

# BURLEIGH COUNTY

## HUMAN RESOURCES DEPARTMENT

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PAM BINDER, SPHR, SHRM-SCP  
HR DIRECTOR

HUMAN RESOURCE ASSISTANTS:  
MEGAN MARTIN  
DESIREE HILBORN  
LINDSAY BROWER

### Memorandum

To: Memo To Personnel File

From: Pamela J. Binder, SPHR, SHRM-SCP  
HR Director

Date: March 19, 2025

Re: Timeline of the Conversations with the Auditor/Treasurer Regarding Temporary Election Workers

(Attachment A) On Wednesday, February 5, 2025 at 4:46pm I received an email from Auditor/Treasurer Mark Splonskowski asking me the following question:

- Is there a cutoff amount of earnings to require us to send an individual a w-2 or a 1099?

On Wednesday, February 5, 2025 at 4:54pm I responded to Auditor/Treasurer Splonskowski's questions with the following:

- The cutoff for issuing a 1099 is \$600. If we paid someone more than \$600., we must provide a 1099. There is no cutoff balance for issuing a W-2. Example if we pay an employee \$5.00, we must issue a w-2 form to them.

On Wednesday, February 5, 2025 at 4:55pm I received an email from Auditor/Treasurer Mark Splonskowski asking me the following question:

- Ok thank you. So, then we should be sending all of the election workers w-2's?

On Thursday, February 6, 2025 at 8:07am I responded to Auditor/Treasurer Mark Splonskowski through email reply.

- You need to send them 1099's not w-2 forms.
  - I sent this response to Auditor/Treasurer Splonskowski because this is the payment process that I had been informed of when I asked former Deputy Auditor/Treasurer Brandi Caya and former Elections Manager Erika White. If the Auditors office needed to put Temporary Election Workers on as employees, they would provide the appropriate paperwork to the Human Resources office so we

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could pay them through the payroll process. In order for these Temporary Election Workers to receive a 2024 w-2 form they would have had to be an employee paid through our payroll system in 2024. This is the policy for Burleigh County since the 2000 Consolidation Plan for the Auditor/Treasurer/Tax departments. The Human Resources office has the responsibility to process the payroll and issue the appropriate W-2 forms for all Burleigh County employees paid on the payroll system.

- The Auditor/Treasurer's office is responsible for the Accounts Payable process. This includes issuing the 1099 forms.

On Thursday, February 6, 2025 at 8:66am I sent the following response to Auditor/Treasurer Mark Splonskowski trying to give him the process for payroll (w-2 employee) versus Accounts Payable (1099 – individual):

- Let me clarify because I think you might be confused. Only employees that are paid through the payroll process receive a w-2 form. If we pay someone through the accounts payable process, (auditor's office) we should be having them complete a W9 form (gives you their information to complete the 1099 form) in the beginning and then if the total amount paid to them is \$600.00 or over, we are required by the IRS to send them a 1099 form as well. However, the IRS does not require it.
  - I knew there were only three (3) temporary election workers that were brought on as employees in the payroll system in 2024, so I was assuming that because Mark Splonskowski is the Auditor/Treasurer and in charge of the Accounts Payable process that he must have been confusing the w9 form for the w-2 form. I was trying to be helpful with relaying the information that I was told of the process previously for the temporary election workers.

(Attachment B) On Thursday, February 13, 2025 at 4:32pm I received an invite to a 1099's for Election Workers meeting to be held in the HR Conference Room on Friday, February 14, 2025 at 9:00am. I attended this meeting with Megan Martin-HR Assistant II, Leigh Jacobs-Finance Director, Taylor Schmidt – Deputy Finance Director, Mark Splonskowski – Auditor/Treasurer and Thomas Larson – Executive Assistant – Elections Coordinator. This meeting was being recorded with the Owl system. This was the first time that we used the Owl video system, so I recorded the audio on my Burleigh County cell phone of this meeting as a backup. The owl recording malfunctioned and did not save to the computer.

- In this meeting, we were trying to figure out two items. The first item is how are we going to treat the temporary election workers going forward. Suggestions such as having a temporary staffing agency help us with the onboarding and paying the election workers.

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The other would be to place all 240 temporary election workers on the payroll system and hire them as employees. This would almost double the number of employees on the Burleigh County payroll system for approximately four pay periods a year. These are the two options that we decided to do going forward.

- The way the Auditor/Treasurer's office has done this in the past two elections is that we would have a meeting April 27, 2022 and February 22, 2024 respectively in order to have a plan of action for all of the election workers that need to be hired by the Auditor's office. Per NDCC 16.1-05 (1) the Election Officers (County Auditors) are responsible for hiring and training the temporary election workers. This is part of the control features for the ND Secretary of State. This process is explained in detail in the ND Election Officer's Manual on pages 3 & 4, which can be found on the ND Secretary of State website (Attachment G).
- The difference in the 2024 election versus the 2022 and 2020 elections was that in the 2022 and 2020 elections the normal process was followed. Which is, that once an election worker was nearing the \$600 reporting threshold for the 1099, the Auditor's office would send the HR department a Personnel Action Form. This is the form that is needed in order to hire and pay an employee through our payroll system. The temporary election workers that did not reach the \$600 reporting threshold for the 1099 form were not provided with any tax statements as no 1099 form is needed for under the \$600 reporting threshold. During the 2024 election, we only received Personnel Action Forms for three (3) of the approximately 240 temporary election workers. This step was missed and the issue of 1099 versus W-2 tax forms arose for those approximately thirty-two (32) temporary election workers because the normal process was not followed. Auditor Splonskowski has said that he was told the reporting threshold was \$2,000, however, I have never heard of that amount in any of the reporting requirements, so I do not know where that amount came from.
- We processed the payroll for these three (3) election workers according to payroll laws by submitting their hours worked in every pay period for the biweekly payroll. We also had to onboard these three (3) employees by having them complete the appropriate forms for hiring compliance (I-9 Form, W-4 form, Emergency Contact Form, Employee Information Form, and important policy acknowledgements.) These completed forms allow the HR department to complete the mandatory reporting of new hires with certain government agencies such as the Fair Labor Standards Act (FLSA), Child Support Reporting laws and Immigration Control and Enforcement (ICE).
- The last payroll for 2024 was processed on December 27, 2024. This closed out the 2024 payroll year. We performed year-end payroll reports, and the payroll system created the W-2 forms for each employee that was on the payroll system and these W-2 forms were distributed to employees prior to the January 31, 2025 deadline. The Payroll System



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created an HTML code file in the required format for the IRS and/or Social Security Administration to read the HTML data on the file. This closed the 2024 Payroll process and nothing more could be adjusted or changed for 2024 payroll. Any payroll adjustments for 2024 are not possible after the W-2 form reporting process has been completed.

- The February 14, 2025 meeting was to discuss the thirty-two (32) temporary election workers that either met or went over the \$600 reporting threshold for the 1099. The Finance Department and the Auditor's office determined that W-2 forms had to be issued to these thirty-two (32) temporary election workers for the 2024 tax year. Several suggestions were discussed in this meeting. The HR department agreed to research the possibility of making adjustments in the 2024-year payroll system.
- (Attachment C) The February 18, 2025 meeting was held in the HR Conference Room and Auditor/Treasurer Splonskowski, Election Coordinator – T. Larson, HR Director P. Binder, and HR Assistant II (Payroll & Benefits Specialist) M. Martin were present. The HR department concluded that there is not any way to make the 2024 payroll adjustments in the payroll system. We discussed the three options, issue 2024 - 1099 forms, issue 2024 – W-2 forms, or do nothing. All three choices were wrong. It was decided that Auditor/Treasurer Splonskowski needed to talk to a tax attorney and get expert advice on how to fix this problem.
- (Attachment D) The Auditor's office determined that the HR department needed to send the W-2 forms to the thirty-two (32) temporary election workers. The HR department repeatedly explained that the 2024 payroll process was closed, and no further adjustments could be made to add employees on for the 2024 payroll year. The Finance department and the Auditor's office were so focused on getting out W-2 forms to these temporary election workers that they did not understand that the HR department cannot create or send out or even upload any other W-2 forms for the 2024 tax year. I argued that the only way the HR department can issue W-2 forms is if the thirty-two (32) temporary election workers were hired and paid through the payroll system in 2024. That did not happen so we could not issue any W-2 forms for these people. The HR department does not dispute the information that was provided by Finance Director Jacobs and Deputy Finance Director Schmidt, or the Tax Attorney as they were only focused on what the IRS requires. The HR Department kept trying to tell all other parties involved that it was too late to hire the thirty-two (32) temporary election workers for the 2024 payroll tax reporting year. The HR Department can not just complete 2024 W-2 forms for these thirty-two (32) election workers because the W-2 forms would not have the required new hire forms in order to be in compliance with the regulations and laws that require employers to report the new hire information within certain timeframes after the hire date of any employee. The payroll and timekeeping regulations and requirements were not

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completed for the thirty-two (32) election workers in the 2024 payroll year. That places Burleigh County out of compliance and in violation of payroll and timekeeping laws and regulations. The above explanation is why, I made the statement that providing the 2024 W-2 forms to these thirty-two (32) election workers would be considered an act of fraud. I will not knowingly complete W-2 forms for people who were never hired and paid in compliance with the new hire and payroll and timekeeping laws under the Fair Labor Standards Act "FLSA". By complying with the IRS regulations, the Burleigh County Auditor/Treasurer knowingly violated the U.S. Citizenship and Immigration Services federal form I-9 requirements and the three (3) day time limit for reporting newly hired employees (Attachment E), The Fair Labor Standards Act (FLSA) Wage and Hour laws were violated because we do not have required new hire forms and payroll processing records or completed timecards for these thirty-two (32) election workers (Attachment F). Fines and penalties can be assessed from these two agencies for noncompliance. Wage and Hour laws state that employees must be paid in the payroll period in which they worked the hours. This information does not exist. Also, if the thirty-two (32) election workers are considered employees, then the other 205 election workers must be considered employees as well. Violations would also apply to this group of election workers. There is not a dollar limit for issuing W-2 forms. If an employee worked even fifteen (15) minutes in a payroll year, by law, that employee would need to be provided a W-2 form for that payroll year.

- I have attachment a timeline of the emails and meetings. These emails can be found in Attachment D.

**Timeline of Temporary Election Workers Tax Reporting Issue**

Date	Time	Description	Documents
2/5/2025	4:46PM	w-2's (Mark Splonskowski's email original)	Attachment A
2/5/2025	4:54PM	w-2's (My Email Reply 1st)	Attachment A
2/5/2025	4:55PM	w-2's (Mark Splonskowski's email reply)	Attachment A
2/6/2025	8:07AM	w-2's (My Email Reply 2nd)	Attachment A
2/6/2025	8:16AM	w-2's (Mark Splonskowski email reply 2nd)	Attachment A
2/6/2025	8:56AM	w-2's (My email Reply 3rd)	Attachment A
2/14/2025	9:00AM	Meeting Regarding w-2s or 1099s Poll Workers	Attachment B
2/18/2025	10:00AM	Meeting II Regarding Election Workers	Attachment C
2/20/2025	12:54PM	FW: Tax Reporting for Poll Workers (Mark Splonskowski email Forwarding Blain Johnson from Crowley/Fleck Attorney's opinion	Attachment D
2/20/2025	1:32PM	My Email reply to Mark Splonskowski saying this is what the tax Attorney said so that is what you need to do.	Attachment D
2/25/2025	12:27PM	My forwarded email to Leigh & Taylor regarding Mark Splonskowski's forwards tax attorney opinion email.	Attachment D
2/25/2025	1:10PM	Leigh's copied me on his email response to Blaine Johnson about Poll Workers	Attachment D
2/25/2025	1:11PM	Email from Leigh to Blaine Johnson clarifying the situation	Attachment D
2/25/2025	2:48PM	Blaine's reply to Leigh about tax forms	Attachment D
2/25/2025	3:42PM	Leigh's response letting us know what the Tax Attorney Said	Attachment D
2/25/2025	1:13PM	Leigh's email forward telling me he replied to Blaine Johnson email.	Attachment D
2/25/2025	1:14PM	My response back to Leigh	Attachment D
2/25/2025	3:42PM	Email from Leigh with Blaine Johnson's modified response	Attachment D
2/26/2025	1:54PM	Election 1099's Email from Thomas Larson wanting to meet on election workers again	Attachment D
2/26/2025	2:46PM	My email response to both Thomas L and Mark S stating that I can't do anything about the W-2s for the poll workers.	Attachment D
2/27/2025	3:08PM	Received call from Thmas Larson that conferenced Mark Splonskowski in and Mark Splonskowski said that I had to do the W-2 forms for his poll workers. I responded that I cannot as they were not employees for 2024. That would be fraud. He tried to pressure me into completing the W-2s saying that I wasn't doing my job if I didn't complete the W-2s for the poll workers.	Attachment D
3/3/2025	11:27AM	I forwarded the email from Thomas and Mark and told Julie Lawyer that Mark Splonskowski asked me to complete W-2s for poll workers who were not hired onto the payroll system in 2024. I stated in this email that for me to complete the W-2's without having the required recordkkeeping documents would be considered fraudulent.	Attachment D
3/3/2025	11:33AM	I forwarded the email that leigh forwarded to Megan Martin and myself.	Attachment D
3/3/2025	11:47AM	Julie's reply to Mark question on Election Workers Tax forms	Attachment D
3/4/2025	9:56AM	Mark's Reply to Julie and asking me for assistance with Tax Forms	Attachment D
3/4/2025	10:41AM	My reply to Mark that again explains the process we use for W-2s for Payroll	Attachment D
3/4/2025	2:52PM	Mark requesting another meeting for this same item.	Attachment D
3/4/2025	4:09PM	My response to having another meeting on this item	Attachment D
3/4/2025	4:18PM	Mark's request for any others to meet.	Attachment D
3/5/2025	10:05AM	Mark Splonskowski sends an email to Megan Martin requesting the 941 forms and 940 form for Q 2 and Q4.	Attachment D
3/5/2025	10:50AM	Megan's reply to Mark with the copies of the 941 Forms for 2024.	Attachment D
3/5/2025	11:38AM	Mark's email reply requesting the 940 Form	Attachment D
3/5/2025	12:22PM	Megan's reply to Mark regarding the 940 forms.	Attachment D
3/5/2025	2:24PM	Mark requesting the cover sheet for sending the W-2s	Attachment D
3/5/2025	2:26PM	Megan's response saying we do not have a cover sheet for this.	Attachment D
3/5/2025	4:03PM	Julie's response to Mark on the 940 Forms	Attachment D
3/5/2025	4:07PM	Mark's reply asking for a copy of what we sent for the W-2 in 2024	Attachment D
3/5/2025	4:16PM	My reply telling Mark that we are not familiar with the 904 process	Attachment D
3/5/2025	4:25PM	Mark's reply requesting the cover sheet for the W-2s	Attachment D
3/5/2025	4:29PM	My reply to Mark again telling him that we do not use a cover sheet as we send an HTML file	Attachment D
3/6/2025	8:28AM	Mark forwarded Megan's reply to the 940 Forms	Attachment D
3/6/2025	9:54AM	My reply back to Mark and Julie	Attachment D
3/6/2025	9:55AM	My reply tryin gto explain the 940 and 941 process to Mark & Julie	Attachment D
3/7/2025	11:23AM	Julie's final response to the group	Attachment D
3/28/2025	3:24PM	Newly revised I-9 Form Instructions	Attachment E
3/28/2025	3:08PM	Fair Labor Standards Act FLSA Regulations	Attachment F
3/28/2025	2:02PM	ND Secretary Of State Election Officers Manual Pages 3 & 4	Attachment G

**From:** [Binder, Pamela J.](#)  
**To:** [Splonskowski, Mark D.](#)  
**Subject:** RE: w-2's  
**Date:** Thursday, February 6, 2025 8:56:00 AM

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Mark,

Let me clarify because I think you might be confused.

Only employees that are paid through the payroll process receive a W-2 form.

If we pay someone through the accounts payable process, (Auditor's Office) we should be having them complete a W9 form (gives you their information to complete the 1099 form) in the beginning and then if the total amount paid to them is \$600.00 or over, we are required by the IRS to send them a 1099 form. We can send others that we paid under \$600.00 through the accounts payable process a 1099 form as well. However, the IRS does not require it.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
Bismarck, ND 58501  
[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
Phone: 701-222-6669  
Cell Phone: 701-954-9875  
Fax: 701-221-3395

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**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Sent:** Thursday, February 6, 2025 8:16 AM  
**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Subject:** RE: w-2's

Ok what if we paid them less than \$600?

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**From:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Sent:** Thursday, February 6, 2025 8:07 AM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Subject:** RE: w-2's

Mark,

You need to send them 1099's not w-2 forms.

Sincerely,

**Pamela J. Binder**, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
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**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Sent:** Wednesday, February 5, 2025 4:55 PM  
**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Subject:** RE: w-2's

Ok thank you. So then we should be sending all of the election workers w-2's?

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**From:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Sent:** Wednesday, February 5, 2025 4:54 PM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Subject:** RE: w-2's

Mark,

The cutoff for issuing a 1099 is \$600. If we paid someone more than \$600, we must provide a 1099. There is no cutoff balance for issuing a W-2. Example if we pay an employee \$5.00, we must issue a W-2 form to them.

Sincerely,

**Pamela J. Binder**, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
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**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Sent:** Wednesday, February 5, 2025 4:46 PM  
**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Subject:** w-2's

Good evening,  
Is there a cutoff amount of earnings to require us to send an individual a w-2 or a 1099?  
Thanks.

*Mark Splonskowski*  
Burleigh County Auditor/Treasurer

# February 14, 2025 1099's Meeting

Thu, Mar 19, 2025 11:37AM • 49:47

## SPEAKERS

Speaker 1 – Thomas Larson, Speaker 2 – Megan Martin Speaker 3 – Pam Binder, Speaker 4 – Taylor Schmidt, Speaker 5 Leigh Jacobs, Speaker 6 – Mark Splonskowski

**Megan Martin** 00:00

So they're they're on their routine.

**Thomas Larson** 00:07

I was looking forward to a nice day today, but that breeze is kind of counteracting the actual positive temperatures. Great. Could be worse. Always. Next Monday, I think the high for the day is negative 10. Hey, but we're

**Megan Martin** 00:22

Hey but were off. So you have no excuse to, you can cuddle up at home.

**Thomas Larson** 00:30

Well, I guess what. I mean, he'll be here shortly, but we've just been discussing since last week, the 1099s for the election workers or whatnot. So that's kind of what we're discussing. You know, Taylor and I went back looked, try to look to see in 22 if we found any that were sent out. We didn't see any that were issued in 22 However, I did a little bit more digging, and it looks like in 2020 the election workers that worked over or did made over 600 bucks. They actually were paid, or they were issued a w2

**Pam Binder** 01:04

They were employees for 2022 because COVID, for 22 or 2020 because of COVID, that was different, because the election was all mailin so we had to hire more employees. So we did make them. We had to hire them as employees. But after that, we've always had a meeting in April saying, if they're going to make over 600 bucks, have them go through a temp agency.

**Megan Martin** 01:33

And because behind that is because then they are not they make over \$600 we ran into the issue with COVID Every person we brought on, yep, and unemployment, WSI, workers comps.

**Pam Binder** 01:48

So we decided, we told them, if they're going to make over \$600 send them through a temp agency. And Mark said, well, we'll make sure that none of them make over \$600 and it's like but I said, if there's an emergency, you need to let us know, because we have to put them on these employees. Then that means we an I-9, a, w4 we need to have them on our payroll. That never happened. So w2s are not an option for these guys,

**Megan Martin** 02:21

it's that we have already posted and closed 2024, payroll I already updated everything to the IRS. Everything's been posted

**Pam Binder** 02:28

and these guys were never employees. So we don't have, I-9s on and ICE is gonna start auditing. And we're not going there. We never posted payroll taxes on them. Yeah, so there's no so we're gonna get fees for payroll taxes.

**Taylor Schmidt** 02:41

Well, they don't pay payroll taxes. That's the whole thing. And that's where we talked to Erica. And I don't, I don't wanna start the meeting with Mark, but that's where we talked to Erica yesterday. I feel like that kind of shed some light on it. Where it's, it's almost like we misunderstood there's a FICA threshold and the \$600 threshold, yep. And so it's almost like we looked at the FICA threshold, and went, well, they made less than that threshold, so we're not going to give them. We, yeah, because it was a 22 I saw two election workers that got 1099s, but it was only because of the premium they must we must have given them premium pay. I don't know why. It

**Leigh Jacobs** 03:15

It might have been for another was it? They might have been

**Pam Binder** 03:18

Was it [REDACTED]?

**Taylor Schmidt** 03:19

[REDACTED]. Sounds familiar? Yeah? So,

**Pam Binder** 03:21

Because those are employees, they were also temporary employees, and they worked in the Auditor's office.

**Taylor Schmidt** 03:26

And they weren't under the election. GL, they were under the ARPA, like it wasn't, like, it was an election worker salary that was getting pulled, okay, yeah, I didn't see them. So that was the only because you had, I had a, yeah, I think I just searched the whole spreadsheet for the word election, and that was the only two times it came up and, like said, they weren't. Was an election. And my thought, too, like you said, I looked as far back as our ledger goes, 16, 15, 14, so 16 within the elect, and there

was only, like, 10 employees that make so I'm sure maybe way back, we just tried to keep them under. And I don't know how new this, this threat. Well, we looked it was 17.

**Leigh Jacobs** 04:01

the history is, we said we do 1099s. We did 1099s. These are W-2s. The code is

**Taylor Schmidt** 04:12

it's crystal. They have to and wait.

