No Uncertain Terms

THE NEWSLETTER OF THE TERM LIMITS MOVEMENT • SEPTEMBER/OCTOBER 2014 • VOLUME 22 • No. 5

Arkansas Citizens Sue to Pull Politicians' Deceptive Term Limits Measure

Three Arkansas citizens — Yvonne Rich, Frederick Scott, and Kathleen Wikstrom — filed suit this August against Secretary of State Mark Martin in hopes of thwarting a deceptive ballot measure which, if passed, would gut state legislative term limits. The lawsuit asks that the secretary of state be prohibited from certifying the measure for ballot and, in any case, from counting or certifying any votes cast for or against the measure.

The group Arkansas Term Limits, which has been vigorously fighting the proposed amendment, has endorsed the trio's lawsuit (see 1.usa.gov/ZggOXr for the text of the filing).

According to the lawsuit, the proposed amendment "would double term limits for members of the Arkansas Senate, and would nearly triple term limits for members of the Arkansas House of Representatives. Neither the popular name nor the ballot title for Issue No. 3 informs the voter-citizens of the State of Arkansas that approval of the amendment would lengthen term limits."

A Trojan horse making the rounds in Arkansas dramatizes the point that Amendment 3 is no friend of term limits.

The term limits law passed in 1992 limits Arkansas house members to three two-year terms and senators to two four-

(Continued on Page 3)

Primary Overview

see page 6

Illinois Judges Stop Citizens from Enacting Term Limits by Nick Tomboulides

U.S. Term Limits Senior Fellow Paul Jacob once called the citizen initiative process "the political lifeblood of the people. Without initiative and referendum the politicians can ignore the people and monopolize power."

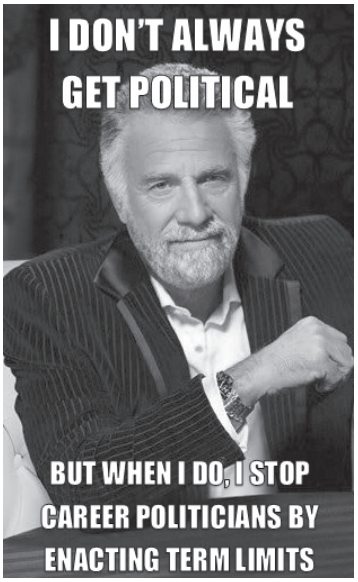
Nowhere are Paul's words more relevant right now than in the state of Illinois, where a citizen committee collected over 590,000 signatures to place a term limits and legislative reform question on the November ballot. If passed, it would have enacted solid eight-year term limits on the Illinois state house and state senate, and reduced the size of the general assembly.

But it was not to be. A corrupt alliance of career politicians and activist judges have made sure that the term limits initiative — which enjoys 80 percent support from voters — would not appear on the ballot.

After allies of 29-year Illinois House Speaker Michael Madigan filed a lawsuit against the measure, a circuit court judge ruled it unconstitutional, then an appeals court sided with the county judge. The state supreme court refused to even hear a final appeal as the deadline for finalizing questions for the ballot came and went.

The judges — all with

(Continued on Page 3)



President's Corner

BY PHILIP BLUMEL

Electoral contests can illuminate the power of term limits as a campaign issue even when pro-term-limits challengers are edged out by establishment-backed candidates. I am thinking in particular of three campaigns by signers of USTL's congressional term limits pledge — which commits signatories, if elected, to cosponsor and vote for the existing Constitutional amendment bill limiting House reps to three terms and Senators to two. (Visit USTermLimitsAmendment.org to see whether congressional candidates in your state and district have signed.)

In Georgia, political newcomer Dr. Bob Johnson tangled for an open seat with term limits foe Buddy Carter, in politics since the late 1980s. Johnson conducted a "Term Limits NOW!" tour across the district with yours truly in tow. Johnson took the USTL pledge very seriously, even enlarging an unsigned copy of it and bringing it to Carter's office for his opponent to sign (Carter did not oblige). On July 22, the beginner lost a primary runoff by 46% to 53% to the longtime officeholder.

