes are needed and avoiding exceeding this limit can be very difficult for consumers. Guessing wrong on how many minutes to sign up can be a very costly error for the consumer. It is not uncommon to pay up to 45 cents per each minute used over the plan. Senator Shapleigh recognized that if cell phones are as technologically advanced as they claim to be, they should be able to be programmed to automatically inform customers when they reach their monthly limit on minutes to avoid placing additional calls.

In response, Senator Shapleigh filed S.B. 611 which would have amended Chapter 307 of the Business and Commerce Code, to require a commercial mobile service provider to include in a calling plan contract the option for the provider to notify the customer when the number of remaining primary plan minutes falls to 100. A customer who exercised this option would have had to specify in the calling plan contract whether the customer wished to receive the notification from the provider as a voicemail, text message, or by electronic mail. Unfortunately, the measure was not granted a hearing in the Senate Business and Commerce committee.

### *Attempts to improve online state budget*

The Texas state budget has grown to over \$180 billion for the coming biennium and taxpayers are entitled to as much information as possible about how their tax dollars are spent. Access to this information provides the opportunity for citizens to demand that the government be accountable for its spending.

While citizens have greater access to information due to a more open government and emerging technologies, citizens are required to access state expenditure information via individual state agencies, and the current information system is difficult to navigate.

H.B. 3430, which passed last session, improved the existing information system by creating a single, searchable, and publicly available online database of state expenditures. Borrowing on best practices across the U.S., Senator Shapleigh filed S.B. 2538, which would have amended the Government Code to include the following information:

- Check registers of school district expenses;
- Monthly report of the appropriations and expenditures by each state agency;
- Pie chart indicating whether state agency expenditures are decreasing or increasing over time;
- Citizen's input to allow people to post comments and suggestions for continued improvements;
- State agency Legislative Appropriation Requests;
- For a procurement contract with a value of \$100,000 or more, include the state agency that awarded the contract, the vendor to whom the contract was awarded, and a description of the goods and services to be procured under the contract; and
- The amount of revenue collected by the Comptroller, including taxes, fees, and assessments, categorized according to the amount of revenue collected from each type of revenue source.

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## **Encourages Wealth Building by Eliminating Predatory Lending Practices**

One of Senator Shapleigh's top legislative priorities is increasing financial literacy awareness across Texas. Throughout his tenure in the Texas Senate, Senator Shapleigh has consistently fought for consumers in Texas, arguing that the American Dream should be accessible for all Texans. During this legislative session, Senator Shapleigh led the fight for financial literacy and against predatory lending practices to expose the terrible price consumers pay when 1,100 percent interest rates are routinely charged on predatory loans.

### ***Fights to outlaw predatory lending in Texas***

Since July 2005, most major payday lenders have registered as Credit Services Organizations (CSOs) under Chapter 393 of the Finance Code. This industry move came as the Federal Depository Insurance Corporation (FDIC) began to prohibit its member banks from serving as financial partners with companies doing payday lending. As CSOs, these payday outfits are no longer subject to Texas' small loan law or regulation by the Office of Consumer Credit. Although the OCC is obligated to set rates, payday CSOs are able to circumvent these rates in spite of Section 342.008, which prohibits such attempts to evade the law: *A person who is a party to a deferred presentment transaction may not evade the application of this subtitle or a rule adopted under this subchapter by use of any device, subterfuge, or pretense.* When faced with high fees, many borrowers take on extra debt which only exacerbates the original financial crisis. Sky-high APRs play a role in perpetuating this cycle of debt that could be avoided by enacting sufficient regulations and setting rate limits. Texas payday lenders currently charge rates exceeding 300 to 1,000 percent APR; these rates are at least twenty times the cost of high-interest credit cards. Other states, including Georgia, have taken action against payday lenders. In 2004, Georgia enacted a law to curb payday lending abuses, capping the interest rate on small consumer loans, and barring non-bank lenders from partnering with out-of-state banks.

In an attempt to emulate similar efforts, Senator Shapleigh filed S.B. 248 to limit annualized interest charges for deferred presentment transactions to 36 percent APR. The bill would have amended Subchapter E, Chapter 342, Finance Code, to prohibit CSOs and entities offering payday loan fees and interest that exceed 36 percent. This restriction would have aligned state law with recently enacted federal law limiting military lending to 36 percent. While this bill was heard in the Business and Commerce Committee, a vote was not granted.

### ***Works to create a predatory lending database***

Payday lending products have come under recent scrutiny by consumer advocates, federal regulators, and the U.S. military. Payday loans are short-term loans with annualized interest rates that range from 300 to 1,100 percent APR. Currently, payday lending operates in 37 states, with a patchwork of state laws and regulations that govern their use. Recent federal actions have spawned significant changes in the payday lending industry. Prior to this year, payday lending in Texas operated through the "rent-a-bank" or "rent-a-charter" model, in which payday outfits partnered with out-of-state banks to make loans to consumers. This scheme enabled Texas

payday lenders to avoid state usury limits and rate limits established by the Office of Consumer Credit Commissioner. Under this arrangement, Texas payday lenders claimed the status of “brokers” and assigned their partner banks as the “lenders.”

Since 2005, however, the Federal Deposit Insurance Commission (FDIC), the primary regulatory agency for federally chartered banks, has effectively ended this practice. In response, nearly all payday lenders in Texas registered as Credit Services Organizations, pursuant to Chapter 393 of the Finance Code. This move enabled payday lenders to avoid even limited regulation by the Office of Consumer Credit. This switch also enabled some lenders to turn in their OCC licenses. More importantly, payday lenders were no longer obligated to submit data to the OCC Commissioner, and as a result, Texas regulators have no official data regarding an industry that conducts over 2 million transactions approaching \$1 billion per year. Further, in 2006, the U.S. Congress passed the Talent-Nelson Amendment, as part of the National Defense Reauthorization Act, providing specific protection to active duty military service members and their dependents. The federal law establishes rate limits for military consumers to 36 percent APR effective October 2007. To ensure that the federal law is being followed by Texas payday lenders and to make effective public policy regarding adequate consumer protections and potential rate limits, it becomes imperative to collect independent and reliable data upon which to base those decisions.

In response, Senator Shapleigh filed S.B. 242, which would have established a data collection system, required that lenders be certified by the Office of Consumer Credit, and mandated an annual report to the Legislature. These requirements would have applied to all entities offering payday loans or “deferred presentment transactions” including Internet-based outfits and CSOs. This proposed legislation was modeled on other states that have data collection and enforcement components in their payday lending statutes. While the measure was heard in the Business and Commerce Committee, a vote was not granted.

***Fights to reform the mortgage sub-prime industry and alleviate foreclosures***

Texas has some of the highest sub-prime loan rates in the country. According to the Corporation for Enterprise Development, Texas ranks 43 in the country in the share of mortgage loans that are subprime loans. Of the ten MSAs with the highest rate of subprime loans in the country, Texas is home to six:

***MSA Ranking by Overall Percentage of Subprime Refinance Loans***

Rank	MSA Name	Population	Conventional Refinance Loans	Percent Subprime
1	El Paso, TX	679,622	1,767	47.82
2	Corpus Christi, TX	380,783	1,061	46.84
3	Laredo, TX	193,117	342	45.32
4	Killeen-Temple, TX	312,952	683	44.80
5	Beaumont-Port Arthur, TX	385,090	1,160	44.48

6	Miami, FL	2,253,362	10,701	42.67
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By 2007, the high volume of subprime mortgage loans had finally caught up with Texas and, indeed, the entire country. In the McAllen metropolitan area, over 39 percent of the mortgage volume between 2004 and 2006 were high rate loans. The inevitable outcome is a higher rate of foreclosures.

In October 2008, Texas tied with Georgia for the eighth-highest number of foreclosures in the nation, reporting 9,900 properties with foreclosure filings, an 8 percent increase from the previous month, according to the latest RealtyTrac® U.S. Foreclosure Market Report. Harris County reported 1,803 properties with foreclosure filings in October 2008, more than any county in Texas. Dallas County came in second, reporting 1,427 properties with foreclosure filings. Tarrant County ranked third, with 1,179 properties in foreclosure. Our current total so far this year is a whopping 124,428 foreclosure filings.

While unemployment in Texas remains below the national average, bad loans and the economic recession have compounded the state's housing crisis, forcing lenders to rework troubled mortgages in order to avoid foreclosure.

As the following chart illustrates, in Texas, the decrease in home values means a loss of \$4.9 billion dollars with over 2.2 million homes decreasing in value:

### Projected Foreclosure Impact in Texas

Foreclosures expected to occur (primarily 2008-2009)	149,661 homes lost
Spillover impact:	
Surrounding homes suffering price declines caused by nearby foreclosures	2,283,390 homes
Decrease in home values/tax base	\$4.9 billion
Average decrease in home value per unit affected	\$2,156

Source: <http://www.responsiblelending.org/pdfs/texas-state-info-with-fc-starts.pdf>

In response to this growing sub-prime lending crisis, and based on best practices across the nation, Senator Shapleigh filed S.B. 1284 which would have amended the Finance code to:

- ban or prohibit prepayment penalties for subprime loans;
- ban steering of borrowers to loan terms that are more costly than those for which they qualify;
- ban flipping (refinancing without providing a net tangible benefit) for subprime loans;
- ban negative amortization loans in which the principal continues to grow despite monthly payments from the borrower for subprime loans; and
- ban lender financing of credit insurance;

- require lenders to contact borrowers (or engage in due diligence) to schedule a face-to-face or phone meeting with borrowers to provide restructuring options before sending a notice of default;
- require lenders to provide a notice to borrowers regarding a new interest rate 120 days prior to an interest rate adjustment;
- add loans from residential mortgage banks to the list of consumer contracts that must be translated into Spanish;
- increase surety bonds to \$100,000 for finance lenders (or brokers of residential mortgage loans);
- require lenders to send a notice of default to a housing counseling agency; and
- require lenders or other persons foreclosing to mail a homeowner's bill of rights specifying the process and setting forth the rights of the borrower regarding contracts with mortgage foreclosure consultants.

***Works to close the relationship between Credit Services Organizations (CSOs) and third party lenders***

Texas' CSO statute was intended to provide guidance for entities that offered legitimate debt repair or counseling services to Texans. As such, the CSO statute is overly broad, and not intended to apply to entities that arrange short-term consumer loans in high volume. Since July 2005, most major payday lenders have registered as Credit Services Organizations (CSOs) under Chapter 393 of the Finance Code. This industry move came as the Federal Depository Insurance Corporation (FDIC) began to prohibit its member banks from serving as financial partners with companies doing payday lending. As CSOs, these payday outfits are no longer subject to Texas' small loan law or regulation by the Office of Consumer Credit (OCC). Although the OCC is obligated to set rates, payday CSOs are able to circumvent these rates in spite of Section 342.008, which prohibits such attempts to evade the law: *A person who is a party to a deferred presentment transaction may not evade the application of this subtitle or a rule adopted under this subchapter by use of any device, subterfuge, or pretense.* Under the CSO model, the CSO-payday lender charges the consumer with a fee based upon the amount borrowed, and then computes 10 percent interest on the loan based upon extension of credit made by a third party lender, who has an established relationship with the payday-CSO storefront or Web-based service.

In response, Senator Shapleigh filed S.B. 244, which would have made it explicitly clear that any entity offering deferred presentment transactions or payday loans are subject to Section 342 of the Finance Code, and that CSO registration does not insulate them from adhering to the rates set by the Office of Consumer Credit. Additionally, S.B. 244 stipulated that CSOs should not extend credit when they have a relationship with the lender. The bill would have amended Subchapter D, Chapter 393, Finance Code, to prohibit CSOs from facilitating credit to consumers if CSOs are affiliated with the lender, collect fees on behalf of the lender, or receive an economic interest in the loan revenue, among other prohibitions. While the measure was heard in the Business and Commerce Committee, a vote was not granted.

### ***Attempts to close the Credit Services Organization (CSO) loophole***

Texas' CSO statute was intended to provide guidance for entities that offered legitimate debt repair or counseling services to Texans. As such, the CSO statute is overly broad, and not intended to apply to entities that arrange short-term consumer loans in high volume. Since July 2005, most major payday lenders have registered as Credit Services Organizations (CSOs) under Chapter 393 of the Finance Code. This industry move came as the Federal Depository Insurance Corporation (FDIC) began to prohibit its member banks from serving as financial partners with companies doing payday lending. As CSOs, these payday outfits are no longer subject to Texas' small loan law or regulation by the Office of Consumer Credit. Although the OCC is obligated to set rates, payday CSOs are able to circumvent these rates in spite of Section 342.008, which prohibits such attempts to evade the law: *A person who is a party to a deferred presentment transaction may not evade the application of this subtitle or a rule adopted under this subchapter by use of any device, subterfuge, or pretense.* Under the CSO model, the CSO or payday lender charges the consumer with a fee based upon the amount borrowed, and then computes 10 percent interest on the loan based upon extension of credit made by a third party lender, who has an established relationship with the payday-CSO storefront or Web-based service.

In an attempt to close this loophole, Senator Shapleigh filed S.B. 243, which would have made it explicitly clear that CSOs should not extend credit when they have a relationship with the lender. The bill would have prohibited CSOs from facilitating credit to consumers if CSOs are affiliated with the lender, collect fees on behalf of the lender, or receive an economic interest in the loan revenue, among other prohibitions. While the bill was given a hearing in the Senate Business and Commerce Committee, a vote was not granted.

### ***Fights to regulate refund anticipation loans (RALs)***

Refund anticipation loans (RALs) are short-term, high-cost loans secured and repaid by an individual's tax refund from the IRS. The annual percentage rate (APR) for RALs ranges from 70 to 700 percent due to the numerous fees associated with RALs. Tax preparers and RAL lenders rarely report this rate to consumers. Instead, they report a lower rate that does not account for the fees associated with the loan. Tax preparers offering RALs engage in aggressive advertising campaigns during tax season, and at times, mislead consumers about the available options. Brokers rarely make it clear to consumers that they can receive their refund from the IRS in as little as 10 days without utilizing these high-cost, high-risk loans. In many cases, consumers are not even aware that they have taken out a loan.

RALs erode the benefits of the Earned Income Tax Credit for working Texans. During 2003, nearly two million Texas taxpayers received federal Earned Income Tax Credit refunds worth about \$3.8 billion. However, an estimated \$251 million of these public funds never reached the taxpayers. Commercial tax preparers received the majority of these funds—nearly \$166 million—assisting taxpayers in navigating the complex tax laws just to claim their earned benefits. The remaining \$85 million consisted of refund anticipation loans, which allowed taxpayers to receive some, if not all, of their money approximately one week earlier than they would have without the loan. In response, Senator Shapleigh filed S.B. 1518 to provide for the

regulation of tax refund anticipation loans or checks with certain penalties. Unfortunately, the bill was not granted a hearing in the Business and Commerce Committee.

### ***Works to extend the time period on a pending foreclosure from 20 to 45 days***

The Mortgage Bankers Association of America has recently reported that at least one in ten Texas homeowners are at risk of default and foreclosure. Last fall, Texas Attorney General Greg Abbott recommended that the legislature consider lengthening to 45 days the time frame allowed to a debtor in default to cure a loan default before a notice of sale. Current state law provides homeowners a 20-day window to cure a default.

Recognizing the gravity of the situation, Senator Shapleigh filed S.B. 609 which would have extended the cure period on a pending foreclosure from 20 to 45 days. The bill also would have required lenders to contact the borrower by telephone or in person and to extend a 30 day time-period from the date of foreclosure to homeowners and renters in order to vacate the property. The bill authorized the Office of the Attorney General to create a model "notice of foreclosure" form, that would include a definition of mortgage foreclosure, a reminder that homeowners have 45 days to cure defaulted loans, all rights and options available to homeowners seeking to save their homes, a warning about foreclosure rescue scams, and a listing of resources available to homeowners, for mortgage companies to use. Finally, the bill required debtors to notify any tenants of a pending foreclosure within seven days.

### ***Advocates for the regulation of debt collection agencies***

Dealing with a debt collector can be one of life's most stressful experiences. Harassing calls, threats, and use of obscene language can drive you to the edge. What's worse, a collector may embarrass you by contacting your employer, family or neighbors. You may even be hounded to pay a debt that is not rightfully yours. Sure, collection agencies have a job to do. Even so, there are limits on how far a debt collector can go.

As debt collectors multiply, so do complaints by individuals against collection agencies have been on the rise. An increasing number of consumers are complaining of abusive techniques from some companies that are part of a new breed of debt collectors. They are debt buyers, outfits that acquire unpaid bills from credit card firms and other credit providers for pennies on the dollar and then try to collect. Some of these companies go after bills so old that consumers can no longer be sued for them in court or punished for them on their credit reports.

As the amount of consumer debt has risen over the years, so too has the number of these firms, growing from about a dozen firms in 1996 to more than 500 today. Between 1995 and 2004, the industry grew from purchasing \$12 billion worth of consumer debt to \$77.2 billion, according to the Nilson Report, a newsletter that monitors the credit industry. The report said that last year debt buyers paid an average of 5.4 cents for every dollar of unpaid debt.

For these firms, the demand to make a profit on the debts they purchase has resulted in the increasing use of heavy-handed, and sometimes illegal, tactics. Year in, year out, the Federal Trade Commission receives more complaints about debt collectors than any other industry. But



in recent years, these complaints have skyrocketed -- from 13,950 in 2000 to 58,687 last year. Complaints about third-party debt collectors accounted for close to one in six of all FTC complaints last year, up from 9.5 percent in 2000.

Knowing that individually, states can enact laws that strengthened some of the provisions contained in the Federal Debt Collection Practices Act (FDCPA), Senator Shapleigh filed S.B. 1519, which would have amended Chapter 392 of the Finance code to require debt collectors to temporarily stop attempts to collect a debt upon notification by the consumer that the debt arose from identity theft and to send consumers a written notice of their rights under state law with each initial correspondence regarding a past due debt. In addition, the bill would have required third party debt collection agencies to obtain a license from the Texas Department of Licensing and Regulation with exceptions for any original creditor, attorney, licensed real estate broker, any financial institution or insurance company authorized to do business in the state, and any FDIC-insured institution. All licensees must name a supervisor of the business who has a minimum of three years of experience related to the business. S.B. 1519 also set forth a criminal penalty for failing to register prior to engaging in collecting consumer debts. The bill would have required debt collection agencies to include an initial written communication to consumers informing the consumer of his or her right to request in writing that a debt collector or collection agency cease communication with the consumer. Debt collectors would have also been obligated to maintain a toll-free telephone number available to any consumer. Lastly, S.B. 1519 also required a collection agency to file a surety bond in the sum of \$15,000 and maintain a trust account.

### ***Pushes for licensing of Credit Services Organizations (CSOs)***

Texas' credit services organization statute provides guidance for credit services organizations that offer repair or counseling services to Texans. Due to broad definitions in that statute most major payday lenders have registered as credit services organizations, and as such are no longer subject to Texas' small loan law or regulation by the Office of Consumer Credit Commissioner (CCC). Senator Shapleigh worked with his colleague, Senator Wendy Davis (D- Fort Worth) and coauthored S.B. 2131 which would have required a credit services organization to be licensed by OCCC in order to provide consumer loan services where a car title, postdated personal check, or debit authorization are used as security for the loan. The bill also would have required the Finance Commission of Texas to adopt rules regarding licensing procedures and maximum fees authorized to be charged for the loan services.

### ***Works to avoid predatory lottery tickets by capping prices***

Scratch-off tickets account for 75 percent of lottery sales in the state of Texas. In 2007, Texas became the first state to introduce the \$50 scratch-off lottery ticket. Despite the revenue these tickets have generated, they have only contributed to a serious gambling problem among the most vulnerable groups in the state.