**Pam Binder** 04:14

But compensation, employee compensation, like through payroll or accounts payable, you're a matter 1099 you're a contractor. I

**Leigh Jacobs** 04:24

don't know if it matters, but so when, when we met about this, whatever, a week, two weeks ago, my understanding, which I misunderstood, was these went out the door, is 1099 that's what I understood and at this point. And so my comment to mark was, what I would do is go to Brady marts and ask them to do tax research, because they'll give you a letter that says, you know, here's all. But my thought was that would be for next year. Yeah, we're not going to get it this year, you know, because they're in the. Middle of tax season, and I never did taxes. So you know what I said? I mean, I read the code, but that's about as far as I'll go. I do think you're gonna want to either a tax attorney or someone to weigh in on it. But anyway, when Taylor did it, he he said this, you know, Taylor has much deeper tax background than I do. Said this doesn't look right. Looks like they should be w2 and my comment to him was, if you're doing if you're a tax preparer, you know, on the side and you find something that you think is not in compliance with the code, you don't even, if you're told to do this, you don't do it because you know better, or you should know better, and you don't want to compromise your your tax so, if it was me, I you know, if it was, you know, just a guy off the street and it was, hey, do these as 1099, it's okay, boss. I mean, if you don't have the knowledge, and you're basically, your conscious conscience is clean. So that was my comment to him, but that that brings us up to the present day, yep. So bottom line is, we have 32 people who have not received any thing from us.

**Megan Martin** 06:13

32 I thought it was 15.

**Leigh Jacobs** 06:14

I think it's thirty-two

**Thomas Larson** 06:16

The spreadsheet that I sent over was 32.

**Leigh Jacobs** 06:19

Thirty-two over 600 but under 1800 I don't think anybody went over the 1800

**Taylor Schmidt** 06:24

Except those you intentionally hired, on purpose. Onboarding whatever you want to call it.

**Pam Binder** 06:30

So, they were never brought through payroll.

**Megan Martin** 06:32

So, they're not employees. They were never brought through payroll. I don't have them as

**Pam Binder** 06:35

So, we can't do W-2s.

**Taylor Schmidt** 06:37

that's another one that, and I'm getting conflict, but the IRS is pretty clear. Oh, where was this? Because that I didn't even see the first time. Election workers are common law employees, but that however, they have the exception of they don't pay FICA taxes, as long as they don't make over that threshold, which I think Erica said, we have a different agreement. So it's just the 1800 because they some states get higher section two, eight, yeah. So some states they like. I think this one says the national threshold, or something, is 2,300 but she seemed to think it was maybe only 18, and doesn't change. But I don't think any of them, they were either way under 18 or we nobody was even over 18. I don't think right, not on that list. Yeah. So that, I guess, doesn't matter what the threshold is. In that case.

**Megan Martin** 07:20

We have to go off of what the tax tables say. And the tax book, I think, said 2300 it did okay. I can go, I can go pull the page because I have it highlighted every year on the textbook when it says, when it looks at what the FICA rates are.

**Leigh Jacobs** 07:36

But I think when we talked yesterday, it made sense to me, you guys do basically onboarded employees that run through payroll W-2 and then, historically, auditor's office have done all the election workers. But I

**Megan Martin** 07:50

and we've always advised to hire those through a temp agency, because then they're off our books for unemployment, workers, comp, everything.

**Pam Binder** 07:57

And then their taxes are taken care of by the employment agency,

**Mark Splonskowski** 08:01

and that's if they fall within that



**Megan Martin** 08:03

in general, yeah, in general. In general, it is always best. Aside from our judges.

**Mark Splonskowski** 08:13

we have to have 200 Someone. We can't go through the temp agency for all 200 employees.

**Thomas Larson** 08:14

240 some odd election workers.

**Pam Binder** 08:18

we're not going to put them on as employees either.

**Megan Martin** 08:19

So all 200 of them. Are you issuing 1099s for them?

**Thomas Larson** 08:23

No, that would be the only the 32 of them. But you don't know. I mean, it comes down to who's going to do early vote in the primary, and if they're doing early vote in the general, then they'll fall under that category. And

**Megan Martin** 08:36

Then, even still, better, to put them through the temp agency, because you might have somebody who says, Yes, I'm going to do this. And then they're going to be like, that was a crappy day. I don't want to do it anymore, right? Which is what has happened, right? We they are like, yeah, no, this is way more than I involved. Or that's not my jam. I don't want to do it. They drop out,

**Thomas Larson** 08:38

Right.

**Mark Splonskowski** 08:56

Sure, It does happen. It's not too often, but it it does.

**Thomas Larson** 09:00

So in what she said before you got here, in regards to 2020, 2020, was a different year. They got COVID. It was COVID.

**Pam Binder** 09:09

So everything was mail in, and that's why we had so many and that's when we ran into the issues with workers comp, unemployment and I-9 issues because we weren't getting people within the three days.

**Speaker 2** 09:21

Because the problem is, is with anybody the minute you hire them on we have three business days with I-9. We legally have three business days to complete an I-9, and if we don't complete that I-9 in three business days that person has to be removed.

**Taylor Schmidt** 09:34

Well, that's another one. I have no that is compliance.

**Pam Binder** 09:38

Otherwise you can get up to 10,000 \$10,000 fine for each infraction, each employee that you don't have an I-9 on.

**Mark Splonskowski** 09:49

and we, to my knowledge, we had every election work fill out an I-9.

**Pam Binder** 09:52

Where are they at?

**Thomas Larson** 09:52

The ones that

**Megan Martin** 09:53

I never completed an I-9.

**Mark Splonskowski** 09:57

No, not an I-9 a

**Thomas Larson** 09:57

No, not an I-9 1099, or ah ah W9.

**Pam Binder** 09:57

W-9 that's your 1099,

**Thomas Larson** 10:01

That was only the ones from my understanding. Looking back was, I think Lisa had them fill out the W9s if they were early vote workers, because if they were Election Day workers, there was no chance. Even if they did the general and the primary, there was no way they were going to get to the

**Taylor Schmidt** 10:17

so I did see this in some secondary state. Was from some state, put a thing out about it, but now I'm looking at immigration, and it said where to go. They're exempt. Poll workers are exempt from leaving forms in accordance with a memo from 1988 so we could still have them on without I-9.

**Pam Binder** 10:34

Okay?

**Taylor Schmidt** 10:37

so because I see the some this, like said, it's this Indiana again, it's not, there's, there's no citation, so I don't trust it, you know, explicitly, but it's pretty clear what like, yeah, it even says they don't need I 9, no

1099s. And then the thresholds have changed. But this looks like they just kind of stole this from the IRS website, basically.

**Pam Binder** 10:55

But we still have the fact that they were not put through payroll.

**Megan Martin** 10:58

Yeah, they haven't been put through payroll, so I can't process w2 they payroll. Wages were not reported to the IRS.

**Leigh Jacobs** 11:07

Oh, yeah, it's late. There's no doubt about it. I mean, we're late. It's it might be an issue. I don't know what the IRS is going to do

**Pam Binder** 11:16

penalize us

**Megan Martin** 11:17

Well, but that's a matter of what was done in 2022

**Taylor Schmidt 4** 11:18

nothing. We just never done. We don't know it sounds like, and that's what, again, not to put words in her mouth, but I got the impression that we they sounds like this conversation has come up about, you should put them through Temp agency, whatever. And so they go back to the office and go, well, they don't get W-2s, but I don't think they get 1099s, so I'm not doing it. Never done anything.

**Pam Binder** 11:39

That was a conversation with Erica Leo and Brandi.

**Taylor Schmidt** 11:44

Going all the way back to 2016 there are no 1099, workers that I can see. Again, I don't know if someone is doing it separately from all the other ones. You know someone? That's what I that's why I wanted to call Erica, because it's like, I don't know. She went in her office at the end of the election and hand fill them out and sent them out. But she said, No, they just didn't send Well, they did not get anything.

**Pam Binder** 11:54

They just didn't get anything.

**Megan Martin** 12:05

If there's no image file For them, then they were probably never sent anything.

**Leigh Jacobs** 12:09

My suspicion is we said, oh, they don't get FICA, thus we don't do anything. But really, probably they need to pay income tax, so, you know. And then if they get a 1099 now you're paying 15% FICA so, plus you get a 20% tax break on your 1099 NEC from the Trump tax cut. So we got them coming and going. You know what? I mean? You're getting tax break you shouldn't get. You're paying FICA. It looks like you shouldn't

**Taylor Schmidt** 12:39

pay at all.

**Pam Binder** 12:40

But if we would have ran them through payroll, income taxes would have been taken out.

**Taylor Schmidt** 12:44

But they're not supposed to. It says you're not supposed to give them a w4 unless they want voluntarily to withhold taxes.

**Thomas Larson** 12:51

But what does that kind of conflicts with the one that he sent that that blurb in the email you sent yesterday, where it said governmental or government agencies that are paying election workers must do a w2 so

**Pam Binder** 13:07

payroll, okay, paying through payroll.

**Thomas Larson** 13:10

And ultimately, for me, I just, I, I want to make sure that, you know, one, we take care of the people now, if we, if that's what we deem we have to do, but to also make sure that going into 26 we're all on the same page, and, you know.

**Megan Martin** 13:25

correct processes

**Mark Splonskowski** 13:26

So we don't have this conversation again.

**Pam Binder** 13:27

Here's the thing, here's the thing. And I'm getting a little mad at people. Mark, we had this meeting in April. Lisa, you and us, Brandy, sat here. We said, if you're gonna Pam, over 600 take them through the temp agency, or last resort, get them down here so we can get them on our books, make them employees. That never happened. You're not the only one I've had this conversation with. I had the conversation with Brandi Erica and Leo. I told them the same thing. I had a timeline for them all. Laid out they did nothing. Okay, same thing happens.

**Mark Splonskowski** 14:03

Ok, Let me write this down. So it doesn't get lost in the shuffle. It goes over. We're gonna write this down so don't get lost in the shelf. It goes over \$600 going through. It

**Pam Binder** 14:09

needs to go through a temp agency, or we need to bring them on the books. But we're not bringing 200 employees on, because that cost Burleigh county a lot of money to run through payroll.

**Megan Martin** 14:19

And we might think that they're gonna run over \$600 and then they don't

**Mark Splonskowski** 14:20

Sure

**Thomas Larson** 14:23

well, and I think honestly, you know, you know, looking at 2026, again, if you just, if you're just working the election days, it's a non issue, yeah, but this would be easy to single out those people that are doing early vote, yes, you know, so we can that first early vote, if they're working that we can easily just, you know, if we're working with the temp like, you know, Dakota staffing is who we use,

**Pam Binder** 14:51

In 2022, I think we had about 6 on was there 6 temporary election workers? You. Yeah, in 2020 there was, it was a mess. We were having everybody on as employees, and then some made it. Some didn't. We were taking tax they wanted taxes out. Some didn't. And then all of a sudden, we were getting hit with unemployment. So we paid, I think it was like 10,000 in employment to those people. And also workers comp, we had one workers comp plan that we had to pay, yeah, and we didn't submit workers comp for them, sure. So we had to back there, step up and get them on the feed.

**Mark Splonskowski** 14:55

Sure, yes, okay?

**Thomas Larson** 15:34

Well, in terms of looking forward, we can easily, you know, we have a working relationship with Dakota staffing, you know, we can see what their thoughts are on doing some sort of an onboarding for them. However, if we bring on a temp agency, though, to run them through, I mean, that's going to be in incremental fees, you know, because they've got to make their money as well.

**Pam Binder** 15:54

You will have fees. But it won't be as much as unemployment or workers comp. Because the unemployment claims, they also

**Thomas Larson** 15:57

right, right? Well, I'm not trying to compare them too. But yeah,



**Mark Splonskowski** 16:01

gotcha.

**Taylor Schmidt** 16:04

We also want to make sure what Dakota staffing, I guess. I don't know how that works then, because if they're still election workers, you don't want them paying FICA if they're not legally required to either. I know it's not, I understand it's not right for their share. See 7% of whatever, but 1000 bucks, it's not going to keep yourself if it's \$70 but if they're not legally required to pay it, and now we're making them?

**Mark Splonskowski** 16:26

Yeah? And the other concern I have, or that might pop up and tell me, you agree with me, Thomas, these folks who work elections, if it becomes too cumbersome, there's not going to do it, yeah? And it's very like, Oh, all right. All right, please, please, please, work early vote. Hello, Mr. Johnson, where you really work early vote? Oh, great. That's fantastic. I'm going to have to have you apply through Dakota staffing.

**Thomas Larson** 16:50

Well, see, that's where, that's where, that's where we make it easy for them. So when we do the, you know, everybody comes for, you know, maybe we do an early vote training instead of, you know, because typically early vote,

**Megan Martin** 17:03

They have to be paid for training, though,

**Pam Binder** 17:09

yeah, they do

**Thomas Larson** 17:12

fill the paperwork out before the training for early vote.

**Mark Splonskowski** 17:13

Define paperwork.

**Pam Binder** 17:19

Well they don't need I-9s. they don't need W4s.

**Taylor Schmidt** 17:19

yes, they don't.

**Megan Martin** 17:19

If you have a working relationship with Dakota staffing, you could hopefully be able to pre coordinate this with Dakota staffing, or whatever time agency you're utilizing, and saying, Look, this is what we want to do. Can you be on site this day to do the paperwork with them, and then we will proceed with training immediately after.



**Pam Binder** 19:07

I bet the system is set up to take FICA tax. Yes, regardless, our payroll system, because infinite visions, doesn't exempt it.

**Thomas Larson** 19:19

Well, if they don't pay FICA taxes when they file a their w2 or their, you know, 1099, or whatever they file with their taxes. Well, never mind scratch was, ultimately, it doesn't negate it.

**Leigh Jacobs** 19:36

There's no There's no social security, wages, I think, is how it would go through. Yeah. Well, I even, we basically figured this out ourselves.

**Taylor Schmidt** 19:42

But even this, the state of Indiana just says, which I it's only box one. And I've seen, like said, I've seen state employees from other states where they don't pay Social Security, so that's just blank. So like railroad workers, I think railroad workers don't pay Social Security, so they're just blank.

**Pam Binder** 19:58

If they're 1099. It's self employment tax. Isn't it.

**Taylor Schmidt** 20:01

That's no problem. And then, like I said, coming from that retail side, it's also not that. I don't know how they do it, but if you're an election worker, you made 600 bucks, and we send you a 1099, you show up to HR block, they're gonna add 100 bucks under your fee, even though it's just this stupid little because it's a schedule. So now you've just paid \$100 to make 600 and plus the taxes that you're that you're gonna pay,

**Pam Binder** 20:19

and that's, that's why they didn't give them 1099,

**Taylor Schmidt** 20:23

yeah, well, I'm sure that's why we decided not to do something. But we still, I think

**Leigh Jacobs** 20:26

the reason they, I think the reason they didn't is the fight yet, yes, we saw the FICA exception and said, Oh, they don't get w twos. Sure, that's the only thing I can come up with. Unless we did send them w2 so I don't know what's the the maybe it's in a paper record somewhere. I don't know. We're looking on the drive. Yeah, I don't know.

**Thomas Larson** 20:50

Well, right? The folder that had the all the 1099s in there, I think it was under 22 there was a document saved that said it was \$2,000 on that one,

**Taylor Schmidt** 20:59

yes, because it does change. But that was the one where then I realized why that was in there. It's because of the premium pay. Because then we did make those two, do we pay election workers premium pay? I'm very confused why they were listed as election workers. I thought premium pay was like an ambulance.

**Leigh Jacobs** 21:12

Was it coming out for them. No, no, it was coming out of arpa. I they could have done two things.

**Pam Binder** 21:14

Oh, they probably took some of them through the ARPA funds because of COVID.

**Taylor Schmidt** 21:20

So, so for whatever reason they someone had decided, I don't know right or wrong, to give 1099s, just for the premium pay, not for the election pay.

**Megan Martin** 21:27

So [REDACTED], I got paid 530 It was a total of like 530.23 and she did have FICA tax taken out.

**Pam Binder** 21:34

because our payroll system is designed to take that up

**Megan Martin** 21:39

She wanted to have that set up, because at some point she's gonna reach over to \$600 threshold. But then she backed out

**Taylor Schmidt** 21:48

Because, and that's the problem with with even onboarding any of them, is that, yeah, then it's and it's and it's, if you go over the threshold, you over everything. Yeah, so it's like, you don't, you don't want to withhold, but then all of a sudden, they over. Now you You owe it all at once. Well, you know, and that's, that's the concern.

**Mark Splonskowski** 22:02

That was a concern. We got up yesterday too, all right. Well, let's say somebody works in primary election. Oh, okay, I'm just working Election Day, whatever. Here's your check. Thank you for your service. And then that fall they work your early vote. Well, now they go over that threshold they have to pay what? Well, I don't know, of course. And they made them primary too.

**Taylor Schmidt** 22:21

I don't even know how that would work, because what if you wait, what's the threshold, 1800 or whatever, 2 grand. So if you make 1999 you don't pay anything. And then if you show up and work one hour, now you owe FICA taxes on your \$12 paycheck for the whole two grand. I don't know how we do that. How are we going to collect that from the employee?

**Pam Binder** 22:38

Well, and the problem is, our payroll is designed to take, FICA tax. Yes, we cannot not take FICA taxes through payroll.

**Taylor Schmidt** 22:45

But I mean for these, for these 33 we can walk down to Office Depot by the official IRS red forms, fill them out by hand and mail them out.

**Pam Binder** 22:53

W-2 But you need w2 C's at this point corrections,

**Taylor Schmidt** 22:59

but we have all for those? Yeah,

**Pam Binder** 23:02

Yeah, because we've already wrapped everything up and we don't have they didn't come through payroll. So we didn't report those payroll numbers to the IRS. Report then. We report them quarterly, and then annually, (Pam Binder to Mark Splonskowski) that's what you sign quarterly, and annually is that reporting of wages. So the IRS is going to have a discrepancy between the W 2 and the wages that were reported. So they're going to say, okay, what's going on here? And if yeah, we're not going to get by with the \$2,500 fine this time is going to be higher. And that was just the one

**Taylor Schmidt** 23:37

well, but that's, that's, I understand we're talking about going forward. But I was just looking because I knew just, just to be clear, the IRS could show up tomorrow and give us anywhere from 10 to 20 grand a year for not sending these people. W2s.

**Pam Binder** 23:48

Yep. So we're damned either way pretty much.

**Mark Splonskowski** 23:48

yeah

**Speaker 4** 23:51

if someone, say the same people So they call and complain, and they want to come. I mean, right now, it's not that. It's, you know, we're less than a month, so the penalty is only 60 bucks. But if we for all the years we didn't file, it's three, 600 depending on if we decide we're negligent or not. Well in them too. Yeah.

**Thomas Larson** 24:09

I wanted this to all the meet for the purpose of, you know, right now, but then also, yeah, so we won't have this meeting again in 26



**Pam Binder** 24:18

Yeah. Going forward, we need to have a plan.

**Thomas Larson** 24:20

We will, we will, 100% have that plan in place.

**Pam Binder** 24:22

We don't want Pam to fly off the handle.

**Thomas Larson** 24:27

No, no,no, but going forward, we'll, we'll have this in place. You know, we can, we have enough time to start talks with Dakota staffing and see what their recommendations were are for, you know, how to handle this. And then also, we do have the call into Brady Marts to three calls to get that information, but like you said, they're in their busy season,

**Leigh Jacobs** 24:47

They're in the busy season, trying to reach their 315 deadlines for LLC.

**Pam Binder** 24:53

The other item is we may be on a separate payroll system and time card system by then. And. Visions is not giving us what we need, and the Commission has said, revisit your RFP.

**Megan Martin** 25:07

My monthly reports for retirement, I spend a day balancing because one report out of infinite vision doesn't match the next report out of infinite visions.

**Pam Binder** 25:16

And it's not just us. Grand Forks County and Morton County are the same way it is broke,

**Megan Martin** 25:21

so we will hopefully be on a new system. So it will be

**Pam Binder** 25:25

So we're tasked with revisiting that RFP, so it may be ADP, it may be Paylocity, sure. And maybe with those, maybe we'll have the flexibility, because they'll have that built in to where we can run a separate payroll just for temporary employees, and it doesn't. We can set it up to where it doesn't have the FICA taken out.

**Leigh Jacobs** 25:46

They have gotta, they've got to these payroll systems have to comply with the tax code. It's just I am schocked.

**Pam Binder** 25:50

infinite visions doesn't,

**Megan Martin** 25:52

It's a matter of

**Leigh Jacobs** 25:53

Oh I believe you.

**Taylor Schmidt** 25:56

If someone in California wants to to use visions, gotta be a way to turn off Social Security, Oh, but once it's built, it's built

**Megan Martin** 26:04

you can build whatever template, once it's built, it's built. that's fine. But then it's also a matter of, I can only do payroll, to the best of my knowledge, with the paperwork that I am provided. So if I'm entering somebody in here, and I'm not told until after I cut a check that they made over \$600 and now I have to go backwards and void a check and reissue it. That's not conducive to payroll systems here. So if we're setting up a person or persons minus FICAs, and then all of a sudden, I have to add them, but I didn't find out until three payrolls later, because it's not my responsibility to babysit every 360 employees in the system to make sure that payroll taxes are added on. That's where we are going to have to have a little bit more control of and that's what we said last year. The minute we know that they're making over \$600 you've got to let us know, so then we can bring them on payroll. Everybody's got so much going on.

**Mark Splonskowski** 27:07

Because, yeah, I don't remember the \$600 mark. I remember like the \$1,800 mark, because I remember we me and Lisa sat down like, Okay, make sure these guys don't go over this threshold. How many hours can we, okay, be this? How many hours they can work, so we don't be at that fresh, yeah, because I don't remember the 600 but I remember the higher one.

**Pam Binder** 27:28

600 is the threshold for the 1099, and that's when, to get them there, w2, the \$600 means we have to make them employees, so they get the w2 and then anything under 600 is a 1099 the max we're doing.

**Mark Splonskowski** 27:46

I recall the higher number.

**Megan Martin** 27:47

2300.

**Thomas Larson** 27:51

So if somebody making under 600 then they should be getting a 1099?

**Speaker 3** 27:53

You don't have to give a 1099. You don't have to,

**Taylor Schmidt** 27:56

I'm sorry, not to waste time. How hard was it to keep them under that higher limit? It wasn't too difficult, because that would help for the FICA, at least to know like, like. So if we say, hey, please make sure no anything you could do, do not let them go over this number. No, not too hard.

**Mark Splonskowski** 28:12

No to my knowledge besides [REDACTED] and they were already on payroll, nobody. Nobody sees 18.

**Pam Binder** 28:19

And [REDACTED].