Another hard-fought primary contest was that waged for the U.S. Senate GOP nomination in Mississippi, where longtime incumbent and term limits foe U.S. Senator Thad Cochran was up against pledge signer Chris McDaniel, a state lawmaker and conservative commentator who has opposed Obamacare in court. Although Cochran was used to easy primary wins, the outcome here also had to be settled in a runoff. On June 24, McDaniel garnered 49% of the vote to Cochran's 51% (after having narrowly outpolled the incumbent on June 3).

My favorite news of this primary season, of course, was the June 10 victory in Virginia by pledge signer Dave Brat. It was thrilling to see the man who had announced "I want to be Eric Cantor's term limit" go on to defeat a sitting House majority leader, never before accomplished, in no uncertain terms by 55% to 45%.

Sure, I wish each of these pro-term-limits candidates had clobbered their opponents. But I'm glad they fought. And the effectiveness with which they campaigned — despite the odds against them ("Primary Overview" on page 6) — offers object lessons for future challengers of the status quo. One, don't be shy about throwing down the gauntlet, firmly, loudly, repeatedly. Two, never forget that term limits, though perennially bad-mouthed by establishmentarian incumbents, are perennially popular with voters.

Visit Phil Blumel's blog at pblumel.blogspot.com.

Visit USTL's Facebook page ("...SHARE if you think Congress should listen to its bosses on term limits") at on.fb.me/U0blkG.

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"It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error."

-- U.S. Supreme Court in *American Communications Association v. Douds*

Arkansas Citizens Sue (Cont'd from page 1)

year terms.

The furtive provisions of the politician-foisted ballot measure would balloon the term limit in each chamber to 16 years. These 16 years could in theory be divided in any proportion between the two chambers, but would in typical practice be served all in one chamber. Enabling the path of least electoral resistance is the motive for the change: incumbent lawmakers wish to be free to exploit the advantages of incumbency to keep running for reelection to the same seat much more often than the current law permits. Ultimately, of course, incumbents hope to repeal term limits altogether.

The popular name of Issue No. 3 is "An amendment regulating contributions to candidates for state or local office, barring gifts from lobbyists to certain state officials, and setting term limits for members of the General Assembly." As we've noted before in these pages, the purpose of talking about "setting" term limits (and, later, of "establishing" term limits) is to blur the fact that term limits have already been "set" for state lawmakers and that the purpose of the ballot measure is to drastically weaken those existing state legislative term limits.

The official ballot title consists of 150+ words about gifts from lobbyists, salary-setting, limits on registering as a lobbyist, etc. (see bit.ly/1wd4C7A for the text), and, at the very end, about "establishing," not lengthening, state legislative term limits.

Tim Jacob, co-chair of Arkansas Term Limits, held a news conference to voice full support for "the lawsuit that has been filed by citizens of this state to remove this deceptive amendment from the ballot....

"We welcome the opportunity to debate this openly," Jacob said. "If [the politicians] want to put an honest title on the ballot, that would be just great. But we can't do it with deceptive language where [details of the assault on term limits are] hidden halfway in the bill."

Jacob had earlier explained to KATV that if "you read the ballot title, it doesn't say what they do. It doesn't say 'double' the term. It doesn't say 'extend' the term. It doesn't say 'lengthen' the term. This is a deceptive bill."

The Arkansas GOP had also weighed in on the amendment during its July convention, during which it approved a resolution opposing the measure's appearance on the November ballot in light of the deceptive term limits provisions.

Illinois Judges Stop Citizens (Cont'd from page 1)

political ties to Speaker Madigan — claimed that the reforms didn't make "structural and procedural changes" to the legislature. But if term limits and altering the size of a legislative body don't count as "structural and procedural" changes, nothing ever could.

This is the second time that political power brokers in Illinois refused to allow a vote on term limits, having thwarted a similar proposal in 1994.

Citizens of the nation's third-most-corrupt state are livid. Gubernatorial candidate Bruce Rauner, who led the term limits initiative committee, tells voters in a new ad to take out their frustrations on Madigan and current Governor Pat Quinn at the ballot box.

Elections are not term limits. So it remains to be seen whether citizens have the ability to throw out the political machine come November. If elected, though, Rauner will be able to push for a legislative referral on term limits or a rewrite of the state's initiative law. Either option would enable the citizens of Illinois to finally free themselves from career politicians.

