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House Government Oversight Committee  
House Bill 149  
Proponent and Interested Party  
Written Testimony  
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Chair Wilkin, Vice Chair White, Ranking Member Sweeney, and members of the House Government Oversight Committee, thank you for this opportunity to testify about House Bill (HB) 149 (a companion bill to SB 80), both as a proponent and an interested party.

My name is John C. Green and I am Director Emeritus of the Bliss Institute at the University of Akron. Over the last decade, my colleagues and I have done extensive research on Ohio judicial elections. We concluded that the public's view of Ohio courts is diminished by the fact that fewer Ohioans vote for judicial candidates than for other kinds of candidates, and further, that voter participation in judicial elections can be increased by providing relevant information to voters.

Between 2015 and 2020, the Bliss Institute has hosted the *Judicial Votes Count* website (<https://judicialvotescount.com/>) in partnership with Ohio Supreme Court, League of Women Voters of Ohio, the Ohio State Bar Association, Ohio News Media Association, and the Ohio Association of Broadcasters.

Analysis of *Judicial Votes Count* impact suggests that it has been successful within the context of the existing system of judicial elections. However, the effectiveness of projects such as *Judicial Votes Count* will be enhanced by the adoption of HB 149.

An important reason for the relative lack of voter participation in Ohio judicial elections is a unique feature of our system: many judicial candidates are nominated in *partisan* primary elections but then are designated as *non-partisan* candidates on general election ballots. This inconsistency confuses many voters and denies all voters information on the party affiliation of judicial candidates—a fact provided on the general election ballot for other candidates nominated in Ohio partisan primaries.

Greater factual transparency alone is a good reason for resolving this disparity on general election judicial ballots. But it is also a well-established fact that many voters find candidates' party affiliation useful when deciding to cast their ballots. Overall, knowledge of a candidates' party is most valuable to voters with various kinds of limitations, including those who are young, less affluent or educated, and members of minority groups.

It is worth noting that while educational projects, such as *Judicial Votes Count*, can reach tens of thousands of potential voters, a partisan label on the ballot will reach *millions of actual voters*.

Intricacies of Ohio election law exacerbate this information problem: all designated non-partisan candidates are placed toward the bottom of the general election ballot. So, for example, the Chief Justice of the Ohio Supreme Court is not found on the same portion of the general election ballot with other state offices which are functionally equivalent, such as the Attorney General or Secretary of State. This pattern also confuses voters, inadvertently communicating that these state offices are only of local interest.

The negative impact of these features on voter participation in judicial elections is clear. For example, in 2020 the number votes cast for the designated *non-partisan* Supreme Court candidates was just 82 percent of all the ballots cast in the election; the comparable figure for designated *non-partisan* Court of Appeals candidates was 68 percent. In contrast, ballots cast for the designated *partisan* candidates for the U.S. and Ohio House of Representatives were far greater, respectively, 96 and 92 percent of all ballots cast.

A similar pattern obtained in the 2018 election: ballots cast for designated *non-partisan* Supreme Court and Court of Appeals candidates was 79 and 74 percent of all ballots cast, and far less than the designated partisan offices of Secretary of State (97 percent), U.S. House of Representatives (98 percent), and Ohio House of Representatives (95 percent).

HB 149 addresses these problems by requiring that the party affiliation of Supreme Court and Court of Appeals candidates nominated via partisan primaries be provided on the general election ballot, and at the same time, revising the order of offices on the general election ballot, so that Supreme Court and Court of Appeals candidates appear alongside candidates for functionally equivalent non-judicial offices.

These changes will provide voters with useful information for voting in judicial elections and this information will lead to increased voter participation in judicial elections. Over time, these changes may also encourage an increase in contested judicial elections, competitive races, and media coverage of judicial campaigns. These expectations are supported by data from other states with partisan judicial elections, such as Texas and North Carolina, which have much higher levels of voting in judicial elections.

Some people are concerned that these changes will create a negative impression among voters that Ohio judges are unduly partisan. Based on the available evidence, this concern appears to be overstated. First, the fact that judges are currently nominated in partisan primaries has already introduced partisanship into judicial elections, albeit in a confusing fashion. Recognizing this fact on the general election ballot is unlikely to substantially change public perceptions in this regard. In addition, it is important to remember that the conduct of Ohio judges is strictly regulated by law, rules, and norms. But were a judge to behave in an inappropriately partisan fashion, experience has shown that competitive elections are the ultimate remedy. These changes will make this remedy more effective.

In sum, HB 149 offers a practical solution to a real problem in an otherwise excellent judicial system.