

**FORM 5, BFM 50.10****ADMINISTRATIVE PROCEDURES ACT  
FISCAL NOTE**

Prepared by Submitting Agency

**UPDATED 9-15-2023 AFTER CONSULTATION WITH BFM**

	<b>CODE</b>	<b>NAME</b>
<b>DEPARTMENT</b>	3101	Secretary of State on behalf of the Board of Elections
<b>DIVISION</b>	3101	Secretary of State on behalf of the Board of Elections
<b>PROGRAM</b>	3101	Secretary of State on behalf of the Board of Elections

**PROPOSED RULE:** §§5:02:23:02; 5:02:23:03; 5:02:23:04; 5:02:23:05; 5:02:23:06; 5:02:23:07; 5:02:23:08; 5:02:23:09; 5:02:23:10; 5:02:23:11; 5:02:23:12; 5:02:23:13; 5:02:23:14; 5:02:23:15; and 5:02:23:16.

Hearing Date: September 27, 2023

**FISCAL IMPACT STATEMENT:**

Brief description of fiscal impact: This set of rules pertains to the procedures that need to be followed in conducting Post-Election Audits. Counties are statutorily mandated to conduct post-election audits and the Secretary of State is statutorily directed to reimburse the counties for the cost of conducting post-election audits.

At this time, the fiscal impact to conduct post-election audits is indeterminable due to the following: post-election audits have not been completed in South Dakota before, therefore the time and staffing needs are unknown and can fluctuate depending on the county and precinct being audited; the fiscal note generated by LRC to support SB 160 (which established post-election audits (<https://mylrc.sdlegislature.gov/api/Documents/247621.pdf>) used Idaho cost data to determine the appropriation amount (\$15,950). Specifically, the number of counties utilized to calculate the appropriation amount was 44 (total counties in Idaho) not 66 (total counties in South Dakota) and it was for one post-election audit not both the general and primary elections, as is stated in the law. Based on this updated information, the fiscal impact for South Dakota based on 66 counties and both post-election audits would be approximately \$47,850.

The Secretary of State's office conducted a survey of county auditors ([https://www.surveymonkey.com/results/SM-L6VE6Lcgy\\_2F88HuLS\\_2FSiglg\\_3D\\_3D/](https://www.surveymonkey.com/results/SM-L6VE6Lcgy_2F88HuLS_2FSiglg_3D_3D/)), and 41% of respondents stated that they are unable to determine a cost based on the information they have at this time. Of the 34 responses they received that did include cost amounts, the cost ranged from \$500 to \$20,000. The overall average was \$4,389 per county. This would bring the annual estimated total cost for both primary and general post-election audits to \$579,348.

Due to the significant range between Idaho's cost data and the auditor survey, we believe the fiscal impact is indeterminable at this time. Once a post-election audit has been completed, the Secretary of State's office will have a more accurate fiscal impact.

**FISCAL NOTE SUMMARY:**

List state agencies of local government affected. The SOS office is affected as to time to draft proposed rules, the fiscal impact mandated by the statute, and answering the county auditor questions that will follow.

**COST INCREASES (DECREASES)**

<b>State Agencies:</b>	<b>First-Year Impact</b>	<b>Continuous-Yearly Impact</b>
<b>TOTAL</b>		
<b>Local Subdivisions:</b>		
counties	indeterminable	The same amount every two years
<b>TOTAL</b>		

<b>Small Business Increases (Decreases)</b>		
<b>TOTAL</b>		

**REVENUE INCREASES (DECREASES)**

<b>Revenue Increases (Decreases) State, Local &amp; Small Business :</b>		
<b>TOTAL</b>		

APPROVED  DATE 9-15-'23  
Signature Department Secretary or Board or Commission Chairman

**ATTACH:** Copy of proposed rules; separate sections for: 1) explanation of effect (i.e., procedures, schedules, activities, etc. that will change with adoption), 2) source and use of any statistics, 3) assumptions for fiscal impact, 4) computations, and 5) Small Business Impact Statement

A copy of this form may be obtained from the Bureau of Finance and Management. If proposed rules have a negative fiscal impact on a local government, the Bureau of Finance and Management must send a copy of its fiscal note to the organizations listed in SDCL 1-26-4.2.



ANSWER CHOICES	RESPONSES	
Hourly	29.41%	10
Lump sum	70.59%	24
TOTAL		34

Q5

How much do you pay your workers?