The insider-dominated politics of Illinois is certainly a cautionary tale for other states weighing whether to keep or enact term limits. A small group of leaders with indefinite terms will tend to go all-out to thwart reforms that threaten their own power. Under term limits, by contrast, surrender of power is structurally and procedurally a part of the legislature; citizens enjoy access to the lawmaking process without fear that power-lusting power brokers will block the door.

Nick Tomboulides is the executive director of U.S. Term Limits. The most recent installment of his popular Myth-Busting 101 series at termlimits.org disputes the seemingly extremely plausible notion that "Congress Will Never Vote to Term Limit Itself" (bit.ly/1tqI6DK).

Visit USTermLimitsAmendment.org

Washington, DC will never bring term limits to the people. The people will bring term limits to Washington, DC. Become an active participant in our congressional pledge program by contacting your representatives in Congress and candidates for U.S. House or U.S. Senate seeking to represent you who have not yet signed our congressional term limits pledge. Ask them to sign it and mail it to U.S. Term Limits (both House and Senate versions of the pledge are downloadable from the home page of ustermlimitsamendment.org). Click your state on the map at ustermlimitsamendment.org to learn who has signed the pledge in your state.

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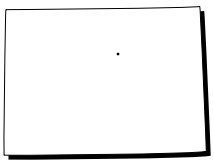
Term Limi

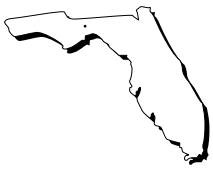
CALIFORNIA

Moreno Valley, CA. The Moreno Valley City Council voted 3-2 to post measures on the November ballot on whether to switch to an popularly elected mayor (currently selected by the town council), whether the length of the mayor's individual term should be two years or four years, and whether council members should face term limits. The term limits question would limit councilmen to three consecutive terms; they would be able to run for the same seat again after a two-year hiatus. Councilman George Price says the term limits measure is flawed. "We need to have term limits that are absolute. Once you've served, you don't come back."



COLORADO

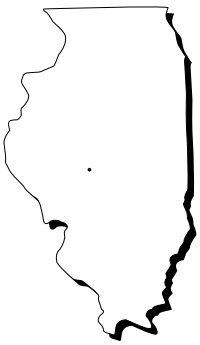
El Paso County, CO. Voters will get a chance this November to reduce the maximum tenure of the El Paso County sheriff from three consecutive four-year terms to two consecutive four-year terms. A recent scandal in the sheriff's office is one motive for the measure, which was referred to the ballot by county commissioners. The *El Paso Gazette* had argued back in May that if reports "of [Sheriff] Maketa's unethical behavior are true, this sordid controversy helps make the case for a reduction in terms. If true, the scandals reveal how a person can get away with abusing power and authority for years. An institutionalized changing of the guard, with a legal limit of two four-year terms, protects society from any politician secretly abusing power for more than eight years." The perhaps now-chastened county commissioners had caused an uproar in 2010 by deceiving voters into supporting a ballot measure to lengthen council members' own maximum tenure, as well as those of other county officials, to three four-year terms. Voters had the chance to restore the two-term limit to most offices in 2012, but the sheriff and district attorney were not covered by that remedial ballot measure.



FLORIDA

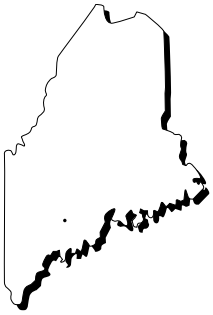
Opa-Locka, FL. The city commission approved a resolution to let Opa-Locka voters decide on a petition-supported charter amendment to term-limit commissioners and the mayor to eight years. An earlier version of the measure would have permitted a termed-out candidate to keep switching between the commission and the mayor's office. That won't be possible under the version voters will consider in November.

Orange County, FL. Here's a non-exception that proves the rule that when lawmakers refer term limits questions to ballot, they tend to prefer more lax limits than voters and petitioners would prefer: The Orange County commission has approved a charter amendment that, if approved, would subject county constitutional officers (clerk of the circuit court, comptroller, property appraiser, sheriff, elections supervisor and tax collector) to "term limits of four consecutive full four 4-year terms." That's 16 years by our math. (See the North Carolina entry, below, for another non-exception.)



