

## **New Jersey's primary ballot design enables party insiders to pick winners**

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## **New Jersey Primary Ballots Enable Party Insiders to Pick Winners**

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The infamous Florida butterfly ballot of 2000, which may have cost Al Gore the Presidency, highlights the dramatic consequences of bad ballot design for general election outcomes.<sup>i</sup> The design of primary election ballots can also have substantial consequences, as these elections determine which candidates advance to the general election. This research brief demonstrates how a unique ballot design has been helping shape electoral outcomes in New Jersey for more than two decades, shifting the power to decide who wins primary elections away from the voters and towards a small group of party insiders who control the candidate endorsement process.

### New Jersey primary ballots

A review of primary ballots in all fifty states and the District of Columbia finds that New Jersey’s ballots look very different from those in other states.<sup>ii</sup> In all other states and DC, primary ballots are organized by the electoral position being sought, with candidates listed beneath each position (see Figure 1, Elko County, Nevada ballot) or immediately to the right of each position (see Figure 1, Sussex County, Delaware ballot). These ballot designs make it easy for voters to identify which candidates are running for which electoral office.

**Figure 1: Primary Ballot Designs Used by 49 States and District of Columbia**

Elko County, NV 2018 Democratic primary

Sussex County, DE 2018 Democratic primary

FEDERAL PARTISAN OFFICES	STATEWIDE PARTISAN OFFICES
<b>UNITED STATES SENATOR</b> Six (6) Year Term VOTE FOR ONE	<b>GOVERNOR</b> Four (4) Year Term VOTE FOR ONE
BURLEIGH, DANNY <input type="radio"/>	BONAVENTURA, JOHN <input type="radio"/>
KNIGHT, DAVID DREW <input type="radio"/>	DEWAN, ASHEESH <input type="radio"/>
MAHENDRA, SUJEET "BOBBY" <input type="radio"/>	GIUNCHIGLIANI, CHRISTINA "CHRIS G" <input type="radio"/>
RHEINHART, ALLEN <input type="radio"/>	JONES, DAVID E. <input type="radio"/>
ROSEN, JACKY <input type="radio"/>	SISOLAK, STEVE <input type="radio"/>
SBAIH, JESSE <input type="radio"/>	THORNS, HENRY <input type="radio"/>
NONE OF THESE CANDIDATES <input type="radio"/>	NONE OF THESE CANDIDATES <input type="radio"/>
<b>UNITED STATES REPRESENTATIVE IN CONGRESS, DISTRICT 2</b> Two (2) Year Term VOTE FOR ONE	<b>LIEUTENANT GOVERNOR</b> Four (4) Year Term VOTE FOR ONE
ALM, VANCE <input type="radio"/>	HANSEN, LAURIE L. <input type="radio"/>
FOGARTY, PATRICK <input type="radio"/>	MARSHALL, KATE <input type="radio"/>
HURLEY, JESSE DOUGLAS <input type="radio"/>	NONE OF THESE CANDIDATES <input type="radio"/>
KOBLE, CLINT <input type="radio"/>	<b>ATTORNEY GENERAL</b> Four (4) Year Term VOTE FOR ONE
SCHOFIELD JR., JACK L. <input type="radio"/>	FORD, AARON <input type="radio"/>
SHEPHERD, RICK <input type="radio"/>	MACKIE, STUART J. <input type="radio"/>
	NONE OF THESE CANDIDATES <input type="radio"/>

DEMOCRATIC PARTY	
<b>FOR UNITED STATES SENATOR</b> VOTE FOR ONE (1)	THOMAS R. CARPER <input checked="" type="checkbox"/> KERRI EVELYN HARRIS <input checked="" type="checkbox"/>
<b>FOR ATTORNEY GENERAL</b> VOTE FOR ONE (1)	KATHLEEN JENNINGS <input checked="" type="checkbox"/> CHRISTOFER JOHNSON <input checked="" type="checkbox"/> TIMOTHY P. MULLANEY, SR. <input checked="" type="checkbox"/> LAKRESHA ROBERTS <input checked="" type="checkbox"/>
<b>FOR AUDITOR OF ACCOUNTS</b> VOTE FOR ONE (1)	KATHLEEN ANN DAVIES <input checked="" type="checkbox"/> KATHLEEN K. MCGUINNESS <input checked="" type="checkbox"/> DENNIS E. WILLIAMS <input checked="" type="checkbox"/>