While the intent of scratch-off tickets was to lure higher-income customers, the \$50 scratch-off ticket has done the opposite. The Lottery Commission's own studies found that \$50 ticket sales were stronger in low-income neighborhoods than in high-income neighborhoods. Studies by the

San Antonio Express-News and the Houston Chronicle found the \$50 game to be most popular in areas of those with household incomes slightly more than \$30,000. A 2008 demographic study by the Center for Public Policy found that players making under \$12,000 a year spent three times as much as those pulling in over \$100,000 and nearly double those making between \$75,000 and \$100,000.

Furthermore, scratch-off tickets are more popular with minorities. According to a 2006 survey by The University of North Texas commissioned by state lottery officials, the typical black player spent \$70 a month on the lottery, in comparison to \$47 by a Hispanic player and \$20 by a Caucasian. The \$50 game has only encouraged Texas' most vulnerable groups to spend considerable amounts in the hopes of winning the grand prize. S.B. 210 by Senator Shapleigh sought to curb the predatory nature of the \$50 tickets by capping the highest price of tickets to be sold at \$25.

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## **Promotes Statewide Economic Development by Demanding Greater Accountability in Statewide Programs and Developing Targeted Assistance to Border Economic Development Efforts**

The decisions that state leaders make with regard to its infrastructure, economy and workforce over the next few years will affect the State's future for decades to come, especially with regard to policies along the Texas-Mexico Border.

Senator Shapleigh continued to fight to enhance economic development initiatives for the entire state. He fought to bring accountability to statewide efforts and worked to develop Border-specific programs to better support the most vulnerable region in Texas.

### ***Fights to prevent substandard housing construction in the Border Region***

Under current law, counties do not have the authority to adopt zoning ordinances or building codes. This lack of county regulatory authority contributes to the growth of substandard construction in colonias throughout the Texas-Mexico border region.

Senator Shapleigh filed S.B. 2175, which authorizes Texas-Mexico border counties to regulate residential land development in the unincorporated areas of the county and municipalities within those counties to regulate residential land development in the extraterritorial jurisdiction of the municipality. The bill allows for a governing body of a county to adopt certain regulations and/or building codes. Additionally, the bill allows a county to issue building permits and to charge reasonable administration fees. The bill included enforcement provisions to ensure compliance with the bill. S.B. 2175 was not moved through the legislative process. Instead, H.B. 2833 by Representative Marisa Marquez (D-El Paso) was the legislation that Senator Shapleigh sponsored and passed, which incorporated some of the concepts from S.B. 2175.

### ***Ensures that El Paso County is prepared to respond to emergency situations***

A county judge in a county with a population of more than 1,000,000 has the authority to delegate to another county official or county employee the ability to sign orders or other official documents associated with the county judge's office on the county judge's behalf. Current law also allows a county judge to file a standing order of emergency delegation of similar authority. The orders must clearly indicate the types of orders or official documents that the officer or employee may sign on behalf of the county judge. Documents signed with this delegated authority have the same effect as an order of the county judge and the county judge may revoke the delegated authority or transfer it to a different person by filing another order at any time.

Senator Shapleigh sponsored H.B. 2835 by Representative Marisa Marquez (D-El Paso) which provides a limited version of this authority to El Paso County. The bill allows a county judge to delegate duties only to a county commissioner. This authority will help El Paso County respond to emergency situations, such as the severe flooding that took place in 2006, by ensuring that someone is able to sign important documents in the absence of a county judge. The bill was

passed out of both the House and the Senate, was signed by Governor Perry, and took effect immediately.

***Works to pass a secure manufacturing tax credit to promote economic development along the Border***

Existing federal programs administered by the U.S. Department of Homeland Security permit qualified businesses to voluntarily participate under the Customs-Trade Partnership Against Terrorism (C-TPAT), a public/private partnership program aimed at providing security and facilitation of the commercial supply chain at U.S. land, air and sea ports of entry. Participating businesses provide U.S. Customs and Border Protection (CBP) a security profile outlining specific security measures and addressing a broad range of security topics including personnel security, physical security, procedural security, access controls, education training and awareness, manifest procedures, conveyance security, threat awareness, document processing, business partners and relationships, vendors and suppliers. Security profiles also list action plans that the companies have implemented to align security throughout the supply chain. In return, C-TPAT partners are offered, among other things, a reduced number of inspections and reduced border wait times at our ports-of-entry. For example, C-TPAT-certified importers are eligible for access to the FAST lanes on the Canadian and Mexican borders. In turn, certified C-TPAT-certified Mexican manufacturers benefit from access to expedited cargo processing at the designated FAST lanes.

While CBP, through the implementation of the C-TPAT and the SAFE programs, has made progress in securing and expediting commercial cargo at land ports of entries along the U.S.–Mexico border since the 9/11 terrorist attacks, more needs to be done. A May 2005 General Accounting Office (GAO) study found key cargo security programs, including C-TPAT, need improvement. Specifically, as of April 2005, the study found that CBP had validated only 11 percent of C-TPAT members, had not developed a comprehensive set of performance measures for the program, and that key program decisions were not always documented and programmatic information was not updated regularly or accurately. Moreover, commercial traffic congestion at border land ports of entry continues to be a significant problem, causing delays and economic impacts for cross-border businesses, particularly those involved in “just-in-time” markets. Realizing this untapped potential, Senator Shapleigh filed S.B. 247, which would have established the Secure Border Manufacturing Zones Incentive Act of 2007 to complement federal programs aimed at enhancing security and safety of cross-border shipment of goods by providing eligible businesses within the state with tax incentives for investments aimed at enhancing the supply chain visibility of their operations, value added trade, and efficient operations. The bill also would have encouraged investments in cargo supply chain security and efficiency processes to promote the development of Secure Manufacturing Zones along the U.S.–Mexico border region. To be eligible for a tax break, the business entity would have needed to be located in a Strategic Investment area (defined as one with below average per capita income or above average unemployment) or in a federally designated Urban Enterprise Community.

### ***Promotes greater accountability of state tax dollars in the Texas Enterprise Fund***

The Texas Enterprise Fund (TEF) was established in 2003 to offer direct cash payments to businesses in order to promote economic growth and create jobs. The governor administers TEF, which is viewed as a deal-closer to persuade businesses to develop and/or relocate within Texas. As of December 2008, TEF had allocated \$377,036,392 in grants to 51 different projects, since the fund's inception, with job creation figures and investment figures at 58,839 and 14,029,261,913 respectively. As of March 31, 2008, a total of 23,342 jobs have been created.

One of the main purposes of TEF is to serve as a job creation tool for the State. It is important that the jobs being created are quality jobs that will both stimulate Texas' economy and support economic stability and growth for Texas families. In response, Senator Shapleigh filed S.B. 250, which would have required the Governor, prior to each regular session of the Legislature, to submit to the Legislature a report on grants of TEF money. The report would have included the number of direct jobs promised and created by each grant-recipient, specific details regarding the created jobs, and the geographical distribution of grants by county. The report would also have indicated the number of recipient-created jobs with full health benefits, the median wage of recipient-created jobs, and the percentage of money granted to small businesses.

### ***Works to create greater transparency in the offering of local business tax incentives***

City councils across the state often grant developers of retail projects sales and property tax rebates to lure or encourage investments. Until recently, these tax subsidies have received little attention or scrutiny. Recently, however, local governments have started to take a closer look at the tax revenue they lose when they grant such subsidies. Tax subsidies granted by local school boards, for example, cost the state about \$150 million a year. In some cases, local governments are considering rewriting their policies on subsidies to make the decision making process more open to the public.

Often, the public is skeptical of tax abatements and wants to know exactly what their government will receive in return before it gives away their hard-earned tax dollars. The Austin-based non-profit organization Liveable City analyzed how the city of Austin handles tax incentives packages. The report noted that the full costs of such deals were hard to determine from public records and criticized certain deals for being done largely behind closed doors and without adequate public input. Among other things, the report recommends that city of Austin hold a public hearing well in advance of concluding any deal granting a tax subsidy to business.

In response to this issue, Senator Shapleigh filed, S.B. 251 which would have amended Chapter 140 of the Local Government Code to direct a County or a Municipality with a population of 250,000 or more to post on a public website all current local sales and use tax incentives granted to business, and any proposed local sales and use tax incentives that may be granted to business. Further, S.B. 251 would have required that when a tax incentive is on the agenda of a meeting of the City Council or County Commissioners Court, the information should be posted on the web site prior to the meeting.

### *Fights to prepare for emergency communication*

During the dramatic floods that impacted El Paso in August 2006, the city of Juarez was hit equally as bad, prompting Mayor Hector Lardizabal to declare a state of emergency. Flood waters in Juarez threatened to pour into El Paso had the water continued to rise. By allowing state agencies access to geographic information system data of areas near the Texas/Mexico border, Texas can better prepare for disasters such as the 2006 floods.

To aid in this preparation, Senator Shapleigh filed S.B. 1566, which would have required the Texas Geographic Information Council to acquire and make available to state agencies GIS data for areas of the United States and Mexico that are within 150 miles of the Texas border. Unfortunately, while S.B. 1566 passed the Senate, it died in Calendars in the House.

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## **Improves Access to and Quality of Health Care and Human Services**

By any measure, Texas is now "the ground zero of health care" in America. Texas has more uninsured than any state in the country. One out of four Texans—5.7 million—does not have health insurance. Not a single Texas city meets the national average in citizens covered with insurance—not Austin, not Dallas, not Houston. In fact, El Paso has more insured by percentage than any large city in the U.S. today. Moreover, one in six uninsured American children lives in Texas. We have 1.5 million uninsured children, more than any other state in percentage and total number.

Knowing that Texas has consistently under-funded health and human service programs, Senator Shapleigh set out an aggressive agenda in this area. He fought hard to address the issue of the uninsured, to expand the Children's Health Insurance Program, to reinstate 12-month enrollment in children's Medicaid, and to improve access to health and human services. The descriptions below explain our successes, and what we need to continue to work toward during the interim.

### ***Works to improve recruiting of new physicians to medically underserved areas***

Texas has a shortage of health care providers, effectively denying access to health care for Texans living in rural, border, and inner-city communities. For several years, the Office of the Comptroller of Public Accounts has had to set aside millions of dollars for refunds because of the ambiguity created by an ad valorem tax method on smokeless tobacco. This bill addresses this loophole in the state's smokeless tobacco taxation method, shifting from an ad valorem method to a weight-based method. This change in the basis for taxation would bring the taxation of smokeless tobacco in line with taxation methods for other tobacco products.

H.B. 2154, authored by Al Edwards and co-sponsored by Senator Shapleigh, closes the loophole in the law relating to tax on tobacco products to create a new health care access fund and a consolidated program for loan repayment. This bill revamps the Texas Physician Education Loan Repayment Program, which was first established in 1985. Under the new program, participating physicians are eligible for loan repayment assistance for 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). Physicians will only be able to 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. H.B. 2154 was signed by the Governor on June 16, 2009 and takes effect on September 1, 2009.

### ***Expedites the licensure process for out-of-state physicians moving to Texas to practice in medically underserved areas***

Texas is a state with significant shortages in a variety of health care professions, with El Paso being the least staffed city in the state and the United States. Shortages exist in El Paso in regard to physicians, dentists, nurses, and allied health professionals. Statistics also show that

physicians are not evenly distributed throughout the state. In 2007, Metropolitan Border areas had an average of 145.2 physicians per 100,000 residents while non-metropolitan Border areas averaged even less with only 70.7 per 100,000. Non-border areas have a much higher ratio of physicians with 170.7 per 100,000 in metropolitan areas and 88.7 per 100,000 in non-metropolitan areas. In 2008, El Paso County had only 109.1 direct care physicians per 100,000 people (versus 158.8 per 100,000 people statewide and 214 per 100,000 people nationwide).

In addition to the existing physician shortage, as a result of Base Realignment and Closure in Texas, Fort Bliss will experience a large influx of troops and dependents over the next five years. Growth at Fort Bliss is estimated to be more than 65,000. The base realignment and closure impact alone will require an additional 615 doctors by 2017.

In recent years, the processing time for physician licensure applications has increased significantly and physicians who desire to practice in El Paso are experiencing processing times of several months, despite efforts by the Texas Medical Board to streamline the licensure process.

S.B. 202, authored by Senator Shapleigh and sponsored by Representative Veronica Gonzales (D-McAllen), requires the Texas Medical Board to grant a provisional license to practice medicine in certain locations to applicants who meet certain requirements relating to licensure outside Texas, passage of a recognized examination, and sponsorship by a licensed physician. S.B. 202 successfully passed both chambers and was signed by the Governor. The bill will take effect on September 1, 2009.

### ***Works to regulate mental health slums***

Current law does not regulate the operation of group homes for residents who are not related to the provider and that are provided for adult persons who are disabled by reason of mental health or mental retardation or elderly; and who are in need of quality, safe, supervised housing. At present, state statutes only require the licensing, inspection and regulation of such facilities where there is clear evidence of providing varying degrees of medical services, prescription administration, or therapeutic services. There are no restrictions or regulation on the size, management, or overall operation of these facilities, which are typically funded from the personal assignment of the affected resident's disability stipend (usually Social Security SSI/SSDI) to the facility provider.

Without regulation, many boarding houses have become unsafe and unsanitary, left residents in isolated environments, left residents to lose control over their finances so they would lose their ability to relocate if needed, and left residents with inadequate medical care or mental health care services. H.B. 216, authored by Jose Menendez and sponsored by Senator Shapleigh, relates to the regulation of certain boarding houses and assisted living facilities and provides penalties. The bill was signed by the Governor on June 19, 2009.

Current state law does not regulate the operation of group homes for residents who are not related to the provider and that are provided by individuals or business concerns for adult



persons who are disabled by reason of mental health or mental retardation or are elderly and who are in need of quality, safe, supervised housing.

At present, state statutes only require the licensing, inspection and regulation of such facilities where there is clear evidence of providing varying degrees of medical services; prescription administration; treatment or therapeutic services for example. There are no restrictions or regulation on the size, management, or overall operation of these facilities.

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The 80<sup>th</sup> Legislature passed H.B. 1168, which required the Health and Human Services Commission (HHSC) to study the issue of boarding houses. This study was completed in January 2009. S.B. 1521, authored by Senator Shapleigh and sponsored by Representative Jose Menendez (D-San Antonio), incorporated a number of recommendations made in the study. While the bill passed the full Senate and the House Committee on Human Services recommended it to the House Local & Consent Calendar, we chose not to place the bill on the House Local & Consent Calendar because the companion bill, H.B. 216 (authored by Rep. Menendez and sponsored by Sen. Shapleigh), had already passed both chambers. H.B. 216 was signed by the Governor on June 19, 2009.

### ***Pushes to amend Children's Health Insurance Program eligibility and coverage***

The eligibility limit for Texas Children's Health Insurance Program (CHIP) is 200 percent of the Federal Poverty Level (FPL). Yet, a 2007 census shows that the number of uninsured children between 200-300 percent FPL is growing while the number of uninsured children below 200 percent FPL is declining. In fact, nearly 500,000 children in Texas do not qualify for CHIP or Medicaid but cannot afford private insurance. Very few of these children have access to insurance through their parents' employers. Figures from the Texas Department of Insurance show that private health insurance coverage for families costs about \$12,000 a year. In fact, from 2000 to 2007, Texas families saw their health insurance premiums soar 86.8 percent—nearly six times more than their median earnings increased. In Texas, the majority of uninsured children are in families above the CHIP limit of 200 percent FPL. Therefore, many children above 200 percent FPL are left with no affordable options, as their parents earn too much to qualify for CHIP but do not earn enough to pay for private health insurance.

Many other states have overcome this issue by implementing a CHIP buy-in program in which parents earning above 200 percent FPL can opt into the CHIP program and pay reasonable premiums on a sliding scale basis. These programs, which make health insurance affordable through sliding scale premiums and parental cost sharing, have increased the number of insured children in other states.

As filed by Senator Shapleigh, S.B. 577 would have expanded CHIP eligibility to include those between 200-300 percent FPL and continue to provide coverage so long as the child is eligible

by income standards. Families with incomes between 200-300 percent FPL would be required to pay premiums on a sliding scale basis, but at a cost no more than five percent of their income. Furthermore, S.B. 577 allows families whose incomes are above 300 percent FPL to buy into a CHIP plan. This bill was referred to the Senate Committee on Health and Human Services Committee but did not receive a hearing. However, the nearly identical S.B. 841, authored by Senator Kip Averitt (R-Waco) and coauthored by Senator Shapleigh, passed the full Senate. Although S.B. 841 was placed on the House Major State Calendar, the bill ultimately died due to insufficient time.

### ***Works to provide 12-month enrollment in children's Medicaid***

Texas' children are the least insured in the nation. About 1.5 million children were uninsured in 2007. While 11 percent of the nation's children are uninsured, 22 percent of Texas' children lack insurance coverage. Included in the ranks of uninsured are children who wait for renewal of eligibility for medical assistance from the state.

The renewal process for the medical assistance program (Medicaid) in Texas is cumbersome. While eligibility for the Children's Health Insurance Program (CHIP) is continuous for 12 months, children insured under Medicaid must renew eligibility every six months. Parents of eligible children must take part in a face-to-face interview in which their income is analyzed and they must document their income and assets, whereas parents of children covered by CHIP are only required to fill out a two-page renewal application.

This process often results in denial of coverage for children due to minor missteps by parents, and results in unnecessary disruption of benefits. As many child advocates have noted, restoring the 12-month eligibility period would promote continuity of care and stable medical homes for children, which would ensure that children receive timely care as well as routine preventative care. Increasing the eligibility period would also enable the state to better meet the goals of the *Frew* settlement for check-ups, immunizations, and general access to care for children enrolled in Medicaid.

As filed by Senator Shapleigh, S.B. 349 would have reinstated 12-month enrollment in children's Medicaid. The bill was referred to the Senate Health and Human Services, but did not receive a hearing.

### ***Works to create a program that would screen, diagnose and treat veterans and military personnel with TBI or PTSD***

According to an in-depth study released by the RAND Corporation in April 2008, because of extensive time in combat for today's soldiers returning from Iraq or Afghanistan, almost one in five soldiers have symptoms of traumatic brain injury (TBI), post-traumatic stress disorder (PTSD) and/or major depression—nearly four times the rate for soldiers before deployment as well as the rate for the general population.

So far, 1.64 million troops have been deployed for Operations Enduring Freedom and Iraqi Freedom (OEF/OIF) in Afghanistan and Iraq. Applying the percentages from the Rand

Corporation study, approximately 300,000 of the OEF/OIF military and veterans are suffering from PTSD, another 320,000 are suffering from TBI, and another 300,000 are suffering from major depression.

Of great concern is that only half of these soldiers have sought treatment. If left untreated, these illnesses impair health conditions, work productivity and family and social relationships. Furthermore, the costs of medical treatment and associated loss of productivity will be over \$6 billion in just the two years following deployment.

Senator Shapleigh filed S.B. 1030 to create the Texas Servicemembers Assistance Program. The program would have established a 24-hour toll-free telephone hotline for servicemembers and their family members to get assistance, including diagnostic and screening services for PTSD or TBI. Servicemembers would have been referred to the Texas Veterans Commission for any state and federal benefits that they might qualify for. Certain servicemembers would have been able to receive referral to a local mental health authority for additional needed treatment. Although S.B. 1030 was left pending in the Senate Veterans Affairs Committee, the bill was amended in its entirety into S.B. 1648 authored by Senator Leticia Van de Putte (D-San Antonio) and coauthored by Senator Shapleigh. This bill passed the Senate, but died in the House Calendars Committee.

***Works to create the State Developmental Center Evaluation Authority to address systemic issues of abuse and neglect at the state institutions for the mentally retarded***

On March 15, 2005, the Department of Justice (DOJ) notified the Department of Aging and Disability Services (DADS) of their intent to initiate a Civil Rights of Institutionalized Persons Act (CRIPA) investigation of Lubbock State School (Lubbock). The DOJ released the letter of findings regarding Lubbock on December 11, 2006. On March 11, 2008, the DOJ notified DADS of their intent to expand their CRIPA investigation to Denton State School (Denton). Five months later, on August 20, 2008, the DOJ notified DADS that they would expand the investigation to include the remaining state schools.