**Taylor Schmidt** 28:21

It's still a pain to pay people back if you ever work out pretty much again. What I said, we're trying to try to grab 7% off two grand check or whatever. You can have

**Mark Splonskowski** 28:32

Yeah. So it's not hard to keep them under the 600 unless rates change in the future.

**Megan Martin** 28:36

Yes, they change every year. The tax

**Mark Splonskowski** 28:41

No, yeah I mean the \$15 an hour.

**Pam Binder** 28:41

That's up to you.

**Mark Splonskowski** 28:44

So the tax tables change every year, and every year, I'm highlighting this specific part right here, because that's part of my payroll process.

**Mark Splonskowski** 28:51

Yeah, so if the 2300 stays the same, the \$15 an hour stays the same, it's not difficult. So okay, this year, it wasn't difficult,

**Megan Martin** 29:00

And this was the presidential election. Yeah, this is the big normal election when there's not presidential it's not 2026. You don't even have the turnout that we're

**Mark Splonskowski** 29:09

looking forward to that one.

**Thomas Larson** 29:12

for my first non presidential year. Let's just get one of those under my belt first. Yeah.

**Mark Splonskowski** 29:17

So, okay, so 1099s are out? there's no 1099 for election workers. No, they're not gonna think about that established. Okay, they get a w2 at \$600

**Pam Binder** 29:33

yes, yeah. So, okay, so what's the plan? Let's back this up here. You hire election workers. When you hire election workers, what do we do with them? Do we bring them on payroll right away? Do we have them go through a temp agency, or do we wait and see if they're going to meet the \$600 threshold? So we have to do a 1099,

**Megan Martin** 29:59

I say, temp. Agency, because then they can't file unemployment against us and WSI,

**Pam Binder** 30:05

So, we are going to have to meet with a temp agency to see if they will do this for us.

**Mark Splonskowski** 30:11

Yes.

**Pam Binder** 30:12

Yes we will pay for it but in the long run its better than paying fines. And it seems like no matter how we do it it is not right.

**Thomas Larson** 30:19

So, I think the first so the going forward aspect of this we will talk to we'll talk to Brady Martz and get that information from them. But then we will also talk to Dakota Staffing and see what ideas they have for making this work and again it is only the early vote workers that are of concern. So

**Pam Binder** 30:37

So, now question for you guy is do they all have to be put on as employees, every single temporary election worker?

**Megan Martin** 30:49

So, if we are bringing them through Dakota Staffing we don't have to worry about them on our payroll system.

**Pam Binder** 30:54

So,if that is the case are we going to bring them all through Dakota Staffing? Because we were 1099ing them, well we were not 1099ing them. If they made under the \$600 threshold we did not do anything we just paid them and you could if you wanted too. You could but you don't have too. You are not required too.

**Taylor Schmidt** 31:05

No you don't have to. You could if you wanted too. I've gotten a 1099 for \$100 before.

**Megan Martin** 31:16

If you are doing it for one, I think you do it for all. That way it's a clean process.

**Pam Binder** 31:24

So, exclusively bring them through the temp agency. Except for like the [REDACTED] and [REDACTED] those type of people.

**Mark Splonskowski** 31:34

No, because some of these people make \$30 in the training and that's it. They never end up getting called in they are backups. So, you know that is where I am like okay, maybe Dakota Staffing will be more willing than I think they are going to be. Alright, we want to bring 240 people on and some of them are going to make \$30 and some of them are going to make more.

**Pam Binder** 31:59

It is worth a try. For a fee they may not care what they do. You know. But

**Thomas Larson** 32:05

And you know I think this also warrants a phone call to like Cass County or something like that to see how they are handling them. I call Morton, Cass

**Mark Splonskowski** 32:11

Absolutely! And then call the Auditors.

**Pam Binder** 32:15

Is it Casey, Cassie? We can call them to see what they are doing on the payroll side. We can see what they are doing on the payroll side if they are doing payroll. I don't know if Cass County HR does their payroll. Then call the Auditor's and see how they are doing that on the other end.

**Megan Martin** 32:34

Grand Forks County, Michele.

**Pam Binder** 32:36

Yep, Michele. I don't know if it pays to talk to Wendy in Morton County because, I don't think she does payroll.

**Megan Martin** 32:41

She doesn't but her ah, no.

**Mark Splonskowski** 32:45

If you want I can send out a mass email to every Auditor in the state saying hey how do you do



**Pam Binder and Megan Martin** 32:48

No.

**Thomas Larson** 32:50

No don't open that can of worms.

**Pam Binder** 32:51

Because the majority of them are rural. And so rural its not a problem because you only have what 3 to 5 workers.

**Megan Martin** 33:01

But a lot of these companies that we are referencing have visions. Right know.

**Pam Binder** 33:05

They have our payroll system that's why.

**Taylor Schmidt** 33:06

Grand Forks County does. I know that Cass County doesn't yet. I know that Cass uses something custom but they are switching, maybe they are already switched.

**Pam Binder** 33:12

To infinite visions?

**Megan Martin** 33:14

I think they have already switched.

**Taylor Schmidt** 33:17

Ok but I know Grand Forks uses it. So, they would be one. Because NDSU had a list out there somewhere.

**Pam Binder** 33:25

Talk to Michele. They use Visions. Williams County does not , they just went on UKG.

**Megan Martin** 33:29

Ward did, I don't know if they still do. Ward.

**Pam Binder** 33:35

We can put feelers out there and see what the other Counties, while Cass and Grand Forks the bigger counties. Because the smaller counties, take a Kidder or Emmons County, they have three or four people for the day.

**Mark Splonskowski** 33:49

Its not a big deal.

**Pam Binder** 33:50

It's not a big deal and they get paid monthly anyway. So it doesn't matter. Yes.

**Mark Splonskowski** 33:52

They process in their whole election what we process in a day of early vote. Okay, so, we have a plan moving forward for the next election. I would say let's set a date and meet again in three weeks. So, we meet again and by then we'll have talked to Dakota Staffing. You guys will have talked to some HR departments and we will talk to some auditor's offices. We need to get this sucker set in stone. Fixed

**Pam Binder** 34:18

So, going forward what do we do?

**Megan Martin** 34:19

We fix it for the future.

**Pam Binder** 34:21

Moving backward, what do we do?

**Mark Splonskowski** 34:22

Yeah.

**Pam Binder** 34:24

That's the hard one.

**Mark Splonskowski** 34:26

This was the Auditor's office, historically. So,

**Leigh Jacobs** 34:31

That's on you guys. I don't know what you want to do. Umm, but everybody, you know, everybody that I have talked to this piece this election workers were run through the Auditor's office through the Deputy Auditor. The fact that it wasn't getting done is immaterial.

**Megan Martin** 34:50

It's up to you guys to decide.

**Mark Splonskowski** 34:51

In the past they did nothing.

**Taylor Schmidt** 34:54

From what I can tell there was nothing done.

**Pam Binder** 34:55

They just didn't send them out. Because they didn't feel they had too.

**Mark Splonskowski** 34:56

I did not find anything either. I have no records of showing they did anything.

**Megan Martin** 35:00

Why have we not heard anything from anybody.

**Taylor Schmidt** 35:03

They have.

**Thomas Larson** 35:05

We have had a couple people in our office that have called asking for where they were. But we have been in discussions trying to figure out what we do. So it is like. Were, you know, working on something. You know.

**Pam Binder** 35:17

The majority of them are like they have done this before and they never got a 1099, They're not questioning it. They just file their taxes they're done. So if you send them a 1099 if they already filed their taxes, then

**Taylor Schmidt** 35:29

That's it, then you have a

**Thomas Larson** 35:37

Well this morning before I came I had messaged Brani and I had asked her on Teams, What did you do in 2022 for 1099s. She doesn't know what they did for 1099s.

**Megan Martin** 35:46

So they didn't do anything.

**Pam Binder** 35:49

She is the one that did the 1099s. They did not do anything.

**Taylor Schmidt** 35:51

No, that is from what we could tell anyways.

**Thomas Larson** 35:59

Then she mentioned the conversation that she mentioned W-2s, 1099s. So, well they were pretty much at the point where we are now and so they just said well we are gonna do nothing.

**Megan Martin** 36:12

So they just assumed that our office did something. Then I am wondering.

**Thomas Larson** 36:14

How could your office do something if all of this was not processed through payroll.

**Pam Binder** 36:15

We did not have any records. If you didn't have a record, there is nothing we could do.

**Mark Splonskowski** 36:17

Mm, yeah.

**Pam Binder** 36:19

But we got like [REDACTED] and [REDACTED] and some of those other ones. Yeah, we did that for them.

**Mark Splonskowski** 36:28

Ahh mm

**Pam Binder** 36:29

Do we do what was normally done? But now we know its different. But how do we fix it? We can't get them W-2 Cs because that was never. We never took the money though payroll. The IRS has no record of that money through payroll.

**Megan Martin** 36:43

And I can't back things up because I am closed.

**Pam Binder** 36:48

Yeah, you can't go back you can't go back from one payroll year to the next. It closes at the end of the year.

**Mark Splonskowski** 36:56

So, is there anything that we can do for this year.

**Megan Martin** 36:57

Not though payroll.

**Pam Binder** 37:00

Yeah, through payroll we can't.

**Thomas Larson** 37:01

But they can't get 1099s they have to get W-2s so.

**Megan Martin** 37:09

I can't issue a W-2 because nothing was processed through payroll.

**Mark Splonskowski** 37:09

Yeah.

**Pam Binder** 37:11

Well they can go down the street and they can buy W-2 forms, you can put it on and you can give it to them. But the minute that you have to send it to the IRS, and the minute they get it, it is going to go to the IRS and then the IRS is going to come back and say uh your payroll totals are off from what you reported, why? Then we say well they are off from our 941s because we didn't pay these guys the way we should have and then were are going to get fined. So were going to get fined one way or the other.

**Taylor Schmidt** 37:44

But the 941's can be amended. Not to not .

**Megan Martin** 37:45

Oh with a fine, yeas they can

**Taylor Schmidt** 37:49

But I am saying.

**Megan Martin** 37:55

But I have already submitted the W-2 File information to them.

**Taylor Schmidt** 37:55

But I am saying. I used the same example yesterday, not to pick on you. If Mark showed up today and said oh by the way I heired my wife and I have been paying her \$100 a week. You gotta do something. Even though I know there would be finds and it would be wrong well you know. He has the power to hire someone so we like I said it is potentially 10 to 20 grand in fines if we don't do something. Not the we've ever gotten fined before. But.

**Pam Binder** 38:22

The 10 to 20 grand in fines would be to amend the 941s.

**Leigh Jacobs** 38:25

This was done unintentionally. There not reporting it on individual taxes and were not reporting it on their

**Taylor Schmidt** 38:31

Yes that is what I mean we cannot see it on our 941s quarterly, but we can go back and look at invoices and we paid people for wages quarterly.

**Leigh Jacobs** 38.34

And they're. They are required to report their income. You know what I mean, they are liable the individuals that got paid by us. When I did work I did not get a 1099 I had to report it. You know even though the IRS would have no record of it so. Um but in any case um, Yeah, um we don't think that historically we did it right, um

**Taylor Schmidt** 39:05

And we are gonna avoid any withholding penalties because they don't have to do any. Not like we under, not like we didn't pay not like we didn't remit their FICA and didn't remit their um federal withholding because they don't have it. They have to request withholding, they don't have to do tax withholding. They can if they want though for 600 bucks the only thing wrong is our total wages. Form social security, Medicare, and income tax withholding.

**Pam Binder** 39:30

So do they even get reported on the 941 then? Salary has too.

**Taylor Schmidt** 39:40

I know it is going to be stupid because the w-2 goes

**Megan Martin** 39:45

If they are brought through payroll then yeah.

**Taylor Schmidt** 39:46

Because the W-2 is so stupid because it does not go to the IRS it goes to Social security and there is no social security wages. They forward it on to the IRS but its like its pointless in that sense. You have, I will give you the example of my brother you hire a minor employee they don't pay social security and medicare so its just box 1 that is all there is have to send it to social security every year I don't know what they do with it there not wages for them anyway.

**Pam Binder** 40:14

While your 1099s go directly to the IRS.

**Taylor Schmidt** 40:16

Yes those do yeah.

**Leigh Taylor** 40:23

So a W-2 would require an amended 941

**Pam Binder** 40:25

But would it? Because

**Megan Martin** 40:26

It is tied into our people paid through payroll.

**Pam Binder** 40:29

But, which one, which number do you put on that on the beginning of the 941 its the number subject to social security. We are going down a rabbit hole big here.

**Megan Martin** 40:36

The beginning of the top line? My brain can't keep up right know.

**Thomas Larson** 40:54

I know, I know and again I am just

**Pam Binder** 40:55

Look at that report on the reports

**Megan Martin** 40:55

I am looking here.

**Thomas Larson** 40:58

I am just happy that were are going to be prepared for the next one. I don't want this to continue, I wasn't a part of it

**Mark Splonskowski** 41:13

Were recording right, were recording right. This ain't going to happen again.

**Megan Martin** 41:16

The the the number in question is The number of employees who receive wages, tips, or other compensation for the pay period including and it is always the 12<sup>th</sup> of the month. For the quarter. It is like the third month in the quarter with like the 12<sup>th</sup> on it. So it has nothing to do with social security or FICA, or unemployment or anything like that.

**Pam Binder** 41:29

Ok so its our numbers raw.

**Megan Martin** 41:35

Its our numbers, and that system has already pro, that number is already produced by our system

**Pam Binder** 41:43

Yeah, yeah, and because they weren't run through the payroll system we don't have those numbers in there. And that's not, IS that the 940?

**Megan Martin** 41:48

That is the 941, and that is where we are reporting what we paid in taxes every quarter. But the 941 is where we have to put that number.

**Pam Binder** 41:56

Put the number of employees

**Mark Splonskowski** 42:01

So, are we looking at maybe

**Taylor Schmidt** 42:03

But that's not what they care about. The ending balance due is going to be based upon the social security wages. So it's kind of one of those where I've done that before with clients, which is so stupid where as its like, you are gonna amend their return because they forgot something but it doesn't change it.

**Megan Martin** 42:17

Its also based off of our federal, all of our wages. umm

**Taylor Schmidt** 42:21

I know I know its going to be the like the balance due isn't going to change because a, then if you look at 5a,b,c, those are your taxable social security wages.

**Leigh Jacobs** 42:24

So it's the number of

**Pam Binder** 42:25

So is it the main number

**Megan Martin** 42:34

On number 2 wages, tips, and other compensation.

**Taylor Schmidt** 42:36

No, I get that, cuz the penalties are usually related to what you owe. You know its what I always tell people that there is no filing deadline if you get a refund, cuz your penalty is on what you owes so if they owe you money, they don't care. I don't know, but I am guessing that it would be similar to this it doesn't change your balance due.

**Pam Binder** 42:54

Well, we get a penalty because what was our mistake where it went in one quarter instead of the other. You had the wrong quarter checked. We got a what 3,000 dollar penalty for that. A penalty, Welcome to the government.

**Megan Martin** 42:57

Anything that's not correct no ahh yes, we got a penalty for that. Yep, and if you fill out, if your form is incorrect, you get a penalty, like if I were to put something in ah line d5 as opposed to line 5c that is not what I reported on my 941, the form is incorrect, or when I do this I do this online. So, because I don't match that's where their like wrong try again here's your fine.

**Leigh Jacobs** 43:33

A fine but no penalty probably. The penalty interest is on what you owe.

**Pam Binder** 43:41

Yeah, yep because it didn't change the numbers so they can't do penalty or interest but there is a fine.



**Megan Martin** 43:48

Human error there is a cost to it.

**Thomas Larson** 43:52

You know that its amazing to me that you know, being an election worker and this isn't isn't directly re, Anyways, I find it funny that you know we strive to have lection workers across the country but you would think that the government would find a way to make it the process easier to enable more people to a participate and

**Pam Binder** 44:15

Just exempt them.

**Mark Splonskowski** 44:18

No taxes, no requirements, no reporting

**Thomas Larson** 44:19

Exactly, well I think there is a point I mean where you do have to have some, some guidelines, because you can't just say you're an election worker and now I gonna pay you 60 grand a year, and you don't have to pay taxes on it. So

**Pam Binder** 44:38

100 hundred thousand a year! Yeah.

**Mark Splonskowski** 44:39

So, you could have it like 2,500 hundred dollars or less. That should cover 99% of them.

**Thomas Larson** 44:40

Yeah I think that should be.

**Megan Martin** 44:41

You have an appointment review at 10, I have an appointment at 10

**Pam Binder** 44:42

Yeah

**Mark Splonskowski** 44:43

Should we reconvene or what so do we want to before we move forward on this,

**Leigh Jacobs** 44:44

I can't reconvene today.

**Megan Martin** 44:44

I can't reconvene I gotta an appointment at 10.

**Mark Splonskowski** 44:48

So, do we want to, before we move forward on this, if we do anything for this year, I want to make sure its right. You don't want to do something that's having to be wrong. Is there anybody else that you might suggest that I reach out to. You said Brady Martz. Can it be any . Eide Bailey,

**Pam Binder** 45:04

Eide Bailey maybe. Eide Bailey.

**Leigh Jacobs** 45:07

It's the middle of February.

**Mark Splonskowski** 45:08

Yeah, I know I get that.

**Leigh Jacobs** 45:09

And they're getting their clients done. They were billing \$285 for tax planning, how ever years ago I was. You know so their billing probably 400 an hour

**Pam Binder** 45:20

And were a client with Eide Bailey because the do our ACA forms the 1095s.

**Mark Splonskowski** 45:32

Ok, anybody else that we can use?

**Thomas Larson** 45:33

H & R Block (chuckles).

**Taylor Schmidt** 45:34

Maybe try a tax attorney.

**Pam Binder** 45:34

Yeah you can try a tax attorney. Yeah.

**Leigh Jacobs** 45:35

We are going to be in a long line of people who are frantically trying to get tax advice. Taxes.

**Mark Splonskowski** 45:35

Since we are already a client with Eide Bailey maybe they will put us up higher on the list.

**Pam Binder** 45:48

Sorry, to say were not a heavy client with them.

**Megan Martin** 45:51

We have to wrap it up, you guys have a meeting in here.

**Mark Splonskowski** 45:54

Ok, well I'll reach out to them right away and we'll reach out to the temp agency right away. We will reach out to the Auditors right away.

**Pam Binder** 46:05

And circle back around, You guys sure it has to be a W-2?

**Taylor Schmidt** 46:05

mm- hhm, I mean

**Leigh Jacobs** 46:07

That's my read on it. I mean I

**Pam Binder** 46:09

So what happens if we do those W-2 forms and you just send them out and we don't do anything with our 941?

**Leigh Jacobs** 46:20

We are going to get a penalty either way. I mean, is it a reasonable explanation? For the IRS. We had election workers and we

**Taylor Schmidt** 46:34

That's part of it but when you get to talking to a person you can show that we tried And we got the taxpayers their stuff.

**Megan Martin** 46:48

There might be a way in the system we can try and import.

**Leigh Jacobs** 46:49

But its 32 people and that's like two boxes you just fill in the Burleigh County part

**Megan Martin** 46:54

There might be a way with the W-2 processing you can like do an adjustment. There might be a way we can do it in here with the person's information, cuz the system is built in a template they are blank forms but the system will print it out in a w-2 template. There might be a way we can bring in create adjustments and build it in here I just

**Pam Binder** 47:37

But those are gonna , uhh.

**Megan Martin** 47:41

It would create an image file and we could have one on record.

**Pam Binder** 47:48

But for 2024 or for 2025?

**Megan Martin** 47:48

For 2024, I can go back and, maybe, I don't know.

**Pam Binder** 47:52

Mess around with it a little and see what you can do.

**Megan Martin** 47:53

It won't get done today, cuz

**Mark Splonskowski** 47:53

No, no is this something that can do Mon

**Megan Martin** 47:57

No because Monday is a holiday. Next we is a payroll week and it's a short week. And so I have a new hire already so next week is probably not looking like its going to be an opportunity to do any adjustments.

**Mark Splonskowski** 48:18

So, maybe we can meet on the 24<sup>th</sup>?

**Megan Martin** 48:19

And then the 24<sup>th</sup> we got that's a, next Friday that's payroll. I've got both Desiree and myself in here with new hires and then I have meetings all day Thursday morning. Like we are

**Mark Splonskowski** 48:48

What about Tuesday.

**Megan Martin** 48:48

Maybe, maybe That's the earliest that we could probably do it.

**Leigh Jacobs** 48:48

We have people waiting for their

**Pam Binder** 48:54

Yeah we've got an interview coming up here so we gotta go.

**Thomas Larson** 48:58

Well thank you guys for this and if were gonna.

**Taylor Schmidt** 49:05

And the last minute, the employee copies don't matter so you can literally print the one off of the IRS website and complete them in a half an hour and then mail them out. Its just the IRS one. Its gotta be e-

filed or you can go to Office Depot. Its free from the IRS but you can buy it from Office Depot you need like the official red copy If you mail it in you may want to scan it.

**Pam Binder** 49:14

Its gotta be e-filed? Oh you're stayin garen't you.

**Thomas Larson** 49:15

Yep.

**Mark Splonskowski** 49:28

Well thanks guys I appreciate it. Thanks Pam.

# Meeting on February 18, 2025

Thu, Mar 18, 2025 12:34PM • 41:16

## SPEAKERS

Megan Martin -Speaker 4, Speaker 5, Mark Splonskowski -Speaker 2, Thomas Larson - Speaker 1, Speaker 7, Speaker 6, Pam Binder -Speaker 3

**Thomas Larson** 00:00

Office are pumping out some pretty good, yeah, we're usually freezing. They shut them off in the afternoon at like three or something, like that this afternoon, I do notice that it gets cooler in those offices pretty quickly.

**Mark Splonskowski** 00:12

quickly. Oh, okay, I did buy myself a space heater for my

**Pam Binder** 00:16

I have a space heater too. Yeah, I think we all do. So, yes, I have Lindsay.