By contrast, in nineteen of New Jersey’s twenty-one counties, the machine primary ballots used by the majority of voters are organized around a slate of candidates endorsed by either the Democratic or the Republican Party.<sup>iii</sup> These slates of candidates are known as the “county line” or the “party line,” in reference to the fact that the endorsements are determined at the county party level and the endorsed candidates are presented on the ballot as a vertical or horizontal line of names. Candidates not on the line are placed in other columns or rows, sometimes far away from the county line candidates.

Figure 2 shows the 2018 New Jersey Democratic primary ballot from Camden County. The nine county line candidates are in column 2. The remaining fifteen candidates are scattered across the other eight, mostly empty, columns. There is no obvious logic as to why each of the non-endorsed candidates is in a particular column. Column 1 includes a single candidate for the US Senate.

Columns 3 through 8 include eleven candidates for Camden County Freeholder. Column 9 includes two candidates for the US House of Representatives and a candidate for the Camden City Council.

**Figure 2: Camden County New Jersey 2018 Democratic primary ballot**

DEMOCRAT BALLOT PAPELETA DEMOCRATA											
OFFICE TITLE TITULO DE OFICINA	COLUMN COLUMNA 1	COLUMN COLUMNA 2	COLUMN COLUMNA 3	COLUMN COLUMNA 4	COLUMN COLUMNA 5	COLUMN COLUMNA 6	COLUMN COLUMNA 7	COLUMN COLUMNA 8	COLUMN COLUMNA 9	WRITE-IN POR ESCRITO	
United States Senator <i>(Vote For One)</i> Senado de los Estados Unidos <i>(Vote For One)</i>	Endorsed by County Line A <b>MC CORMICK</b> <input type="checkbox"/>	London County Democratic Committee Inc. Robert <b>MENENDEZ</b> <input type="checkbox"/>								<input type="checkbox"/> No Keyboard <input type="checkbox"/> Ballot <input type="checkbox"/> Write-in <input type="checkbox"/> Por Escrito	
Member of the House of Representatives <i>(Vote For One)</i> Miembros de Casa de Representantes <i>(Vote For One)</i>		Camden County Democratic Committee Inc. Donald W. <b>NORCROSS</b> <input type="checkbox"/>							By Naming Scott John <b>TOMASZEWSKI</b> <input type="checkbox"/> Endorsed by County Line A Robert Lee <b>CARLSON</b> <input type="checkbox"/>	<input type="checkbox"/> No Keyboard <input type="checkbox"/> Ballot <input type="checkbox"/> Write-in <input type="checkbox"/> Por Escrito	
Sheriff <i>(Vote For One)</i> Oficina del Alcaide <i>(Vote For One)</i>		Camden County Democratic Committee Inc. Gilbert L. "Wig" <b>WILSON</b> <input type="checkbox"/>								<input type="checkbox"/> No Keyboard <input type="checkbox"/> Ballot <input type="checkbox"/> Write-in <input type="checkbox"/> Por Escrito	
Members of the Board of Chosen Freeholders <i>(Vote For Three)</i> Miembros de la Junta de Elegidos del Condado <i>(Vote For Three)</i>		Camden County Democratic Committee Inc. Jeffrey L. <b>NASH</b> <input type="checkbox"/> London County Democratic Committee Inc. Sean <b>SHIN ANGILO</b> <input type="checkbox"/> Camden County Democratic Committee Inc. William F. <b>MOEN, JR.</b> <input type="checkbox"/>	Endorsed by Democratic Party Unity Martha L. <b>CANAS</b> <input type="checkbox"/> Adm. de Elecciones Part. Unid. Mary Ann <b>DUNN</b> <input type="checkbox"/>	Not Registered to a Major Structure Kathleen A. <b>KUNYCHKA</b> <input type="checkbox"/> Not Registered to a Major Structure Robert J. <b>STRONG</b> <input type="checkbox"/>	Also Structure a Major Place Alexis <b>DE LUCA</b> <input type="checkbox"/> Also Structure a Major Place Patrick <b>GRIFFIS</b> <input type="checkbox"/>	See Middle Class Alliance James <b>COYLE</b> <input type="checkbox"/> See Middle Class Alliance Joanna <b>ROSELL</b> <input type="checkbox"/>	Appointed Public Chris <b>KEHNER</b> <input type="checkbox"/> Appointed Public Ralph T. <b>GONGO, JR.</b> <input type="checkbox"/>	Lib a Better & Greater County Michael <b>LEONETTI</b> <input type="checkbox"/>		<input type="checkbox"/> No Keyboard <input type="checkbox"/> Ballot <input type="checkbox"/> Write-in <input type="checkbox"/> Por Escrito	
Mayor <i>(Vote For One)</i> Alcalde <i>(Vote For One)</i>		Camden County Democratic Committee Inc. Edward F. <b>BRENNAN</b> <input type="checkbox"/>								<input type="checkbox"/> No Keyboard <input type="checkbox"/> Ballot <input type="checkbox"/> Write-in <input type="checkbox"/> Por Escrito	
Members of Council <i>(Vote For Two)</i> Miembros del Consejo Municipal <i>(Vote For Two)</i>		Camden County Democratic Committee Inc. John A. <b>GRASSO</b> <input type="checkbox"/> Camden County Democratic Committee Inc. Daniel A. <b>SPERRAZZA</b> <input type="checkbox"/>							Endorsed by County Line A Mark Vito <b>SCARPA</b> <input type="checkbox"/>	<input type="checkbox"/> No Keyboard <input type="checkbox"/> Ballot <input type="checkbox"/> Write-in <input type="checkbox"/> Por Escrito	