Answered: 34   Skipped: 0

\$250.00/day for Election Day + \$20 for training

9/1/2023 10:38 AM

\$17.33

8/30/2023 04:30 PM

\$15.00

8/30/2023 03:09 PM

Have them set at \$15.00 per hour, but may have to double that amount in 2024.

8/30/2023 02:59 PM

Superintendents-\$200.00 Judges-\$175.00. \$20.00 to attend the election school and \$15.00

Q6

How many people/staff will be needed for the post-election audit?

Answered: 34   Skipped: 0

12 board members + office staff

9/1/2023 10:38 AM

6

8/30/2023 04:30 PM

At least 3

8/30/2023 03:09 PM

Unknown. No information available. Could take 20 people. (If I can get any to serve.) Struggle to persuade citizens to serve on election board.

8/30/2023 02:59 PM

Q7



How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

12 hours

9/1/2023 10:38 AM

Up to a full day depending on the size of the precinct that is selected

8/30/2023 04:30 PM

8 hours

8/30/2023 03:09 PM

Unknown. No information available. Could take a week.

8/30/2023 02:59 PM

8 hours - This of course is an estimate as it will depend on what precinct is drawn.

Q8



How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

\$2500.00 - \$3000.00

9/1/2023 10:38 AM

\$1050

8/30/2023 04:30 PM

\$500.00

8/30/2023 03:09 PM

Unknown. No information available. Estimate \$20,000

unknown. no information available. estimate \$20,000

8/30/2023 02:59 PM

\$3,000.00 is an estimate??



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\$17.33

8/30/2023 04:30 PM

\$15.00

8/30/2023 03:09 PM

Have them set at \$15.00 per hour, but may have to double that amount in 2024.

8/30/2023 02:59 PM

Superintendents-\$200.00 Judges-\$175.00. \$20.00 to attend the election school and \$15.00

Q6

How many people/staff will be needed for the post-election audit?

Answered: 34   Skipped: 0

Auditor's Staff-2 Post-election Audit-5 but this will all depend on what precinct is drawn to audit. Could be more.

8/30/2023 09:36 AM

NOT SURE

8/30/2023 08:29 AM

I don't have information to know what to expect.

8/29/2023 06:00 PM

Not sure

8/29/2023 03:42 PM

5?

Q7



How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

8/30/2023 09:36 AM

NOT SURE

8/30/2023 08:29 AM

I have not been informed.

8/29/2023 06:00 PM

Not sure

8/29/2023 03:42 PM

Unknown until process is finalized.

8/29/2023 03:31 PM

Q8



How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

8/30/2023 09:36 AM

NOT SURE

8/30/2023 08:29 AM

I don't have the information needed to dictate this cost.

8/29/2023 06:00 PM

not sure

8/29/2023 03:42 PM

8/29/2023 03:31 PM

Unknown until process is finalized.

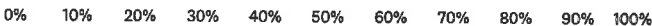
8/29/2023 03:31 PM



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9/1/2023 10:38 AM

\$17.33

8/30/2023 04:30 PM

\$15.00

8/30/2023 03:09 PM

Have them set at \$15.00 per hour, but may have to double that amount in 2024.

8/30/2023 02:59 PM

Superintendents-\$200.00 Judges-\$175.00. \$20.00 to attend the election school and \$15.00

Q6

How many people/staff will be needed for the post-election audit?

Answered: 34   Skipped: 0

8/29/2023 03:31 PM

10

8/29/2023 03:09 PM

I don't know

8/29/2023 03:07 PM

10

8/29/2023 02:59 PM

I have no idea; haven't read through the information.

8/29/2023 02:39 PM

Q7

How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

4 hours

8/29/2023 03:09 PM

I don't know

8/29/2023 03:07 PM

10hours

8/29/2023 02:59 PM

I have no idea.

8/29/2023 02:39 PM

As the law stands now, I would say 5-7 hours.

Q8

How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

Unknown

8/29/2023 03:09 PM

I don't know

8/29/2023 03:07 PM

15,000.00

8/29/2023 02:59 PM

I have no idea.