**Mark Splonskowski** 00:22

So we, we talked about, we thought about some of the options for 2024, okay, and you had mentioned that whether the W 2c through the W 4c

**Pam Binder** 00:34

Well, it's a W 2c that you do, but we don't have any record of them as employees, so a W 2c isn't going to help.

**Megan Martin** 00:41

I can't pull them in because I've already closed the 2024, calendar year in infinite visions, okay? And I've already uploaded everything to the IRS

**Speaker 3** 00:51

well. And the deadline was January 31 Everything closes after that.

**Mark Splonskowski** 00:56

Yeah. So

00:59

Did Lee and Taylor say anything about what to do,

**Thomas Larson** 01:03

and we're still waiting to hear from Brady Martz to see if they have any options as well.

**Mark Splonskowski** 01:12

So that's my Yeah. I just want to see what we can do for 2024 what can be done, because if they end up, the IRS comes in and says, Oh my gosh, you didn't do this for 2022 now, now we're really gonna start digging. To me is do the next right thing, and whether that ends up then digging into 22 or not, I want 24 to be done right at this point. What can be done to make 24 correct?

**Pam Binder** 01:39

It's not gonna be correct. There's nothing we can do to make it it's not going to be correct. Are we going to do done the correct? Do it the right way. The right way would be to do the W twos. Can't do a W 2c because there's number of w2 okay. I've researched that you could do W twos. Getting the forms, do it, type in them up, send them out. But then it's going to flag apparel audit, sure on the whole county, On the whole county

**Megan Martin** 02:08

And we don't know how long that's gonna how far back that will go once we're on there. We don't know how long it's going to take them once they're on their radar. We are on their radar,

**Thomas Larson** 02:19

and that's even going forward. I would assume they'd be keeping a close eye.

**Pam Binder** 02:24

I think they can go three years back on a payroll audit. This time card on it. They can do seven years back on a payroll to keep seven years of history in their own history.

**Thomas Larson** 02:35

Okay, so just, I mean, in this, this could be me. Just, I know we that one thing that we came up with at that last meeting was that election workers had to be, had to receive W twos, not 1099s. Is, I mean, what would the feasibility of, you know, doing 1099s? Would that be in lieu of doing nothing? Would 1099 in them be better, you don't. I know

**Megan Martin** 03:02

you're just putting the tax burden 100% on the input, yeah, I'm the person. I can't even you're putting on the person, right?

**Pam Binder** 03:09

You're putting the state and federal taxes on that person. But then they also get self employment tax, and that's a percentage, because we're not taking out the fica, so they end up paying that.

**Mark Splonskowski** 03:22

is, there, is there a way to make this reportable? Because a lot of this, they don't pay taxes on they pay some taxes, but income earned, yeah, so is, that's what I mean. Is there we know that we can make it so that, like we paid you X amount of dollars. It's,

**Pam Binder** 03:43

no, that's what the 1099 is for. It's the 1099 is the NEC one, the NECon e, or the NEC one. Okay? And there's, like, two spots, because we never took out federal income. We don't have to take out federal income. I don't know how to. And maybe it works. Maybe it won't so maybe it won't do like a self employment tax, because it's,

**Megan Martin** 04:07

We also don't know what these people have for other income, yeah, so we don't know if they have other taxable income or not. Regardless, doing the right thing? Is it easier to issue the 1099 even though it's not the right thing, and we fix our mistake going forward? Is it easier to do that because it's already the data is already in the system for the 2024, year, in your accounts payable? Is it easier to just put the 1099 even though it's not correct, and get it issued, yeah?

**Pam Binder** 04:47

Because the other option is to do fake W twos, but we have no data backing those W twos because they're not employees, So if they, once, they audit those W twos, because it's going to be fishy, because. That deadline has already passed and they weren't in our upload.

**Megan Martin** 05:05

And I don't have a payroll data to show that. So if we get on it, and he has paid \$1,700 in the calendar year of 2024 because when they're looking for payroll, they want me to look for John Henry in my system, and they want to see all the payrolls that were attached to that person. And if I don't have.

**Pam Binder** 05:22

well, and you've seen the state play it just this morning on those four so that's what we get from federal too. It's going to be wrong no matter what we do it.

**Mark Splonskowski** 05:39

there's no right answer. Ahh.

**Thomas Larson** 05:44

Once again, if we could get the expert, yeah, you know, definitive, not just guessing. Well, if we do this or do this, well,

**Mark Splonskowski** 05:57

yeah, because we don't right now.

**Pam Binder** 06:01

Yeah, we need a tax, tax attorney right now. Well, those were due out to 15. Were they not



**Thomas Larson** 06:06

the 1099 they were due on the 31st as well.

**Pam Binder** 06:09

Okay, but I think they gave you a squeak time for 1099

**Thomas Larson** 06:13

Yeah, sure. So we missed that one too. Yeah.

**Mark Splonskowski** 06:19

Okay, so w to C is out 1099, is probably out?

**Megan Martin** 06:25

Probably easier to

**Pam Binder** 06:35

The only other thing is to the only other thing is to do what they did in the past. But we know it's not right.

**Megan Martin** 06:42

But it, and I agree with you, I don't like it. But of those, what do you say? 30ish people? How many of them are repeats? How many of those have done it in the past? And if they've done it in the past, they

**Pam Binder** 06:55

Would get a 1099, or w2,

**Megan Martin** 06:55

but again, none of this is correct. Do what they did in the past

**Thomas Larson** 06:59

Well, I don't like at least one of the two that have called the office. I don't think he would have gotten one before, plus the whole 1099 Well, I guess if they knew nothing different than being told, Hey, fill out this w9 form so you can get your 1099 I mean, they don't know that they're supposed to get a w2 either, and

**Mark Splonskowski** 07:24

unless one of them's a tax guy,

**Pam Binder** 07:25

yeah, but then you would have had questions up front, if they were a tax person,

**Mark Splonskowski** 07:32

That's true. Now, this is something that they can claim as income as miscellaneous income. Yeah. So would it be a feasible option to tell them, tell your tax guy, and if you want to claim it, do you claim it as miscellaneous income? Would that

**Pam Binder** 07:50

They can claim it whether they get they get a 1099, or whatever. be we should give them a 1099 Should we do that? Okay, so we so that they have something to back it up. Sure. Because if you don't get a 1099 from somebody, you don't have to claim that in theory, you don't have to claim that income because you never received a tax document, and I think that's the theory they were operating on in the past. It's wrong, yeah, and illegal, but that's what they were doing. I don't like any of the options, because it's going to trigger, not it. No matter what we do 1099, I would trigger on it as well. Well it might take, well, if we did a 1099 suddenly, when we haven't done anything before, May, and then you still have, but if, yeah, you still have to upload that 1099 or send them with the the 1099 what is it? 1093 transmittal sheet to the IRS, sure.

**Mark Splonskowski** 08:51

Sure, So w2 c is he is out.

**Pam Binder** 08:53

Yeah, because we didn't issue the w2 we can't correct it if we didn't issue it.

**Mark Splonskowski** 08:57

So 1099 is possible, but not great, yeah. And doing nothing is possible.

**Pam Binder** 09:05

What we've done in the past, but now we know what's wrong. Yeah,

**Megan Martin** 09:11

and that's not any of us in this room, because none of were involved in that.

**Mark Splonskowski** 09:15

Yeah,

**Pam Binder** 09:16

that was past practice,

**Mark Splonskowski** 09:17

and that's what this comes down to, is 22 isn't our problem. We didn't do it. 24

**Pam Binder** 09:25

is exactly do

**Mark Splonskowski** 09:29

that's where I'm like, okay, and we just need to give him 1099 even though it's not right, not illegal.

**Pam Binder** 09:30

its the lesser of the two evils

**Mark Splonskowski** 09:37

It's just wrong, but it's the wrong way

**Pam Binder** 09:42

to do it. It's the wrong way to do it.

**Megan Martin** 09:44

Are you guys capable of printing those with the tools that infinite visions?

**Speaker 3** 09:50

Because I don't think Leigh or Taylor will do it. Taylor's got his tax business on the side, and Leigh's a CPA, and neither one of those will do it ethically.

**Mark Splonskowski** 09:56

Sure.

**Megan Martin** 09:58

So with the tools. That infinite vision has. They've got great tools of step by step instructions on doing things. A lot of what I do is created by infinite visions, and they're step by step instructions.

**Pam Binder** 10:09

It should be the Rollover instructions

**Megan Martin** 10:13

a lot of what it is instructions. A lot of it is, are you guys capable of printing those and doing that with i  
Oh,

**Thomas Larson** 10:23

I'm completely unfamiliar with that, the 1099 stuff, because I wasn't involved this year, nor was I involved the previous year. I mean, instructions. Are instructions. I mean, and

**Mark Splonskowski** 10:33

we can go about those 1099 forms here in town, can't we

**Pam Binder** 10:34

should be able to. We ordered them. Through Pro Forms

**Megan Martin** 10:40

We should have them. I mean, I would imagine they should have extras, like we always order. We order them in blocks, like when we do our W twos. We order them in blocks of 500 Yeah, so you should have extras. I would imagine the ones that were already printed for this year. It's just a matter of the it and following the instruction.tools for printing

**Pam Binder** 11:01

Yeah? Because we have, I have a few extra w2 forms, we always do that. In case somebody loses their w2 then we can print them another one. Yeah, but those w2 forms aren't going to help you, because different, yeah, yeah. And it's, it's made for infinite visions, employee files. Is

**Mark Splonskowski** 11:20

it? Would it be theoretically possible for us to go get those forms that come up here you can help us fill out.

**Megan Martin** 11:25

I don't have access to the payroll side the access, and we don't have access to the Accounts Payables.

**Mark Splonskowski** 11:31

gotcha

**Thomas Larson** 11:33

well now I'm just the way you just put, you know, obviously, with Lee and Taylor, they won't do it. But, you know, you described, you know, Leigh won't do it because, you know, he's a CPA and he can't ethically. I that if, if they won't do it, what do we do?

**Pam Binder** 11:58

Yeah, because, I mean, you know, do we do the wrong thing? Do we do the wronger thing or we do nothing? Which is wrong?

**Megan Martin** 11:59

Everything's wrong.

**Mark Splonskowski** 12:10

We need a Tax Attorney,

**Pam Binder** 12:11

Yeah, we do. Is there any other tax attorney. Does Julie know a tax attorney?

**Mark Splonskowski** 12:17

I could ask her. let me make a few phone calls and see if I can, if I can track somebody down, because they don't even have to be in Bismarck. They can be anywhere.

**Pam Binder** 12:31

They can be anywhere. it doesn't matter.

**Mark Splonskowski** 12:33

Yeah, federal, because this would be, Yeah.

**Pam Binder** 12:35

They all know tax law. The only reason why I know 1099 is my husband has his own businesses and we 1099, people, yeah, for interest, we do the interest and then the R, yeah, retirement stuff,

**Mark Splonskowski** 12:49

yeah,

**Pam Binder** 12:50

because you've been self-employed as an appraiser too.

**Mark Splonskowski** 12:54

Yeah, my wife's former employer several years tried to 1099 her I said no your not. I called her up and said no issue the W-2. That's where this lady was, investment firm.

**Pam Binder** 13:02

If she was paid as an employee, then she has to be. Yeah, yeah, she's trying to 1099 here because she probably didn't withhold them, didn't want the tax or the FICA.

**Thomas Larson** 13:17

Anyways, I think at this point the you know, all of our options are wrong, wrong, wrong, just on different levels of wrong. I think the right thing, like what you said, I think, is we need to find somebody get some expert opinion on what potentially right looks like.

**Mark Splonskowski** 12:18

Yep,

**Pam Binder** 13:34

when, if we have to pay that tax attorney to do whatever they need to do to then we do it.

**Mark Splonskowski** 13:43

Yep, agreed. All right, I will be hounding down tax attorneys today.

**Pam Binder** 13:46

Yeah? Because if, if you don't send 1090 nines, yeah, that's past practice, you can possibly argue that, but we're still gonna get in trouble.

**Thomas Larson** 13:55

I couldn't find any 1099s that were ever sent out for election workers.

**Pam Binder** 13:59

I don't think they did.

**Megan Martin** 14:02

It doesn't sound like they did. Just from what you said it does not sound like they did.

**Pam Binder** 14:03

I think they thought. because they don't get federal or state taxes held or anything. We don't have to do a 1099.

**Thomas Larson** 14:09

But the law is clear that if you make over 600 bucks, you get a 1099. but it's not an election worker. It's over 600 bucks, and you get a w2 but you still don't collect FICA until you hit \$2,000.

**Pam Binder** 14:26

You have to 1099, that year. So did they read the one part where they don't give them a 1099, but did they not read the other part, w2 but a w2 can only be done if they're an employee.

**Megan Martin** 14:34

They can only done if I have them on payroll.

**Pam Binder** 14:36

Yeah, we need their employee records, and we can put the 32 on as employees for 2025 we can't go back in our system. And payroll is meant so you can't do that.

**Megan Martin** 14:50

And like you said, for a payroll audit, yep, they come in and audit, I have to be able to show that John Henry was paid on this, this or this payroll. And if I can't pull it, you. It's gonna be like we're in trouble really. What was that money really for?

**Pam Binder** 15:02

Yeah, well, fraud is what they would accuse

**Megan Martin** 15:09

Yeah, and I really want to keep my job and stay out of prison.

**Pam Binder** 15:10

We all want to stay out of prison.

**Mark Splonskowski** 15:10

Absolutely.

**Pam Binder** 15:15

that's why I think you should try and find a tax attorney. I knew one, but he's retired and lives in Arizona now, so I can't help you with that one. John power was one, if there's and he was here in Bismarck. I don't, I don't know if his practice is still going. Power. What was it? Power? Power tax services.

**Maegan Martin** 15:39

You could try to call any of these tax services right now where they've got CPAs,

**Mark Splonskowski** 15:43

I could call my tax guy,

**Pam Binder** 15:44

yeah,

**Mark Splonskowski** 15:48

okay, well, that gives us starting another starting point. Took a few long checked them off. Possibilities. These are possible, but really not great. Come down to tax attorney,

**Pam Binder** 15:59

yeah, because they're gonna have to try and figure out, how do we get out how we get out of this mess? Or they're gonna say, do pass practice and hope you don't get audited. That'll be the under the table advice they give you, sure,

**Mark Splonskowski** 16:00

Yeah.

**Megan Martin** 16:14

which I think we're all on. The same page

**Pam Binder** 16:17

No tax attorney is gonna tell you that straight out.

**Mark Splonskowski** 16:21

Well, we already talked to five auditors around the state of a getting practice from them and seeing what they've been doing.

**Pam Binder** 16:28

The rural auditors, employees are no issue. because they

**Mark Splonskowski** 16:32

Yeah I am talking to Cass County, Grand Fork for Minot and Dickinson.

**Pam Binder** 16:37

And do they put them on as employees, or do they go through temporary?

16:40

**Mark Splonskowski** We've gotten two different answers,

**Pam Binder** 16:407

okay,

**Megan Martin** 16:44

Cass County, there's all one gives them all w2 top to bottom every one

**Pam Binder** 16:46

So then they throw them on payroll

**Mark Splonskowski** 16:47

Same with Grand Forks every single one of them Yeah and same thing with Grand Forks, they do every single one, they put them all on payroll, then what did they tell me? Was it Ward County? Ward County, they do, everybody who worked election day gets nothing. But if you do early vote, early vote, they throw them on as an employee and they get a w-2.

**Thomas Larson** 17:10

But in talking about that, that just sounds messy, because people jump around through I mean, things change. You know, you might run certain.

**Pam Binder** 17:18

That's how we've been our trouble. because there's no consistency because Erica used to, Brandi, and Erica used to have these people on, like, early vote and primary or whatever, and then wouldn't give us their paperwork until they started on the primary election. And then we'd have to scramble, or they were working here for a week, and all of a sudden we get a call, so we'd have to come and get them on payroll. Yep, the communication wasn't there,

**Megan Martin** 17:20

There's no consistency There was no communication.

**Thomas Larson** 17:47

sure? Well, I have first hand experience on onboarding quite a few people at one time, and getting paperwork filled out and everything done,

**Pam Binder** 17:59

I bet you do! And I don't believe with the fact that they don't have to have I-9s. Why would you put why would you not make somebody prove that they're a citizen in order to run our elections?



**Thomas Larson** 18:09

Does I nine Yes, right. I have to look at the notes I don't recall right

**Megen Martin** 18:16

out of standard practice and safe practice, I would continue the practice that we do for even just a standard temporary employee, a temporary employee, somebody we've been here at the highway department, or even a lot. [REDACTED] put it that, yeah. [REDACTED], they do their w4 they do their I-9. Because I have to, I have to attest that when I'm putting somebody on payroll, I'm put I'm uploading their social security number to the to the Social Security Administration to prove that they are legal and lawful United States residents able to work,

**Pam Binder** 18:47

and we're not going to jeopardize that practice because, it is going to be audited.

**Thomas Larson** 18:52

It should just be those two that we need, though, is the w4 and I-9

**Megan Martin** 18:56

well, but no anybody that gets paid and is considered a payroll employee. It's a w4 it's an I-9. We do the DMP, we do the WSI stuff, because they are considered an employee. They are under our WSI safety. They then are also able to claim unemployment on us once they are no longer working for us. Today, they are there's even a bigger tax burden, like right payroll burden on us

**Thomas Larson** 19:22

Well, and I know that that was one of the questions that he asked us some of the other auditors, what or election, payroll people, what have you. They didn't have any issues with, you know, he specifically said workers comp or unemployment. And he said, and that's what,

**Pam Binder** 19:42

yeah. And then the one workers, what the heck happened? They fell, I think they fell on the ice

**Megan Martin** 19:46

Fell on the ice or tripped over a rug or something like that, which, which is obvious,

**Mark Splonskowski** 19:52

yeah, well, it's while they working as an election worker,

**Thomas Larson** 19:56

how would that happen if we're So previously, or the way that we did? At it where we're paying them out of payables, where does that liability lie? So then would we drop it on like the civic center? If they tripped at the Civic Center, they

**Pam Binder** 20:08

It would come under our liability policy with NDIRF, our insurance.

**Thomas Larson** 20:17

Sure so if somebody gets hurt either way we get a claim.

**Pam Binder** 20:21

But if they are an employee the insurance is not going to pay it is workers comp. and there's forms that go out, just like Blue Cross and Blue Shield, if you have an accident on somebody else's property, and the minute they find out about it, that form comes out. Is there anybody else responsible? Yeah, yeah, sure.

**Megan Martin** 20:34

Again, they're also looking for fraud, yeah, sure. To make sure it's not a fraudulent claim,

**Pam Binder** 20:39

So we would be the county that would have the issues.

**Mark Splonskowski** 20:41

Of course we would. Why not?

**Thomas Larson** 20:46

At least we have the issues while we're doing it the right way.

**Mark Splonskowski** 20:50

Well yeah, that's gonna be the case. But that brings in talking to Dakota Staffing and seeing if they want to do it.

**Pam Binder** 20:56

because how many election workers do you have?

**Thomas Larson** 21:04

243 we had 245 and in the general and I talked to Grand Forks, and they have very similar They had 180 something.

**Pam Binder** 21:07

Yeah, no budgeting for them.

**Megan Martin** 21:10

You're paying 245 people

**Mark Splonskowski** 21:13

by the hour, Yeah, someone will only make 30 bucks for coming

**Pam Binder** 21:18

But Cass County and Grand Forks county have a dedicated payroll person that just does payroll. We do not

**Megan Martin** 21:28

and you and we have to have personnel action cards for everybody, and then when they're done, we have to terminate, yeah,

**Thomas Larson** 21:40

on an election year, though, you wouldn't have to terminate them till after the general,

**Megan Martin** 21:43

yeah, well, but if they just don't show back up

**Pam Binder** 21:45

We need personal action form saying they came on, and then personal action form saying they came off,

**Thomas Larson** 21:53

Right, right, I was just wondering if that was going to be something that after the primary, then you'd have to terminate everybody, and then

**Pam Binder** 21:59

No, we let them let them ride. It's just they don't have any hours until then,

**Megan Martin** 22:06

but the people who show up just for training and then never show back up,

**Mark Splonskowski** 22:10

Which is probably 40,

**Thomas Larson** 22:13

yeah, there's quite a few people that that are alternates, that go through training and never get picked

**Megan Martin** 22:19

And then it's a matter of those people are put on, and that's, that's where the headache comes in. And I'm sure you can understand, like, I just trained this person in, We're training, you're training, yeah,

**Mark Splonskowski** 22:29

well, their insurance falls.

**Pam Binder** 22:33

and the unemployment, we're self insured, so we don't pay premiums based on our experience. We pay premiums based on somebody who files, and if they're entitled to unemployment, they're entitled unemployment unless they were did something that was got them fired.

**Mark Splonskowski** 22:59

Sure, Okay, well, we have time to chew on that one.

**Pam Binder** 23:02

So that's the case. Then our workers comp and our unemployment, we have to budget for those in there.

**Megan Martin** 23:10

And you also have to remember, And you also have to remember, no, you haven't been involved in much of this, but with our payroll system, we are looking at a new payroll system. Some of these payroll systems we pay per head in payroll. So it's infinite visions. You got the data, you got the system, and you can do whatever you want. If we go to some of these new payroll systems, we're paying per head that are in that anybody who's getting paid any paycheck, that's 472 people. We're being billed for 472 people.

**Pam Binder** 23:35

And that could be 5 bucks a head

**Thomas Larson** 23:40

Well, we're going to end up with that if we go through Dakota staffing, or a different temp agency. Anyways, we'll have that.

**Mark Splonskowski** 23:45

Doing it right. It's going to cost more. It is the way it is,

**Pam Binder** 23:46

It is. Regardless.

**Megan Martin** 23:49

This is why we said, go through a temp agency because it's less stress.

**Mark Splonskowski** 23:56

no we are definitely gonna call and talk to them

**Pam Binder** 24:01

and see if they will even do it, because some of them may not touch it because It may be a caveat, it's a little different. I honestly don't talk to those and see if they will even do it, because some of them may not touch it because I don't caveat, it's a little different.

**Mark Splonskowski** 24:07

I honestly don't know why they would take on liability. I don't know why they would, but we're sure as heck gonna ask them.