This ballot design - particularly listing candidates for the same office in different columns that may not even be adjacent, and candidates for different offices in the same column -- makes it much more challenging for voters to determine which candidates are running for each office. Such a ballot design results in voters not realizing that some positions are contested or disqualifying their vote by mistakenly voting for too many candidates for a given position.<sup>iv</sup> It also encourages voters to pick the candidates on the county line — an easy to find and visually consistent option. The county line is further advantaged by the placement of better-known candidates, such as those running for President, U.S. Senator, or Governor, at the top of the line and the inclusion of candidates for most or all of the offices on the ballot.<sup>v</sup> It is very challenging for candidates not endorsed by the party to compete with the county line by assembling a full slate of candidates that includes someone running for every position.

The county line is particularly advantageous for candidates whose names may be less familiar to voters, such as those running for the state legislature, and county-level or local positions. But the county line seems to provide a substantial electoral advantage regardless of the office being sought. A recent analysis by the Communications Workers of America found that no state legislative incumbent on the line had lost a primary election in New Jersey between 2009 and 2018.<sup>vi</sup> Although incumbents generally win reelection, that advantage is rarely so absolute. In New York State, for example, twenty-two state legislative incumbents lost primary elections over the same time period.<sup>vii</sup>

The line provides an advantage for non-incumbents as well. For example, in the 2017 Democratic primary for Governor, Phil Murphy was endorsed by all 21 county political parties. Murphy won the primary in 20 of those counties but lost Salem county to John Wisniewski. Wisniewski's win of Salem County is the first time since 1997 that a candidate in a Democratic primary for Governor or U.S. Senator won any county without being part of the county line.<sup>viii</sup> Salem is also one of only two New Jersey counties, along with Sussex, that do not organize their Democratic and Republican machine primary ballots around a county line. Instead, the County Clerks in those two counties structure their

primary ballots around the electoral positions being sought, like ballots in every other state in the country.<sup>ix</sup>

The difference between the Salem and Sussex primary ballots and those in the rest of the state is dramatic. Figure 3 shows the gubernatorial portions of New Jersey’s 2017 Democratic primary ballots for Salem and Sussex counties versus the Middlesex County ballot. The six candidates for Governor are clearly identified as such in the Salem and Sussex ballots. In contrast, the Middlesex ballot lists the names of the six gubernatorial candidates over five different columns, with one of the candidates – Wisniewski – in a separate row from the other five. It is not surprising that candidates without party endorsement have little chance of winning when their names are presented to voters in such a confusing manner.