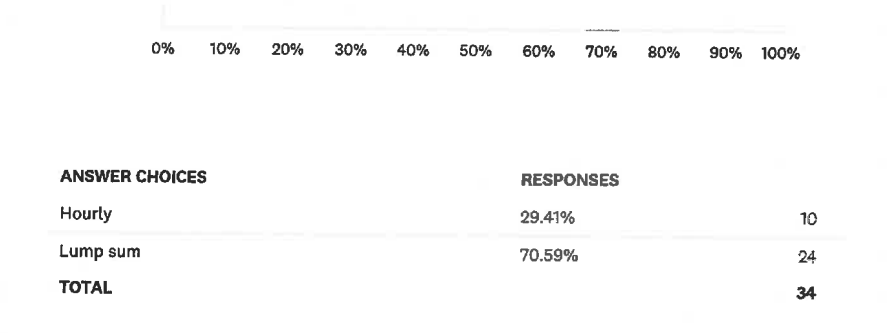
8/29/2023 02:39 PM

\$1,500



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Q5

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\$17.33

8/30/2023 04:30 PM

\$15.00

8/30/2023 03:09 PM

Have them set at \$15.00 per hour, but may have to double that amount in 2024.

8/30/2023 02:59 PM

Superintendents-\$200.00 Judges-\$175.00. \$20.00 to attend the election school and \$15.00

Q6

How many people/staff will be needed for the post-election audit?

Answered: 34 Skipped: 0

9/1

8/29/2023 02:36 PM

6

8/29/2023 01:58 PM

51,000

8/29/2023 01:44 PM

8/29/2023 01:41 PM

I am assuming I would need one board of workers, plus administrative staff, so I estimate five people

Q7

How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

8/29/2023 02:36 PM

4 hours

8/29/2023 01:58 PM

5 HOURS

8/29/2023 01:44 PM

8 HOURS

8/29/2023 01:41 PM

Depending on the precinct randomly selected for the audit, it could take a full day, 8-12 hours.

8/29/2023 01:27 PM

Q8

How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

8/29/2023 02:36 PM

\$750.00

8/29/2023 01:58 PM

\$1,000.00

8/29/2023 01:44 PM

\$1,260.00

8/29/2023 01:41 PM

I estimate at least \$2,500, but it could be more. It's hard to give an estimate when we have not yet conducted a post-election audit.

8/29/2023 01:27 PM



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0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%

**ANSWER CHOICES****RESPONSES**

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**Q5**

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**Q6**

### How many people/staff will be needed for the post-election audit?

Answered: 34 Skipped: 0

I am assuming I would need one board of workers, plus administrative staff, so I estimate five people.

8/29/2023 01:27 PM

5

8/29/2023 01:23 PM

5-10

8/29/2023 12:57 PM

7

8/29/2023 12:56 PM

3-5

Q7

How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

A minimum of 8 hours

8/29/2023 01:23 PM

couple/few weeks unsure exactly

8/29/2023 12:57 PM

8 hours

8/29/2023 12:56 PM

8 hours

8/29/2023 12:50 PM

Q8

How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

\$2,500

8/29/2023 01:23 PM

1000-5000

8/29/2023 12:57 PM

\$8,000

8/29/2023 12:56 PM

\$1000



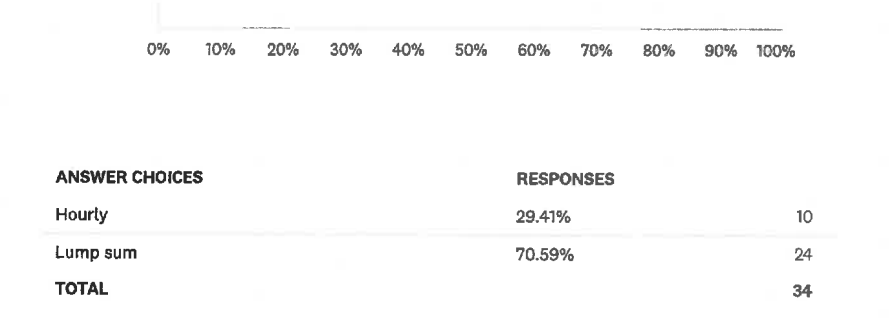
\$1000

8/29/2023 12:50 PM

\$4000?



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Q6

How many people/staff will be needed for the post-election audit?

Answered: 34   Skipped: 0

8/29/2023 12:50 PM

5

8/29/2023 12:25 PM

At least 3

8/29/2023 12:11 PM

3 to 5

8/29/2023 12:06 PM

6-8

8/29/2023 11:59 AM

Q7



How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

a couple days?

8/29/2023 12:25 PM

Hopefully less than an 8 hour working day

8/29/2023 12:11 PM

4 hours???