ILLINOIS

Tinley Park, IL. A special panel charged with determining the legality of a term limits question refused to let it reach the ballot even though the petition drive led by resident Steve Eberhardt had gathered enough signatures. The measure would have limited the mayor, trustees and town clerk to three four-year terms. Some 72% of voters had supported an advisory referendum to that effect in 2012. The evident popularity of the reform then inspired a six-month "study" by town officials, conducted to show that they were taking the question of term limits seriously. Mayor Ed Zabrocki's well-known hostility to term limits is confirmed by the special panel's recent term-limits-killing decision. Mayor Zabrocki chairs the panel.



MAINE

Standish, ME. Several Standish residents, including former town councilor Lou Stack, are petitioning for a charter amendment to limit Standish councilors to two consecutive three-year terms. The residents need 1,205 signatures to get the amendment posted. It reads: "No council member shall seek reelection to the Town Council for more than one additional consecutive term. No person who has served either four or more successive years, or has been elected to two successive terms on the council, shall be eligible for either appointment or election to the council within 36 months of his/her last serving as a member. The provisions of this amendment shall apply to all appointments or elections, whether for district or at large seats."

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ts in the News

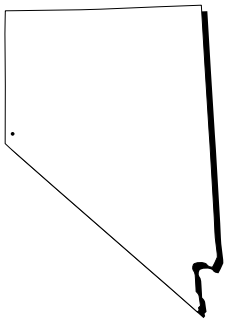
MARYLAND

Prince George's County, MD. The county council voted unanimously in late July to ask voters to weaken term limits on council members and the county executive by stretching their maximum tenure to three consecutive four-year terms; the current maximum is two consecutive four-year terms. The Prince George's County council has tried and failed before (in 2000 and 2004) to obtain voters' approval for repealing or weakening term limits. The 2000 measure was a repeal attempt; the idea in 2004 was to create two new at-large council member seats that would not be term-limited. Angela Holmes of the Prince George's County Civic Federation is leading the campaign against the new referendum.

MICHIGAN

Michigan State Senator Randy Richardville hopes to undermine the state's term limits law — which caps senate tenure at eight years, house tenure at six years — before he leaves office at the end of this year. "If my people want to keep me in office, I can gather signatures to do that and then voters can decide that for another term or I don't know how long. I haven't decided that yet." He wants to entice voters to support the part of his proposal that he knows they won't like — i.e., an escape hatch for term limits — by combining it with something that voters would like, perhaps a penalty for lawmakers if they fail to submit a budget on time. "If people didn't show up for work or if they don't adopt the budget on time they would not be paid, and I think that makes this a comprehensive package that no one would want to vote against."

Grand Rapids, MI. The Grand Rapids Citizens for Municipal Term Limits, led by Bonnie Burke and Rina Baker, has apparently gathered 50% more signatures than needed to put a question on the ballot that would limit the mayor and city commissioners to two four-year terms. "It's overwhelming the message we got [going door to door]. The people want the opportunity to choose [term limits]," Baker told mlive.com. "The biggest challenge is to find people home, but when they were home, I tell you, they were eager to sign."

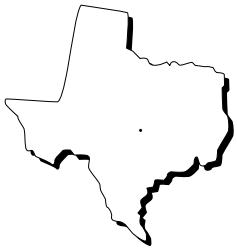


NEVADA

Henderson, NV. Attorney Stephanie Rice, who has been handling Rick Workman's lawsuit to unseat Mayor Andy Hafen for exceeding his term limit, has submitted a cogent brief rebutting assertions that Workman's motives, standing, or timing in filing his lawsuit have anything to do with the merits of that lawsuit. The question is whether Hafen's continued occupancy of the mayor's office is constitutional and whether it should be terminated immediately given the fact that he is violating his term limit. Rice argues that Nevada's state constitution "does not say that it only applies if and only if a challenge is made prior to the individual being elected to that office; it states that 'No person may be elected' if that individual has served in that office, or at the expiration of the individual's current term, will have served, 12 years or more.... The interpretation and enforcement of the Nevada Constitution are exclusively judicial functions. In this case, it is for this court to determine whether the Nevada Constitution has been breached and the consequences that follow such a breach."