**Figure 3: 2017 Democratic Primary Ballots**

**Salem County**

<b>CANDIDATES FOR GOVERNOR OF THE STATE OF NEW JERSEY</b> 4 YEAR TERM - VOTE FOR ONE	<b>NEW JERSEY ASSEMBLY</b> 2-YEAR TERM - VOTE FOR TWO
<b>JOHN S. WISNIEWSKI</b> Main Street, Not Wall Street <input type="radio"/>	<b>JOHN J. BURZICHELLI</b> Regular Democratic Organization <input type="radio"/>
<b>JIM JOHNSON</b> The Progressive Leader For All Families <input type="radio"/>	<b>ADAM TALLAFERRO</b> Regular Democratic Organization <input type="radio"/>
<b>WILLIAM BRENNAN</b> Progress With Integrity <input type="radio"/>	<b>JOHN KALNAS</b> (Nominal) <input type="radio"/>
<b>RAYMOND J. LESNIAK</b> Democrat For Governor <input type="radio"/>	<b>WRITE-IN</b> <input type="radio"/>
<b>PHILIP MURPHY</b> Regular Democratic Organization <input type="radio"/>	<b>WRITE-IN</b> <input type="radio"/>
<b>MARK ZINNO</b> Let's Rebuild New Jersey Together <input type="radio"/>	<b>MALE MEMBER OF THE NEW JERSEY STATE COMMITTEE</b> 4-YEAR TERM - VOTE FOR ONE
<b>WRITE-IN</b> <input type="radio"/>	<b>PETER J. VOROS</b> Regular Democratic Organization <input type="radio"/>
<b>NEW JERSEY SENATE</b> 4 YEAR TERM - VOTE FOR ONE	<b>WRITE-IN</b> <input type="radio"/>
<b>STEVE SWIDNEY</b> Regular Democratic Organization <input type="radio"/>	<b>FEMALE MEMBER OF THE NEW JERSEY STATE COMMITTEE</b> 4-YEAR TERM - VOTE FOR ONE
<b>WRITE-IN</b> <input type="radio"/>	<b>CAROL WASHINGTON</b> Regular Democratic Organization <input type="radio"/>
	<b>WRITE-IN</b> <input type="radio"/>