After the Lubbock investigation, the DOJ found that Lubbock "substantially departed from generally accepted professional standards of care in its failure to: protect residents from harm; provide adequate behavioral services; provide freedom from unnecessary or inappropriate restraints; provide adequate habilitation; provide adequate medical care (including psychiatric services, general medical care, pharmacy services, dental care, occupation and physical therapy, and physical and nutritional management); and provide services in the most integrated setting appropriate to their needs."

The DOJ attributes these systemic issues to high staff attrition and vacancy rates for direct care staff and clinical professionals. In fact, since Fiscal Year 2004, DADS has suspended or fired more than 800 employees for abusing residents. Until DADS can successfully retain, train and supervise their staff, we can not begin to address the problems and deficiencies identified by the DOJ.

Senator Shapleigh filed S.B. 1407 to create the State Developmental Center Evaluation Authority. The 9-member authority would have assessed the needs of people with intellectual and developmental disabilities, their families, and state school employees when determining whether any state schools should be closed and/or consolidated. Through the Authority, the bill created a mechanism for purposeful, thoughtful evaluation, planning and utilization of the state's financial resources. S.B. 1407 would have resulted in overall improvements of the service delivery system for persons with intellectual and developmental disabilities. Although the bill was left pending in the Senate Committee on Health and Human Services, key language from S.B. 1407 was amended into S.B. 1060 by Senator Rodney Ellis (D-Houston). S.B. 1060 was voted out of the Senate Committee on Health and Human Services, but was not recognized for a vote by the full Senate.

***Works to adopt recommendations by the Department of Justice regarding the use of psychotropic medications and restraints at the state institutions for the mentally retarded***

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S.B. 1520, authored by Senator Shapleigh and sponsored by Representative Abel Herrero (D-Robstown), adopts recommendations by the DOJ regarding the use of psychotropic medications and restraints in Texas' state schools. While the bill passed the Senate, it died in the House Calendars Committee.

***Adds the Paul L. Foster School of Medicine to the Joint Admission Medical Program***

The Joint Admission Medical Program (JAMP) was created by the Texas Legislature to provide services to support and encourage highly qualified, economically disadvantaged students pursuing a medical education. Funded through the Texas Higher Education Coordinating Board, JAMP is a unique partnership between all eight Texas medical schools and 65 public and private

four-year undergraduate institutions. Since 2001, JAMP has been helping Texas students become tomorrow's medical professionals by providing support through undergraduate and graduate scholarships, and summer stipends; mentoring and personal assistance to prepare for medical school; hands-on experience through summer internships; and guaranteed admission to a Texas medical school if all requirements are met.

The Paul L. Foster School of Medicine (Texas Tech University Health Sciences Center at El Paso) is the newest, four-year medical school in Texas. The first students will begin classes in the fall of 2009. At this time, the Paul L. Foster School of Medicine does not have legislative authority to participate in JAMP. As filed by Senator Shapleigh, S.B. 201 added the Paul L. Foster School of Medicine to the list of JAMP-participating medical schools in Texas. Although S.B. 201 passed the Senate and was scheduled on the House General Calendar, it unfortunately died due to lack of time. However, S.B. 201 was amended this bill onto S.B. 1728 by Senator Royce West (D-Dallas), which was signed by the Governor on June 19, 2009 and is effective immediately.

### ***Works to decrease obesity by banning trans fats in restaurants***

Trans fatty acids, also known as partially hydrogenated oils, are a type of fat commonly found in processed foods, commercial baked products, cooking oils, and even bread. Excess intake of trans fatty acids can pose serious and costly health problems. Trans fats are known to decrease levels of HDL (good) cholesterol, cause a significant and serious increase in LDL (bad) cholesterol, and induce major clogging of arteries. Consumption of trans fats is linked to an increase in mortality, primarily due to an elevated risk of coronary artery disease and stroke. According to an article in the *New England Journal of Medicine*, consuming 2 percent more energy from trans fats is associated with a 23 percent increase in the incidence of coronary heart disease. Currently, it is estimated that 50,000 fatal heart attacks per year are attributable to trans fatty acids. Scientific studies also suggest that the negative consequences of trans fat consumption go beyond cardiovascular risk and increase the risk of other chronic health problems such as cancer, diabetes, liver dysfunction, infertility, and obesity.

From 2000 to 2007, the obesity rate in Texas increased from 23 percent to 29 percent. The Texas State Demographer has predicted that 15 million Texans will be obese by the year 2040. Cardiac disease, stroke and cancer are the three leading causes of death in the United States, and obesity is a contributing factor to each. In addition, obesity is highly correlated with type 2 diabetes, the fifth-leading cause of death. Currently, diabetes affects 1.8 million adult Texans. Finally, high obesity rates translate into enormous health costs. In fact, the Texas Department of State Health Services has reported that economic costs related to obesity could reach as much as \$39 billion by 2040.

S.B. 204, authored by Senator Shapleigh and sponsored by Representative Carol Alvarado (D-Houston), would have helped address the issue of rising obesity rates by prohibiting restaurants and other food service establishments from preparing and/or serving food with trans fat. While the bill passed the Senate and was placed on the House General State Calendar, it ultimately died due to the "meltdown" in the House.

***Works to improve the well-being and health of Texas' children through the development of a state environmental literacy plan***

There is growing awareness of the disconnection between children and the natural world and a growing desire to find policy solutions to the problem. Over the past 20 years, the time kids spend outside has fallen by 50 percent, and the time the average child spends plugged into electronic media each day has grown to more than six hours. During the same time period, the rate of obesity among adolescents has more than tripled. Other public health implications of sedentary indoor lifestyles include the onset of "adult" conditions, such as Type 2 diabetes, in children. At the same time, we have an increasing body of research pointing to the developmental, health and educational benefits of learning and playing in natural settings. Environmental education is a proven strategy that enhances a child's connection to the outdoors, improves academic performance, and heightens interest in science and math. Reconnecting children with nature is in fact a solution to many of the problems faced by children today. Children that play outdoors are more physically active, more aware of nutrition and perform better in school.

Senator Shapleigh filed S.B. 205, which would have created the Texas Partnership for Children in Nature ("Partnership") to promote the well-being of Texas children by increasing the amount of time children spend outdoors and increasing students' environmental literacy. The Partnership would have developed and assisted in the implementation of a plan to provide children with structured and unstructured opportunities for outdoor recreation, scientific study, and learning. While the bill passed the Senate and was placed on the House General State Calendar, it ultimately died due to insufficient time.

***Works to require reporting of health care-associated infections***

Numerous studies indicate that conditions caused by antimicrobial-resistant bacteria last longer, cost more to treat, and are more likely to result in death. The Centers for Disease Control and Prevention recommends a multi-faceted approach to successfully combat hospital-acquired infections, including routine screening, isolation of colonized and infected patients, and strict compliance with hygiene guidelines. There is also evidence that control strategies, including active surveillance of patients in U.S. hospitals, can reduce rates of infection and colonization.

S.B. 203, authored by Senator Shapleigh and sponsored by Representative Garnet Coleman (D-Houston), requires a health care facility and a pediatric and adolescent hospital to report the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, to the Department of State Health Services (DSHS). The bill also requires a general hospital to report the incidence of certain primary bloodstream infections, including the causative pathogen, to DSHS. S.B. 203 successfully passed both chambers and was signed by the Governor. The bill will take effect on September 1, 2009.

***Works to require Dept. of Family and Protective Services to establish average caseloads for Child Protective Services caseworkers***

Caseworkers in Texas have some of the largest caseloads in the United States. In fact, our Child Protective Services (CPS) conservatorship caseworkers' average caseload is 43.3, which is almost three times the 15-caseload average recommended by the Child Welfare League of America and more than twice the national average of 18.9. In addition to high caseloads, Texas pays its caseworkers one of the lowest salaries for child protective caseworkers in America. On average, Texas caseworkers receive under \$31,000 per year. In 2005-06, Texas ranked 48th in the nation for a CPS caseworker's average salary. Notably, CPS caseworkers in New Mexico earn about \$10,000 more a year than CPS caseworkers in Texas.

The quality of supervision of caseworkers in Texas is also abysmally low. With the high workload, low pay, and stressful working conditions, it is not surprising that the average turnover rate for CPS caseworkers in FY 2008 was 30.5 percent. High turnover has both human and financial costs. Children with one caseworker over the course of a year are much more likely to achieve their desired permanency plan. Safety, permanence and stability improve well-being and positive outcomes for children under the care of the state.

Senator Shapleigh filed S.B. 301 would codify current DFPS policy into law by requiring DFPS to establish average caseloads for CPS caseworkers that allow workers to achieve 100 percent monthly visitation rate for children in foster care. The bill was referred to the Senate Health and Human Services Committee but ultimately did not receive a hearing. However, nearly identical language was amended onto S.B. 69 by Senator Jane Nelson (R-Flower Mound). The amendment secured an additional \$12.3 million in the state's budget to reduce caseloads for CPS caseworkers and ensure that at least 95 percent of children in the custody of the state are visited by their caseworker on a monthly basis.

***Works to improve the placement process for children in the custody of the state***

The Department of Family and Protective Services (DFPS) has specific procedures for documenting its evaluation of relatives as a possible placement resource for children in DFPS custody. Currently, no mechanism exists to systematically ensure that the information DFPS obtains regarding relatives is provided to the court, the parties, or their attorneys.

S.B. 2385, authored by Senator Shapleigh and sponsored by Representative Elliott Naishtat (D-Austin), amends current law relating to information regarding the relative or designated caregivers for a child in the managing conservatorship of the state. S.B. 2383 passed both chambers and was signed by the Governor. The bill will take effect on September 1, 2009.

***Modifies the governance structure of the El Paso County Hospital Board of Managers***

To deliver the highest quality hospital and medical care to the people of El Paso and surrounding communities, changes must be made to the governance structure of the El Paso County Hospital District Board of Managers. The current two-year term of office for Board members limits continuity and impedes the orderly development of leadership and succession planning necessary

for the Board to effectively govern the Hospital District. In addition, no attendance requirements currently exist. This has posed a significant barrier in recent years as some Board members do not attend meetings for several months, thereby hampering the Board from successfully carrying out its duties.

S.B. 534, authored by Senator Shapleigh and sponsored by Representative Norma Chavez (D-El Paso), will allow for increased Board member effectiveness, education and development, as well as facilitate succession planning for board leadership, by increasing the length of the term of office, placing reasonable limits on consecutive terms for Board members to promote public participation and opportunities for community service, and establishes reasonable standards for attendance by Board members. S.B. 534 successfully passed both chambers and was signed by the Governor. The bill takes effect on September 1, 2009.

***Protects patient's confidentiality regarding financial payment information***

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. A patient's expectation of privacy should include the 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.

H.B. 4029, authored by Representative Marisa Marquez (D-El Paso) and sponsored by Senator Shapleigh, establishes that payment information is part of a patient's confidential health care information and therefore not subject to release without patient authorization. The bill conforms Texas law more closely to the definition of "protected health information" under the federal Health Insurance Portability and Accountability Act, which specifically includes information relating to payments for health care 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. H.B. 4029 redefines "health care information" and provides exceptions to disclosure and fee requirements for a patient's payment information. The bill was signed by the Governor on June 19, 2009 and will take effect on September 1, 2009.

***Expands the Medicaid buy-in program for families with disabled children***

Some Texas families have an income level high enough to disqualify them from Medicaid benefits but low enough to prevent them from fully paying for the medical care of a disabled child. This situation can result in the family choosing between food and health care for their child—a choice no one should have to make.

S.B. 187, authored by Senator Bob Deuell (R-Greenville) and coauthored by Senator Shapleigh, requires the executive commissioner of the Health and Human Services Commission to develop and implement a Medicaid buy-in program for disabled children whose family incomes do not exceed 300 percent of the federal poverty level. The bill requires that participants pay monthly premiums on a sliding scale based on family income. S.B. 187 passed the Senate and the House and was signed into law by the Governor. The bill takes effect on September 1, 2009.



### ***Works to allow qualified, out-of-state doctors to obtain Texas medical licenses***

Texas is a state with significant shortages in a variety of health care professions, with El Paso being the least staffed city in the state and the United States. Shortages exist in El Paso in regard to physicians, dentists, nurses, and allied health professionals. Statistics also show that physicians are not evenly distributed throughout the state. In 2007, Metropolitan Border areas had an average of 145.2 physicians per 100,000 residents while non-metropolitan Border areas averaged even less with only 70.7 per 100,000. Non-border areas have a much higher ratio of physicians with 170.7 per 100,000 in metropolitan areas and 88.7 per 100,000 in non-metropolitan areas. In 2008, El Paso County had only 109.1 direct care physicians per 100,000 people (versus 158.8 per 100,000 people statewide and 214 per 100,000 people nationwide).

In addition to the existing physician shortage, as a result of Base Realignment and Closure in Texas, Fort Bliss will experience a large influx of troops and dependents over the next five years. Growth at Fort Bliss is estimated to be more than 65,000. The base realignment and closure impact alone will require an additional 615 doctors by 2017.

S.B. 616, authored by Senator Shapleigh and sponsored by Representative Veronica Gonzales (D-McAllen) would have helped address the physician shortage issue by allowing qualified, out-of-state doctors to obtain Texas medical licenses. Specifically, S.B. 616 created narrow exceptions to current licensing statutes regarding the limitation on exam attempts and the time frame for passing all parts of the exam. To qualify for either of these exceptions, a physician must meet all of the following requirements: be licensed in good standing in another state for at least five years; plan to practice in a medically underserved area or a health manpower shortage area; and be credentialed by a public hospital, a federally qualified health center, a federally qualified health center look-alike, or a health care center primarily serving uninsured persons. While the bill passed the Senate and was set on the House General State Calendar, it unfortunately died due to lack of time.

### ***Fights to stop improper health insurance rescissions***

In response to increasing rates of health insurance policy cancellations and rescissions, major health insurers have been subject to regulatory inquiries and subsequent fines in a number of states. In Texas, however, there is no way to know the extent of improper health insurance rescissions and cancellations because state law does not require the Texas Department of Insurance (TDI) to track health insurance rescission rates, and TDI does not routinely collect information on rescission rates from health insurance companies. TDI's response to a Congressional request for information indicated that the 36 health insurance carriers in Texas that issue more than 250 policies rescinded about 1,700 individual policies in 2007 and 1,544 in 2006. Information regarding the reasons for these policy revocations was not provided; neither was whether or not these reasons were justified.

S.B. 206 by Senator Shapleigh would have required health insurance companies to report health insurance cancellation and rescission rates to TDI. The bill would have required the information collected from health insurance companies to be publicly available on TDI's website and would

require TDI to create a toll-free hotline to provide information to consumers about health insurance cancellation and rescissions. While the bill passed Senate, it did not receive a hearing in the House Insurance Committee.

### ***Fights to protect consumers from unfair insurance practices***

Spiraling health care costs are driving health insurance carriers to implement cost-containment measures that might result in decreased claims payouts and increased numbers of policy rescissions. In fact, national claims data indicate that the amount insurance carriers are paying out for claims is lower than in the past, and consumers are paying more medical expenses out-of-pocket.

The increase of health insurance policy cancellations and rescissions have caused a number of states to subject major health insurers to regulatory inquiries and subsequent fines. For example, last year in California, both Anthem Blue Cross of California and Blue Shield of California agreed to reinstate insurance coverage to a total of 2,220 former members whose policies were revoked and pay up to \$15 million in fines. The Managed Health Care Department of California has reached similar settlements with other insurers over policy rescissions.

Senator Shapleigh filed S.B. 207 to protect consumers from unscrupulous carriers that seek to maximize profit by prohibiting health insurance carriers from offering any monetary or material compensation to incentivize an employee to increase the number of rescinded or canceled health insurance policies, or to reduce the payout associated with a claim. The bill passed the Senate, but unfortunately did not receive a hearing in the House Insurance Committee.

### ***Works to ensure that families can maintain health insurance coverage***

Because state law does not require the Texas Department of Insurance (TDI) to track health insurance rescission rates, and TDI does not routinely collect information on rescission rates from health insurance companies, there is no way to know the extent of improper health insurance rescissions and cancellations in Texas. TDI's response to a Congressional request for information last fall indicated that the 36 health insurance carriers in Texas that issue more than 250 policies rescinded about 1,700 individual policies in 2007 and 1,544 in 2006. Information regarding the reasons for these policy revocations was not provided; neither was whether or not these reasons were justified.

Under state law, health insurance policies can be cancelled or rescinded if a policyholder purposefully or accidentally provides false information that affects their medical claims on an application. The application process is complicated, however, and insurance agencies are not required to perform due diligence in investigating the accuracy or completeness of an application before issuing a policy. Individuals and small businesses in particular may struggle to understand available coverage options, find information regarding premium rates, and fill out long technical insurance applications. Most individuals and small businesses rely on insurance agents or brokers to help them navigate the application process to find coverage. Agents or brokers are not required to disclose if they have a financial incentive to promote certain plans

over others or work for specific health plans, though they are required to be licensed by the state. A list of licensed agents is made publicly available on the TDI website.

S.B. 350, authored by Senator Shapleigh and sponsored by Representative Craig Eiland (D-Galveston), would have required insurance agents to verify in writing that the information provided to an applicant is complete and accurate, that it was provided in easy-to-understand language, and understood by the applicant. S.B. 350 would have required agents to advise applicants that there is a civil penalty for violation of this law. In cases where a policy is canceled or rescinded because of information inaccurately provided in an application, S.B. 350 would have required an insurer to offer a new policy with the same terms as the old coverage to other individuals (e.g., family members) covered by a plan. S.B. 350 passed the full Senate, but unfortunately did not receive a hearing in the House Insurance.

### ***Works to improve health information technology for the state's health care system***

The Texas Health Services Authority (THSA) is a 501(c)(3) nonprofit, public-private collaborative created to improve patient safety and quality of care by developing health information technology policies and infrastructure for the state health care system.

S.B. 8, authored by Senator Jane Nelson and coauthored by Senator Shapleigh, would have required THSA to develop a statewide plan recommending improvements to the health care delivery system by ensuring health care providers have the tools they need to follow best practices. Specifically, THSA would develop and disseminate information about best practices and quality of care, develop recommendations to reduce administrative costs, study alternative payment methodologies that will reimburse health care providers based on quality rather than quantity, study payment incentives to increase access to primary care, and study payment incentives related to hospital and inpatient payments. While the bill passed the Senate, it ultimately died on the House Major State Calendar.

### ***Works to reduce physician shortages throughout the state***

46 percent of Texas counties are classified as Health Professional Shortage Areas (HPSAs). Current law requires people who enter the United States and hold J-1 visas, as part of an exchange visit or program, to practice medicine in a medical school or in an underserved area for three years. The law does not require a person with an H-1B visa, which allows U.S. employers to temporarily employ foreign workers in specialty occupations, to meet such a requirement.

S.B. 86, authored by Senator Jane Nelson and coauthored by Senator Shapleigh, requires an applicant for a Texas medical license, who is not a U.S. citizen or permanent resident, to practice medicine at a medical school or practice in a medically underserved area or in an HPSA for at least three years. Although this bill passed the Senate, it died in the House Calendars Committee.

### ***Improves the safety of first responders in emergency situations***

The Department of State Health Services (DSHS) believes that the current definition of first responder listed in the Government Code is not inclusive enough. It excludes public health responders such as clinicians, epidemiologists, environmental health specialists, and certain assessment, response, and recovery teams. Furthermore, government decision makers including representatives of Texas military forces, local and state emergency management, communication and public information, public works, energy and utilities, and those working with food and water are also excluded.

This exclusion is important because ImmTrac, a program that immunizes first responders deployed to an emergency, only applies to those listed under the definition of first responder in Government Code. Broadening the definition to include more categories of relief workers will ensure more immunizations and reduce the risk of exposure to contagious diseases.