**Thomas Larson** 24:13

Yeah, especially with, we were talking about that this morning, with the size of I mean, how many people do Dakota staffing represent? You know, how many years are they paying 40 people out for temp work? I mean, how big of an agency is it all of a sudden, be like, Here you go. 250 people,

**Mark Splonskowski** 24:28

yeah, for two days every other year.

**Pam Binder** 24:31

Dakota staffing has been around been around for a very long time, at least 25 years,

**Megan Martin 4** 24:35

at least, approaching the subject with them. Get a feel for it, and they could maybe start doing feelers now, yeah, with people, and then figure out if that's something.

**Pam Binder** 24:43

They'll tell you when they can do it or not

**Megan Martin** 24:44

to tool, yeah, oh yeah, we'll be, we'll be calling them this week, because they have a greater pool than we do. I mean, we can reach out. You can do outreach to, you know, schools or senior centers or wherever, but ultimately, to put a staff, and they already have a large pool of people. Know, or they may be like, Absolutely,

**Pam Binder** 25:03

it's worth a try. They might not be able too.

**Mark Splonskowski** 25:07

I kinda, I don't mean to shake my pen at you. There's a commissioner, a commissioner that does that and I don't like it. if they have staff on hand, we might be able to just take the staff that they currently have and they use, oh yeah, hey you guys. You know, you don't have anything to do on this day. You're gonna put you over here. That'd be slick.

**Pam Binder** 25:30

They might be able to help recruitment part of it. Yeah, they have, yeah, they have to be a Burleigh County citizen and it may be too big for them. They may not want to do it because that would tax their systems as well. If that, if it's a bigger order, then,

**Mark Splonskowski** 25:53

Yeah, well, we don't know till we ask. So we'll, we'll ask them, talk to them, see what they're like. You said they're not the only people in town. They're Spherion too, their a big organization. I don't know if they've been willing to take it on. Maybe they would because they are big.

**Megan Martin** 26:05

If you've got to tap two or three different entities for smaller chunks, that might be easier,

**Mark Splonskowski** 26:12

sure. Maybe, like, yeah, we'll Dakota Staffing said we can take on 50, but Spherion would take 200.

**Megan Martin** 26:16

you know, and then ultimately, we can pull in the people that we really need for payroll. The [REDACTED] and the [REDACTED] who are doing, you know, an [REDACTED]? They're, they're unique because they do multiple things for us. they are not just a temp,

**Pam Binder** 26:31

they're the temp workers. They really are, truly they are assigned election workers when they're election workers, but they have the temp workers.

**Thomas Larson** 26:38

Well, I'm not sure if we'll see them again. I know peg and well, Susan was through Dakota staffing, but they were talking about not coming back again just because they're retired, yeah, but Susan's Okay, he's getting

**Pam Binder** 26:51

[REDACTED] getting older, and those are some long days, actual election days, and [REDACTED] actually are signed, or were signed up with Dakota staffing,

**Thomas Larson** 26:59

Both of them originally, yeah, well, [REDACTED]

**Pam Binder** 27:03

I don't know if we got them because of that, but I know that when we needed help at extension to go to, Dakota Staffing sent out [REDACTED] to extension so they have a dual role.

**Mark Splonskowski** 27:19

yeah. Well, we'll get a good track down state tax attorney today, and then we'll talk to Dakota Staffing this week, for sure, get something that way we can shoot it will be easy, like, oh yeah, that's not a big deal. We can do that.

**Pam Binder** 27:31

And if we get no help with a temporary agency, then we're going to have to plan for budget and plan, do we have anything next year? 2025 is there any it's. Those are usually dead year after that,

**Mark Splonskowski** 27:48

unless there's a special election.

**Pam Binder** 27:51

So then we're gonna have to budget, if we have something every two years budget for 2026. On the election workers, that's in the election, workers are gonna have to figure in the payroll.

**Mark Sponskowski** 27:59

2026 is the midterms in June. Yeah,

**Megan Marti** 28:03

payroll 25 now, 26

**Pam Binder** 28:05

so we'll have to figure the payroll, and we'll know if we're on the other payroll system or not. Infinite visions is breaking. Breaking Bad.

**Thomas Larson** 28:13

I know Rhonda is not a fan of it, because even in the accounting side of it, I mean, you can always go back into the other years and look at stuff. You can't change anything. Obviously, once you close it out, you close it out. But just, I mean, I don't know in terms of payroll, if you guys have to do this, but, you know, going back, you have to jump from connection group to connection group, which, why can't it all be fluid? I mean, I understand the concept of a connection group, but it should be more fluid. You know, our tax wise system or receipting system there, it's all one system. So no matter when you're looking at all the records are there, you don't have to switch out and switch into a connection.

**Pam Binder** 28:52

Is tax wise part of infinite visions? Are these?

**Thomas Larson** 28:53

No, but it is part of Tyler tech. Oh. Tyler tech.

**Pam Binder** 28:56

Okay, so they've got their own product.

**Thomas Larson** 29:00

From what I understand, Tyler Tech came up with infinite visions. That's their software, but Tyler Tech bought Taxwise.

**Pam Binder** 29:09

yeah, just like when they bought New World which was out old software and it and they fed us a dog and pony show saying, Oh, we can give you time cards. We can give you this, we can give you Benefit Administration. And then after we signed up for our HR module and really didn't get anything extra, they said, No, you have to be on the cloud to do all that.

**Megan Martin** 29:33

And we can't be on the cloud because we don't have

**Pam Binder** 29:38

well, all of us would have to go to the cloud. All of it would have to go out and because of what Docu Pro, DocuSign, DocuSign, because they have their own content, they within the online system, they have their own content manager that has like a DocuSign component. It's not DocuSign, but it's a component that you can use. Is, and Missy doesn't like that. They don't document, no,

**Megan Martin** 30:05

So it's docupro full capatibility

**Mark Splonskowski** 30:09

So we have to either go full cloud or no cloud at all. Yeah, can we go partial.

**Megan Martin** 30:15

It's got to be all or nothing. And honestly, all like Cloud would be easier, because it's just like it's on the cloud. So when an update is done, it's done. I don't have to ask you guys to go out there and do an update, which I actually have to do,

**Pam Binder** 30:32

I think we're 12 versions behind. And the NDPERS with a new pension plan, which is the defined contribution plan, and they work with INDPERS to fix the report only we're not on the right version.

**Megan Martin** 30:44

Yeah, we're light years behind,

**Mark Splonskowski** 30:45

How?

**Pam Binder** 30:54

I think what Bandi said is that we have to pay for every update, and they didn't want to pay for those because the general letter system was fine. So our payroll has been breaking for a long time. Yeah,

**Megan Martin** 31:09

But really, I mean, with right now, when I do our payroll, our report to NDPERS, I spend a day Balancing, because one report, the payroll Journal report or the deductions register won't match the



uploads. I have to go person by person, finding they're the same. They're two reports coming out of the same payroll system based off the same wage basis.

**Pam Binder** 31:30

And then it's not the same people every time its different people because it's rounding, it's wrong to go line by line, and the system doesn't even round right when it pulls reports.

**Megan Martin** 31:42

So I spent a day I haven't seen the first report before I can upload it.

**Pam Binder** 31:46

So what I thought would have been a fix, and that's why, you know, we did the RFP last year, and we had Paylocity and ADP, and we decided to go with infinite visions, because they said that we could do everything to find out. We can't unless we're on the cloud. We can't update the cloud unless everybody updates. And Brandi didn't want to update, Missy didn't want to update. So we were stuck, yep. So we are once again because of what the commissioner said they want that time, card software and different things we're looking at, Paylocity and ADP, and with those software, it's what is it? \$4 per employee per month for running payroll, four or \$5 per employee per month. So if we put 200 extra people on we have to budget for that

**Mark Splonskowski** 32:40

per month, even if they don't get anything, even if they don't, get anything

**Pam Binder** 32:43

Yep, if there on the system

**Thomas Larson** 32:45

In that case, it would be, you work the primary, you're done after the primary. You need to refill out your paperwork again, yeah, for the general, so that we're only eating those costs for a month.

**Megan Martin** 31:48

However, unfortunately, if they're paid, we're paying for it.

**Speaker 3** 32:59

Yeah, I don't think we pay unless they are on payroll. Its per payroll, okay,

**Mark Splonskowski** 33:08

Its per payroll,

**Megan Martin** 33:09

yeah, it's per paycheck.

**Pam Binder** 33:14

there'd be other costs, because there's the HRIS component and it and that's per employee per month too. But it's not as much. It's like \$1 something.

**Megan Martin** 33:23

I mean, you're looking at probably an average of \$4 to \$7 a month of the overall aspect that we have to budget for

**Mark Splonskowski** 33:33

per election worker?

**Pam Binder** 33:35

per election, per person, and pay per person,

**Mark Splonskowski** 33:37

yeah, oh, per person payroll, even if they get nothing, then they won't know.

**Pam Binder** 33:41

Well, they won't get the payroll part of it, but we'll still get the HRIS or whatever other component, because they're charging so much for every component, and we need one to have the other.

**Megan Martin** 33:53

And we don't know if it would be any better if we went to the cloud.

**Pam Binder** 33:56

Yeah, we don't infinite visions if we went to the cloud. We don't know if they would start charging that way, my guess is they would

**Mark Splonskowski** 33:58

sure,

**Megan Martin** 34:01

because of the updates,

**Pam Binder** 34:09

and we wouldn't be paying for the updates, so they do the per employee per month thing

**Mark Splonskowski** 34:11

their money out of us, somehow

**Thomas Larson** 34:15

This is something to Talk to Rhonda about, and then maybe Leigh about. Rhonda and Leigh in terms of moving everything to the cloud, I don't know, in terms of, I'm assuming you'd have to move tax wise. So maybe that would be an owl question,

**Megan Martin** 34:34

and also affect, and that's why it also affects Missy, right?

**Pam Binder** 34:37

But tax wise, they said there was a no problem with that.

**Megan Martin** 34:41

That's what infinite visions said there's no it's their whole family program.

**Thomas Larson** 34:47

So the only one sounds like would be Missy, who did want to change

**Pam Binder** 34:52

And there will be talks with all of us stakeholders, because we're going to have to do something with the General Electric System too. Because it's taking too much space on the server,

**Mark Splonskowski** 35:04

sure,

**Megan Martin** 35:05

and if it's in the cloud, we don't worry about server storage,

**Thomas Larson** 35:05

right but we still have to pay for the server storage. I'm assuming they have some sort of everything.

**Pam Binder** 35:13

It's cheaper to be on the cloud than it is to pay for your own server, because you're also paying for the IT to maintain it, and I'm sure that's built into the fees in the cloud, and that it's way cheaper. So yeah, that's going to be a discussion for the Department Heads.

**Mark Splonskowski** 35:15

Why do I keep asking questions,

**Thomas Larson** 35:36

At least in the city county building for us, I know times when I've been like, I just got set up on docupro. However, it since it's on the server with the city which they manage, Tyler Tech had to contact city of Bismarck it in order to get access to the server, ,

**Pam Binder** 35:54

Yep, Tandra, and Tandra has to delete our access files from our server so they they charge us for that. Every time we have to delete access files to get a space, every time there's an update, they charge us it costs for that,

**Mark Splonskowski** 35:58

Sure

**Megan Martin** 36:14

So there is money cost, but there's also many savings. we're not paying the IT services with the city of Bismarck

**Mark Splonskowski** 36:20

and even if we were to go to go to the cloud, are you impressed enough with Tyler technologies to trust them?

**Megan Martin** 36:29

No I but I don't know if the cloud will fix things also, it will be to the

**Pam Binder** 36:33

I don't trust anything they say anymore. I'm sorry.

**Mark Splonskowski** 36:36

I heard a lot of stories about Tyler.

**Megan Martin** 36:38

The issues with payroll, I think are just going to be compounded with the changes that the state is doing to the retirement plan. Those are my issues that I have with payroll

**Pam Binder** 36:50

and Tyler's timecard software, even on the cloud, is not the best. There's way better ones out there

**Speaker 4** 37:00

There's way better ones out there, where the other ones out there that we've seen it is the employee putting in their time, and you can log in and approve it, and it just kicks it right in the panel.

**Pam Binder** 37:09

You've worked, have you worked with payroll systems?

**Thomas Larson** 37:14

Most of yes and no in the restaurants you usually use your POS software just for Well, I've used toast before. Toast is actually, I thought it was kind of a, you know, a little JV version. Oh, toast overall is actually a pretty slick system. It's put on our US foods owns toast, and even I used it at Rust'sy, so I managed it down there. But then, after I left the tavern, they've actually switched to toast

**Speaker 3** 37:46

I have another reason for that. because, because there's a payroll, it's, it's for restaurants and bars. Sure, I only said that because my, my husband got on the board with the Steele Amvets and they

purchased toast, but they never implemented it. So he's in charge of implementing it, which means I'm in charge of it

**Thomas Larson** 38:02

Well, if they get stuff through us, foods, and, I mean, they should have been able to get a lot of their stuff for free, because I know that just, I mean, even if Rusty's doing business with them, it's like, hey, I need a couple new handhelds. Well, they're about 800 bucks a piece or whatnot. It's like, come on, you can give me a couple of these because we do business with us foods. They're our primary. Okay, if you use this as your primary again for this next year, we'll give you a couple handouts. Okay? I mean, it's, it's a little give and take they

**Pam Binder** 38:34

I'll be asking you questions.

**Thomas Larson** 38:36

I'll scratch your back. But otherwise, I mean, at the tavern we did use, I want to say we use Paylocity and trying to manage something like this in a professional environment, I could assume it's going to work very easy. It did flow through when you're onboarding, because all your onboarding was digital for restaurant employees, that's not a good thing. The people are some of them are not smart enough. Some of them are not patient enough. We have departments like that, but to go through the steps, you know, if you're a normal person and you can follow instructions,

**Pam Binder** 39:15

it's normal person of average intelligence.

**Thomas Larson** 39:18

Yes, it's easy, but otherwise, I mean it, it was more of a pain in the butt for us to try and execute.

**Pam Binder** 39:25

So, if we would go with, like a Paylocity, or an ADP, I've worked with ADP, UKG, and then with the state, that's the people soft, that's a nightmare.

**Thomas Larson** 39:33

UKG is from the employee side. I didn't care for it at Lowe's we used UKG and I didn't care for it, and it just didn't compare to what I've seen with Paylocity and, with ADP.

**Pam Binder** 39:45

Yep, ADP is big. UKG was set up for big corporations too. So that's kind of what we're looking at. We're gonna have to revisit that. RFP, sure. ADP we may get lost in the shuffle, yeah, because they're huge. Yeah. It's looking like Paylocity, but we will see, But I don't see us staying with infinite visions, because I don't trust them.

**Mark Splonskowski** 40:07

Sure. Well, I remember, I remember when we transitioned over them. There was several times AI was screaming in his phone. Were you here when that was happening

**Megan Martin** 40:17

I came in when it was we were literally at the final stages of setup, yeah, and I was learning infinite visions and new world at the same time. I will never suggest that to anybody.

**Mark Splonskowski** 40:20

Sure, let's go back to the As/400.

**Pam Binder** 40:44

No, no, more green screen no.

**Megan Martin** 40:50

None of that will fix this.

**Pam Binder** 40:55

And get ready for those conversations, but your best advice would be to try and find somebody that can give you the tax advice. qualified tax advice, and if they can fix it, we pay to do it

**Mark Splonskowski** 41:01

absolutely. I agree. I agree. Sounds good. We got plan of action. Thank you very much. I appreciate you guys taking time out of your day to be with us. So you know, I do appreciate that.

---

**From:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Sent:** Tuesday, February 25, 2025 12:27 PM  
**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>  
**Subject:** FW: Tax Reporting for Poll Workers

Leigh & Taylor,

Read the email chain and you will see the opinion from Crowley Fleck.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
Bismarck, ND 58501  
[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
Phone: 701-222-6669  
Cell Phone: 701-954-9875  
Fax: 701-221-3395

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**From:** Binder, Pamela J.  
**Sent:** Thursday, February 20, 2025 1:32 PM  
**To:** Splonskowski, Mark D. <[mSplonskowski@nd.gov](mailto:mSplonskowski@nd.gov)>; Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>;  
Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>  
**Subject:** RE: Tax Reporting for Poll Workers

Mark,

Reading the Attorney's email, it looks like he gave you your answer. He said process the 1099 forms as soon as possible. I would recommend that if you do not know how to print the 1099 's from Infinite Visions you should go online to Tyler University and view their training sessions and training materials for the 1099 Year End process.

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**Subject:** FW: Tax Reporting for Poll Workers

This is what I received this morning regarding the election workers for 2024. Thoughts?

---

**From:** Blaine Johnson <[bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com)>  
**Sent:** Thursday, February 20, 2025 8:54 AM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Subject:** Tax Reporting for Poll Workers

You don't often get email from [bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com). [Learn why this is important](#)

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Mark,

The County is required to file 1099s for the poll workers for payments of \$600 or more. IRC Sec. 6041A is the statutory citation. There are many IRS forms and pamphlets about this too if the County wants to see what the IRS says. For income for services, the 1099s were due Jan. 31. For forms late in 2025, see this chart of penalties. <https://www.irs.gov/payments/information-return-penalties>. I would submit the late-filed forms and be prepared to pay the penalty, but wait for the IRS to contact the County about the penalty. It's possible the IRS could not assess. The County can request a waiver of penalty for good cause. If the County has a good reason it didn't file, there is a penalty waiver form. Some examples may be bad tax advice from a tax professional.

Hope this helps.

**BLAINE JOHNSON**  
100 West Broadway, Suite 250  
P.O. Box 2798  
Bismarck, ND 58501



Main: 701.223.6585 | Fax: 701.222.4853

Direct: 701.224.7531

**CROWLEY | FLECK** PLLP  
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BILLINGS BISMARCK BOZEMAN BUTTE CASPER CHEYENNE HELENA KALISPELL MISSOULA SHERIDAN WILLISTON

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**From:** [Binder, Pamela J.](#)  
**To:** [Lawyer, Julie A.](#)  
**Subject:** FW: Tax Reporting for Poll Workers  
**Date:** Monday, March 3, 2025 11:33:00 AM  
**Attachments:** [image001.png](#)  
[RE Tax Reporting for Poll Workers.msg](#)  
[Revenue Ruling-00-6.pdf](#)

---

Julie,

FYI,

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
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[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
Phone: 701-222-6669  
Cell Phone: 701-954-9875  
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**From:** Jacobs, Leigh <ljacobs@nd.gov>  
**Sent:** Tuesday, February 25, 2025 3:42 PM  
**To:** Binder, Pamela J. <pjbinder@nd.gov>; Martin, Megan M. <megmartin@nd.gov>  
**Cc:** Schmidt, Taylor <schmidt.taylor@nd.gov>  
**Subject:** FW: Tax Reporting for Poll Workers

Pam and Megan, based on the timeline you may not have seen the attached email between Auditor Splonskowsky and Crowley Fleck, which Blaine Johnson provided.

Leigh Jacobs, CPA  
Finance Director  
Burleigh County  
316 N. 5<sup>th</sup> St  
Bismarck, ND 58501  
701-712-8353

**From:** Blaine Johnson <[bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com)>  
**Sent:** Tuesday, February 25, 2025 2:48 PM  
**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>  
**Cc:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>  
**Subject:** RE: Tax Reporting for Poll Workers

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Leigh,

I am attaching a subsequent email to Mark that provides some additional light on the W2/1099 issue. Mark and I did not discuss the facts that factor into an employee vs. independent contractor analysis in the initial phone call. In a follow up discussion, I mentioned filing the 1099s for 2024 as soon as possible but further agreed that the poll workers should be treated as employees and that W-2s should be issued going forward.

Based on my understanding of amounts paid to poll workers in 2024, all poll workers were under the threshold for withholding of FICA or income tax with the exception of any impact a Section 218 agreement may have (I have not reviewed any such agreement). I also assumed that no poll worker was employed by the county for services which would require withholding. The issuance of a 1099 vs W2 when there is no withholding would result in the same information being reported to the IRS.

Thank you for providing Rev. Rul. 2000-06 which confirms the W-2 is the proper course of action, especially given the possibility that a poll worker could exceed the withholding exemption or be subject to a Section 218 agreement requiring such information to be provided.

**BLAINE JOHNSON**

100 West Broadway, Suite 250

P.O. Box 2798

Bismarck, ND 58501

Main: 701.223.6585 | Fax: 701.222.4853

Direct: 701.224.7531

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**From:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>

**Sent:** Tuesday, February 25, 2025 1:11 PM

**To:** Blaine Johnson <[bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com)>

**Cc:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>

**Subject:** FW: Tax Reporting for Poll Workers

This message was received from an external email account. Please use caution when opening messages, attachments or external links from unknown senders.

Good afternoon Blaine,

I am following up from an email you sent to Auditor Splonskowski regarding 1099 payments to election workers.

To be clear, I was not on the phone call with you and Auditor Splonskowski, so I don't know what set of facts you were given. That said, I am trying to reconcile your advice to send 1099s to election workers with the IRS guidance from their website:

<https://www.irs.gov/government-entities/federal-state-local-governments/election-workers-reporting-and-withholding>

**“Election workers are common-law employees;** however, IRC section 3121(b)(7)(E) and (F)(iv) provide specific rules for determining whether amounts paid to election workers are subject to FICA taxes.” [emphasis added]

“Section 6041(a) applies to payments of compensation that are not subject to withholding of FICA or income tax. If an election worker's compensation is not subject to withholding of FICA tax, the Section 6041(a) reporting requirements apply to payments that aggregate \$600 or more in any taxable year. Under Regulation section 1.6041-2(a)(1), compensation subject to income tax withholding is taken into account in determining whether the \$600 reporting requirement applies. **Government entities must file a Form W-2 for election workers who receive payments of \$600 or more, even if no FICA and income tax were withheld.**” [emphasis added]

This guidance comes from Revenue Ruling 2000-6.

<https://www.irs.gov/pub/irs-irbs/irb00-06.pdf>

Thanks in advance and please send a bill for your time.