NORTH CAROLINA

Here's a non-exception that proves the rule that when lawmakers refer term limits questions to ballot, they tend to prefer more lax limits than voters and petitioners would prefer: State Senator Ron Rabin wants lawmakers to serve "just" (the *Fayetteville Observer's* word) four consecutive four-year terms or 16 years "rather than unlimited two-year terms as they do now." (See the Florida entry, above, about Orange County, Florida for another non-exception.)



TEXAS

Abilene, TX. The Abilene Citizens for Fair Government is petitioning for a charter amendment to cap council and mayoral tenure at two three-year terms. Termed-out councilmen would be free to run for mayor, but a termed-out mayor would be ineligible to run for city council "regardless of [prior] service" as a city council member.

UNITED STATES

In the person of Linda Thomas-Greenfield, assistant secretary of state for African Affairs, the Obama administration says constitutional term limits should be respected. "If constitutions call for term limits, then those term limits need to be honored. And we have been very clear in discouraging African leaders from making changes in their constitution that will benefit one person, one party, to allow that person to stay in power longer than the constitution intended for them to stay in power."

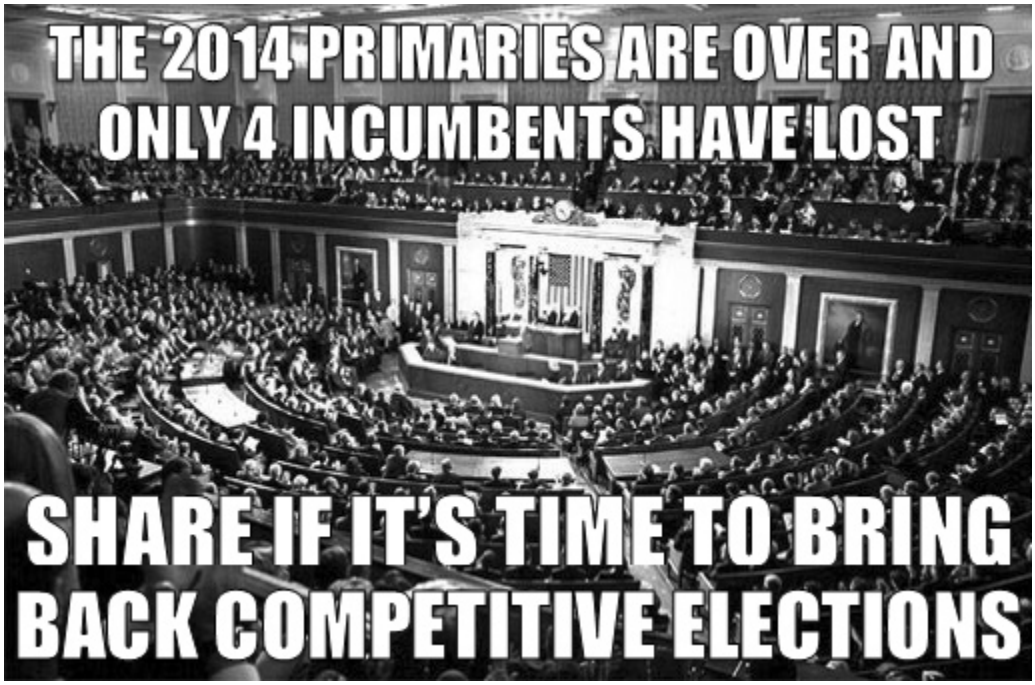
2014 Primary Overview: Per Usual, Most Incumbents Win

The 2014 midterm primary elections have ended. Democrats and Republicans will presumably stop the intra-party shenanigans and resume focus on "the enemy" from across the aisle. But can two ideologies really compete fairly when incumbency rules the day? Let's take a look at this year's primaries.

In 2014, out of nearly 1000 primary elections (including for the U.S. Senate), only four incumbent congressmen were defeated.

That's right. Four.

Even with spending of over $798 million on House and Senate primaries this cycle, voters saw scant change. Americans who invested in political campaigns hoping for a shakeup of the status quo have to be disappointed with these results.



To pick up this and other punchy poster-pics, visit our Facebook page at on.fb.me/U0blkG

The 2012 election had a 90% reelection rate in the House and 91% reelection rate in the Senate. But if this year's primaries are any indication, incumbents may prove even more resilient in 2014.