**Sussex County**

DEMOCRATIC	<b>STATE</b>	<b>GENERAL ASSEMBLY</b> Two-Year Term (Vote for Two)	<b>FEMALE MEMBER OF STATE COMMITTEE</b> Four-Year Term (Vote for One)
	<b>GOVERNOR</b> Four-Year Term (Vote for One)	<b>Kate Matteson</b> Sussex County Democratic Organization <input type="radio"/>	<b>Nichele Van Allen</b> Sussex County Democratic Organization <input type="radio"/>
	<b>Jim Johnson</b> The Progressive Leader For All Families <input type="radio"/>	<b>Gina Trich</b> Sussex County Democratic Organization <input type="radio"/>	<b>Write-In</b> <input type="radio"/>
	<b>John S. Wisniewski</b> Main Street, Not Wall Street <input type="radio"/>	<b>Michael Thomas Pirog</b> Take Back Our Politics <input type="radio"/>	<b>MUNICIPAL</b>
	<b>Raymond J. Lesniak</b> Democrat For Governor <input type="radio"/>	<b>Write-In</b> <input type="radio"/>	<b>BOROUGH COUNCIL</b> Three-Year Term (Vote for Two)
	<b>William Brennan</b> Progress With Integrity <input type="radio"/>	<b>Write-In</b> <input type="radio"/>	<b>Anthony Riccardi</b> Sussex County Democratic Organization <input type="radio"/>
	<b>Philip Murphy</b> Sussex County Democratic Organization <input type="radio"/>	<b>COUNTY</b>	<b>Michael A. Depew</b> <input type="radio"/>
	<b>Mark Zinno</b> Let's Rebuild New Jersey Together <input type="radio"/>	<b>FREEHOLDER</b> Three-Year Term (Vote for One)	<b>Write-In</b> <input type="radio"/>
	<b>Write-In</b> <input type="radio"/>	<b>Daniel Perez</b> Sussex County Democratic Organization <input type="radio"/>	<b>Write-In</b> <input type="radio"/>
	<b>SENATE</b> Four-Year Term (Vote for One)	<b>Write-In</b> <input type="radio"/>	<b>Write-In</b> <input type="radio"/>
	<b>Jennifer Hamilton</b> Sussex County Democratic Organization <input type="radio"/>	<b>MALE MEMBER OF STATE COMMITTEE</b> Four-Year Term (Vote for One)	<b>MALE MEMBER OF COUNTY COMMITTEE</b> Two-Year Term (Vote for One)
	<b>Write-In</b> <input type="radio"/>	<b>Benjamin A. Silva</b> Sussex County Democratic Organization <input type="radio"/>	<b>No Petition Filed</b> <input type="radio"/>
	<b>William L. Boella</b> Progressive Democrat <input type="radio"/>	<b>Write-In</b> <input type="radio"/>	
	<b>Write-In</b> <input type="radio"/>	<b>FEMALE MEMBER OF COUNTY COMMITTEE</b> Two-Year Term (Vote for One)	
		<b>No Petition Filed</b> <input type="radio"/>	
		<b>Write-In</b> <input type="radio"/>	

## Middlesex County

OFFICE TITLE CARGO cargo	DEMOCRATIC DEMOCRÁTICO DEMOCRÁTICO A	DEMOCRATIC DEMOCRÁTICO DEMOCRÁTICO B	DEMOCRATIC DEMOCRÁTICO DEMOCRÁTICO C	DEMOCRATIC DEMOCRÁTICO DEMOCRÁTICO D	DEMOCRATIC DEMOCRÁTICO DEMOCRÁTICO E
Governor 4 Year Term, Vote for One Gobernador Término de 4 Años, Vote por Uno 4 años, 4 años, 4 años, 4 años	Joe JOHNSON The Progressive Leader for All Families 1A	Phil WHEAT Middlesex County Democratic Organization 1B	Rob ZINNA Let's Reform New Jersey Together 1C	Edward J. LESNIAK Democratic Party Governor 1D John S. WISNIEWSKI Middlesex County, New Jersey 2D	William BRENNAN Progress With Integrity 1E
State Senator 2023 Election 4 Year Term, Vote for One Senador del Estado Elección 23 Término de 4 Años, Vote por Uno 4 años, 4 años, 4 años, 4 años		Joseph F. VITALE Middlesex County Democratic Organization 3B			
Members of the General Assembly 2023 Election 2 Year Term, Vote for Two Miembros de la Asamblea General Elección 23 Término de 2 Años, Vote por Dos 2 años, 2 años, 2 años, 2 años		Eric J. COUGHLIN Middlesex County Democratic Organization 6B Yvonne LOPEZ Middlesex County Democratic Organization 7B			
Sheriff 5 Year Term, Vote for One Jefe de Testamento Término de 5 Años, Vote por Uno 5 años, 5 años, 5 años, 5 años		Kevin J. BOAGLAND Middlesex County Democratic Organization 9B			
Members of the Board of Chosen Freeholders 2 Year Term, Vote for Two Miembros de la Junta de Proprietarios Electos Término de 2 Años, Vote por Dos 2 años, 2 años, 2 años, 2 años		Charles TOMBARO Middlesex County Democratic Organization 11B Eddie KOPPEL Middlesex County Democratic Organization 12B	Ali NAZER Central Jersey Progressive Democrats 11C Catherine HUNT Central Jersey Progressive Democrats 12C		