As proposed, S.B. 1409 redefines "first responder" to mean any federal, state, local, or private personnel who is authorized to respond to a disaster, including certain individuals that provide support services during the prevention, response, and recovery phases of a disaster. The bill successfully passed both chambers and immediately became law upon the Governor's signature.

### ***Works to improve evacuations based on the nature of the disaster and individual's medical needs***

Unnecessary evacuations are costly and take vital resources away from those who need the vital resources most. One of the biggest lessons state officials have learned from Hurricane Ike is that many people with special needs receive care in their homes and their family members and caretakers need to know how to care for their loved ones in a disaster and when and how to evacuate. Identifying this issue, in a bipartisan effort, Senator Shapleigh worked with his colleague, Senator Jane Nelson (R-Flower Mound), and coauthored S.B. 75 to direct the Department of State Health Services to create a program to inform the public of the most efficient way to evacuate based on the nature of the disaster and the individual's medical needs. While the bill passed the House Defense and Veteran Affairs committee, the measure died in the House of Representatives without being considered by the Chamber.

### ***Works to encourage stem cell research***

In 2007, Governor Rick Perry announced a \$3 billion state effort to eradicate cancer over the next decade. Governor Perry identified the biotechnology and life sciences industry as integral to finding cures for a variety of diseases and cancers. According to the Alliance for Medical Research, state investment in the biotechnology industry would result in a positive impact on state economic activity. If Texas were to increase its share of national biotechnology spending from 2.9 percent to 6 percent, the state would possess a \$62.5 billion industry contributing \$87.4 billion to state economic activity, supporting 230,000 jobs and generating \$1.3 billion in new state and local taxes annually. However, this can only be achieved by creating a legislative and regulatory environment that encourages researchers and industries to move to or to stay in Texas.

Stem cell research plays a large role in the biotechnology industry and regenerative medicine research, which is at the forefront of finding cures for diseases like Type 1 diabetes, Parkinson's Disease, multiple sclerosis, and various cancers. Despite the potential role stem cells could play in regenerative medicine, the Bush administration limited federal funding for stem cell lines created before August of 2001, severely limiting the amount of and the extent to which embryonic stem cell research could be conducted. In response to this ban, the state of California devoted \$3 billion of state money to embryonic research in 2004, putting them at the forefront of the stem cell research. Recently, President Obama issued an Executive Order lifting the ban on federal funding for stem cell research. With this increase in funding, Texas could obtain support for stem cell research and potentially surpass California and other states as the forerunner in regenerative medicine. The state of Texas already possesses the educated workforce and universities willing to engage in embryonic stem cell research. Although stem cell research remains legal in Texas, attempts to ban it or ban funding deter biotechnology firms and researchers from planting roots in the state due to the uncertainty surrounding the future of embryonic stem cell research in Texas.

As filed by Senator Shapleigh, S.B. 208 would have been the first step in creating a hospitable environment for stem cell research, ultimately resulting in billions of dollars in economic activity in Texas through the biotechnology industry as well as advances in improving quality of human life. While the bill was referred to the Health and Human Services Committee, it ultimately did not receive a hearing.

***Works to add speech-language pathologists and audiologists to a minimum monthly salary schedule***

Under state law, a public school district must pay each classroom teacher and full-time librarian not less than the minimum monthly salary, based on the employee's level of experience, as determined by the formula specified in §21.402 of the Education Code. This provision was amended in 1999 to include full-time counselors and full-time nurses.

Currently, Texas school districts are not required to pay full-time speech-language pathologist and audiologist employees the minimum salary mandated for other professional staff. As a consequence, when the Legislature appropriates additional funds for professional staff salary increases and mandates that school districts use these funds for that purpose, speech-language pathologists and audiologists are not included.

Adding speech-language pathologists and audiologists to the minimum monthly salary schedule would improve both recruitment and retention, and therefore, help alleviate the shortage of speech-language pathologists and audiologists in public schools. With an attrition rate of 16 percent, public schools report a vacancy rate of 399 positions, which means that approximately 22,000 students who need services are not receiving them. National data show that appropriately trained and educated speech-language pathologists and audiologists make a significant difference not only in a child's communication skills but also in his or her educational achievement.

S.B. 209, authored by Senator Shapleigh, would have added full-time speech-language pathologist and full-time audiologists employed by a public school district to the state mandated

minimum monthly salary schedule. This bill was referred to the Senate Education Committee but did not receive a hearing.

***Pushes to develop and implement a medical assistance in-home caregiver program***

Since 1980, the state population has increased 60 percent and the over-85 population has nearly doubled. This creates more people who are in need of aging and disability services. The Texas Department of Aging and Disability Services (DADS) is the agency that administers the Medicaid eligibility, and access to community based services. If an individual needs care services, he is placed on an interest list. When an opening is available, individual eligibility is determined and then they are able to enroll for community based services. Many of these individuals who are eligible for Medicaid and eligible to receive community based services are unable to receive care because of the lack of the supply of community based services.

Senator Shapleigh filed S.B. 302 to allow Medicaid recipients to receive long term care in their homes. The bill was referred to the Senate Health and Human Services but ultimately did not receive a hearing.

***Works to establish consumer protection in individual health care policies***

Unlike employer-based or government-sponsored insurance, individual private coverage is not guaranteed-issue; health insurance carriers use the process of underwriting to determine whether or not to cover individuals. Under state law, consumers can be denied coverage based on a pre-existing condition, and their policies can be cancelled or rescinded if policy holders purposefully provide false information that affects their medical claims on an application.

Currently, there is growing concern that consumers are not adequately informed of the various reasons that their health insurance policy may be rescinded or cancelled, and thus, are not able exercise their right to challenge the health insurance company if there is not adequate legal grounds for the policy to be revoked.

Senator Shapleigh filed S.B. 303 to establish consumer protections that create a higher standard for the rescission or cancellation of individual health policies. The bill would have required the Commissioner of Insurance to develop a uniform application that is clear and unambiguous, and discloses the look-back period for the policy. While the bill was referred to the Senate State Affairs, it did not receive a hearing.

***Works to improve the availability of high quality, nutritious food across the state***

Many Texans live in areas that are underserved by retail food stores that offer fresh, healthy fruits and vegetables. Poor nutrition is a major contributor to obesity and Texas is currently ranked 15th nationally in terms of obesity. Obesity-related chronic diseases such as diabetes, heart disease, and kidney disease are exacerbated by poor eating habits. S.B. 343, authored by Senator Jane Nelson (R-Flower Mound) and coauthored by Senator Shapleigh, creates an advisory committee to study and provide recommendations to the legislature regarding the areas of Texas that are underserved in the retail availability of healthy foods and the impact of the

limited availability on nutrition, obesity, and chronic illnesses. S.B. 343 passed the Senate and the House and was signed by the Governor. The bill took effect immediately.

***Ensures access to immunization records***

Currently, parental consent is required for a child to be included in ImmTrac, and records in ImmTrac are automatically deleted when a child becomes 18 years of age. However, there are many instances after a person's 18th birthday when immunization records are required. For example, entry into college, the military, and study abroad programs all usually occur after a person becomes 18 years of age and necessitate proof of certain immunizations.

S.B. 346, authored by Senator Jane Nelson (R-Flower Mound) and coauthored by Senator Shapleigh, authorizes a person to maintain an immunization record in ImmTrac beyond the person's 18th birthday and sets out procedures for the submission of information to and maintenance of information in the registry. S.B. 346 passed the Senate and the House and was signed by the Governor. The bill will take effect September 1, 2009.

***Works to prohibit balanced billing and set minimum reimbursement levels for out-of-network claims***

Balance billing occurs when physicians or other providers and hospitals or facilities who are not contracted with an HMO or PPO bill a policyholder for the difference between the amount the policy reimburses and the amount the provider charges for medical services. Often, the reimbursement level a health insurer sets for out-of-network providers is lower than for in-network providers and does not cover the cost of services, so patients are billed to make up the difference.

The Texas Department of Insurance recommends that consumers research which health care providers, including hospitals, clinics, and other facilities, are contracted with a health plan. However, this can be difficult information to find because, even if a facility is in a health plan's network, some physicians who provide services at that facility may not be in network. Alternatively, a hospital might contract with a group of doctors who are not in network to provide emergency room care. Because emergency care is very expensive, this can result in very high medical bills for patients that need emergency care and have no choice but to use out-of-network physicians.

Senator Shapleigh filed S.B. 351 to prohibit out-of-network physicians that provide emergency care or specialty services not offered in-network from billing patients for any portion of a claim not paid by an HMO or PPO. The bill would set payment for out-of-network claims for emergency care at the total billed charge if it's less than either the reasonable and customary charge for the billed services or 100 percent of Medicare emergency physician rates. The bill was referred to the Senate State Affairs but did not receive a hearing.

### ***Fights to help prevent childhood obesity by eliminating trans fatty acids in school lunches***

Trans fatty acids, also known as partially hydrogenated oils, are a type of fat commonly found in processed foods, commercial baked products, cooking oils, and even bread. Excess intake of trans fatty acids can pose serious and costly health problems. Consumption of trans fats is linked to an increase in mortality, primarily due to an elevated risk of coronary artery disease and stroke. Scientific studies also suggest that the negative consequences of trans fat consumption go beyond cardiovascular risk and increase the risk of other chronic health problems such as cancer, diabetes, liver dysfunction, infertility, and obesity.

Currently, more than 35 percent of Texas children are overweight or obese, which is more than double the national average; two decades ago, only 10 percent of Texas children were considered overweight or obese. Research has shown that in addition to increasing their risk of heart disease, high blood pressure, diabetes, and orthopedic disorders, obese children are more likely to become obese adults. Cardiac disease, stroke and cancer are the three leading causes of death in the United States, and obesity is a contributing factor to each.

Senator Shapleigh filed S.B. 352 to prohibit the use of trans fatty acids in meals provided to students by school districts. The bill was referred to the Senate Education but ultimately did not receive a hearing.

### ***Works to ensure state taxpayer dollars are not spent on medical errors***

Medical mistakes are deadly and expensive. According to the U.S. Centers for Disease Control and Prevention, infections acquired in hospitals account for about 90,000 deaths and \$4.5 billion in extra spending each year. A 2007 article in the *Annals of Surgery* stated that operating on the wrong body part occurs, on average, once each year in a 300-bed hospital.

Currently, 27 states collect data on the frequency of medical errors, and the federal Centers for Medicare and Medicaid Services (CMS) has stopped paying for 11 preventable hospital errors. If Texas does not modify its Medicaid reimbursements, it will pay additional reimbursements that the federal government used to pay for preventable adverse events. Senator Shapleigh filed Senate Bill 353 to promote patient safety by prohibiting Medicaid reimbursement for hospitals for the same preventable adverse events that CMS no longer pays for. In addition, S.B. 353 would have required the Health and Human Services Commission to publicly post the information about hospital errors on the commission's website, so that patients can readily access this information. Although S.B. 353 did not pass, similar language was amended onto another one of our bills, S.B. 203. This measure successfully passed both the House and Senate and was signed by Governor Perry. This legislation will take effect on September 1, 2009.

### ***Fights to reduce costs of health insurance by limiting insurers' administrative costs***

Medical loss ratios reflect the percentage of health insurance premium dollars spent on health care, including claims paid for medical services, as compared to non-medical costs, including administration, marketing, taxes, and profits. Medical loss ratios can enhance accountability and



transparency in the health insurance market by preventing insurance companies from charging excessive rates and retaining large margins for profit and other nonmedical expenses.

Currently, fifteen states set minimum medical loss ratios. In Texas, Medicare supplemental benefit plans are required to meet loss ratios of 75 percent for group policies and 65 percent for individual policies according to TAC rules. There are no other state requirements for insurers to report or comply with medical loss ratios.

Senator Shapleigh filed S.B. 373 to prohibit health insurers from spending more than 25 percent of direct premiums earned on administrative costs, so that \$0.75 of every premium dollar taken in is spent on medical services while \$0.25 is spent on other non-medical costs. The bill defined medical loss ratio as the direct losses incurred divided by direct premiums earned and requires yearly reporting of this ratio to the Commissioner of Insurance. S.B. 373 granted the Commissioner legal authority to require issuers who exceed the medical loss ratio to adjust premiums or issue rebates to enrollees. The bill was referred to the Senate State Affairs but ultimately did not receive a hearing.

#### ***Works to assist victims of family violence***

Current law provides certain remedies that a judge may order if the judge finds that there is a risk of international child abduction, and sets forth certain factors that a judge is required to consider when evaluating whether the risk of international abduction exists. However, a judge considering those risk factors is not authorized to take into consideration issues of family violence or the actions that a victim of family violence has taken in trying to implement a safety plan to escape future abuse.

S.B. 491, authored by Senator Royce West (D-Dallas) and coauthored by Senator Shapleigh, requires a judge to consider whether certain activities indicating an abduction risk are related to a threat of family violence. While the bill passed the Senate and was placed on the House General State Calendar, the bill ultimately died due to insufficient time.

#### ***Works to increase the number of physicians serving medically underserved areas***

Under the federal Conrad 30 program, each state is permitted to request that the U.S. Department of State recommend up to 30 waivers for immigrant physicians who agree to work for three years in an underserved area. Each state also is permitted to recommend up to 10 "flex" slots for physicians who will work in an underserved area but not locate their practice there. Current Texas law limits use of the Conrad 30 program to an immigrant physician who agrees to practice medicine in a medically underserved area, which means that Texas is prevented from using the 10 "flex" spots.

S.B. 525, authored by Senator Jane Nelson (R-Flower Mound) and coauthored by Senator Shapleigh, authorizes the Department of State Health Services to request waiver of foreign country residence requirements for a qualified alien physician who agrees to practice in accordance with the waiver requirements, giving priority to an area with a current shortage of

physicians. While the bill passed the Senate and was placed on the House General State Calendar, the bill ultimately died due to insufficient time.

***Works to continue the federally qualified health center program in Texas***

More than 200 Texas counties are designated as medically underserved areas. Federally qualified health centers provide health care services to low income and medically underserved communities. The 78<sup>th</sup> Legislature, Regular Session, 2003, enacted S.B. 610 directing the Department of State Health Services to create the federally qualified health center incubator program to make grants to establish new or expand existing facilities that can qualify as federally qualified health centers. This program is set to expire on September 1, 2009.

S.B. 526, authored by Senator Jane Nelson (R-Flower Mound) and coauthored by Senator Shapleigh, deletes language providing that the program expires on September 1, 2009, and authorizes the program to make grants to support new or expanded services at facilities that can qualify as federally qualified health centers. S.B. 526 passed the Senate and the House and was signed by the Governor. The bill takes effect on August 31, 2009.

***Works to ensure that the state Medicaid program makes appropriate payments***

The billing coordination system was established through passage of S.B. 10 by the 80<sup>th</sup> Legislature, Regular Session, 2007, allowing the Health and Human Services Commission (HHSC) to implement a system that identifies when Medicaid should and should not pay for claims on acute care. In the first months after being established, HHSC estimates that the billing coordination system identified more than 90,000 Medicaid patients in Texas who had private or group health insurance coverage.

The need for long term care increases as the population of Texas continues to age. Texas can prevent unnecessary waste in Medicaid spending by processing all claims, including long term care, through the billing coordination system. S.B. 531, authored by Senator Dan Patrick (R-Houston) and coauthored by Senator Shapleigh, requires HHSC, if cost-effective and feasible, to contract to expand the acute care Medicaid billing coordination system to process claims for all other health care services provided through the Medicaid program in the manner claims for acute care services are processed by the system. S.B. 531 passed the Senate and the House and was signed by the Governor. The bill takes effect on September 1, 2009.

***Fights to eliminate smoking in all worksites and public places***

Under current law, there is no statewide prohibition regarding smoking in public places. Secondhand smoke is a known cause of lung cancer, heart disease, low birth weight, and chronic lung ailments such as bronchitis and asthma, among other health problems, and studies have found that it leads to the deaths of 53,000 Americans each year.

Twenty-four states have adopted smoke-free laws and an additional eight are considering becoming smoke-free. Forty-seven cities in this state have passed ordinances that contain

smoke-free provisions. Thirteen of these cities, including Houston, Austin, El Paso, and Laredo, have passed strong, comprehensive ordinances that protect employees and the public alike.

Senator Shapleigh coauthored S.B. 544 by Senator Ellis (D-Houston), which would prohibit smoking in indoor public places and municipal worksites and private worksites, including restaurants, restaurant bars, and stand-alone bars. This bill provided a fifteen-foot smoking prohibition to allow for reasonable distance from enclosed areas. This bill also addressed certain exceptions, including hotel and motel rooms. Finally, this bill outlined the notice requirements of employers, enforcement procedures by local governments, and penalties assessed. S.B. 544 was voted out of the Senate Committee on Health and Human Services, but was not recognized for a vote by the full Senate.

### ***Improves the safety of children who are being transported by state workers***

Despite the fact that thousands of children are transported daily by care providers, there are no transportation safety training requirements in the State of Texas. As a result, tragically, every year, children are injured and die because of unsafe transportation procedures.

Minimum standards could include the proper use of safety restraints, vehicle maintenance, proper behavior during transport, loading and unloading procedures, and safe accounting for each child and their well-being.

S.B. 572, authored by Senator Florence Shapiro (R-Plano) and coauthored by Senator Shapleigh, mandates training to providers who transport children whose chronological or developmental age is nine-years-old or younger. In addition, the bill requires the Department of Family Protective Services to set minimum standards for this training. S.B. 572 successfully passed both chambers and was signed by the Governor. The bill takes effect on September 1, 2009.

### ***Works to ensure individuals with disabilities are aware of certain available financial options***

Currently, Texas law allows for individuals with disabilities, including veterans, to put up to \$250,000 in trust with the corpus and income of such a trust exempt from the support, maintenance, and treatment charges of state inpatient mental health facilities or residential care facilities. The funds held in such a trust can be used to assist individuals with disabilities with transitioning into and living in a community, thereby reducing the risk of unnecessary and repeated stays in a mental health or residential care facility. However, most of the intended beneficiaries of the trust exemption are unaware of the existence of such a trust because state mental health or residential care facilities are not required to provide notice of the exemption.

Senator Shapleigh coauthored S.B. 584 by Senator Leticia Van de Putte (D-San Antonio) to require residential care facilities and state-operated mental health facilities to provide written and oral notification that a trust that qualifies under certain provisions of the Health and Safety Code is not liable for the patient's or resident's support and requires the notice also to be attached to any request for payment for the patient's or resident's support. S.B. 584 passed the Senate and the House and was signed by the Governor. The bill took effect immediately.

### ***Works to increase outreach for the Women's Health Program***

Texas acknowledged the state's need to increase access to preventive health and family planning services for low-income women when the Women's Health Program (WHP) was created by the 79<sup>th</sup> Legislature, Regular Session, 2005. WHP provides services to uninsured women ages 18 to 44 who are at or below 185 percent of the federal poverty level. WHP has a favorable funding formula of 90 percent federal dollars and 10 percent state dollars.

Initial Texas Health and Human Services Commission (HHSC) estimates of women who are potentially eligible for WHP exceed two million. However, only about 83,500 of the women qualified to participate in WHP are enrolled. In order for WHP to achieve the goals for which it was originally created—to improve the overall health of low-income women, prevent unwanted pregnancies, and help make pregnancies healthier for low income women—the state must ensure that it is doing all that is necessary to maximize women's use of the program.

S.B. 594, authored by Senator Leticia Van de Putte (D-San Antonio) and coauthored by Senator Shapleigh, amends current law relating to the Women's Health Program. This bill would have required HHSC to provide focused and targeted outreach to women delivering on the Medicaid program for pregnant women to enable postpartum women to enroll in WHP. S.B. 594 was left pending the Senate Health and Human Services Committee.

### ***Works to protect consumers by providing an objective definition of pre-existing condition in health plans***

Limits on pre-existing conditions are a standard part of most health plans. These limits are intended to control health care costs and prevent possible insurance abuse. However, they can also provide insurance companies with grounds to restrict coverage for the health care services individuals are most in need of, and to avoid payment on expensive healthcare services already delivered.