Leigh Jacobs, CPA  
Finance Director  
Burleigh County  
316 N. 5<sup>th</sup> St  
Bismarck, ND 58501  
701-712-8353

---

**From:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Sent:** Tuesday, February 25, 2025 12:27 PM  
**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>  
**Subject:** FW: Tax Reporting for Poll Workers

Leigh & Taylor,

Read the email chain and you will see the opinion from Crowley Fleck.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
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[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
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Fax: 701-221-3395

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Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>  
**Subject:** RE: Tax Reporting for Poll Workers

Mark,

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**Sent:** Thursday, February 20, 2025 12:54 PM  
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**Subject:** FW: Tax Reporting for Poll Workers

This is what I received this morning regarding the election workers for 2024. Thoughts?

---

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**Sent:** Thursday, February 20, 2025 8:54 AM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Subject:** Tax Reporting for Poll Workers

You don't often get email from [bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com). [Learn why this is important](#)

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Mark,

The County is required to file 1099s for the poll workers for payments of \$600 or more. IRC Sec. 6041A is the statutory citation. There are many IRS forms and pamphlets about this too if the County

wants to see what the IRS says. For income for services, the 1099s were due Jan. 31. For forms late in 2025, see this chart of penalties. <https://www.irs.gov/payments/information-return-penalties>. I would submit the late-filed forms and be prepared to pay the penalty, but wait for the IRS to contact the County about the penalty. It's possible the IRS could not assess. The County can request a waiver of penalty for good cause. If the County has a good reason it didn't file, there is a penalty waiver form. Some examples may be bad tax advice from a tax professional.

Hope this helps.

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**From:** [Binder, Pamela J.](#)  
**To:** [Jacobs, Leigh](#)  
**Subject:** RE: Tax Reporting for Poll Workers  
**Date:** Tuesday, February 25, 2025 1:14:00 PM  
**Attachments:** [image001.png](#)

---

Leigh,

I am fine with that.

Sincerely,

**Pamela J. Binder**, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
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**Sent:** Tuesday, February 25, 2025 1:13 PM  
**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Subject:** FW: Tax Reporting for Poll Workers

Pam,

I am following up with Crowley Fleck directly. The email from Blaine Johnson is missing a critically important piece: the facts that Burleigh County gave to Crowley Fleck to be considered. I.e., if we gave the wrong set of facts, we'll get the wrong answer.

Leigh Jacobs, CPA  
Finance Director  
Burleigh County  
316 N. 5<sup>th</sup> St  
Bismarck, ND 58501  
701-712-8353

---



**From:** Jacobs, Leigh

**Sent:** Tuesday, February 25, 2025 1:10 PM

**To:** 'bjohnson@crowleyfleck.com' <bjohnson@crowleyfleck.com>

**Cc:** Splonskowski, Mark D. <msplonskowski@nd.gov>; Schmidt, Taylor <schmidt.taylor@nd.gov>

**Subject:** FW: Tax Reporting for Poll Workers

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**Cc:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>

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**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>  
**Subject:** FW: Tax Reporting for Poll Workers

Leigh & Taylor,

Read the email chain and you will see the opinion from Crowley Fleck.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
Bismarck, ND 58501  
[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
Phone: 701-222-6669  
Cell Phone: 701-954-9875  
Fax: 701-221-3395

---

**From:** Binder, Pamela J.  
**Sent:** Thursday, February 20, 2025 1:32 PM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>;  
Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>  
**Subject:** RE: Tax Reporting for Poll Workers

Mark,

**From:** [Binder, Pamela J.](#)  
**To:** [Lawyer, Julie A.](#)  
**Subject:** FW: Election 1099's  
**Date:** Monday, March 3, 2025 11:27:00 AM

---

Julie,

One email asking me to a meeting on this and I told them that I could not do the w-2 process.

After I sent this email I received a call from Thomas Larson Thursday, February 27, 2025, at 3:08pm where he conferenced in Auditor Mark Splonskowski, and they said that they had the opinion of a tax attorney that said I need to give the 32 temporary election worker W-2 forms. I explained to Mark Splonskowski and Thomas Larson that I could not issue W-2 forms to people who were not employees in 2024 and did not have any employee hours or payroll records for 2024. I said that would be committing fraud as I do not have the payroll records and our 2024 W-2 process has been closed for the year. I ended the conversation by saying that I refuse to commit fraud.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106

Bismarck, ND 58501

[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

Phone: 701-222-6669

Cell Phone: 701-954-9875

Fax: 701-221-3395

---

**From:** Binder, Pamela J.

**Sent:** Wednesday, February 26, 2025 2:46 PM

**To:** Larson, Thomas <larsonthomas@nd.gov>; Splonskowski, Mark D. <msplonskowski@nd.gov>

**Cc:** Schmidt, Taylor <schmidt.taylor@nd.gov>; Jacobs, Leigh <ljacobs@nd.gov>

**Subject:** RE: Election 1099's

Thomas & Mark,

I would like to thank you for inviting me to this meeting. However, as our 2024 payroll process and 2024 W-2 process has been closed, there is nothing more that I can do for this situation. The Human Resources department does not handle or have knowledge of how the accounts payable and 1099 process works in Burleigh County. The limited knowledge that I have on the Accounts Payable process and 1099 process is due to my personal experience with owning personal family businesses. This does not qualify me to provide tax advice as I am not a tax attorney.

I do not see a benefit of having me in this meeting. There is nothing that I can do for the 32 - 2024 election workers that were paid through the Accounts Payable process as I cannot reverse anything in the 2024 payroll system to allow these election workers to become 2024 employees paid through payroll when they were not, so there is no way that we can provide a 2024 W-2 form for them.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106

Bismarck, ND 58501

[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

Phone: 701-222-6669

Cell Phone: 701-954-9875

Fax: 701-221-3395

**From:** Larson, Thomas <[laronstomas@nd.gov](mailto:laronstomas@nd.gov)>

**Sent:** Wednesday, February 26, 2025 1:54 PM

**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>

**Cc:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>

**Subject:** Election 1099's

Good Afternoon,

Mark wanted me to reach out to you as he is out of state for the rest of the week. Would there be a time in the next couple days to have a call amongst ourselves with Blaine Johnson from Crowley & Fleck? This call would be regarding what needs to be done for the election workers in 2024. If its ok, please let me know of a time that would work for you and I will get that to Mark so he can plan it with Blaine.

Thank you for your time.

Thomas.

**Thomas Larson**

***Executive Assistant / Elections Coordinator***

**BURLEIGH COUNTY AUDITOR/TREASURER OFFICE**

221 N. 5<sup>th</sup> Street, PO Box 5518 | Bismarck, ND 58501

Office: (701)222-6694 | Direct: (701)712-6210  
Fax: (701) 222-7528 | [LarsonThomas@ND.gov](mailto:LarsonThomas@ND.gov)

**From:** [Binder, Pamela J.](#)  
**To:** [Lawyer, Julie A.](#)  
**Subject:** FW: Tax Reporting for Poll Workers  
**Date:** Monday, March 3, 2025 11:33:00 AM  
**Attachments:** [image001.png](#)  
[RE Tax Reporting for Poll Workers.msg](#)  
[Revenue Ruling-00-6.pdf](#)

---

Julie,

FYI.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
Bismarck, ND 58501  
[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
Phone: 701-222-6669  
Cell Phone: 701-954-9875  
Fax: 701-221-3395

---

**From:** Jacobs, Leigh <ljacobs@nd.gov>  
**Sent:** Tuesday, February 25, 2025 3:42 PM  
**To:** Binder, Pamela J. <pjbinder@nd.gov>; Martin, Megan M. <megmartin@nd.gov>  
**Cc:** Schmidt, Taylor <schmidt.taylor@nd.gov>  
**Subject:** FW: Tax Reporting for Poll Workers

Pam and Megan, based on the timeline you may not have seen the attached email between Auditor Splonskowsky and Crowley Fleck, which Blaine Johnson provided.

Leigh Jacobs, CPA  
Finance Director  
Burleigh County  
316 N. 5<sup>th</sup> St  
Bismarck, ND 58501  
701-712-8353

**From:** Blaine Johnson <[bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com)>  
**Sent:** Tuesday, February 25, 2025 2:48 PM  
**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>  
**Cc:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>  
**Subject:** RE: Tax Reporting for Poll Workers

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Leigh,

I am attaching a subsequent email to Mark that provides some additional light on the W2/1099 issue. Mark and I did not discuss the facts that factor into an employee vs. independent contractor analysis in the initial phone call. In a follow up discussion, I mentioned filing the 1099s for 2024 as soon as possible but further agreed that the poll workers should be treated as employees and that W-2s should be issued going forward.

Based on my understanding of amounts paid to poll workers in 2024, all poll workers were under the threshold for withholding of FICA or income tax with the exception of any impact a Section 218 agreement may have (I have not reviewed any such agreement). I also assumed that no poll worker was employed by the county for services which would require withholding. The issuance of a 1099 vs W2 when there is no withholding would result in the same information being reported to the IRS.

Thank you for providing Rev. Rul. 2000-06 which confirms the W-2 is the proper course of action, especially given the possibility that a poll worker could exceed the withholding exemption or be subject to a Section 218 agreement requiring such information to be provided.

**BLAINE JOHNSON**

100 West Broadway, Suite 250

P.O. Box 2798

Bismarck, ND 58501

Main: 701.223.6585 | Fax: 701.222.4853

Direct: 701.224.7531

**CROWLEY | FLECK** PLLC  
ATTORNEYS

WITH OFFICES IN MONTANA, NORTH DAKOTA, AND WYOMING:

BILLINGS BISMARCK BOZEMAN BUTTE CASPER CHEYENNE HELENA KALISPELL MISSOULA SHERIDAN WILLISTON



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**From:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>

**Sent:** Tuesday, February 25, 2025 1:11 PM

**To:** Blaine Johnson <[bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com)>

**Cc:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>

**Subject:** FW: Tax Reporting for Poll Workers

**This message was received from an external email account. Please use caution when opening messages, attachments or external links from unknown senders.**

Good afternoon Blaine,

I am following up from an email you sent to Auditor Splonskowski regarding 1099 payments to election workers.

To be clear, I was not on the phone call with you and Auditor Splonskowski, so I don't know what set of facts you were given. That said, I am trying to reconcile your advice to send 1099s to election workers with the IRS guidance from their website:

<https://www.irs.gov/government-entities/federal-state-local-governments/election-workers-reporting-and-withholding>

**“Election workers are common-law employees;** however, IRC section 3121(b)(7)(E) and (F)(iv) provide specific rules for determining whether amounts paid to election workers are subject to FICA taxes.” [emphasis added]

“Section 6041(a) applies to payments of compensation that are not subject to withholding of FICA or income tax. If an election worker's compensation is not subject to withholding of FICA tax, the Section 6041(a) reporting requirements apply to payments that aggregate \$600 or more in any taxable year. Under Regulation section 1.6041-2(a)(1), compensation subject to income tax withholding is taken into account in determining whether the \$600 reporting requirement applies. **Government entities must file a Form W-2 for election workers who receive payments of \$600 or more, even if no FICA and income tax were withheld.**” [emphasis added]

This guidance comes from Revenue Ruling 2000-6.

<https://www.irs.gov/pub/irs-irbs/irb00-06.pdf>

Thanks in advance and please send a bill for your time.

Leigh Jacobs, CPA  
Finance Director  
Burleigh County  
316 N. 5<sup>th</sup> St  
Bismarck, ND 58501  
701-712-8353

**From:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Sent:** Tuesday, February 25, 2025 12:27 PM  
**To:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Schmidt, Taylor <[schmidt.taylor@nd.gov](mailto:schmidt.taylor@nd.gov)>  
**Subject:** FW: Tax Reporting for Poll Workers

Leigh & Taylor,

Read the email chain and you will see the opinion from Crowley Fleck.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
Bismarck, ND 58501  
[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
Phone: 701-222-6669  
Cell Phone: 701-954-9875  
Fax: 701-221-3395

**From:** Binder, Pamela J.  
**Sent:** Thursday, February 20, 2025 1:32 PM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>;  
Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>  
**Subject:** RE: Tax Reporting for Poll Workers

Mark,

Reading the Attorney's email, it looks like he gave you your answer. He said process the 1099 forms as soon as possible. I would recommend that If you do not know how to print the 1099 's from Infinite Visions you should go online to Tyler University and view their training sessions and training materials for the 1099 Year End process.

Sincerely,

**Pamela J. Binder**, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106

Bismarck, ND 58501

[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

Phone: 701-222-6669

Cell Phone: 701-954-9875

Fax: 701-221-3395

**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Sent:** Thursday, February 20, 2025 12:54 PM

**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>; Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>

**Subject:** FW: Tax Reporting for Poll Workers

This is what I received this morning regarding the election workers for 2024. Thoughts?

**From:** Blaine Johnson <[bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com)>

**Sent:** Thursday, February 20, 2025 8:54 AM

**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Subject:** Tax Reporting for Poll Workers

You don't often get email from [bjohnson@crowleyfleck.com](mailto:bjohnson@crowleyfleck.com). [Learn why this is important](#)

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Mark,

The County is required to file 1099s for the poll workers for payments of \$600 or more. IRC Sec. 6041A is the statutory citation. There are many IRS forms and pamphlets about this too if the County

wants to see what the IRS says. For income for services, the 1099s were due Jan. 31. For forms late in 2025, see this chart of penalties. <https://www.irs.gov/payments/information-return-penalties>. I would submit the late-filed forms and be prepared to pay the penalty, but wait for the IRS to contact the County about the penalty. It's possible the IRS could not assess. The County can request a waiver of penalty for good cause. If the County has a good reason it didn't file, there is a penalty waiver form. Some examples may be bad tax advice from a tax professional.

Hope this helps.

**BLAINE JOHNSON**

100 West Broadway, Suite 250

P.O. Box 2798

Bismarck, ND 58501

Main: 701.223.6585 | Fax: 701.222.4853

Direct: 701.224.7531

**CROWLEY | FLECK** PLLP  
ATTORNEYS

WITH OFFICES IN MONTANA, NORTH DAKOTA, AND WYOMING:

**BILLINGS BISMARCK BOZEMAN BUTTE CASPER CHEYENNE HELENA KALISPELL MISSOULA SHERIDAN WILLISTON**

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**From:** [Binder, Pamela J.](#)  
**To:** [Splonskowski, Mark D.](#); [Martin, Megan M.](#)  
**Cc:** [Larson, Thomas](#); [Ripplinger, Ronda](#)  
**Subject:** RE: 2024 Election workers  
**Date:** Wednesday, March 5, 2025 4:29:00 PM

---

Mark,

We don't use a cover sheet we have a coded html file that is created from our Payroll System and is uploaded to the ND Tax Portal.

The payroll system is designed to do all of this for us.

You must to call the State Tax Department to figure out how to submit it manually as we do not know how to do it this way.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106

Bismarck, ND 58501

[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

Phone: 701-222-6669

Cell Phone: 701-954-9875

Fax: 701-221-3395

---

**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Sent:** Wednesday, March 5, 2025 4:25 PM

**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>

**Cc:** Larson, Thomas <[laronstomas@nd.gov](mailto:laronstomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>

**Subject:** RE: 2024 Election workers

This is in reference to the cover sheet used for sending the w-2 report to the state. Not the 940 forms.

---

**From:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>

**Sent:** Wednesday, March 5, 2025 4:16 PM

**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>

**Cc:** Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>

**Subject:** RE: 2024 Election workers

Mark,

We are not familiar with this 940 Form that you keep requesting. We file electronically every quarter for State and unemployment taxes. We send the 941 forms quarterly to the federal government for the federal taxes.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106

Bismarck, ND 58501

[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

Phone: 701-222-6669

Cell Phone: 701-954-9875

Fax: 701-221-3395

---

**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Sent:** Wednesday, March 5, 2025 4:07 PM

**To:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>

**Cc:** Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>

**Subject:** RE: 2024 Election workers

Ok, do you have a copy of the form you submitted?

---

**From:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>

**Sent:** Wednesday, March 5, 2025 2:26 PM

**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Cc:** Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>

**Subject:** RE: 2024 Election workers

Mark,

That is an HTML file that our payroll system produces and is then uploaded via the State's website. I do not have a form for you to complete.

Thank you,

**Megan Martin**  
**HR Assistant II/Payroll and Benefits**  
**Burleigh County Human Resources**  
**316 N 5th St Suite 106**  
**Bismarck ND 58501**  
[megmartin@nd.gov](mailto:megmartin@nd.gov)  
**Phone: (701) 222-6669 ext 602**  
**Fax: (701) 221-3395**

**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Sent:** Wednesday, March 5, 2025 2:24 PM  
**To:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>  
**Cc:** Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Subject:** RE: 2024 Election workers

Thanks, can you send over the cover sheet used for sending the w-2 report to the state as well?

**From:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>  
**Sent:** Wednesday, March 5, 2025 12:22 PM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Cc:** Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>  
**Subject:** RE: 2024 Election workers

Attached are the 941 and 941-B forms.

Thank you,

**Megan Martin**  
**HR Assistant II/Payroll and Benefits**  
**Burleigh County Human Resources**  
**316 N 5th St Suite 106**  
**Bismarck ND 58501**  
[megmartin@nd.gov](mailto:megmartin@nd.gov)  
**Phone: (701) 222-6669 ext 602**  
**Fax: (701) 221-3395**

**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>  
**Sent:** Wednesday, March 5, 2025 11:38 AM  
**To:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>  
**Cc:** Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>; Binder,

Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>

**Subject:** RE: 2024 Election workers

Thanks,

Can you also send me the 940 forms?

**From:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>

**Sent:** Wednesday, March 5, 2025 10:50 AM

**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Cc:** Larson, Thomas <[laronstomas@nd.gov](mailto:laronstomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>

**Subject:** RE: 2024 Election workers

Attached are the copies of the Quarterlies that were submitted for 2024, I have provided all quarters as we have no record of the hours or days worked for any of the election workers. I will not have time to review anything today as I am working on payroll.

The 940 and 941 are mailed in they cannot be submitted electronically.

Thank you,

**Megan Martin**

**HR Assistant II/Payroll and Benefits**

**Burleigh County Human Resources**

**316 N 5th St Suite 106**

**Bismarck ND 58501**

**[megmartin@nd.gov](mailto:megmartin@nd.gov)**

**Phone: (701) 222-6669 ext 602**

**Fax: (701) 221-3395**

**From:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>

**Sent:** Wednesday, March 5, 2025 10:05 AM

**To:** Martin, Megan M. <[megmartin@nd.gov](mailto:megmartin@nd.gov)>

**Cc:** Larson, Thomas <[laronstomas@nd.gov](mailto:laronstomas@nd.gov)>; Ripplinger, Ronda <[roripplinger@nd.gov](mailto:roripplinger@nd.gov)>

**Subject:** 2024 Election workers

Good morning, Megan,

Can you please send me the 941 and 940 forms for the dates referring to the June Election timeline and the November Election as well so Im thinking Quarters 2 and 4. It was recommended by Julie that your office review the amendments we make to them before we submit it. Would you be able to review them today once we get them updated? Also, would you be able to submit the forms or give us the necessary login info for us to do it? Thanks.



*Mark Splonskowski*  
Burleigh County Auditor/Treasurer

**From:** [Binder, Pamela J.](#)  
**To:** [Splonskowski, Mark D.](#); [Lawyer, Julie A.](#); [Larson, Thomas](#)  
**Cc:** [Jacobs, Leigh](#); [Bitner, Brian](#)  
**Subject:** RE: Election Worker tax forms  
**Date:** Thursday, March 6, 2025 9:54:00 AM

---

Mark & Julie,

My understanding is that the 940 form is for entities that file their employment taxes and report income on an annual basis.

The 941 Form is for entities that file their employment taxes and report income on a quarterly basis.

My understanding is that an entity must complete one or the other form and not both as we have never completed the 940 Form. Throughout my payroll experience I have never completed the 940 Form just the 941 Form.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106

Bismarck, ND 58501

[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

Phone: 701-222-6669

Cell Phone: 701-954-9875

Fax: 701-221-3395

---

**From:** Splonskowski, Mark D. <msplonskowski@nd.gov>

**Sent:** Thursday, March 6, 2025 8:28 AM

**To:** Lawyer, Julie A. <JLAWYER@nd.gov>; Binder, Pamela J. <pjbinder@nd.gov>; Larson, Thomas <larsonthomas@nd.gov>

**Cc:** Jacobs, Leigh <ljacobs@nd.gov>; Bitner, Brian <bccbitner@nd.gov>

**Subject:** RE: Election Worker tax forms

Good morning Julie:

I inquired from HR to see what they have done for the 940 form and received this response.

Mark,



The 940 form is for the Annual Federal Unemployment Tax Return, no we do not complete that form. Each quarter we produce the 941 and 941B forms, those are the forms that you review and sign (the copies I sent earlier) and are then mailed in each quarter.

Thank you,

**Megan Martin**

**HR Assistant II/Payroll and Benefits**

**Burleigh County Human Resources**

**316 N 5th St Suite 106**

**Bismarck ND 58501**

**[megmartin@nd.gov](mailto:megmartin@nd.gov)**

**Phone: (701) 222-6669 ext 602**

**Fax: (701) 221-3395**

It is my understanding that since we submit Quarterly 941 forms the 940 form is not necessary since it is an annual form. Is my understanding correct?

Thanks

*Mark Splonskowski*

Burleigh County Auditor/Treasurer

---

**From:** Lawyer, Julie A. <[JLAWYER@nd.gov](mailto:JLAWYER@nd.gov)>

**Sent:** Wednesday, March 5, 2025 4:03 PM

**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>

**Cc:** Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Bitner, Brian <[bccbitner@nd.gov](mailto:bccbitner@nd.gov)>

**Subject:** RE: Election Worker tax forms

Mark:

Regarding the Form 940, Employer's Annual Federal Unemployment Tax Return we spoke about:

N.D.C.C. § 52-01-01(17)(h)(7) - "Employment" under the social security laws does not include an election worker if the amount received in a calendar year is less than \$1,000.

It appears that any election worker who earned more than \$1,000 per calendar year should have been added to the base wages to compute the unemployment insurances taxes we paid.

If you had any election worker who earned more than \$1,000 in the year, then the form 940 would have to be amended.