## Fair primary ballots for New Jersey

Problematic ballot design is frequently unintentional, the result of “overworked local officials who don’t have the time or staff to test whether a design works.”<sup>x</sup> When it comes to New Jersey primary ballots, however, faulty design is a feature rather than a bug. As detailed by Brett Pugach in a forthcoming [Rutgers Law Review article](#), New Jersey’s primary ballot design reflects a combination of state laws and decades of court rulings that have created a confusing patchwork of regulations. The state’s county party organizations seem to have taken advantage of this confusion to control the design of primary ballots, as a powerful means of benefitting the election of their chosen candidates.<sup>xi</sup>

The New Jersey legislature could ensure that the state’s voters and not party insiders determine who wins primary elections by passing legislation that requires New Jersey primary ballots to be structured like those in other states. Those ballots would clearly indicate the title of each office being sought and, underneath or to the side of that, list the names of each candidate running for that office. To maximize ballot fairness, the candidates’ names would be randomly drawn and the order rotated by district, to counter the [advantages of first-ballot position](#). Legislation that requires ballots organized in this manner ought to be a top reform priority for any legislators who care about election fairness.

<sup>i</sup> Spenser Mestel (2018). How bad ballot design can sway the result of an election, The Guardian, November 19.

<sup>ii</sup> The review included 2010 to 2020 primary ballots from at least four counties in every state and from the District of Columbia, as well as 2017 to 2020 primary ballots from all 21 New Jersey counties. See [https://drive.google.com/drive/folders/1vudVsxEcLvY2nZAfD\\_k88780nyh5sGCr?usp=sharing](https://drive.google.com/drive/folders/1vudVsxEcLvY2nZAfD_k88780nyh5sGCr?usp=sharing)

<sup>iii</sup> Some counties that use a county line for in-person machine voting ballots have used Vote-by-Mail paper ballots that are structured like ballots in other states, by the electoral positions being sought. In 2020, Hunterdon, Passaic, Salem, Sussex and Warren counties are all using such Vote-by-Mail ballots for the Democratic and Republican primaries and Morris County is using such a ballot for the Republican primary. Historically, few New Jersey residents have voted by mail so the impact of these ballots has been minimal. In 2020, however, the entire state is voting by mail, creating a natural experiment to assess the effect of the county line on voter behavior.

<sup>iv</sup> Andrea Cordova McCadney, Lawrence Norden and Whitney Quesenbery (2020, February 3) Common Ballot Design Flaws and How to Fix Them, The Brennan Center. <https://www.brennancenter.org/our-work/research-reports/common-ballot-design-flaws-and-how-fix-them>

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<sup>v</sup> In years when there are no statewide or national contests, the candidates for State Senate or Assembly are placed at the top of the county line.

<sup>vi</sup> Francisco Diez, *The Likely Advantages of the Line*, Communication Workers of America analysis, July 29, 2019.

<sup>vii</sup> Diez

<sup>viii</sup> Nick Acocella, 2017. *How Much Does the Line Matter?* Insidernj.com June 10. <https://www.insidernj.com/much-line-matter/>

<sup>ix</sup> Morris County does not organize its Republican primary ballot around the county line. However, the Democratic primary ballot in Morris County is organized around the county line.

<sup>x</sup> Danielle Kunits (2020, June 12) *Don't Let Mail-in Voting be thwarted by badly designed ballots*. The Washington Post. Available [https://www.washingtonpost.com/opinions/2020/06/12/these-are-9-senate-seats-most-likely-flip/?arc404=true&utm\\_campaign=wp\\_post\\_most&utm\\_medium=email&utm\\_source=newsletter&wpisrc=nl\\_most](https://www.washingtonpost.com/opinions/2020/06/12/these-are-9-senate-seats-most-likely-flip/?arc404=true&utm_campaign=wp_post_most&utm_medium=email&utm_source=newsletter&wpisrc=nl_most)

<sup>xi</sup> Brett Pugach. (forthcoming). *The County Line: The Law and Politics of Ballot Positioning in New Jersey*. Rutgers University Law Review.