A pre-existing condition is a medical condition (through illness, injury, or disease) that a person applying for insurance coverage had prior to a policy going into effect. There is no definition of pre-existing condition under state law, and regulation of pre-existing condition provisions vary for group and individual plans.

A pre-existing conditions provision in a health insurance plan has two time periods that are worth noting—the waiting period and the look back period. Employer-sponsored group plans can have a waiting period of up to one year before issuing benefit payments for a pre-existing condition; however, new enrollees who were continuously covered for at least 12 months by a previous plan are not subject to this waiting period. In the individual market, health insurers can exclude pre-existing conditions from coverage for up to two years, unless they were covered for at least 18 months by a previous plan. For both group and non-group plans, the gap in coverage between the ending date of the old coverage and the effective date of the new coverage cannot exceed 63 days.

The look back period that insurers use to screen for pre existing conditions during the underwriting process for employer-sponsored plans is usually six months, while other group plans usually look at the previous 12 months. Individual plans usually consider an applicant's medical history for the previous five years to determine whether or not to include a pre-existing condition provision. Health insurers can also use the look back period to avoid losses after medical services are rendered.

Senator Shapleigh filed S.B. 614 to require the diagnosis of a disease or medical condition during the past six months for it to be eligible for inclusion as a pre-existing condition in an individual policy and prohibits the use of a pre-existing condition provision to avoid losses once coverage begins. S.B. 614 would have reduced the previous coverage requirement for individual plans to 12 months, so that individual market regulations align with those of the small group market. The bill was referred to the Senate State Affairs but ultimately did not receive a hearing.

***Encourages counties to give preference to contractors who provide health insurance to their employees***

Most Americans depend on employer-sponsored health insurance. Nationally, 62.2 percent of Americans have employer-sponsored health insurance. In Texas, that percentage is only 52.2 percent, which ranks the state 47th in the nation when it comes to the number of adults with employer-sponsored health insurance. Due to the rising costs of healthcare, more and more employers are opting not to provide insurance for their employees. Lack of employer-sponsored health insurance means that more Texans will be forced to pay for coverage out-of-pocket. Texas already has the highest rate of uninsured residents in the nation with one out of every four Texans lacking health insurance. Uninsured Texans are more likely to seek emergency medical care, resulting in a financial burden on local taxpayers.

Senator Shapleigh filed S.B. 615 to allow a county to give preference in purchasing decisions to vendors who provide health benefits to their employees as long as the vendor's bid is within 10 percent of the bid of a vendor who does not provide health insurance for their employees. The bill was left pending in the Senate Committee on Intergovernmental Relations.

***Works to allow various religious groups to follow their burial traditions***

Currently, Section 711.008, Health and Safety Code, relating to location of a cemetery, allows churches to construct columbariums, which are durable, fireproof structures or rooms used to contain cremated remains. This section regulates where cemeteries are authorized to be established and contains certain exceptions concerning where sites and structures used for the disposition of remains can be built. Unfortunately, mausoleums, which are very similar to columbariums in structure and purpose, are not included in the list of exceptions. This prevents certain religions from practicing the longstanding tradition of using mausoleums for the internment of the remains of clergy members beneath the ir main building of worship.

S.B. 662 by Senator Eddie Lucio (D-Brownsville) excepts from a prohibition against the use of land for the internment of remains the establishment and use of a mausoleum constructed beneath the principal church building owned by an organized religious society or sect to be used

only for the internment of the remains of ordained clergy of that organized religious society or sect. S.B. 662 passed both chambers and was signed by the Governor. The bill will take effect on September 1, 2009.

***Establishes consistent definitions of physical education across the state***

Texas has the sixth-highest percentage of obese and overweight children ages 10-17 in the country, and 40 percent of Texas children are overweight or obese, compared to the national average of 16 percent. Current statute requires that school curriculum include physical education but does not include a specific definition of physical education. Texas needs a consistent standard of physical education curriculum across the state and ensures that physical education curricula are sequential and built upon from one year to the next.

As proposed by Senator Jane Nelson (R-Grapevine) and coauthored by Senator Shapleigh, S.B. 891 creates a standard definition of physical education used by the National Association of State Boards of Education that will apply to all public school physical education curricula, and addresses student-to-teacher ratios in physical education classes. S.B. 891 was signed by the Governor on June 19, 2009 and is effective immediately.

***Increases patient safety by requiring licensure of pain management clinics***

The legitimate practice of pain management has a valuable role in the medical community. However, some pain management clinics engage in illegal drug diversion and cause great harm to their communities and to the state. There has been explosive growth in the market for controlled substances and part of the problem is the proliferation of "pill mills." One explanation for the proliferation in Texas is that Louisiana passed legislation requiring pain management clinics to be licensed, thus shutting down most of the illicit clinics.

In a bipartisan effort, Senator Shapleigh coauthored S.B. 911 by Senator Tommy Williams (R-Woodlands) to prohibit a pain management clinic from operating in Texas unless the clinic is certified. The bill requires the Texas Medical Board to adopt certain rules to ensure quality of patient care and personnel requirements for the clinic, including requirements for a physician who practices at a clinic. S.B. 911 passed both chambers and was signed by the Governor. The bill takes effect on September 1, 2009.

***Ensures foster care children leaving the custody of the state have access to their personal records in a timely fashion***

Currently, the Department of Family and Protective Services (DFPS) has 30 days after a child is discharged from foster care to provide the child copies of their birth certificate, immunization records, and information found in the child's health passport. This is a problem because it is essential that children receive their personal records before leaving the conservatorship of the state.

Senator Shapleigh coauthored S.B. 983 by Senator Wendy Davis (D-Fort Worth) to require DFPS to provide children aging out of the foster care system within certain personal records and

identification documents at least 30 days before leaving the care of the state as an adult. This bill also requires DFPS, the Texas Education Agency, and the Texas Department of Public Safety to cooperate in developing a plan to ensure children under permanent managing conservatorship of DFPS are provided the opportunity to take a driver's education course to obtain a driver's license before they leave conservatorship. S.B. 983 passed both chambers and was signed by the Governor. The bill takes effect on September 1, 2009.

### ***Works to improve access of food stamp benefit recipients to nutritious food***

In November 1995, Texas launched a statewide electronic benefit transfer (EBT) program that allows recipients to access food stamp and welfare benefits with the Lone Star card, a debit card similar to an automated teller machine card that can be used to make purchases at retail outlets. The program is currently administered by the Texas Health and Human Services Commission (HHSC).

The Electronic Benefit Transfer (EBT) terminals used to administer the food stamp program do not accommodate outdoor farmers' markets. Most market sites lack electricity and telephone services, and the expense of the wireless equipment is too high for most farmers' market vendors.

Investing in using EBT terminals at farmers' markets will increase access among lower income consumers to fresh, healthy locally grown fruits and vegetables. Further, it will increase access among family farmers to traditionally underserved market segments through state-administered, federally-supported food assistance programs.

S.B. 1088, authored by Senator Shapleigh and sponsored by Representative Yvonne Gonzalez Toureilles (D-Alice), required HHSC in conjunction with the Texas Department of Agriculture to ensure the recipients of food stamps are able to use them to purchase food at farmers' markets. While the bill passed the Senate and was set on the House General State Calendar, it unfortunately died due to lack of time.

### ***Works to create the Farm-to-School Coordinating Task Force***

Texas ranks sixth in the nation in childhood obesity. Obese children are at greater risk of suffering from asthma, type 2 diabetes, cardiovascular disease, and sleep apnea. Studies show that a leading cause of childhood obesity is poor nutrition stemming from a lack of fruit and vegetable consumption. The American Medical Association recommends daily consumption of five or more servings of fruit and vegetables to prevent childhood obesity.

Farm-to-School programs combat childhood obesity and other diet-related diseases by bringing healthy food from local farms to school cafeterias, teaching students about nutrition, and instilling healthy eating habits. In addition, these programs increase the demand for fresh, locally-grown produce. Texas has over three million school age children, and a substantial majority eat a school lunch five days a week, 180 days a year. Farm-to-School programs can help school lunches be nutritious, taste good, and support the local community by creating economic sustainability for farmers.

Senator Shapleigh filed S.B. 1089 to improve overall child health and support Texas' small farmers by creating the Farm-to-School Coordinating Task Force. This Task Force would coordinate and encourage Farm-to-School initiatives by designing nutrition education resources for students and developing a database to simplify the local food procurement process for school administrators. It would further charge the Texas Department of Agriculture with developing and implementing a grant programs for school districts to offer support for Farm-to-School programs, to create school gardens, and to take educational field trips. While the bill was referred to the Senate Agriculture and Rural Affairs Committee, it ultimately did not receive a hearing.

***Works to improve the transparency of health benefit plans***

S.B. 1257 addresses a lack of transparency from health benefit plans, as well as certain market conduct in which health benefit plans engage that tends to adversely affect providers/patients. Coauthored by Senator Shapleigh, Senator Kip Averitt (R-Waco) filed S.B. 1257 to amend current law relating to the regulation of certain market conduct activities of certain life, accident, and health insurers and health benefit plan issuers; providing civil liability and administrative and criminal penalties. While the bill passed the Senate, it was left pending in the House Insurance Committee.

***Works to increase transparency by requiring pharmaceutical companies to report the amount funds provided to universities***

Transparency of the relationship between research funders, researchers, and research facilities is crucial to maintaining the integrity and reliability of research results. There is growing concern that drug studies funded by the pharmaceutical industry might affect either research methodology to obtain favorable results or suppress unfavorable findings of the safety, clinical effectiveness and/or cost of a drug. Further, many academic medical centers have financial stakes in companies that sponsor research within their facilities, and department chairs receive departmental income as well as personal income from drug companies.

Senator Shapleigh filed S.B. 1524 to require institutions of higher education to report the amount of funds received from pharmaceutical companies for research to the Texas Higher Education Coordinating Board (THECB). The bill also required THECB to submit a report containing this information to the Legislature. The bill was left pending in the Senate Higher Education Committee.

***Works to define physical activity in the Texas Education Code***

Currently, more than 35 percent of Texas school age children are overweight or obese, which is more than double the national average; two decades ago, only 10 percent of Texas children were considered overweight or obese. Texas now ranks sixth in the nation with number of overweight children (ages 10-17 yrs). Current projections show that by 2040, 75 percent of Texas children will be overweight.

Overweight and obese children are more likely to develop high cholesterol, high blood pressure, and type 2 diabetes—diseases once confined to adults. In addition, obese children are more



likely to become obese adults. Cardiac disease, stroke and cancer are the three leading causes of death in the United States, and obesity is a contributing factor to each. Obesity is also significantly correlated with type 2 diabetes, the fifth-leading cause of death.

Furthermore, the rising overweight and obesity rates of school age children translate into enormous health costs. The Texas Department of State Health Services has reported that economic costs related to obesity could reach as much as \$39 billion by 2040.

Studies show that proper nutrition and physical activity are linked to better student performance in school. As filed, S.B. 1525 establishes a definition of physical education in the Texas Education Code; increases time of physical activity from 150 minutes of physical activity to 225 minutes of physical education in grades K-8; makes physical education a graduation requirement; and ensures courses are taught by a certified physical education instructor. The bill was referred to the Senate Education Committee but ultimately did not receive a hearing.

### ***Updates the statutory requirements for the Border Health Institute***

The 76<sup>th</sup> Legislature (1999) established the Border Health Institute (BHI) in El Paso. The BHI was created to facilitate a collaboration of international, national, regional, and local health-related institutions working in the Texas-Mexico border region. BHI members include Texas Tech University Health Sciences Center at El Paso, University of Texas at El Paso, El Paso Community College District, R. E. Thomason General Hospital, El Paso City-County Health District, University of Texas Health Science Center at Houston-School of Public Health, El Paso County Medical Society, and Paso del Norte Health Foundation. In recent years, the BHI's activities have been greatly diminished as new organizations with similar missions have evolved (e.g., the Medical Center of the Americas).

S.B. 1526 by Senator Shapleigh amends the current statute to better reflect the current activity level of the BHI. Specifically, the bill updates membership to include the University of Texas at El Paso, Texas Tech University Health Sciences Center, El Paso Community College, R.E. Thomason General Hospital, El Paso City/County Health District, the Dept. of State Health Services and the Medical Center of the Americas Foundation. The bill repeals the meeting and reporting requirements. In addition, S.B. 1526 requires each member of the BHI to provide their respective long-term strategic plans to all BHI members, the Texas Higher Education Coordinating Board, and legislative members representing El Paso County. The long-term strategic plan must include information as it relates to the provision of health care services, health care education, and research. S.B. 1526 passed both chambers and was signed by the Governor. The bill took effect immediately.

### ***Works to update inefficient paper medical records***

Today, most patients' records are still maintained as paper records. This method is inefficient, expensive, and often leads to mistakes. In addition, it does not allow for truly personalized care because most doctors do not have access to a significant portion of a patient's medical history. Electronic documentation of medical records gives access to health care providers almost instantaneously so that immediate and appropriate care can be provided, even in emergency

situations. Electronic medical records also eliminate the need to repeat expensive tests and reduce the risks of incompatible medications. Electronic documentation is considered the best way to improve medical care as well as significantly reduce health care costs associated with administration and mistakes.

To update medical records, Senator Shapleigh filed S.B. 1527, requiring HHSC to create and maintain electronic medical records for all new enrollees of Medicaid and CHIP. By implementing electronic medical records, the state could have improved quality of care and patient safety, increase efficiency, and decrease overall costs in the state's Medicaid program and the Children's Health Insurance Program (CHIP). S.B. 1527 was referred to the Senate Health and Human Services Committee but did not receive a hearing.

### ***Works to protect children from advertising that promotes unhealthy lifestyle choices***

The obesity rate of school-age children has increased significantly over the last decade. Texas now ranks sixth in the nation in the number of obese children. This rate has been attributed to a lack of physical education as well as a lack of proper nutritional education. In addition, Texas children have access to a copious amount of junk food products through school vending machines, cafeterias, fundraisers and sporting events, which all contribute to a lack of proper nutrition.

In November 2006, the Council of Better Business Bureaus launched the Children's Food and Beverage Advertising Initiative to "provide companies that advertise foods and beverages to children with a transparent and accountable advertising self-regulation mechanism." The Initiative promotes better advertising messages aimed at children 12 years and younger to encourage healthier dietary choices as well as active lifestyles. Companies participating in the Initiative agree to dedicate 50 percent of advertising expenditures, in which children 12 years and younger are the target audience, to promoting healthier lifestyles and encouraging good nutrition. Advertising must be consistent with established scientific and/or government standards, including U.S.D.A. Dietary Guidelines and MyPyramid and F.D.A. standards for health claims. The Initiative has household-name participants, like Coca Cola, Burger King, and Hershey.

S.B. 1528, authored by Senator Shapleigh, is largely based on this initiative. S.B. 1528 would have required vendors who advertise food and beverage products to children aged 12 years and younger on school grounds to direct 50 percent of their expenditures to promote healthy lifestyles and proper nutrition as per scientific/government standards. The bill was referred to the Senate Education Committee but did not receive a hearing.

### ***Advocates improved wages and benefits for home and community care attendants***

The need for home and community attendants has been growing at an unprecedented rate in Texas. By 2016, the state will need four million direct care workers. According to the Paraprofessional Healthcare Institute, the demand will be greater than that for teachers from kindergarten through high school (3.8 million), registered nurses (3.1 million), and waiters and waitresses (2.6 million). Despite the growing demand for home care attendants, we fail to attract

a sufficient workforce due to uncompetitive wages and few, if any, benefits. Texas ranks 50th in regards to mean wages for personal and home care aides. Over a quarter of a million attendants across Texas make \$7.50 an hour, earning an annual income of \$15,210. Furthermore, home care attendants do not receive benefits, sick days or paid vacation days. Many attendants must provide for their own health care coverage as well as transportation expenses.

S.B. 1850, authored by Senator Shapleigh and sponsored by Representative Elliott Naishtat (D-Austin), would have established a thirteen-member Home- and Community-based Workforce Council (Council) to identify and study workforce issues; review the current and anticipated need and workforce availability; and solicit, review and make policy and funding recommendations to maintain a stable, skilled workforce that can deliver quality services to those in need. The bill passed the Senate and was placed on the House General State Calendar, but it ultimately died due to insufficient time.

### ***Works to increase funding for regional programs for child abuse victims***

During the 80<sup>th</sup> Legislature, Regular Session, 2007, S.B. 758 created the Committee on Pediatric Centers of Excellence Relating to Abuse and Neglect. This committee included representatives from the Office of the Attorney General, the Health and Human Services Commission, the Department of Family and Protective Services (DFPS), the Department of State Health Services (DSHS), child advocacy centers, pediatricians, children's hospitals, and certain medical schools.

S.B. 1877, authored by Senator Jane Nelson (R-Flower Mound) and coauthored by Senator Shapleigh, implemented the committee's recommendations to provide framework for regional Pediatric Centers of Family and Protective Services that will provide medical expertise, assist DFPS in interpreting medical findings in cases of abuse and neglect, and develop best practices in this emerging field of medicine. This bill required DSHS to establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child abuse and neglect. Although S.B. 1877 died on the House Major State Calendar, the bill was amended onto S.B. 2080 by Senator Carlos Uresti (D-San Antonio). S.B. 2080 becomes law on September 1, 2009.

### ***Fights for access to health insurance for all Texans***

There is a health insurance crisis in Texas, and it is only growing. Nearly one in four Texans is uninsured, which is considerably higher than the national average of 15 percent. Texas also has the highest number and percentage of uninsured children in the nation. Many factors hinder Texans from gaining access to health insurance, including high premium costs, pre-existing conditions, lack of job tenure, and employment in jobs that either do not offer health insurance to employees or offer it at a significant cost.

The public health implications of low insurance rates cannot be marginalized. A lower insurance rate translates to less doctors' visits, which results in an increase in unmanaged chronic diseases and infectious diseases. Research has shown that individuals with no insurance or little coverage are less likely to seek treatment for symptoms they deem insignificant that are actually indicative

of larger health problems, inevitably resulting in difficult-to-treat cases. Furthermore, those without a regular source of care due to a lack of insurance are more likely to use publicly-funded health facilities, such as emergency rooms and community clinics, which places a large burden on these facilities.

S.B. 2383, authored by Senator Shapleigh, would have created a single-payer health insurance system for the state of Texas to cover doctors' visits, medical treatments, and prescription drugs. The bill could have provided a structure for the implementation of a single payer health insurance system that would allow all Texans access to health care, but unfortunately did not receive a hearing in the Senate State Affairs Committee.

### ***Works to improve the licensure process for physicians***

Under current statute, applicants who attended medical school outside the United States or Canada must demonstrate that their education is substantially equivalent to that of a Texas medical school. Documentation can be tedious and time-consuming. While this process can be of significant importance in demonstrating the quality of medical education, the minimum competence that we expect of physicians can be assumed for those who have achieved specialty board certification. Physicians who are specialty board certified demonstrate achievement beyond the minimum requirements for licensure. Specialty board certification involves specific education and testing to ensure that a physician has the requisite knowledge in skills in a particular specialty. Therefore, if there were deficits in a physician's medical education, specialty board certification indicates that those deficits have been overcome.

Another requirement that foreign medical graduates must demonstrate to receive a Texas license is eligibility for licensure in the country of graduation. This requirement is sometimes an obstacle and generally adds no value to the process of ensuring a physician's qualifications for licensure. In fact, in some countries with rigorous medical education standards (e.g., Colombia, Ireland, and Egypt), this requirement has become an impediment to licensure in Texas. These countries have requirements for licensure that extend beyond simply graduating from medical school, such as performing an internship or social service, passing examinations, etc. When graduates of these schools come to the United States before meeting such requirements, they cannot be licensed in Texas.