Julie

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**Sent:** Tuesday, March 4, 2025 4:18 PM

**To:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Lawyer, Julie A. <[JLAWYER@nd.gov](mailto:JLAWYER@nd.gov)>; Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>

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**Subject:** RE: Election Worker tax forms

Is everyone else on this email willing to meet?

*Mark Splonskowski*

Burleigh County Auditor/Treasurer

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**Subject:** RE: Election Worker tax forms

Mark,

I have other projects that I need to get done with deadlines and I do not have time to meet again about this subject.

I have provided you with the information that is needed in order for you to get the W-2 forms out. Please use the tools that I have provided.

Sincerely,

**Pamela J. Binder**, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

316 N 5<sup>th</sup> St., Suite 106  
Bismarck, ND 58501  
[pjbinder@nd.gov](mailto:pjbinder@nd.gov)  
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**Subject:** RE: Election Worker tax forms

Can we all meet up in person and discuss this? I think it would be more beneficial and quicker to meet. Im available tomorrow and Thursday.

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**Subject:** RE: Election Worker tax forms

Mark,

The actual forms cannot be uploaded through the IRS portal to the Social Security Administration. Our payroll system generates an electronic HTML coded report of the needed W-2 information and that is what gets uploaded. If the correct HTML fields are not completed and correctly formatted the whole file errors out. We do not have the ability to electronically upload this data as we are not computer programmers that can build HTML code files. Because these W-2s could not come through our payroll system in 2024, they must be mailed to the address that is listed on the IRS tax publication for the Instructions on completing the 2024 -W-2s whatever that is. I have attached the IRS 2024 W-2 and W-3 instruction publication from the IRS for you.

Which 941 Form are you going to amend? Also, are you going to amend the 940 Form as well? I believe you would need to file an amended 940 and/or 941 Form, however, I do not know the process for certain as I have never had to do this before? I know when we had an issue with a change in the 941 form Megean had to call the IRS to figure out how to fix the form. Just to make you aware, she was on the phone on hold waiting to talk to a representative from the IRS for 6 hours. I have attached IRS Publication 15. The 941/940 forms are discussed in section 13. Since you

as the Auditor and you normally sign these forms as the only listed authorized signor for Burleigh County, you just must sign the completed correction forms whatever that may be.

Also, what are you going to do about the federal mandated reporting requirements for employees? New Hire Reporting for Child Support (this is past the 30-day deadline for reporting, so I do not know what to do with that).

The Human Resources office did not receive any paperwork to hire these employees, so I am assuming that the I-9 Forms were not completed within the 3 days of employment. If we get audited by U.S. Immigration and Customs Enforcement (ICE), where do I direct them? If the Burleigh Morton Detention Center does sign a contract with ICE to detain illegal immigrants within the Detention, part of the process is that ICE audits all Burleigh County I-9 forms. I have been told that it is part of their due diligence checklist.

We will also have to amend our next quarterly reporting file for the NDACo CEGGroup so we can report the correct wages to WSI as this is a legal requirement as well. We may have to request certain data for that file feed and pay a penalty if we are accessed from WSI.

Sincerely,

***Pamela J. Binder***, SPHR, SHRM-SCP, MBA, MM/HR

**HR Director/Risk Management Director**

Burleigh County Human Resources

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[pjbinder@nd.gov](mailto:pjbinder@nd.gov)

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**Subject:** RE: Election Worker tax forms

Julie,

Thank you for the clarification.

Pam, would you be willing to help us get these? We have the W-2's filled out, but we could use assistance uploading the information to social security as well as amending our 941 form.

Thanks.

*Mark Splonskowski*

Burleigh County Auditor/Treasurer

**From:** Lawyer, Julie A. <[JLAWYER@nd.gov](mailto:JLAWYER@nd.gov)>

**Sent:** Monday, March 3, 2025 11:47 PM

**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>

**Cc:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Bitner, Brian <[bccbitner@nd.gov](mailto:bccbitner@nd.gov)>

**Subject:** Election Worker tax forms

Mark:

The short answer is that you need to get W-2s to any election worker who earned \$600 or more OR any wage that is FICA taxable (per the Section 218 Agreement we have with Social Security Administration) as soon as possible as the W-2s are already overdue and subject to a penalty of \$130 per statement.

The long answer is that to determine which tax form should be issued to election workers (W-2 or 1099), we first have to figure out their status.

Federal courts have looked at the definition of employment under the ND Administrative Code for Job Service North Dakota (N.D.A.C. § 27-02-14-01) and Workforce Safety and Insurance (N.D.A.C. § 92-01-02-49) to determine if a worker is an employee (W-2) or an independent contractor (1099). See *Oil & Gas Transfer L.L.C. v. Karr*, 928 F.3d 1120 (8<sup>th</sup> Cir 2019)

“... we apply the substantive law of North Dakota to determine whether Karr was an employee or an independent contractor. Under North Dakota law, ... “The person that asserts that an individual is an independent contractor under the common-law test ... has the burden of proving that fact.” N.D.C.C § 65-01-03(1). “The central question in determining whether an individual is an employee or independent contractor is: Who is in control?” This is determined by the common-law “right-to-control” test. N.D.A.C. §§ 27-02-14-01(5)(a), 92-01-02-49(1)(a). “The right to control is dispositive, whether or not it has been exercised.”

As such, since the County controls when, where, and how the election worker does the work, requiring them to attend election worker training sessions, requiring them to follow established routines and schedules, and having the right to dismiss or terminate without liability, election workers would be considered “employees”.

In looking at the guidance from the IRS, if the election worker was paid less than \$600 per taxable year, no reporting of wages needs to occur. If the worker is paid more than \$600 per taxable year, then a W-2 must be issued to the worker. BUT you also must look at whether the wages paid are



subject to FICA tax. The Social Security Administration has some guidance regarding when Social Security and Medicare taxes must be paid for election workers. [https://www.ssa.gov/slge/election\\_workers.htm?tl=0%2C1%2C2%2C3](https://www.ssa.gov/slge/election_workers.htm?tl=0%2C1%2C2%2C3). FICA taxes don't have to be paid for wages of less than \$2,300 unless subject to a "Section 218 Agreement". North Dakota is listed as having an agreement (current through June 2015), which is available through the State Social Security Administrator, Zerina Arapovic at Job Service, Bismarck (<https://www.ncsssa.org/statessadmin-northdakota.html>). We need to know what that threshold is to determine if a W-2 needs to be issued to anyone earning LESS than \$600 per year for FICA.

Based on the guidance from federal courts, it appears election workers are "employees" of the County and W-2s must be issued to the workers - no later than January 31 of the following year - if they earned "taxable income" during the taxable year.

Every election worker who earned over \$600 in 2024 from election work must get a W-2. IF our Section 218 Agreement requires payment of FICA taxes for earned wages that is anything less than \$600, a W-2 must be issued to those workers as well.

Obviously, that deadline has passed. There is an option for a 30-day extension, but we don't meet the criteria for the extension as it requires one of the following:

- A catastrophic event in a federally declared disaster area that made the filer unable to resume operations or necessary records unavailable;
- Fire, casualty or natural disaster affected operation of the filer;
- Death, serious illness, or unavoidable absence of the individual responsible for filing the information returns;
- The filer was in the first year of establishment; OR
- The filer did not receive data on a payee statement in time to prepare an accurate information return.

(See <https://www.irs.gov/pub/irs-pdf/f8809.pdf>). Even then, the extension is only for 30 days and that 30 days expired today and does not cover the deadline to furnish the forms to the worker, those are granted for 15 days, unless the need for up to a total of 30 days is clearly shown. Since the election workers were not set up in the payroll system, W-2s cannot be generated from that system. Since election workers were paid through the accounts payable procedure through the Auditor / Treasurer's Office, the Auditor / Treasurer is responsible for issuing the W-2s. The form can be found here - <https://www.irs.gov/pub/irs-pdf/fw2.pdf> and the W-2s should be issued as soon as possible. W-2s also need to be filed with the Social Security Administration. You may want to consult with Human Resources or the Finance office to ensure proper reporting of taxable wages.

These forms should be provided to the workers and filed as soon as possible. Per the IRS website, the penalty for **each statement** that was not provided / filed on time is \$130 per statement.

Sincerely,

Julie Lawyer  
State's Attorney  
Burleigh County  
514 E Thayer Ave  
Bismarck, ND 58501  
Phone: (701) 222-6672  
FAX: (701) 221-6897  
e-service: [bc08@nd.gov](mailto:bc08@nd.gov)

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**From:** [Lawyer, Julie A.](#)  
**To:** [Binder, Pamela J.](#); [Splonskowski, Mark D.](#); [Larson, Thomas](#)  
**Cc:** [Jacobs, Leigh](#); [Bitner, Brian](#)  
**Subject:** RE: Election Worker tax forms  
**Date:** Friday, March 7, 2025 11:23:44 AM

---

Then it sounds like there is nothing to amend regarding form 940.

Julie

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**From:** Binder, Pamela J. <pjbinder@nd.gov>  
**Sent:** Thursday, March 6, 2025 9:55 AM  
**To:** Splonskowski, Mark D. <msplonskowski@nd.gov>; Lawyer, Julie A. <JLAWYER@nd.gov>; Larson, Thomas <larsonthomas@nd.gov>  
**Cc:** Jacobs, Leigh <ljacobs@nd.gov>; Bitner, Brian <bccbitner@nd.gov>  
**Subject:** RE: Election Worker tax forms

Mark & Julie,

My understanding is that the 940 form is for entities that file their employment taxes and report income on an annual basis.

The 941 Form is for entities that file their employment taxes and report income on a quarterly basis.

My understanding is that an entity must complete one or the other form and not both as we have never completed the 940 Form. Throughout my payroll experience I have never completed the 940 Form just the 941 Form.

Sincerely,

**Pamela J. Binder**, SPHR, SHRM-SCP, MBA, MM/HR  
**HR Director/Risk Management Director**  
Burleigh County Human Resources  
316 N 5<sup>th</sup> St., Suite 106  
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Phone: 701-222-6669  
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**Sent:** Thursday, March 6, 2025 8:28 AM

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Thank you,

**Megan Martin**

**HR Assistant II/Payroll and Benefits**

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If you had any election worker who earned more than \$1,000 in the year, then the form 940 would have to be amended.

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**HR Director/Risk Management Director**

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**HR Director/Risk Management Director**

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**Sent:** Tuesday, March 4, 2025 9:56 AM  
**To:** Lawyer, Julie A. <[JLAWYER@nd.gov](mailto:JLAWYER@nd.gov)>; Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>  
**Cc:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Bitner, Brian <[bccbitner@nd.gov](mailto:bccbitner@nd.gov)>  
**Subject:** RE: Election Worker tax forms

Julie,

Thank you for the clarification.

Pam, would you be willing to help us get these? We have the W-2's filled out, but we could use assistance uploading the information to social security as well as amending our 941 form.

Thanks.

*Mark Splonskowski*  
Burleigh County Auditor/Treasurer

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**From:** Lawyer, Julie A. <[JLAWYER@nd.gov](mailto:JLAWYER@nd.gov)>  
**Sent:** Monday, March 3, 2025 11:47 PM  
**To:** Splonskowski, Mark D. <[msplonskowski@nd.gov](mailto:msplonskowski@nd.gov)>; Larson, Thomas <[larsonthomas@nd.gov](mailto:larsonthomas@nd.gov)>  
**Cc:** Binder, Pamela J. <[pjbinder@nd.gov](mailto:pjbinder@nd.gov)>; Jacobs, Leigh <[ljacobs@nd.gov](mailto:ljacobs@nd.gov)>; Bitner, Brian <[bccbitner@nd.gov](mailto:bccbitner@nd.gov)>  
**Subject:** Election Worker tax forms

Mark:

The short answer is that you need to get W-2s to any election worker who earned \$600 or more OR any wage that is FICA taxable (per the Section 218 Agreement we have with Social Security Administration) as soon as possible as the W-2s are already overdue and subject to a penalty of \$130 per statement.

The long answer is that to determine which tax form should be issued to election workers (W-2 or 1099), we first have to figure out their status.

Federal courts have looked at the definition of employment under the ND Administrative Code for Job Service North Dakota (N.D.A.C. § 27-02-14-01) and Workforce Safety and Insurance (N.D.A.C. § 92-01-02-49) to determine if a worker is an employee (W-2) or an independent contractor (1099). See *Oil & Gas Transfer L.L.C. v. Karr*, 928 F.3d 1120 (8<sup>th</sup> Cir 2019)



“... we apply the substantive law of North Dakota to determine whether Karr was an employee or an independent contractor. Under North Dakota law, ... “The person that asserts that an individual is an independent contractor under the common-law test ... has the burden of proving that fact.” N.D.C.C § 65-01-03(1). “The central question in determining whether an individual is an employee or independent contractor is: Who is in control?” This is determined by the common-law “right-to-control” test. N.D.A.C. §§ 27-02-14-01(5)(a), 92-01-02-49(1)(a). “The right to control is dispositive, whether or not it has been exercised.”

As such, since the County controls when, where, and how the election worker does the work, requiring them to attend election worker training sessions, requiring them to follow established routines and schedules, and having the right to dismiss or terminate without liability, election workers would be considered “employees”.

In looking at the guidance from the IRS, if the election worker was paid less than \$600 per taxable year, no reporting of wages needs to occur. If the worker is paid more than \$600 per taxable year, then a W-2 must be issued to the worker. BUT you also must look at whether the wages paid are subject to FICA tax. The Social Security Administration has some guidance regarding when Social Security and Medicare taxes must be paid for election workers. [https://www.ssa.gov/slge/election\\_workers.htm?tl=0%2C1%2C2%2C3](https://www.ssa.gov/slge/election_workers.htm?tl=0%2C1%2C2%2C3). FICA taxes don't have to be paid for wages of less than \$2,300 unless subject to a “Section 218 Agreement”. North Dakota is listed as having an agreement (current through June 2015), which is available through the State Social Security Administrator, Zerina Arapovic at Job Service, Bismarck (<https://www.ncsssa.org/statessadmin-northdakota.html>). We need to know what that threshold is to determine if a W-2 needs to be issued to anyone earning LESS than \$600 per year for FICA.

Based on the guidance from federal courts, it appears election workers are “employees” of the County and W-2s must be issued to the workers - no later than January 31 of the following year - if they earned “taxable income” during the taxable year.

Every election worker who earned over \$600 in 2024 from election work must get a W-2. IF our Section 218 Agreement requires payment of FICA taxes for earned wages that is anything less than \$600, a W-2 must be issued to those workers as well.

Obviously, that deadline has passed. There is an option for a 30-day extension, but we don't meet the criteria for the extension as it requires one of the following:

- A catastrophic event in a federally declared disaster area that made the filer unable to resume operations or necessary records unavailable;
- Fire, casualty or natural disaster affected operation of the filer;
- Death, serious illness, or unavoidable absence of the individual responsible for filing the information returns;
- The filer was in the first year of establishment; OR
- The filer did not receive data on a payee statement in time to prepare an accurate information return.

(See <https://www.irs.gov/pub/irs-pdf/f8809.pdf>). Even then, the extension is only for 30 days and that 30 days expired today and does not cover the deadline to furnish the forms to the worker, those are granted for 15 days, unless the need for up to a total of 30 days is clearly shown. Since the election workers were not set up in the payroll system, W-2s cannot be generated from that system. Since election workers were paid through the accounts payable procedure through the Auditor / Treasurer's Office, the Auditor / Treasurer is responsible for issuing the W-2s. The form can be found here - <https://www.irs.gov/pub/irs-pdf/fw2.pdf> and the W-2s should be issued as soon as possible. W-



2s also need to be filed with the Social Security Administration. You may want to consult with Human Resources or the Finance office to ensure proper reporting of taxable wages.

These forms should be provided to the workers and filed as soon as possible. Per the IRS website, the penalty for **each statement** that was not provided / filed on time is \$130 per statement.

Sincerely,

Julie Lawyer  
State's Attorney  
Burleigh County  
514 E Thayer Ave  
Bismarck, ND 58501  
Phone: (701) 222-6672  
FAX: (701) 221-6897  
e-service: [bc08@nd.gov](mailto:bc08@nd.gov)

*CONFIDENTIALITY STATEMENT*

*This communication and any documents or files transmitted with it are covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510 et seq., and are confidential and intended solely for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or other use of the contents of this message is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail to the address shown and delete this email, including all associated attachments from all storage locations.*



# Employment Eligibility Verification

Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-9  
OMB No. 1615-0047  
Expires 05/31/2027

**START HERE:** Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [Instructions](#).

**ANTI-DISCRIMINATION NOTICE:** All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

**Section 1. Employee Information and Attestation:** Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.

Last Name (Family Name)		First Name (Given Name)		Middle Initial (if any)	Other Last Names Used (if any)	
Address (Street Number and Name)			Apt. Number (if any)	City or Town		State ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number		Employee's Email Address			Employee's Telephone Number
<p>I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.</p>		Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):				
		<input type="checkbox"/> 1. A citizen of the United States				
		<input type="checkbox"/> 2. A noncitizen national of the United States (See Instructions.)				
		<input type="checkbox"/> 3. A lawful permanent resident (Enter USCIS or A-Number.)				
<input type="checkbox"/> 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any)						
If you check Item Number 4., enter one of these:						
USCIS A-Number		OR	Form I-94 Admission Number		OR	Foreign Passport Number and Country of Issuance
Signature of Employee				Today's Date (mm/dd/yyyy)		

If a preparer and/or translator assisted you in completing Section 1, that person MUST complete the [Preparer and/or Translator Certification](#) on Page 3.

**Section 2. Employer Review and Verification:** Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.

Document Title 1	List A	OR	List B	AND	List C
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 2 (if any)	<b>Additional Information</b>				
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 3 (if any)	<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.				
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
<b>Certification:</b> I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States.					First Day of Employment (mm/dd/yyyy):
Last Name, First Name and Title of Employer or Authorized Representative			Signature of Employer or Authorized Representative		Today's Date (mm/dd/yyyy)
Employer's Business or Organization Name			Employer's Business or Organization Address, City or Town, State, ZIP Code		

For reverification or rehire, complete [Supplement B, Reverification and Rehire](#) on Page 4.

## LISTS OF ACCEPTABLE DOCUMENTS

All documents containing an expiration date must be unexpired.

\* Documents extended by the issuing authority are considered unexpired.

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

**Examples of many of these documents appear in the Handbook for Employers (M-274).**

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
<ol style="list-style-type: none"> <li>1. U.S. Passport or U.S. Passport Card</li> <li>2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</li> <li>3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa</li> <li>4. Employment Authorization Document that contains a photograph (Form I-766)</li> <li>5. For an individual temporarily authorized to work for a specific employer because of his or her status or parole:               <ol style="list-style-type: none"> <li>a. Foreign passport; and</li> <li>b. Form I-94 or Form I-94A that has the following:                   <ol style="list-style-type: none"> <li>(1) The same name as the passport; and</li> <li>(2) An endorsement of the individual's status or parole as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</li> </ol> </li> </ol> </li> <li>6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI</li> </ol>	OR	<ol style="list-style-type: none"> <li>1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>3. School ID card with a photograph</li> <li>4. Voter's registration card</li> <li>5. U.S. Military card or draft record</li> <li>6. Military dependent's ID card</li> <li>7. U.S. Coast Guard Merchant Mariner Card</li> <li>8. Native American tribal document</li> <li>9. Driver's license issued by a Canadian government authority</li> <li style="text-align: center;"><b>For persons under age 18 who are unable to present a document listed above:</b></li> <li>10. School record or report card</li> <li>11. Clinic, doctor, or hospital record</li> <li>12. Day-care or nursery school record</li> </ol>	AND	<ol style="list-style-type: none"> <li>1. A Social Security Account Number card, unless the card includes one of the following restrictions:               <ol style="list-style-type: none"> <li>(1) NOT VALID FOR EMPLOYMENT</li> <li>(2) VALID FOR WORK ONLY WITH INS AUTHORIZATION</li> <li>(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION</li> </ol> </li> <li>2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)</li> <li>3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</li> <li>4. Native American tribal document</li> <li>5. U.S. Citizen ID Card (Form I-197)</li> <li>6. Identification Card for Use of Resident Citizen in the United States (Form I-179)</li> <li>7. Employment authorization document issued by the Department of Homeland Security               <p style="margin-left: 20px;">For examples, see <a href="#">Section 7</a> and <a href="#">Section 13</a> of the M-274 on <a href="http://uscis.gov/i-9-central">uscis.gov/i-9-central</a>.</p> <p style="margin-left: 20px;">The Form I-766, Employment Authorization Document, is a List A, <b>Item Number 4.</b> document, not a List C document.</p> </li> </ol>
<p><b>Acceptable Receipts</b></p> <p>May be presented in lieu of a document listed above for a temporary period.</p> <p>For receipt validity dates, see the M-274.</p>				
<ul style="list-style-type: none"> <li>• Receipt for a replacement of a lost, stolen, or damaged List A document.</li> <li>• Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual.</li> <li>• Form I-94 with "RE" notation or refugee stamp issued to a refugee.</li> </ul>	OR	<p>Receipt for a replacement of a lost, stolen, or damaged List B document.</p>	AND	<p>Receipt for a replacement of a lost, stolen, or damaged List C document.</p>

\*Refer to the Employment Authorization Extensions page on [I-9 Central](#) for more information.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

# Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA)

Revised July 2008

This fact sheet provides a summary of the FLSA's recordkeeping regulations, [29 CFR Part 516](#).

## Records To Be Kept By Employers

Highlights: The FLSA sets [minimum wage](#), [overtime pay](#), recordkeeping, and [youth employment standards](#) for employment subject to its provisions. Unless exempt, covered employees must be paid at least the [minimum wage](#) and not less than one and one-half times their regular rates of pay for [overtime](#) hours worked.

Posting: Employers must display an official poster outlining the provisions of the Act, available at no cost from local offices of the Wage and Hour Division and toll-free, by calling 1-866-4USWage (1-866-487-9243). This poster is also available electronically for downloading and printing at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/minwagep.pdf>.