8/29/2023 12:06 PM

3-4 hours

8/29/2023 11:59 AM

I think that one business day will be enough time to conduct a post-election audit for Dewey County.

Q8



How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

8/29/2023 12:25 PM

1000?

8/29/2023 12:11 PM

no idea - until we see the rules and requirements it is an unknown

8/29/2023 12:06 PM

\$1000 it depends on how long it takes them to do it.

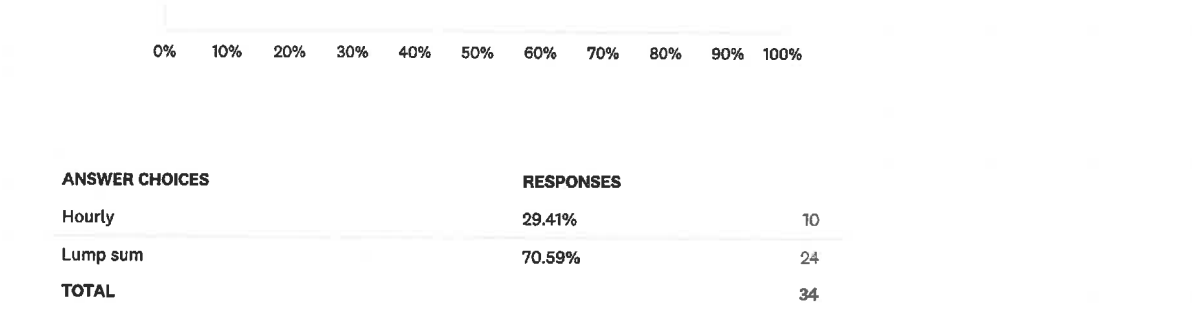
8/29/2023 11:59 AM

I estimate about \$2,500 being plenty enough to cover post-election audit expenses.

8/29/2023 11:58 AM

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Q6

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Answered: 34 Skipped: 0

I believe that 5 people will be enough during a presidential year, and potentially 3 people for non-presidential election years.

8/29/2023 11:58 AM

5 to 7

8/29/2023 11:57 AM

5

8/29/2023 11:53 AM

This will depend greatly on which precinct.

8/29/2023 11:38 AM

Q7

How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

8/29/2023 11:58 AM

4 hours

8/29/2023 11:57 AM

don't know

8/29/2023 11:53 AM

It will depend on how large the precincts are that are selected.

8/29/2023 11:38 AM

Minimum of 10

8/29/2023 11:37 AM

Q8

How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

\$500

8/29/2023 11:57 AM

don't know

8/29/2023 11:53 AM

No idea how long it will take nor do we have any direction on how much we are going to pay the audit board members. Will there be a set rate per hour that all counties will pay?

8/29/2023 11:38 AM

I budgeted for 15k but it really all depends.

8/29/2023 11:37 AM

\$6,000



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0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%

**ANSWER CHOICES****RESPONSES**

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Lump sum	70.59%	24
<b>TOTAL</b>		<b>34</b>

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\$17.33

8/30/2023 04:30 PM

\$15.00

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Have them set at \$15.00 per hour, but may have to double that amount in 2024.

8/30/2023 02:59 PM

Superintendents-\$200.00 Judges-\$175.00. \$20.00 to attend the election school and \$15.00

**Q6**

## How many people/staff will be needed for the post-election audit?

Answered: 34 Skipped: 0

8/29/2023 11:38 AM

It would depend, I would say a minimum of 20.

8/29/2023 11:37 AM

10-15

8/29/2023 11:34 AM

Probably 5?

8/29/2023 11:31 AM



unknown

8/29/2023 11:22 AM

Q7



How much time are you estimating it will take you to conduct the post-election audit?

Answered: 34 Skipped: 0

8/29/2023 11:38 AM

Minimum of 10

8/29/2023 11:37 AM

20-25 hours

8/29/2023 11:34 AM

No idea

8/29/2023 11:31 AM

unknown

8/29/2023 11:22 AM

Q8



How much do you estimate it will cost to conduct your post-election audit?

Answered: 34 Skipped: 0

8/29/2023 11:38 AM

I budgeted for 15k but it really all depends.

8/29/2023 11:37 AM

\$6,000

8/29/2023 11:34 AM

Not sure how to estimate that? Maybe \$1500.00? I won't be reimbursed for the wasted time.

8/29/2023 11:31 AM

unknown

8/29/2023 11:22 AM



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