The Supreme Court decision *Citizens United vs. FEC* showed that corporations and unions do in fact have the right to spend unlimited amounts of money on campaigns. Whatever your view of the decision, it's proving to have minimal impact on the traditional strength of incumbents. Political contributions are at a record high, but competitive elections are at a record low.

Term limits are the only way that the American people can break this cycle. The legislative branch cannot function properly with career politicians riding name recognition and the biggest cash windfall of all time to record re-election rates. Yet when campaign finance reform was in place, incumbents weren't any weaker. Neither get-out-the-vote efforts nor limits on campaign speech have helped achieve rotation in office.

Only reform that favors no candidate from any walk of life — i.e., only term limits — can radically foster competitive elections.

Early in September, the Senate acted to weaken *Citizens United* — and the First Amendment — on its own. But is it very likely that politicians would so easily loosen their own grip on power? As our term limits pledge teaches, getting elected officials to vote against their own electoral self-interest is like prying a sword from a stone. It does not just "happen" without major grassroots effort.

Join the campaign for substantive reform on Congress by signing our petition (at bit.ly/1lJzGE5) today.

They Said It

"Lawmakers: You were not sent to Springfield to be bystanders."

"Once again, Illinois courts have held that the constitution's wording is too narrow to accommodate the voters' proposals.

"Here's what we've learned from this defeat [of the term limits and district-map-drawing initiatives]: If the people of Illinois want to take back their government, they're going to have to take back their constitution.....

"The citizens' initiative, intended as a check on legislative power, ought to be the perfect vehicle for redistricting reforms or term limits. But the entrenched politicians who are threatened by those measures have fought hard to kill voter-driven amendments. And they've won, six times out of seven....

"Lawmakers: You were not sent to Springfield to be bystanders.

"The constitution is not working for the people of Illinois. Voters often can't elect a representative of their choice. They can't hold their government accountable. The tools ostensibly available to change those things — competitive elections and citizen initiatives — have been sabotaged by their so-called public servants. If you won't fix this problem, then you are the problem.

USTL President Phil Blumel campaigns for term limits in Mississippi.

"Every year, a handful of lawmakers draft amendments that would help the people reclaim their state. Those measures get parked in committee. It would take an open revolt to bring one to the floor. Do it.

"Stand up for your constituents. Offer voters an amendment that would empower them to do the things you've promised, but haven't delivered.

"Stand up to your leaders, just this once. The people will take it from there."

— "Give people the power to shape their state," *Chicago Tribune*, August 22, 2014, trib.in/1lZ2sFw

Term-limit Madigan et al.

"We keep pointing out that lawmakers could simply have heeded all those polls and placed a term limits amendment on the ballot themselves. That would spare their constituents the effort and expense of collecting all those signatures and defending the measure in court. The legal arguments used to attack the citizens' initiative don't apply to amendments proposed by [Illinois's] General Assembly.

"Lawmakers complain that they've tried but they can't get those measures past Madigan. The solution to that doesn't even require a constitutional amendment: They could choose a different speaker. But they don't.

"Session after session, [Mike] Madigan is re-elected House speaker—often by acclamation. That's because the rank and file have shrugged and decided that they must play by his rules or not at all. And that, good citizens, could be the best argument for imposing term limits on all of them."

— "Targeting legislative leaders," *Chicago Tribune*, July 21, 2014, trib.in/1xIYdgX

Um, lobbyists don't like term limits...

"[State Senator Tick Segerblom], the first-term state senator from Las Vegas, announced in early July that he intends to start up the four-year process to erase term limits from the state constitution. It would require the Assembly to pass his bill in 2015 and 2017, before pushing the measure to voters in November 2018.

"Like most politicians looking for excuses to stay in power, Segerblom leans heavily on the myth that term limits help lobbyists. This couldn't be further from the truth. Whenever lobbyists and special interests are involved in term-limits questions, they always spend their money on defeating them....

"Lobbyists don't like term limits, and they never have. Term limits sever the ties that lobbyists build up with incumbent legislators, forcing them to work harder to establish bonds with newcomers."

— "Voters' decision on term limits deserves respect," Nick Tomboulides, *Las Vegas Review-Journal*, July 22, 2014, bit.ly/1lZ571H

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Inside No Uncertain Terms...

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— *El Paso Gazette*

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