To expedite the licensure process for this group of applicants, Senator Shapleigh introduced S.B. 2390, which would have allowed specialty board certification to serve as proof of medical school equivalency. It also would have allowed applicants who have been granted advanced standing by a recognized specialty board for graduate training that was performed overseas to use that training toward the required training years. While the bill was referred to the Senate Committee on Health and Human Services, it unfortunately did not receive a hearing. However, the companion bill, H.B. 3674, filed by Representative Senfronia Thompson and co-sponsored by Senator Shapleigh did pass both chambers. H.B. 3674 made the same two changes to licensure requirements for foreign medical graduates as S.B. 2390. The bill was signed by the Governor on June 19, 2009 and is effective on September 1, 2009.

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## **Improves Transportation and Mobility in Texas**

Once again this session, Senator Shapleigh took a strong leadership role in the Senate Transportation and Homeland Security Committee. Because of his knowledge of transportation and homeland security issues, he was pivotal in providing input on combating international drug cartels, violent gangs, better highways, rail and on other important legislation before the committee. In the process, he ensured that El Paso benefits in key transportation initiatives.

The passage of these bills was critical for a state that is experiencing rapid population growth, increasing highway congestion, and growing narco-related violence along the border. Senator Shapleigh worked diligently to ensure that the border region and our transportation system is safe and secure for Texans along the Border and throughout the state.

### ***Responds to growing narco-violence along the border by passing an omnibus anti-cartel bill***

In recent years, criminal street gangs have become an increasing problem in Texas. Gang activity has grown in cities and rural areas, and cartel-style gangs based along the border with Mexico have moved into Texas. Today, there are at least nine “well established” gangs in the U.S., working from inside prisons, with operators in the streets and links with local and border police who facilitate their drug trafficking.

In Texas, at least five regional gangs have increased their capacity to distribute illegal drugs: the “Fresno Bull Dogs,” “Flores 13,” “Tango Blast,” “Latin Disciples,” and “United Blood Nation.”

The criminal activities of this organization, which operates inside and outside Texas’ prisons, include: “drug trafficking, extortion, kidnappings, sexual assault and murder.” The Houston Police Department estimated that by mid-2008, more than 14,000 members of this organization had been jailed in Texas. In El Paso, there is a direct link between the drug cartels and the gangs, especially the one known as “Barrio Azteca.”

Generally, these regional gangs include hundreds or thousands of members, and keep a connection with organized crime networks operating across the nation. Further, Mexican drug trafficking organizations are working increasingly with U.S.-based gangs. According to the annual National Drug Threat Assessment by the National Drug Intelligence Center, Mexican drug trafficking organizations represent the greatest organized crime threat to the United States. The report states that the influence of Mexican drug trafficking organizations over domestic drug trafficking is unrivaled.

Mexican gangs control distribution in most U.S. cities and are gaining strength in areas they do not yet control, according to the report. Further, Mexican gangs maintain cross-border communication centers near the U.S. border to coordinate smuggling using satellite technology, VOIP, and encrypted messages, and continue to increase their connections to U.S. -based crime organizations including street and prison gangs. The report estimates that Mexican and Colombian drug traffickers make and launder between \$18 to \$39 billion in wholesale drug profits annually.

In response, at our request, the Senate Committee on Transportation and Homeland Security held two public hearings in El Paso to gather information to formulate an appropriate response to this growing and dangerous problem. In a bipartisan effort, Senator Shapleigh joined forces with the Chair of the committee, Senator John Carona (R-Dallas), and coauthored S.B. 11 to combat international criminal cartels. The main provisions in this omnibus bill focus on a number of issues related to the growth in gang activity in Texas, including prevention of youth involvement in gangs, intervention programs to reduce gang involvement, the increase of penalties for certain offenses, the creation of new offenses focused on deterring illegal gang activity, and the collection of information necessary to deal with the gang problem. For example, S.B. 11 provides for criminal and civil penalties and enforcement options for individuals committing offenses related to gang activity; addresses post-conviction and post-adjudication provisions, provisions relating to an offense of graffiti, and matters relating to driver's license restriction; provides for the electronic monitoring of certain criminal street gang members; and creates gang-free zones. Senator Shapleigh amended his S.B. 849 to make it a first degree felony if a person knowingly initiates, organizes, plans, finances, directs, manages, or supervises a criminal street gang or members of a criminal street gang with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing in the criminal street gang. While S.B. 11 did not pass, the bill was amended onto H.B. 2086 which passed and became effective on June 19, 2009.

### ***Fights to repeal the Driver Responsibility Program***

In 2003, the 78<sup>th</sup> Legislature created the Driver Responsibility Program (DRP) as a funding tool for trauma care centers and transportation projects. The program established a system which assigns points to moving violations and applies some automatic surcharges to offenders. The program has disproportionately hit low-income and minority Texans with expensive fees and has led to more warrants being issued to low-income Texans and more uninsured drivers on Texas' roads. Specifically, 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.

Many Texans affected by these automatic surcharges are first-time offenders, students, single parents or low-income families who are now faced with the choice of either complying with the law or paying for their education, rent, or food. Currently, of the 1,600,000 in the program, more than 1,080,000 can't pay. To fix this, Senator Shapleigh filed S.B. 896 to make the following changes to the DRP:

- **Notice of Surcharge:** The Texas Department of Public Safety will be directed to send notices to the holder of a driver's license when a surcharge is assessed on that license. Each notice must be sent by first class mail to the person's most recent address on file with the department. In addition, the notice will specify the date by which the surcharge must be paid and the consequences for failure to pay the surcharge;
- **Jurisdiction:** While a surcharge is outstanding, the court in which the person was convicted of the offense that led to the surcharge has jurisdiction over the person and all matters relating to the surcharge. The court may reduce or waive the surcharge at the judge's discretion;
- **DPS may not assess a surcharge against a person who is living in a family that has an annual gross income that is less than 200 percent of the federal poverty guidelines, or a full-time student with an annual gross income of less than 200 percent of the federal poverty guidelines who is enrolled in an institution of higher education or a technical school. To provide proof of income, a person shall provide an income tax return, a current pay stub, or documentation from a government agency or school district that identifies the person or a member of the person's household as a recipient of Food Stamps, Medicaid, Children's Health Insurance Program (CHIP), Temporary Assistance for Needy Families (TANF), Women, Infants, and Children nutrition program (WIC), or free or reduced price school meals; and**
- **DPS shall create a program that rewards good driving behavior. Modeled after a similar effort in the state of Virginia, licensed drivers will accrue positive points upon driving for a year without a driving violation. Positive points accrued can be used to offset bad points when an infraction occurs.**

Despite of having a bipartisan coalition supporting the bill and widespread support by Texans across the state, the bill was left pending in the House Transportation Committee. Fortunately, some of the provisions of the bill were successfully amended onto the Department of Public Safety's Sunset bill, H.B. 2730. The amendment would exempt people living at or below 125 percent of the federal poverty level from paying surcharges. The provision won't take effect until January 1, 2011.

### ***Actively promotes funding for railroad relocation away from congested urban centers***

The Rail Relocation and Improvement Fund was created during the 79<sup>th</sup> Legislative Session. In November 2005, the voters recognized the need to relocate and improve rail lines throughout the state and approved the constitutional amendment creating the fund. Unfortunately, the fund structure was set up without a dedicated funding source.

The benefits of rail relocation are numerous: enhanced public safety by decreasing the number of train/vehicle crossings; greater economic opportunity for the state and the rail companies by

encouraging more freight movement through Texas; increased mobility for rail and highways by adding capacity to freight rail lines and freeing up traffic congestion in city centers; opportunities for the improvement of various modes of transportation; and, the remaining right-of-way left over after rail relocation could be used for public transit or added highway capacity.

Rail relocation and improvement will require the Texas Department of Transportation (TxDOT) to work with private entities and to meet significant funding requirements. TxDOT will in many instances work with private entities that own rail facilities to be relocated. TxDOT's authority, for example, to acquire property to be owned by a private entity is not explicit and should be made clear. The law does not authorize funding a rail facility using funds from a toll project or the Texas Enterprise Fund. Concerning the Rail Relocation and Improvement Fund, TxDOT's commission is not allowed to use the fund for financing a rail facility or issuing loans for a facility.

Recognizing this, Senator Shapleigh filed S.B. 612, which would have authorized TxDOT to plan and make policies for the location, construction, maintenance, and operation of rail facilities or systems, and to acquire, finance, construct, reconstruct, relocate, maintain, and operate publicly or privately owned passenger or freight rail facilities. While the bill passed unanimously in the Transportation and Homeland Security Committee, Senator Shapleigh was not recognized on the Senate floor and the bill died without an opportunity for a vote in the Senate. Fortunately, a rider was attached to the budget bill, S.B. 1, providing \$182 million for the state's relocation and improvement fund.

### ***Fights to increase local funding options to finance badly needed transportation projects***

The major urban areas in Texas face tremendous challenges with regard to funding of transportation and mobility infrastructure projects. With Texas set to grow up to 49 million inhabitants by 2050, we are \$256 billion short of meeting mobility needs, or \$8 billion each year. Over 10 years, more than \$11.2 billion that is supposed to be dedicated to roads has been diverted from the highway fund to pay for other underfunded programs like the Department of Public Safety and public schools.

Realizing that billions of dollars are needed to fund new, already identified highway and roadway projects, safety improvement projects, and bridges and mass transit systems such as passenger rail systems, Senator Shapleigh joined forces with the Chair of the Senate Committee on Transportation and Homeland Security, Senator John Carona (R-Dallas) to identify new funding tools that are needed to address these challenges, including tools for local government entities that have transportation infrastructure obligations and responsibilities.

In response, Senator Shapleigh coauthored S.B. 855. The bill as it passed the Senate, would have given certain urban areas the option to call an election for voters to decide whether or not to approve new funding streams to build roads and railways. These funding streams could include any of the following: 1) a new resident impact fee on vehicles previously registered out of state; 2) a mobility improvement fee to be imposed at time of vehicle registration; 3) a driver fee imposed upon renewal of driver's licenses; 4) a local option gas tax; 5) an emissions fee imposed at time of vehicle inspection; 6) or a parking fee imposed on publically-owned parking lots.



Two of those funding items—gas taxes and auto registrations—would have required a change in the Texas Constitution before revenue from either could be used to fund transportation projects.

As introduced, the bill would have only allowed areas in North Texas, Bexar County, and Travis County to opt in to the program. Senator Shapleigh filed an amendment to the bill to include El Paso as an eligible county.

Participating counties who decided to opt in to the program would have to first establish a "Project and Fee Selection Committee" to determine transportation projects and related cost to be considered on a ballot. The committee would then have presented their recommendations to the local governing body, who then would decide whether or not an election should be held.

With S.B. 855, El Paso would have had the tools to build highways, fund transit, and keep El Paso moving. Having voters approve the projects and funding options would have guaranteed broad support in our community. Without this funding, the highway fund will have no money to build new projects. Unfortunately, S.B. 855 died in the House General State calendar. An effort to attach the bill to the Texas Department of Transportation's Sunset bill, H.B. 300, failed as well when H.B. 300 died due to a lack of agreement between the Senate and the House.

### *Seeks annual report of hazardous materials moved by rail in Texas*

The September 11, 2001 terrorist attacks led to the concern that our nation's points of entry were vulnerable to assault. Much discussion was devoted to weapons manufactured for the explicit purpose of killing people, but little was said about the toxic and hazardous materials that regularly cross the United States-Mexico border. A 2007 report from the Good Neighbor Environmental Board (GNEB), a 25-member body that advises the White House and Congress on United States-Mexico border issues, estimated that about 43.3 million pounds of hazardous waste enter the United States from Mexico every year, mostly from the assembly-for-export plants known as maquiladoras. While the GNEB characterized the cross-border hazardous waste flow as relatively minimal, the advisory panel added that significant quantities of hazardous materials including petroleum, petroleum products, natural gas, sulfuric acid, and other substances with the potential to kill or sicken people regularly move through a highly populated and growing region.

In El Paso, Texas, and Ciudad Juarez, Mexico, environmental activists and officials have long worried about large-scale shipments of hydrofluoric acid, a corrosive material, that is shipped by train through the downtown areas of the sister cities. Produced at the Belgium-owned Solvay plant on the outskirts of Ciudad Juarez, tons of hydrofluoric acid are exported to the United States.

Obtaining precise data on the amount of hazardous materials entering the U.S. via the southern border is difficult, however, given that the United States Customs and Border Protection (CPB) do not collect this data.

In response, Senator Shapleigh filed S.B. 897, which would have required railroad companies that transport hazardous materials in or through the state to file with the Texas Department of Transportation an annual report detailing the type of hazardous materials by hazard class, and the

quantity of the material transported over each railroad line owned, leased, or operated by the railroad company during the preceding year. Unfortunately, the bill died in House Calendars. An effort to attach the bill to the Texas Department of Transportation's Sunset bill, H.B. 300, failed as well when H.B. 300 died due to a lack of agreement between the Senate and the House.

***Promotes the creation of transportation reinvestment zones (TRZ) around rail stations***

In a recent report titled "Moving Texas to the 21st Century," Cambridge Systematics, a leading U.S. consulting group on infrastructure, reported that Texas highway funds are at least \$8 billion short each year from meeting the basic needs of a growing state. The state will have to look for new sources of funding in order to address the massive transportation budget shortfall that looms over the next two decades. One such initiative was undertaken during the 80<sup>th</sup> Legislative Session when S.B. 1266 was passed. That bill created a transportation reinvestment fund and authorized local governments to designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone. Transportation reinvestment zones are meant to cultivate development or redevelopment of an area and dedicate a portion of revenue in order to sustain the pass-through financing program and fund future transportation projects.

For most states, support from the state government is crucial for funding local and regional transit. Yet Texas provides less than one percent of any transit funding for metropolitan areas with populations over 200,000. The largest burden for transit funding is left to local governments. As a result, local governments across the state must find creative ways of funding their own mass-transportation projects. A variety of funding options need to remain open for local governments in order to ensure that they will be able to choose the most appropriate combination of funding sources for their particular transportation needs.

A transportation reinvestment zone for rail facilities can allow metropolitan areas that already operate a freight or passenger rail facility to diversify their funding options and ensure the success of their rail systems. For all other metropolitan areas that have not yet implemented a freight or passenger rail plan, having the option of setting a transportation funding zone can help them cultivate development of unproductive areas within their jurisdiction and allow them to raise the necessary capital to create their future rail systems infrastructure.

In response, Senator Shapleigh filed S.B. 898s which would have amended the Transportation Code to authorize a municipality to include the acquisition, improvement, or operation of a freight or passenger rail facility or system by the municipality as a purpose for designating a geographic area as a transportation reinvestment zone. Unfortunately, the bill died in the House General State Calendar.

***Promotes the scenic beauty of the El Camino Real de Tierra Adentro national historic trail in El Paso***

El Camino Real de Tierra Adentro National Historic Trail is a part of the United States National Historic Trail system. El Camino Real de Tierra Adentro (Spanish for "The Royal Road of the Interior Land") was a 1,600 mile long trade route between Mexico City, Mexico and Santa Fe, New Mexico from 1598 to 1882. The 404 mile section of the route within the United States was

proclaimed as a National Historic Trail on October 13, 2000. The trail is overseen by both the National Park Service and the U.S. Bureau of Land Management.

From the Texas-New Mexico border to San Juan Pueblo north of Espanola, a drivable route, mostly part of former U.S. Route 85, has been designated as a National Scenic Byway called El Camino Real. Portions of the trade route corridor also contain pedestrian/bicycle/equestrian trails. These include the existing Paseo del Bosque Trail in Albuquerque and portions of the proposed Rio Grande Trail. Its northern terminus, Santa Fe, is a terminus also of the Old Spanish Trail and the Santa Fe Trail.

In an attempt to preserve the beauty of this national historic trail, Senator Shapleigh filed S.B. 952, which would have amended section 391.252 (a) of the Transportation Code to ban the erection of future billboards along portions that follow the route of El Camino Real de Tierra Adentro in El Paso. While the bill passed the Senate, it died in the House Local and Consent Calendar.

***Increases penalties for knowingly transport or transfer a firearm across the Texas-Mexico border***

Illegal gun trafficking from Texas into Mexico is a serious problem. Access to weaponry can determine the level of violence and effectiveness of an organized criminal campaign.

As transnational gang activity along the border has rapidly increased, Texas and the United States have put pressure on Mexico to deal with the problem. However, Mexican drug cartels have transformed into well-equipped, well-organized, and technologically advanced armies. In 2007, half of the 14,111 firearms recovered in Mexico were traced back to Texas, originating from Houston and Dallas. The stream of illegal weapons across the border from Texas has contributed to transnational gangs becoming the greatest threat to the homeland security of this state. Currently, there is no state statute prohibiting the large-scale smuggling of firearms out of Texas.

In response, in a bipartisan effort, Senator Shapleigh joined forces with Senator John Carona (R-Dallas) and coauthored S.B. 2225 which amends current law and makes it a third degree felony for an individual to knowingly transport or transfer a firearm across the Texas-Mexico border. The bill passed and will become effective September 1, 2009.

***Promotes public input for transportation project developments***

Public input during the development of transportation projects is vital to ensuring that projects meet not just the needs identified by the Texas Department of Transportation (TxDOT), but also those of the community. Engaging the public early in the process can reduce the need for major adjustments or delays to the project in the future. Senator Shapleigh joined forces with his colleague, Senator Kirk Watson (D-Austin), and coauthored S.B. 2017 which would have amended current law relating to public participation in the development of transportation projects by the Texas Department of Transportation. Unfortunately, the bill died in the House of Representatives.

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## **Increases Protection of the Public through Criminal Justice Measures**

During the 81<sup>st</sup> Legislative Session, Senator Shapleigh continuously fought to increase protection of vulnerable citizens and improve practices in criminal justice. For example, he introduced legislation to authorize electronic filing of capital case documents among other measures. Senator Shapleigh's criminal justice agenda is discussed below.

### ***Creates the El Paso County Ethics Commission***

Under current law, El Paso County may establish an ethics board, but without enabling legislation a county cannot authorize its ethics board to impose effective penalties against those who violate ethics standards. For example: an ethics board can censure a public official, make a referral to a law enforcement agency, or, if the violator is a county employee, recommend disciplinary action. But, an ethics board cannot impose a civil penalty and can take very little effective action when an elected official, lobbyist, or vendor violates ethics standards.

In response, Senator Shapleigh filed S.B. 1368 to allow 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 will be able to create a ten-member ethics commission that will 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. This bill will go a long way in restoring public confidence in El Paso County government and ensuring that businesses wishing to operate in El Paso may do so without corruption interfering with free commerce. S.B. 1368 passed and will become effective on September 1, 2009.

### ***Ensures that El Paso County has adequate funding to support county court services***

Current law requires the clerk of each court that has an official court reporter to collect a court reporter fee of \$15. This fee is to finance court reporter services and to assist in the payment of court reporter-related services. These services may include maintaining an adequate number of court reporters to provide services to the courts, obtaining court reporter transcription services, closed-caption transcription machines, Braille transcription services, or other transcription services to comply with state or federal laws.

Senator Shapleigh sponsored H.B. 4529 by Representative Norma Chavez (D- El Paso) to ensure that El Paso County maintains a proper budget for these services. The bill increases the court reporter service fee that is charged in El Paso County from \$15 to \$30, a fee which had not been increased since 1985. The bill was passed out of both the House and the Senate, was signed by Governor Perry, and took effect immediately.

### ***Pushes to authorize electronic filing of capital case documents***

In 2007, Judge Sharon Keller of the Texas Court of Criminal Appeals denied a condemned man's plea for a 20-minute extension beyond the court's usual 5:00 p.m. closing time. The man's lawyer needed the extra time to print the necessary paper copies because a computer malfunction prevented him from filing at 5:00 p.m. Keller refused to delay the closing of her clerk's office past 5:00 p.m. The convicted man was executed that evening.

