

Testimony on H.B. 770: Access to Voted Ballots

Chairman Grey Mills, Election Law and Campaign Finance Committee
300 N. Salisbury Street, Rm. 635
Raleigh, NC 27603-5925

Testimony on H.B. 770, “Access to Voted Ballots”

Dear Chairman Grey Mills and Election Law and Campaign Finance Committee Members,

The public release of cast vote records strengthens election transparency, legitimacy, and integrity. That said, making these records public comes with trade-offs: Voters’ privacy might be compromised, and many election offices do not have the resources or equipment required to undertake this effort. H.B. 770 is a strong first step toward fostering a free, fair, and transparent election system, but additional clarification is needed to protect voter privacy and prevent glitches during voting and tabulation.

Voter privacy is a fundamental principle of our democratic process, and we commend the bill’s authors for including the provision that “Elections officials shall redact any information identifying the voter before releasing these documents to the public.”

However, redacting personally identifiable information alone does not address all risks to voter privacy, nor does it address the resource and technology limitations that would inhibit counties from meeting these new requirements.

Several provisions of the bill require further clarification and consideration:

- **Lack of Redaction Process Details:** While the bill rightly emphasizes the need to redact information identifying the voter, it does not outline a clear process for how this redaction will be carried out. Key questions remain unanswered, such as whether write-in votes—which, in fringe cases, could facilitate vote buying—will be redacted, how redaction will be conducted, and how the costs associated with redaction will be covered. ***H.B. 770 should grant the State Board of Elections rule-making authority for how redaction should take place. Appropriators should consider the cost of redaction in its ongoing budget negotiations.***

Testimony on H.B. 770: Access to Voted Ballots

- **Limitations of Existing Voting Equipment:** North Carolina's 100 counties utilize a [variety of voting equipment types by different manufacturers](#), with three counties (Graham, Swain, and Watauga) lacking equipment capable of producing cast vote records. Each of these three counties are conducting municipal elections in November, meaning they do not have time to procure, review, and test in time for it to be used in the next election. Additionally, procuring new voting equipment and training personnel on its use pose a cost burden to counties that appropriators must consider. Robust training is essential to prevent glitches or errors when using new voting or tabulation equipment, particularly when using it for the first time during a high-turnout presidential election. ***The effective date for this bill should be January 1, 2025, to give counties time to procure, test, approve, and train employees on new equipment. Legislative leaders should account for the cost of new equipment and training needs when finalizing the state's budget in the coming weeks.***
- **Privacy Concerns in Small Reporting Units:** Simply redacting personally identifiable information does not eliminate all possibilities of violating a voter's privacy. When a precinct has a small number of voters, or when a small number of voters use a specific method of voting, it can be possible to infer an individual voter's choices by joining information from a cast vote record with a voter history file, which lists everyone who voted in a given precinct. ***H.B. 770 should require that election offices aggregate small reporting units which would otherwise expose voter privacy. Appropriators should supply the State Board of Elections additional resources to establish binding rules and procedures for the aggregation requirements.***
- **Maintaining Chain of Custody of Voted Ballots:** Section 2 of H.B. 770 might inadvertently threaten the security of voted ballots, and in doing so violate federal records retention requirements. ***"Voted ballots" should be removed from the provision: "Response to a public records request for all cast vote records (CVRs) or voted ballots captured in a tabulation or voting machine, precinct, ward, district, city, or county."***

Testimony on H.B. 770: Access to Voted Ballots

H.B. 770 is a positive step towards balancing transparency and voter privacy. By clarifying the redaction process, filling resource and equipment gaps, and addressing privacy concerns in small reporting units, North Carolina can ensure the release of cast vote records does not compromise a smooth election.

For additional information, please contact me or refer to my recent Bipartisan Policy Center explainer, [*Implications of Making Ballot Images and Cast Vote Records Public*](#).

Sincerely,

Rachel Orey

Senior Associate Director, Elections Project

Bipartisan Policy Center

rorey@bipartisanpolicy.org | (619) 867 - 1652