Current law requires pleas to be filed as paper copies. Senator Shapleigh filed S.B. 426 to authorize the court of criminal appeals to file capital case documents electronically, including briefs, pleadings, and other documents. While S.B. 426 did not pass, Senator Shapleigh sponsored the identical House companion, H.B. 4314 by Representative Pete Gallego (D-Alpine), which did pass. The bill passed both the House and Senate, was signed by Governor Perry, and becomes effective on September 1, 2009.

### ***Attempts to bring regulation to towing rates across the state***

Towing companies and vehicle storage facilities take advantage of current towing laws that do not enforce or provide incentives to run clean practices. As a result, we have no regulation regarding the cost of towing vehicles and as a result we often see exorbitant fees being charged. In response, Senator Shapleigh joined forces with his colleague, Senator Juan Hinojosa (D-McAllen), and coauthored S.B. 1431 to crack down on illegal and malicious towing practices to protect victims from unlawful tows, exorbitant fees, and tough vehicle recovery. Specifically, the bill requires the Texas Commission of Licensing and Regulation to protect the public health and safety, and by rule to establish the maximum amount of fees that are authorized to be charged in connection with a private property tow. Unfortunately, the bill died in House Calendars.

### ***Pushes to reduce delays in inmate transfers from county to state jails***

More and more Texas counties are finding themselves overburdened financially by inmates who are crowding county jails. More specifically, these jails are overrun by paper-ready inmates, or inmates in county custody awaiting transfer to the Texas Department of Criminal Justice (TDCJ) Institutional Division following a conviction of a felony or revocation of probation, parole or release on mandatory supervision and for whom all paperwork and processing required under Code of Criminal Procedure.

El Paso County has experienced long delays in inmate transfers, resulting in additional unfunded mandates to the county. The number of paper-ready inmates held in El Paso County grew by 2,433, or 10.1 percent in fiscal year 2008 when compared to fiscal year 2007, and those inmates who exceeded the 45-day stay in fiscal year 2008 totaled 222, an increase of 68 or 44.2 percent in comparison to fiscal year 2007.

To address this problem and the budget concerns for El Paso County, Senator Shapleigh filed S.B. 2176. The bill would require the timely transfer of inmates from El Paso County jails to the

TDCJ. Unfortunately, the bill got a hearing with the Senate Criminal Justice Committee but did not get voted out of the committee.

### ***Works to manage the heat conditions in Texas prisons***

In some areas in Texas, temperatures often exceed 100 degrees in the summer months. According to Texas Department of Criminal Justice (TDCJ), the Sanchez facility has air conditioning only in medical and some food consumption areas. Other states, such as New Mexico, Florida, and Nevada, have jails with air conditioning or some type of cooling system in place. The state of Louisiana has a monitoring system that issues heat alerts if the interior temperature of a prison reaches or exceeds 90 degrees. In addition, an inmate from a Louisiana prison is allowed to request medical services or declare a medical emergency if a heat-related illness is suspected.

To address this issue, Senator Shapleigh filed S.B. 425. The bill would have required that TDCJ develop and use an operations manual that describes the standards and procedures to be followed for maintaining satisfactory environmental conditions inside each TDCJ facility. Additionally, S.B. 425 requires that TDCJ establish heat management protocols and that a daily temperature log be kept at each state jail felony facility. Unfortunately, the bill was not granted a hearing in the Criminal Justice Committee.

### ***Works to establish a more proportional placement system for the state's halfway house population***

Halfway houses are used to ease the transition from prison life to community life for inmates released on parole or mandatory supervision.

In 2008, 25 percent of the total Texas Department of Criminal Justice (TDCJ) halfway house population was located at the two halfway facilities in El Paso, even though El Paso represents only 3.2 percent of the state's population. Meanwhile, whole regions of the state do not have halfway house facilities. Additionally, the El Paso halfway house facilities received 200 of the 300 new beds appropriated by the 80<sup>th</sup> Legislature. As a result, El Paso was the only Texas city that received additional halfway house prison beds in 2007.

Not only are the El Paso facilities housing more than their fair share of the state's total halfway house population, but they also receive a disproportionate amount of sex offenders. Of the 180 sexual offenders at the El Paso facilities in October 2007, only nine of them had El Paso as their legal county of residence. In addition, 18 were from Bexar County, 12 from Harris County and 9 from Dallas County, together totaling 20 percent of the entire sex offender population in the El Paso facilities.

To address this issue Senator Shapleigh filed S.B. 1086, which would have required the Texas Board of Criminal Justice (board) to develop a comprehensive plan relating to the location, operation, and management of corrections residential facilities. The bill requires that the plan ensure that correctional residential facilities are not disproportionately located in any particular geographic region or regions. Additionally, the bill requires that the plan ensure that the

percentage of individuals living in a correctional facility in a particular county is equivalent to the percentage of individuals living in the county that have been convicted of a criminal offense of the grade Class B misdemeanor or higher. Unfortunately, the bill was not granted a hearing in the Criminal Justice Committee.

***Works to provide counties with tools for graffiti abatement***

Graffiti is a crime that is very costly to cities. The City of El Paso spends \$600,000 a year cleaning up graffiti, while the City of Houston pays \$1 million a year.

Graffiti tends to increase when students are on break from school, as cities grow larger, and wherever gangs are most apparent. Police departments have reported that tagging has reached new heights, with graffiti showing up on billboards and highway signs.

In order to curtail graffiti, Senator Shapleigh filed S.B. 1087 which would increase the court cost fee paid by repeat graffiti offenders based on number of times the defendant is convicted of a graffiti offense and amount of pecuniary loss. The court cost fee charged to graffiti offenders is to be no less than 50 dollars and no more than 500 dollars. The fees were authorized to be used to fund community art programs. In addition, certain provisions were included to expedite graffiti clean up and to allow municipalities or counties to require that businesses more securely store graffiti materials. S.B. 1087 also establishes that individuals who commit graffiti may also be charged for engaging in organized criminal activity or burglary of a building to create graffiti. The bill concepts of S.B. 1087 were rolled into S.B. 11 by Senator John Carona (R- Dallas). Unfortunately, S.B. 11 passed the Senate, but was held up in the House.

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## **Protects Texas' Natural Resources**

### ***Exempts property owned by the county from the drainage fee***

The 80<sup>th</sup> Legislature enacted a bill that extended the application of the certain cities' drainage fees to the unincorporated areas of the county within which the city was located. The fees are used to make improvements designed to reduce flooding and address the appropriate drainage of storm water. Current law allows, but does not require, cities to exempt the property of governmental entities from the drainage fee.

As requested by various community stakeholders, Senator Shapleigh filed S.B. 874 to exempt a county's own property from the drainage fee imposed by a city covered by the 2007 law. S.B. 874 successfully passed both chambers and became law immediately upon the Governor's signature.

### ***Exempts property owned by school districts from the drainage fee***

The 80<sup>th</sup> Legislature passed legislation that enabled the City of El Paso to charge drainage fees to property owners. The fees are used to make improvements designed to reduce flooding and address the appropriate drainage of storm water. Current law exempts only the city, universities and state buildings from paying the fee. School districts are political subdivisions of the state but are not considered state agencies, and therefore not exempt from the fee. With bills running in the range of several thousand dollars each month, school districts need relief.

As requested by various community stakeholders, Senator Shapleigh filed S.B. 1522 to exempt property owned by independent school districts located in El Paso County from the drainage fee imposed by a city covered by the 2007 law. S.B. 1522 successfully passed both chambers and became law immediately upon the Governor's signature.

### ***Allows for recreational use of public utility land***

In 2007, the city of El Paso approved a master plan to encourage the development of open spaces. The city has amended development codes to increase the dedication of park land in development areas. In addition, the city is currently working on plans to allow for joint park-type uses in the drainage systems, including drainage channels and detention areas.

Utility easements in El Paso are very attractive for several reasons, including increased connectivity between the mountain and river, conversion to a more attractive use, and acquisition of new park/trail areas for little expense. However, public utilities have been reluctant to allow a trail to be routed over their land because of potential liability costs if someone were to get injured.

As filed by Senator Shapleigh, S.B. 1563 protects a utility that allows public recreational use on their property by limiting the landowner's liability. While this bill passed the Senate, it did not get a hearing in the House Judiciary and Civil Jurisprudence Committee. However, the



companion bill, H.B. 783, filed by Representative Joe Pickett and sponsored by Senator Shapleigh, did pass the legislature. The bill was signed by the Governor on June 19, 2009 and took effect immediately.

### ***Increases the size of the Public Service Board***

The El Paso Public Service Board (PSB) was established in 1952 to manage and operate the water and wastewater system for the City of El Paso. State law limits the governance of the PSB to a five-member board of trustees consisting of the Mayor and four residents of El Paso County.

Given the significant population growth that has occurred in El Paso over the last five decades, the El Paso City Council and the PSB commissioned a study of best practices on board governance to determine whether the current number of board members was appropriate for a city the size of El Paso. This study recommended that the board size be increased from five members to seven members in order to ensure the board adequately represents the community. The additional board members will allow for more diversity in gender, race, ethnicity; a broader spectrum of professions, including those in the business community; general citizenry including non-profit organizations and neighborhood associations; and major water users.

As filed by Senator Shapleigh, S.B. 2391 authorized a board of trustees with no more than seven members named by the municipality, one of whom must be the mayor of the municipality, to manage and control a utility system in a municipality that is located in a county with a population of at least 600,000 located on an international border. The identical companion bill, H.B. 4004 authored by Representative Joe Pickett (D-El Paso) and sponsored by Senator Shapleigh, was passed in lieu of S.B. 2391. This bill was signed by the Governor on May 23, 2009 and took effect immediately.

### ***Works to give homeowners the option to install solar energy devices***

While some portions of Texas are prime location for wind-generated electricity, much of the state is not. By 2025, there will be an estimated 254 square miles of roofs on residential and commercial buildings in Texas. The potential to utilize our rooftops for harvesting efficient, safe energy can be realized. In 2025, Texas' rooftops have the capacity to provide up to 70-80 percent of annual water heating energy in Texas and would generate 40 percent of the state's energy resources. If Texas wishes to realize these opportunities, the transition to smart energy production must begin now.

Senator Shapleigh filed S.B. 677 to help Texas cultivate energy from rooftops across the state by requiring homebuilders that build or plan to build more than 50 homes in a subdivision to offer installation of solar energy devices for heating, cooling, or the production of power. S.B. 677 was left pending in the Senate Business & Commerce Committee, but it was amended into an omnibus solar bill, S.B. 545 by Senator Troy Fraser (R-Horseshoe Bay). Although S.B. 545 passed the full Senate and was placed on the House Major State Calendar, the bill ultimately died due to insufficient time.

### ***Works to exempt solar devices from the sales tax***

The average Texas household pays 56 percent more in monthly energy costs than the national average. Customer-generated electricity would enable Texans to reduce their billed energy consumption while adding small contributions of electricity to the grid, thus reducing the demand on direct energy production by utility companies.

Installing photovoltaic (PV) solar panels is just one method consumers can utilize to harvest home grown electricity. By 2025, there will be an estimated 254 square miles of roofs on residential and commercial buildings in Texas. The potential to utilize our rooftops for harvesting efficient, safe energy can be realized. In 2025, Texas' rooftops have the capacity to provide up to 70-80 percent of annual water heating energy in Texas and would generate 40 percent of the state's energy resources. If Texas wishes to realize these opportunities, the transition to smart energy production must begin now.

As introduced, S.B. 619 by Senator Shapleigh would have exempted consumers from paying sales tax on certain solar devices, which would have encouraged solar energy production and moved Texas' renewable energy program forward. The bill was referred to the Senate Business & Commerce Committee but did not receive a hearing.

### ***Works to make net metering services available across the state***

Texas is home to the highest greenhouse gas emissions in the nation. Among sovereign states, Texas ranks seventh globally in carbon dioxide emissions. Consequently, in the next 100 years, minimum winter temperatures could increase anywhere from 3-10 °F, and summer temperatures in Texas could increase by 3-7 °F. As a result, the Texas gulf coast will experience increased sea level rise, diminishing groundwater availability and intensified weather events such as droughts and floods.

Furthermore, as the quality of our environment diminishes, energy costs continue to rise. Currently, the average Texas household pays 56 percent more in monthly energy costs than the national average. Net metering would enable Texans to reduce their billed energy consumption while adding small contributions of electricity to the grid, thus reducing the demand on direct energy production by utility companies.

S.B. 618 by Senator Shapleigh would have required all utilities to provide net metering to interested customers. Net metering allows utility companies to account for customer-produced electricity without incurring administrative and accounting costs accrued when individually capturing surplus power produced by customers. Any revenue loss attributed to less utility-owned energy consumption is comparable to that achieved by people investing in energy efficient appliances and other items like compact fluorescent lighting, efficient heating and cooling equipment. The bill was referred to the Senate Business & Commerce Committee but did not receive a hearing.

### ***Fights to protect the Chihuahuan Desert and its various species of desert plants***

The current trend in home landscaping toward xeriscaping, a water-conserving landscaping method, combined with tough Arizona laws regulating the desert plant trade, have made the West Texas desert area a prime target for illegal harvesting of cacti and other succulents. So-called "cactus rustlers" take desert plants from public land or from private land without permission. The plants are then sold for profit in Texas and other states, especially Arizona and California. Some private landowners also harvest desert plants on their own land. The Chihuahuan Desert is one of the most biologically rich deserts in the world, home to almost a quarter of the 1,500 cactus species known to science, including many species found nowhere else. The removal of these plants in large number is seriously damaging to the delicate desert ecosystem. Removing too many of these crucial cacti and desert plant deprives desert dwellers, such as mountain lions, hummingbirds, woodpeckers, and bats, of food and shelter and disrupts the ecological balance of the area.

S.B. 212, authored by Senator Shapleigh and sponsored by Representative Yvonne Gonzalez-Tourelles (D-Alice), would have established requirements for the sale or transportation of desert plants and required a person who grows or harvests a desert plant to register with the Texas Department of Agriculture. Although the bill passed the Senate and was placed on the House General State Calendar, it ultimately died due to insufficient time.

### ***Works for a uniform liquid waste manifest system to reduce illegal dumping***

Currently, Texas law requires that certain information be included on a liquid waste manifest. However, there is not a standard statewide form for a liquid waste manifest. As a result of the lack of uniformity, confusion has been created among liquid hauling companies' forms, which leads to inaccurate or missing information in a manifest. The inaccuracy in transporters' annual reports to the Texas Commission on Environmental Quality (TCEQ) regarding the amount of waste that has been transported results in less income for the state, as the fees transporters are required to pay are based on the accuracy of the reports. Further, the lack of a uniform manifest system facilitates illegal dumping throughout the state's deserts, rivers, and property. Inaccurate or missing data on current manifests cannot accurately account for all liquid waste and whether or not it is properly disposed, processed, or stored in an authorized facility or site.

S.B. 213, authored by Senator Shapleigh and sponsored by Representative Tracy King (D-Eagle Pass), would have created a statewide uniform manifest system to accompany liquid waste shipments from cradle-to-grave. Although the bill passed the Senate, it ultimately died in the House Calendars Committee.

### ***Works to reduce illegal tire dumping***

Used tire disposal has been a rampant problem for years in Texas, with almost four million scrap tires generated annually. This issue is more acute in the border region than in the rest of the state. For example, Ciudad Juarez, which is directly across the border from El Paso, has the largest tire pile in the border region, with approximately 4 to 5 million tires in its landfill.

Tire piles cause increased vector-borne disease (e.g., mosquito-borne disease) and the increased possibility of fire, which in turn, pollutes the air. Tire pile cleanup and tire reuse efforts through the Border 2012 initiative—almost half a million dollars invested in eight projects—have removed 2.2 million tires. Some of these tires were used to generate tire-derived fuel while others were utilized in reuse demonstration projects. Despite significant progress, these tire piles remain. According to the latest assessment of Border 2012, approximately 60,000 tires are removed every month but 30,000 tires are added in Ciudad Juarez.

A major contributor to these tire piles is that tires, which do not meet tread requirements in the United States, are often sold as "used" tires in Mexico. S.B. 617, authored by Senator Shapleigh and sponsored by Representative Veronica Gonzales (D-McAllen), would have prevented the majority of these "used" tires from accumulating in various parts of the state as well as from crossing the border by requiring tire retailers to render tires "unusable" when the tires do not meet existing safety standards. The bill passed the full Senate and was reported favorably by the House Committee on Transportation and recommended for House Local and Consent Calendar. Unfortunately, the committee report was not submitted in time.

### ***Fights to improve compliance with the Computer TakeBack Law***

The Computer TakeBack Law, which was passed in 2007 (H.B. 2714 by Bonnen), requires electronics retailers to only sell computer equipment from manufacturers listed on TCEQ's website. The statute also requires TCEQ to maintain an online list all manufacturers who submit a compliant recovery plan. A retailer violates the statute by selling computer equipment from a manufacturer not listed on the website. However, TCEQ does not have the authority to take non-compliant manufacturers off the list resulting in retailers possibly selling equipment in violation of the law. Additionally, because computer equipment retailers are not required to provide recycling information for computers that they sell, consumers are often unaware of recycling information from manufacturers.

H.B. 2826, filed by Representative Elliott Naishtat (D-Austin) and sponsored by Senator Shapleigh, would have aided compliance with the Computer TakeBack Law by allowing a retailer to sell computer equipment that was part of a listed manufacturer's recovery plan at the time the retailer purchased the equipment so that inventory could be sold without the retailer incurring a violation. In addition, the bill would have given TCEQ the authority to maintain a record of compliant manufacturers retrievable by date and to remove non-compliant manufacturers on a quarterly basis. The bill passed the full House on the Local and Consent Calendar but was left pending in the Senate Natural Resources Committee.

### ***Advocates for an improved air permit application and permit renewal process***

The Texas Clean Air Act addresses, among other topics, the manner in which the Texas Commission on Environmental Quality may deny an application for an air quality permit or permit renewal. Recently, permit applicants have begun arguing that the Clean Air Act does not allow denial of a permit application, even after a contested hearing that results in a Commission finding the permit does not comply with the Act. Under Sec. 382.0518 (d) and (e) of the Health & Safety Code, if the Commission finds that a proposed facility would contravene the standards

of the Clean Air Act, the Commission is required to set out in a report to the applicant the specific objections. If the applicant later satisfies the Commission's objections, then the Commission must grant the permit. As a result, the Commission is effectively precluded from immediately denying a permit, even if the applicant has been party to a contested case hearing and subsequent finding by an administrative law judge. Instead, the Commission must set out its objections and wait to see if the applicant satisfies those specific objections.

Thus, Senator Shapleigh filed S.B. 1916, which would have required that if the Commission finds the emissions from a proposed facility will contravene the standards established in the Clean Air Act and the air permit application has gone through a contested case hearing, then the application shall be denied. If, on the other hand, the permit application has not gone through a contested case hearing, then the requirement for a report from the Commission will still apply, giving applicants the opportunity to meet the objections of the Commission. S.B. 1916 was left pending in the Senate Natural Resources Committee.

### ***Attempts to increase energy from renewable sources***

Currently, Texas is a world leader in energy generated from renewable sources. Despite efforts to increase energy from renewable resources other than wind, Texas still lags behind many other states in the development and installation of solar energy resources.

In a bipartisan effort, Senator Shapleigh joined forces with his colleague, Senator Florence Shapiro (R-Plano), and coauthored S.B. 427 which would have established new goals for distributed renewable generation. S.B. 427 would have direct electric utilities to administer incentive programs to encourage customers to use distributed renewable generation as a supplemental energy source and provide them with opportunities to do so. Additionally, S.B. 427 would have authorized the Public Utility Commission of Texas (PUC) to adopt rules and procedures to ensure that utilities can meet the goal established in the bill and allowed the PUC to establish a distributed renewable generation cost recovery factor to ensure timely and reasonable recovery of expenditures made by the utilities in pursuit of the goals established in the bill. Unfortunately, the bill was left pending in the Senate Business and Commerce committee.

### ***Promotes manufacturing jobs from the production of wind turbines and other renewable energy equipment***

Currently, Texas is a world leader in wind energy production. However, Texas has not realized manufacturing jobs from the production of wind turbines and other renewable energy equipment. Additionally, current law provides no renewable energy credit incentive for electric generation equipment manufactured in Texas and sets the goals for renewable electricity generated from sources other than wind at 500 megawatts. Realizing this, Senator Shapleigh worked with his colleague, Senator Kirk Watson (D-Austin), and coauthored, S.B. 541 which would have amended current law relating to incentives for Texas renewable energy jobs and manufacturing.

Specifically, S.B. 541 would have provided that it is the intent of the legislature that by January 1, 2015 an additional 5,000 megawatts of generating capacity from tier 1 renewable energy

technologies will have been installed in this state. In addition, it would have required that the cumulative installed renewable capacity in this state total 5,880 megawatts by January 1, 2015, and required the Public Utility Commission of Texas (PUC) to establish a target of 10,000 megawatts of installed renewable capacity by January 1, 2025. Unfortunately, the bill died in the House Major State calendar.

### ***Advocates for environmental building standards***

Protecting our environment for future generations to enjoy is an important and often difficult task to be accomplished. When constructing new buildings, the fact that areas surrounding the construction site will be permanently changed and harmed seems unavoidable. However, with certification from the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, builders can be sure they have created buildings that not only are easier on the environment but will also be less costly to operate and more sustainable for many years to come. The LEED Green Building Rating System was created by the U.S. Green Building Council to provide standards for environmentally sustainable construction. LEED certified buildings have been proven to have lower energy and water costs than typical industry standards and as a result mitigate initial construction costs several times over. Studies of LEED buildings in California have shown that more than ten times the costs of initial investments can be saved over the life cycle of a certified building. Constructing a LEED certified building can also avoid construction professionals facing legal charges stemming from environmental harm. The actual process of LEED certification has recently become streamlined electronically, so it is easily accessible.

To help reduce our negative impact on the environment, Senator Shapleigh introduced S.B. 670, which would have required that every new state building, instructional facility, and facility of an institution of higher education be designed and constructed to be certified under the U.S. Green Building Council's LEED rating system as that standard exists as of September 1, 2009. The bill was left pending in the Senate Natural Resources Committee.

### ***Works to ensure utilities meet energy efficiency goals***

Texas is home to the highest greenhouse gas emissions in the nation. Among sovereign states, Texas ranks seventh globally in carbon dioxide emissions. Consequently, in the next 100 years, minimum winter temperatures could increase anywhere from 3-10 °F, and summer temperatures in Texas could increase by 3-7 °F. As a result, the Texas gulf coast will experience increased sea level rise, diminishing groundwater availability and intensified weather events such as droughts and floods.

Another threat to the health of Texans is particle pollution from coal-burning power plants. Every year in Texas, exposure from these facilities cause 1,160 premature deaths, 1,791 heart attacks, 34,000 asthma attacks, and 144 lung cancer deaths. In order to prevent and reduce health risks caused by environmental degradation, Texas must promote and incentivize the use of renewable energy technologies.

To prevent and reduce health risks caused by excessive environmental degradation, Texas must promote and incentivize energy efficiency programs. Nationally, Texas' energy use per capita is

about 60 percent higher than average. If Texas implemented energy efficiency programs, Texas would be able to meet future electricity demand growth by 50 percent in 2015. For every \$1 Texas invests in energy efficiency, \$2 in energy costs are saved. Energy efficiency programs not only help conserve the environment, they save Texans money. As filed by Senator Shapleigh, S.B. 211 would have ensured compliance with state-mandated energy efficiency goals. The bill was referred to the Senate Business and Commerce Committee but ultimately did not receive a hearing.

### ***Works to increase the goal for non-wind renewable energy production***

Harnessing Texas' natural resources for the production of high efficiency, clean energy will not only help preserve the environment, it will boost the economy. While some portions of Texas are prime location for wind-generated electricity, the majority of the state is much better suited for solar-related energy initiatives. Concentrating Solar Power (CSP) creates focused sunlight up to 10,000 times its initial intensity. California and Arizona have announced almost 4,800 MW of large-scale solar projects, including 4,000 MW of Concentrating Solar Power and Photovoltaic (PV) projects. Subsequently, 154,000 jobs, \$10.1 billion in earnings, and \$25.4 billion in economic output will be created in those states over the next 30 years.

Current law provides no renewable energy credit incentive for electric generation equipment manufactured in Texas and sets the goals for renewable electricity generated from sources other than wind at 500 megawatts.

As filed by Senator Shapleigh, S.B. 620 would have moved Texas' renewable energy program forward by increasing the goal for non-wind renewable energy production from 500 MW to 1,500 MW by 2015. Although S.B. 620 received a hearing in Senate Business and Commerce Committee, it was left pending. A similar bill, S.B. 541 authored by Senator Kirk Watson (D-Austin) and coauthored by Senator Shapleigh, would have revised the state's goals for the installation of electric generating capacity from renewable energy technologies to seek to create additional incentives for Texas renewable energy jobs and manufacturing. S.B. 541 passed the Senate and was placed on the House Major State Calendar, but the bill ultimately died due to insufficient time.

### ***Fights to prevent Texan children's exposure to harmful poisons and contaminants***

Texas is home to a number of mining, smelting and refining companies. Among these companies was ASARCO, which operated a smelter plant in El Paso for decades. ASARCO was a major source of hazardous substances in the environmental soils of El Paso, accounting for 50 percent of the concentration of elements zinc, lead, arsenic, and cadmium. High concentrations of these elements have been implicated in significant health problems. According to the Environmental Protection Agency (EPA), children are especially vulnerable since these elements have carcinogenic effects and can also retard a child's physical and mental growth and development. Children can be exposed to these elements in numerous ways, including through contamination of water sources, emission of toxic fumes, and contamination of playgrounds.

In the 1970s, a study by the Centers for Disease Control and Prevention (CDC) found the ASARCO smelter in El Paso was responsible for abnormally high lead levels in children who lived nearby. Furthermore, in 1994, the Texas Department of Health investigated an unusually large concentration of El Paso residents affected by multiple sclerosis and related environmental concerns. These residents attended Mesita or E.B. Jones Elementary schools between 1948 and 1970. The rate of multiple sclerosis in this area of El Paso was twice as high as expected, based on national estimates and the study conjectured that the elements and toxic fumes emitted by ASARCO may have contributed to the unusually high rate of multiple sclerosis in the Kern Place-Mission Hills area of El Paso.

S.B. 2384, which was authored by Senator Shapleigh and sponsored by Representative Joe Moody (D-El Paso), sought to prevent the further exposure of Texas' children to lead poisoning and soil contamination. S.B. 2384 would have required schools and child care facilities to adopt best management practices to reduce the exposure of children to areas with contaminated soil. While this bill passed the full Senate, it died in the House Calendars Committee.

***Works to create an advisory committee on climate variability to assist the Texas Water Development Board in drafting the state's 2012 water plan***

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. Additionally, the TWDB compiles each regional report into a statewide water plan.

Presently, 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. 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. Without taking special consideration of the environmental changes projected to occur over the course of every plan, each water plan is inaccurate and the state's water planning process is inadequate. In addition, the 80<sup>th</sup> Legislature passed S.B. 1762, which directed the TWDB to host a conference to review potential impacts of climate change on surface water supplies in the Far West Texas region. The findings and recommendations from the conference were to inform the Far West Texas Regional Water Planning Group as well as the other 15 regional water planning groups on both science and policy issues related to climate change. One of the four policy recommendations from the report suggests establishing a consortium to provide a framework for further research and discussion.



S.B. 1405, authored by Senator Shapleigh and sponsored by Representative Trey Martinez Fischer (D-San Antonio), would have established an advisory committee on climate variability for the purpose of assisting the TWDB with its duty of drafting a state water plan in 2012. While the bill passed the Senate, it was left pending in the House Committee on Natural Resources.

***Works to require consideration of climate variability in water planning***

The 80<sup>th</sup> Legislature passed S.B. 1762, which directed the TWDB to host a conference to review potential impacts of climate change on surface water supplies in the Far West Texas region. The findings and recommendations from the conference were to inform the Far West Texas Regional Water Planning Group as well as the other 15 regional water planning groups on both science and policy issues related to climate change. One of the four policy recommendations from the report directs the RWPGs to consider climate change in water planning.

S.B. 1406, authored by Senator Shapleigh and sponsored by Representative Trey Martinez Fischer (D-San Antonio), would have required the TWDB and each RWPG to take climate variability into consideration when drafting a water plan. While the bill passed the Senate, it was left pending in the House Committee on Natural Resources.

***Works to encourage future architects to be knowledgeable in green building***

In recent years, more entities are opting to build "green" due to long-term savings in operating costs. The green building approach applies a project life cycle cost analysis for determining the appropriate up-front expenditure. This analytical method calculates costs over the useful life of the asset.

Buildings built with sustainability in mind are constructed according to the Leadership in Energy and Environmental Design (LEED) Green Building Rating System. LEED is the internationally-recognized benchmark for the design, construction and operation of high performance green buildings. The rating system, developed by the U.S. Green Building Council (USGBC), scores buildings based on the following criteria of human and environmental health: 1) sustainable sites, in which pollution prevention, community connectivity, and alternative transportation availability are considered; 2) water efficiency; 3) the optimization of energy performance and the use of renewable energy; 4) renewable and recyclable materials and resources; 5) indoor environmental quality, including air quality, increased ventilation, and environmental tobacco smoke control; and 6) innovation and design process, including having a LEED accredited professional as a participant in the construction project. Buildings are then given one of four levels of certification based on the score given by the USGBC: certified, silver, gold and platinum.

Several prominent construction projects in Texas have been LEED certified and are renowned for their sustainable designs. The growth in LEED-certified buildings in Texas demonstrates the need for LEED-certified architects that can help sustain the construction of LEED buildings.

Senator Shapleigh filed S.B. 1523, which would have required students to complete a course in LEED Green Building as a requisite for obtaining a degree in architecture at certain public institutions of higher education. The bill was referred to the Senate Higher Education Committee but did not receive a hearing.

***Fights to protect Texans' health by decreasing air pollution***

Millions of people live in areas where air pollution can cause serious health problems. Local air quality affects our daily lives and, as a result, Texans are paying heavy economic and health costs. In 2006, there were five EPA-designated, non-attainment areas in Texas encompassing 24 counties and subjecting over 12 million people to the risks associated with smog. As Texas experiences unprecedented population growth, the state must minimize the health and economic costs associated with automobile exhaust and poor air quality in order to improve standard of living in the state.

Senator Shapleigh filed S.B. 2382 to protect our state's air. The bill would have required the state to adopt stricter standards for the state's vehicle fleet in order to reduce the health affects related to pollution. The bill was referred to the Senate Committee on Natural Resources but did not receive a hearing.

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## **Works to Increase Revenue for Critical Needs and Promotes Fiscal Responsibility and Management**

Whether in times of financial crisis or during a prosperous economy, the State of Texas should be funded through an open system that ensures the delivery of essential services and spreads the burden of cost fairly. The legislation discussed below addresses these concerns.

### ***Helps small businesses by reducing their franchise tax liability***

In 2008, the state comptroller began implementing the revised margin tax, also known as the franchise tax. As a result, many small business owners have been severely impacted by an increase in taxes, causing a tight squeeze on their finances. This squeeze is even more evident during the ongoing financial crisis and the resulting downturn in business activity. In response, Senator Shapleigh filed S.B. 193, which eases the burden of the franchise tax on Texas' small businesses by increasing the total revenue exemption from \$300,000 to \$1 million. Senator Shapleigh also coauthored S.B. 19 by Sen. Dan Patrick (R-Houston), which was identical to S.B. 193. While neither S.B. 19 nor S.B. 193 passed, the concept was amended into and passed in H.B. 4765, giving Texas business a combined tax cut of \$172 million over two years. The bill will become effective on January 1, 2010.

### ***Fights to prevent relocation of charitable trusts and to honor Texas donors' wishes***

Over the last decade, as local banks have been sold and merged into national banks, trusts created in Texas by Texas donors who leave their money to Texas charities are now administered from headquarters in other states. As a result, in many cases, donor intent is frustrated as higher fees are charged, and worse, Texas money intended for Texas charities is used outside of Texas.

Senator Shapleigh filed and passed S.B. 666 with the help from Representative Will Hartnett (R-Dallas) to ensure that donors' intent is honored. The bill prohibits 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 or through a process involving the appropriate courts and the Attorney General. The bill passed out of both the House and the Senate, was signed by the Governor Perry, and becomes effective on September 1, 2009.

### ***Promotes incentives for film production in Texas***

During the 79<sup>th</sup> Legislature, Regular Session, 2005, the Texas Legislature established the Moving Image Industry Incentive Program (program). Although Texas is recognized as a choice location for filming, it has fallen behind other states in attracting film productions. In the last decade, financial incentives have become a higher priority when production companies decide filming locations, and Texas lags behind other states in offering filming incentives. Texas' current maximum amount of a grant under the program is the lesser of five percent of a production company's in-state spending for a film project or a specified amount dependent on the type of film project produced, while some states offer 25 percent tax credits or rebates. According to the

Texas Film Commission, the film industry spent almost \$345 million in Texas in 2007, generating a total state economic impact of about \$522 million and supporting over 2,400 full-time jobs.

In a bipartisan effort, Senator Shapleigh joined forces with his colleague Senator Bob Deuell (R-Greenville), and coauthored S.B. 605 which requires the Music, Film, Television, and Multimedia Office in the office of the Governor to establish the maximum amount of a grant under the program and reduces the threshold requirements that a production company must meet to qualify for such a grant. The bill also increases the size of additional grants available to a production company that spends at least 25 percent of its filming days in an underutilized and economically distressed area. While S.B. 605 did not pass, its companion, H.B. 873 did pass and became effective immediately.

### ***Pushes to lower the cost of college for top ten percent students***

With college tuition rising so quickly that it far outpaces the growth of Texans' average incomes, it becomes more and more difficult for talented and well-deserving students to afford higher education. Texas students that graduate in the top ten percent ought to have every reason to stay in state to allow their talents to grow and mature for the benefit of all Texans. As a result, Senator Shapleigh filed S.B. 191, which would have exempted all Texas students who are admitted into public universities under the top ten percent rule from paying tuition or fees. In exchange, the student would have had to enroll for a full course load and maintain a cumulative grade point average of no less than 2.5. S.B. 191 never received a hearing in the Senate Higher Education Committee, and it thus failed to become law.

### ***Works to help property taxpayers recoup losses of tax income***

Texas provides property tax exemptions for agricultural and ranch land, but these tax breaks are being abused by large businesses. Businesses are allowed to dramatically reduce their property tax bills by making slight changes in the character of the land in order to acquire an open-space exemption under the Texas Tax Code. For example, the property tax bill for Fidelity Investments' land in Tarrant and Denton counties was reduced from \$319,417 to \$714.57 in 2006, according to a 2007 *Wall Street Journal* article. Further, Samsung Electronics cut their annual property taxes on 54 acres outside its Austin semiconductor plant to \$135.68 from \$21,080 in 2006.

Current law provides that if the use of the land changes, a rollback tax is imposed equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent. S.B. 678, filed by Senator Shapleigh, would have amended the Tax Code to increase the rollback period to ten years in order to further help local property taxpayers recoup the lost income. S.B. 678 was referred to the Finance Committee, but it unfortunately did not receive a hearing.

### ***Promotes expansion of the sales tax holiday to help working families***

During the most recent sales tax holiday, the Comptroller estimated that shoppers saved about \$54 million in sales tax, including approximately \$42.1 million in state sales tax and \$11.9 million in local sales taxes. Some items that are currently tax-exempt include children's clothes, school uniforms, and footwear.

Though the current sales tax holiday has created great savings for Texas families, it occurs only in the month of August and thus does not provide for school supplies purchased during the December inter-semester period. Due to the large amount of clothing that many families have to purchase between semesters, many families find themselves spending sums comparable to the August shopping season yet without the benefit of tax relief.

To help relieve this financial burden, Senator Shapleigh authored S.B. 675, which would have made it more affordable for Texas families to provide their children with all essential school-related supplies by allowing for a December sales tax holiday. However, the bill did not receive a hearing in the Senate Finance Committee.

### ***Fights to protect new and struggling businesses***

In 2008, the state comptroller began implementing the revised margin tax, also known as the franchise tax. As a result, many new businesses have been severely impacted by an increase in taxes, causing a tight squeeze on their finances. This squeeze is even more evident during the ongoing financial crisis and the resulting downturn in business activity. To ease the burden of the franchise tax on Texas' new businesses, Senator Shapleigh filed S.B. 323, which would not require any franchise tax payments if a business's taxable income during the first three years of operation is zero or less. Unfortunately, the bill did not receive a hearing in the Senate Finance Committee.

### ***Fights to allow Texas to accept all possible federal stimulus money***

Texas is in recession. The Federal Reserve Bank of Dallas is now predicting that 300,000 jobs will be lost in 2009 and unemployment will soon reach eight percent. The Texas Workforce Commission (TWC) recently announced that unemployment claims are up 120 percent over this time last year, and the unemployment fund could be \$750 million below the floor by September. Recognizing this, TWC Chair Tom Pauken has publically supported accepting federal stimulus funds, stating that "it's our money." Without the federal funds, Texas businesses will face increased unemployment insurance taxes during these hard times.

Regardless, Governor Perry announced on March 12 that he will not accept \$555 million in federal economic stimulus money to improve and update the state's unemployment insurance program. It would be profoundly irresponsible for the state to send Texans' taxpayer dollars to other states, especially given the well-documented needs faced by our constituents.

In response, Senator Shapleigh filed S.C.R. 15 and S.C.R. 49, both of which would have overridden the Governor's rejection of the federal stimulus funds, thus ensuring that Texas can

fully participate in the nation's economic recovery. Unfortunately, neither resolution received a hearing in the Senate Finance Committee and thus failed to pass.

***Works to make higher education more affordable by exempting the sale of books from the sales tax***

According to the College Board, a non-profit higher education resource that administers the AP and SAT tests, student expenses for books and supplies increased 3.4 percent during the 2003-04 academic year, which cost students at four-year institutions an average of \$843 and students at two-year institutions an average of \$745.

The total college textbook market is estimated to be \$6.77 billion, based on sales data for the 2002-03 academic year, according to the National Association of College Stores.

According to the Texas Higher Education Coordinating Board, since tuition deregulation occurred, tuition rates at Texas public universities are increasing an average of 18 percent a year.

Recognizing that as the cost of attending institutions of higher education increases, it is important to provide financial support to promote student participation and success, Senator Shapleigh joined Senator Judith Zaffirini (D-Laredo) and coauthored S.B. 22 to exempt the sale of a book purchased by a part-time or full-time student enrolled at an institution of higher education from sales taxes during two certain time periods in a calendar year. Unfortunately, the bill was left pending in the Senate Finance committee.

***Pushes to draw down federal funds for unemployment insurance***

The Federal Unemployment Insurance Modernization provision of the American Recovery and Reinvestment Act of 2009 (ARRA) provides a \$7 billion dollar distribution to the states from the Federal Unemployment Account before October 1, 2011. A state's portion is based upon its proportionate share of total Federal Unemployment Tax Act taxes paid, estimated to be \$555 million for Texas.

In a bipartisan effort, Senator Shapleigh joined his colleague Senator Kevin Eltife (R-Tyler) and coauthored S.B. 1569 which would have adopted specific provisions outlined in ARRA that would have drawn down federal funds for unemployment insurance. This is achieved by first adopting an alternative base period allowing the state to receive one-third of the estimated \$555 million. This bill adopted unemployment insurance benefits for part-time employees and benefits for an individual forced to quit his or her job for compelling family reasons. Lastly, S.B. 1569 would have created the Task Force on Unemployment Compensation Reform. Unfortunately, the measure died on a point of order in the House Chamber.