What Records Are Required: Every covered employer must keep certain records for each non-exempt worker. The Act requires no particular form for the records, but does require that the records include certain identifying information about the employee and data about the hours worked and the wages earned. The law requires this information to be accurate. The following is a listing of the basic records that an employer must maintain:

1. Employee's full name and social security number.
2. Address, including zip code.
3. Birth date, if younger than 19.
4. Sex and occupation.
5. Time and day of week when employee's workweek begins.
6. Hours worked each day.
7. Total hours worked each workweek.
8. Basis on which employee's wages are paid (e.g., "\$9 per hour", "\$440 a week", "piecework")
9. Regular hourly pay rate.
10. Total daily or weekly straight-time earnings.
11. Total overtime earnings for the workweek.
12. All additions to or deductions from the employee's wages.
13. Total wages paid each pay period.
14. Date of payment and the pay period covered by the payment.

How Long Should Records Be Retained: Each employer shall preserve for at least three years payroll records, collective bargaining agreements, sales and purchase records. Records on which wage computations are based should be retained for two years, i.e., time cards and piece work tickets, wage rate tables, work and time schedules, and records of additions to or deductions from wages. These records must be open for inspection by the Division's representatives, who may ask the employer to make extensions, computations, or transcriptions. The records may be kept at the place of employment or in a central records office.

What About Timekeeping: Employers may use any timekeeping method they choose. For example, they may use a time clock, have a timekeeper keep track of employee's work hours, or tell their workers to write their own times on the records. Any timekeeping plan is acceptable as long as it is complete and accurate.

The following is a sample timekeeping format employers may follow but are not required to do so:

DAY	DATE	IN	OUT	TOTAL HOURS
Sunday	6/3/07	-----	-----	-----
Monday	6/4/07	8:00am	12:02pm	
		1:00pm	5:03pm	8
Tuesday	6/5/07	7:57am	11:58am	
		1:00pm	5:00pm	8
Wednesday	6/6/07	8:02am	12:10pm	
		1:06pm	5:05pm	8
Thursday	6/7/07	-----	-----	-----
Friday	6/8/07	-----	-----	-----
Saturday	6/9/07	-----	-----	-----
<b>Total Workweek Hours:</b>				<b>24</b>

Employees on Fixed Schedules: Many employees work on a fixed schedule from which they seldom vary. The employer may keep a record showing the exact schedule of daily and weekly hours and merely indicate that the worker did follow the schedule. When a worker is on a job for a longer or shorter period of time than the schedule shows, the employer must record the number of hours the worker actually worked, on an exception basis.

### Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website:

<http://www.dol.gov/agencies/whd> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.



The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

# ND MINIMUM WAGE & WORK CONDITIONS

State Capitol 600 East Boulevard Avenue Bismarck, ND 58505-0340  
Hours: M-F - 8:00a.m.-5:00p.m.  
(701)328-2660 1-800-582-8032 Fax - (701)328-2031 TTY - 1-800-366-6888  
e-mail - labor@nd.gov web site - www.nd.gov/labor

## MINIMUM WAGE RATE:

North Dakota does not have  
a Training Wage.

**\$7.25**  
per hour on  
7/24/09

Effective Date:  
**August 1, 2015**

## OVERTIME N.D. Admin. Code § 46-02-07-02(4)

- Overtime pay must be paid at one and one-half times the employee's regular rate of pay for hours worked over forty in any work week.
- A work week is a seven consecutive-day period defined by the employer.
- Overtime is computed on a weekly basis, regardless of the length of the pay period.
- Overtime is based only on hours worked. Paid holidays, paid time off, or sick leave need not be counted in computing overtime hours.
- Compensatory time is not legal in private employment for non-exempt employees — overtime hours may not be "banked" and used for time off in another work week.
- Employees working more than one job under the control of the same employer must have all hours worked counted toward overtime.

Exemptions from overtime are listed on the reverse side of this poster. Formulas for calculating overtime are available in N.D. Admin. Code Section 46-03-01.

## MEAL PERIODS N.D. Admin. Code § 46-02-07-02(5)

- A minimum 30-minute meal period must be provided in shifts exceeding five hours when there are two or more employees on duty.
- Employees may waive their right to a meal period upon agreement with the employer.
- Employees do not have to be paid for meal periods if they are completely relieved of their duties and the meal period is at least thirty minutes in length. Employees are not completely relieved if they are required to perform any duties during the meal period.
- Other breaks (such as 15 minute "coffee" breaks) are not required by law, but must be paid breaks if they are offered by the employer.

## PAID TIME OFF N.D. Admin. Code § 46-02-07-02(12) - Applies unless a limitation below is met

- Paid time off includes annual leave, earned time, personal days, or other provisions providing compensation for vacation. If sick leave is combined with such time into one balance, all of the hours are defined as paid time off. Sick leave is not defined as paid time off if it is kept in a separate balance.
- Once paid time off is made available for an employee's use, any unused portion of such time is considered wages upon separation from employment and must be paid at the regular rate of pay earned by the employee prior to separation.
- No employment contract or policy may provide for forfeiture of earned paid time off upon separation.
- An employment contract or policy may require an employee to take vacation by a certain date or lose the vacation ("use it or lose it"), provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of such contract or policy provision.

## LIMITATIONS ON PAID TIME OFF N.D.C.C. § 34-14-09.2

1. If an employee separates from employment voluntarily, a private employer may withhold payment for accrued paid time off if the following three conditions are all met:
  - a. At the time of hiring, the employer provided the employee written notice of the limitation on payment of accrued paid time off;
  - b. The employee has been employed by the employer for less than one year; and
  - c. The employee gave the employer less than five days' written or verbal notice.
2. If an employee separates from employment, a private employer may withhold payment for paid time off if:
  - a. The paid time off was awarded by the employer but not yet earned by the employee; and
  - b. Before awarding the paid time off, the employer provided the employee written notice of the limitation on payment of awarded paid time off.

## PAYDAYS & RECORD KEEPING N.D.C.C. §§ 34-14-02, 03 and N.D. Admin Code § 46-02-07-02

- Employees must be paid at least once each calendar month on the regular payday(s) designated in advance by the employer.
- Every employer must furnish to an employee each pay period a check stub or voucher indicating hours worked, rate of pay, required state and federal deductions, and any authorized deductions.
- When an employee is terminated from employment, separates from employment voluntarily, or is suspended from work as the result of an industrial dispute, unpaid wages or compensation become due and payable at the regular payday(s) established in advance by the employer for the period(s) worked by the employee.
- When an employer terminates an employee, the employer shall pay those wages to the employee by certified mail at an address designated by the employee or as otherwise agreed upon by both parties.

## DEDUCTIONS FROM PAY N.D.C.C. § 34-14-04.1

Except for those amounts that are required under state or federal law to be withheld from employee compensation or where a court has ordered the employer to withhold compensation, an employer only may withhold from the compensation due employees:

1. Advances paid to employees, other than undocumented cash.
2. A recurring deduction authorized in writing.
3. A nonrecurring deduction authorized in writing, when the source of the deduction is cited specifically.
4. A nonrecurring deduction for damage, breakage, shortage, or negligence must be authorized by the employee at the time of the deduction.

## EMPLOYMENT AT WILL N.D.C.C. § 34-03-01

Employment relationships without a specific term exist at the will of both parties and can be terminated by either party upon notice to the other. No minimum length of notice (for example, a two-week notice) is required. Contracts specifying a term of employment can pre-empt the at-will provision.

## RIGHT TO WORK N.D.C.C. § 34-01-14

An individual's right to work may not be denied or abridged due to membership or nonmembership in any labor union or labor organization.

## YOUTH EMPLOYMENT N.D.C.C. ch. 34-07

Employment & Age Certificates (work permits) are required for workers ages 14 & 15 and are available from the Department of Labor, Job Service offices, County School Superintendents' offices, and local schools.

### Restricted hours for youth age 14 & 15:

- Maximum hours per day: 3 per school day, 8 per non-school day.
  - Maximum hours per week: 18 per school week (any week in which school attendance is required any part of 4 or more days), 40 per non-school week.
- May work only between 7a.m.-7p.m. (until 9p.m. from June 1st - Labor Day).

### Hazardous job duties for youth age 14 & 15:

Workers ages 14 & 15 are prohibited from performing certain job duties defined as hazardous in labor law.

## POSTING REQUIRED

Must be posted in a conspicuous place in a commonly frequented area in which employees work.

See REVERSE SIDE of this Poster for Additional Information.

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**EXEMPTIONS FROM OVERTIME N.D. Admin. Code § 46-02-07-02(4)**

- An employee employed in a bona fide executive, administrative, or professional capacity.  
**Executive** - an employee whose primary duties consists of:  
a. The management of the enterprise or recognized department or subdivision thereof;  
b. Directing the work of two or more other employees therein; and  
c. The authority to hire or fire other employees or whose suggestions will be given particular weight.  
**Administrative** - an employee whose primary duties consists of:  
a. Office or non-manual work directly related to management policies or general business operations; and  
b. Who customarily and regularly exercises discretion and independent judgment.  
**Professional** - an employee whose primary duties consists of:  
a. Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes;  
b. Work requiring the consistent exercise of discretion and judgment in its performance; and  
c. Work that is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work.
- An employee engaged in an agricultural occupation – growing, raising, preparing, or delivering agricultural commodities for market.
- An employee spending at least 51% of the employee's work-time providing direct care to clients of a shelter, foster care, or other such related establishment.
- An employee employed in domestic service who resides in the household in which employed.
- A straight commission salesperson in retail automobile, trailer, boat, aircraft, truck, or farm implement dealerships unless that salesperson is required to be on the premises for more than forty hours per week.
- A computer professional exercising discretion and independent judgment when designing, developing, creating, analyzing, testing, or modifying computer programs or who is paid hourly at a rate of at least \$27.63.
- An employee who is customarily and regularly engaged away from the employer's premises for the purpose of making sales or taking orders. Work unrelated to outside sales may not exceed 20% of the hours worked in the week.
- A mechanic paid on a commission basis off a flat rate schedule.
- An employee of a retail establishment if the employee's regular rate of pay exceeds 1.5 times the minimum hourly rate applicable if more than half of the employee's compensation for a period of not less than one month is derived from commission on goods or services sold.
- An employee employed as an announcer, news editor, or chief engineer by a radio or television station.
- An employee in an artistic profession that is original and creative in nature or where the work is dependent upon the invention, imagination, or talent of the employee.
- Motor carrier as applied to covered employees of motor common, contract, and private carriers specified by the Motor Carriers Act [49 U.S.C. 31502].
- A teacher, instructor, tutor, or lecturer engaged in teaching in a school or educational system.
- A highly compensated employee: an employee who is paid total annualized compensation of one hundred thousand dollars or more, which includes at least four hundred fifty-five dollars per week paid on a salary or fee basis. The employee's primary duty includes performing office or nonmanual work.
- An employee providing companionship services (fellowship, care, or protection) to aged or disabled individuals. No more than 20% of the hours worked in the week may be household work (cleaning, laundry, or meal preparation). N.D.C.C. § 34-06-03.1

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**TAXI DRIVER AND HEALTHCARE OVERTIME PROVISIONS N.D. Admin. Code § 46-02-07-02(4)**

- Taxicab drivers must be paid overtime for all hours worked in excess of fifty hours in any work week.
- Hospitals and residential care establishments may adopt, by agreement with their employees, a fourteen-day overtime period, if the employees are paid at least time and one-half their regular rate for hours worked over eight in a day or eighty in a fourteen-day work period.

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**TIPS N.D. Admin. Code § 46-02-07-03**

- Gratuities offered to an employee by a customer belong to the employee and may not be retained by the employer.
- Employers may utilize a tip credit of 33% of the minimum wage for tipped employees. With the tip credit applied, the minimum direct wage payable to a tipped employee is \$4.86 per hour effective July 24, 2009. The employer must maintain written records verifying that tipped employees receive at least the full minimum wage for all hours worked when the direct wage and tips are combined.
- A tipped employee is any service employee in an occupation in which he or she receives more than thirty dollars per month in tips.
- A service employee is any employee who is providing direct service to the customer and to whom that customer shows appreciation for that service by tipping that employee for the direct service. The employee must regularly and customarily provide personal face-to-face service to individual customers, which the customer would recognize as being performed for his or her benefit. Services such as cooking and dishwashing are not included.
- An employer who elects to use the tip credit must inform the employee in advance.
- Tip pooling is allowed only among the tipped employees. A vote of tipped employees to allow tip pooling must be taken, and fifty percent plus one of all tipped employees must approve it. The employer must maintain a written record of each vote on tip pooling, including names of employees voting and the vote totals. A vote on whether to pool tips is required if requested by fifty-one percent or more of the tipped employees. The tipped employees shall provide documentation verifying the request. Time spent in meetings called by the employees exclusively for tip issues is not work time. Gaming sites, which regularly have four or fewer tipped employees on duty, can require tip pooling among all tipped employees at the site. Pit bosses or supervisors at gaming sites are not tipped employees and cannot be part of the tip pool when performing functions of those positions other than dealing blackjack (twenty-one).

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**MEETINGS AND TRAINING TIME N.D. Admin. Code § 46-02-07-02(6)**

Attendance at lectures, meetings, training programs and similar activities need not be counted as working time if all the following criteria are met:

- Attendance is outside of the employee's regular working hours.
- Attendance is in fact voluntary.
- The course, lecture, or meeting is not directly related to the employee's job.
- The employee does not perform any productive work during such attendance.

Training or education mandated by the state, federal government, or any political subdivision for a specific occupation need not be counted as work-time.

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**TRAVEL TIME N.D. Admin. Code § 46-02-07-02(7)**

- The following types of travel time are not considered work time for which an employee must be compensated: 1) Ordinary travel from home to work, 2) Time spent as a passenger on an airplane, train, bus, or automobile outside of regular working hours, 3) Activities that are merely incidental use of an employer-provided vehicle for commuting home to work.
- The following types of travel time are considered work time for which an employee must be compensated: 1) Travel during regular work hours, 2) Travel on non-work days during regular work hours (regular work hours are those typically worked by an employee on work days), 3) Travel time from job site to job site or from office to job site, 4) The driver of a vehicle is working at any time when required to travel by the employer, 5) One-day assignments performed at the employer's request (regardless of driver or passenger status).

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**ON-CALL N.D. Admin. Code § 46-02-07-02(8)**

- When employees are required to remain on-call on the employer's premises or so close thereto that they cannot use the time effectively for their own purposes, they are considered to be working and must be compensated.
- When employees are on-call and are not required to remain on the employer's premises but are required to respond to a beeper or leave word at home or the employer's business where they may be reached, they are not considered to be working and need not be compensated.

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**BONUSES AND COMMISSIONS N.D. Admin. Code § 46-02-07-02(15)**

- An earned bonus is an amount paid in addition to a salary, wage, or commission. An earned bonus is compensable when an employee performs the requirements set forth in a contract or an agreement between the parties.
- A commission is a fee or percentage given for compensation to an individual for completion of a sale, service, or transaction. Upon separation from employment, the past practices, policies, and entire employment relationship will be used to determine if the commission is earned and compensable.

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**ROOM AND BOARD N.D. Admin. Code § 46-02-07-02(13)**

The reasonable value, not exceeding the employer's actual cost, of board, lodging, and other facilities customarily furnished by the employer for the employee's benefit may be treated as part of the wages, up to a maximum of eighteen dollars per day, if agreed to in writing and if the employee's acceptance of facilities is in fact voluntary.

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**UNIFORMS N.D. Admin. Code § 46-02-07-02(11)**

An employer may require an employee to purchase uniforms if the cost of such uniforms does not bring that employee's wage below the hourly minimum wage for all hours worked during any pay period.

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**EMPLOYMENT DISCRIMINATION N.D.C.C. ch. 14-02.4**

Employers may not discriminate against employees or applicants on the basis of: race, color, religion, sex, pregnancy, national origin, age, mental or physical disability, status with respect to marriage or public assistance, participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related functions of the employer, or opposition to such discrimination in the work place.

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**EMPLOYMENT RETALIATION N.D.C.C. § 34-01-20**

An employer may not discharge, discipline, threaten, discriminate, or penalize an employee regarding the employee's compensation, conditions, location, or privileges of employment because:

- The employee, or person acting on behalf of an employee, in good faith, reports a violation of federal, state, or local law, ordinance, regulation, or rule to an employer, a governmental body, or law enforcement official.
- The employee is requested by a public body or official to participate in an investigation, a hearing, or an inquiry.
- The employee refuses an employer's order to perform an action that the employee believes violates local, state, or federal law, ordinance, rule, or regulation. The employee must have an objective basis in fact for that belief and shall inform the employer that the order is being refused for that reason.

Public employees should also see N.D.C.C. ch. 34-11.1 Public Employees Relations Act for further information.

This poster summarizes provisions contained in the *ND Minimum Wage & Work Conditions Order* North Dakota Administrative Code (N.D. Admin. Code) Chapter 46-02-07, as well as selected provisions of North Dakota Century Code (N.D.C.C.) Title 34 and N.D.C.C. Chapter 14-02.4.

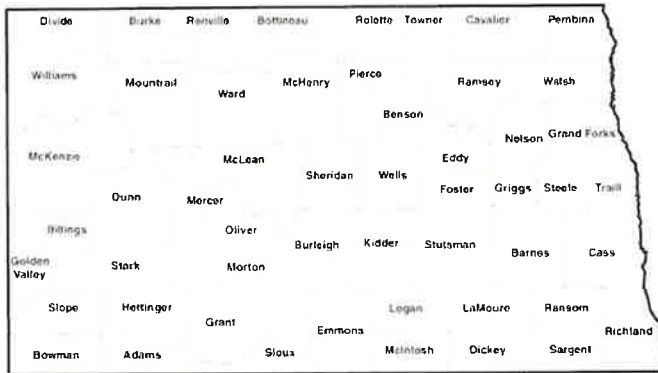


2024



ELECTION OFFICIALS'  
MANUAL

February 2024

# North Dakota



✓ votes  
**2024**

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Alternate formats for individuals with disabilities are available upon request.



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## FOREWORD

According to North Dakota Century Code (NDCC) § 16.1-05-03, the Secretary of State is required to provide an instruction manual detailing the responsibilities of election officials. This 2024 Election Officials' Manual is intended to fulfill the requirements of the law by providing comprehensive instructions and procedures for election officials to look to for guidance in conducting elections in North Dakota.

## CONTACT

If you have questions regarding the 2024 Election Officials' Manual, please contact:

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600 East Boulevard Avenue Dept 108  
Bismarck ND 58505-0500

(701) 328-4146 – Phone  
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(701) 328-3413 – Fax

[soselect@nd.gov](mailto:soselect@nd.gov) – Email

[Vote.ND.Gov](http://Vote.ND.Gov) – Website

This website contains election publications, connections to other helpful election websites, and state election forms, which can be completed online before printing and signing.

## DISCLAIMER

The following excerpts and summaries of North Dakota law are taken or derived from the NDCC and pertain to elections, election procedures, and the duties and responsibilities assigned to election officials. Although every attempt has been made for accuracy, the reprint, summarizations, or paraphrasing of these laws does not carry the same authority as the actual NDCC and should not be equated with the official NDCC. This compilation is intended as a helpful resource and reference for consolidated election related laws. For official and legal purposes, the official NDCC should be used.

This manual is not an elections operations manual. Training materials documenting procedures specific to use of the State's Central Voter File, election management system, electronic pollbooks, voting and tabulating equipment, and election night reporting are some of the supplemental materials that auditors and/or the Secretary of State's office may provide for election worker training.

The following excerpts of North Dakota law do not contain the material found in the legal notes following the various sections contained in the NDCC. These notes found in the NDCC may contain temporary provisions and effective dates along with valuable summaries of applicable court rulings.

## Section 1 – Polling Places and Poll Workers

**Polling Places:** Upon a decision by the county commissioners, a county may utilize multiple precinct polling places. The county commissioners may also decide, if it is in the best interest of the county, to use one election board to supervise all or a portion of the precincts voting in the same polling place even if the precincts fall within different legislative districts so long as each district chairperson of each qualified political party is given the opportunity to have representation on the election board if desired. (NDCC §§ 16.1-04-02 and 16.1-05-01)

**Inspectors:** The county auditor, with county commissioners' approval, shall appoint election inspectors, except in polling places containing city precincts only established by (NDCC Chapter 16.1-04) where the city governing board appoints the inspectors. The inspector selection is to be made on the basis of the inspector's knowledge of the election procedure. Appointments must be made forty days before the election. (NDCC § 16.1-05-01) Inspectors serve as the polling place supervisor. (NDCC § 16.1-05-04)

**Judges:** The election judges for each precinct or polling place are appointed in writing by the district chairs representing the two political parties that cast the most votes in the state's last general election. For special elections involving only no-party offices, the election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the election judges for each polling location. (NDCC § 16.1-05-01) The inspector or judges initial and deliver ballots to the voters and the judges perform other responsibilities assigned by the inspector. (NDCC § 16.1-13-22)

**Composition of the Election Board:** The election board for each precinct or polling place must consist of an inspector and at least two election judges. (NDCC § 16.1-05-01)

**Clerks:** The election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the poll clerks for each polling place. (NDCC § 16.1-05-01) Clerks manage the pollbook, verify voters' identification, update incorrect pollbook information, and other ministerial duties assigned by the inspector. (NDCC §§ 16.1-05-04 and 16.1-05-07)

**County Auditor May Appoint Judges if Forty Day Notice Not Received:** If the district political party chair fails to appoint the judges forty days before the election, the county auditor shall appoint the judges. If the county auditor has exhausted all practicable means to select judges from within the voting precinct and vacancies still remain, the county auditor may select election judges who reside outside of the voting precinct, but who reside within the precinct's legislative district. If vacancies still remain, the county auditor may select election judges who reside outside of the legislative district but who reside within the county. (NDCC § 16.1-05-01)

**County Auditor May Request an Additional Judge:** In polling places in which over one thousand votes were cast in any election, the county auditor may request each district political party chairperson to appoint an additional election judge. (NDCC § 16.1-05-01)

**Part-Time Inspectors, Judges, and Clerks:** The county auditor may appoint part-time inspectors, judges, and clerks to allow for sufficient coverage at each polling place to satisfy the requirements of those positions. At least one inspector and two judges from the election board must be present on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election. (NDCC § 16.1-05-01 and 16.1-05-04)

**Qualifications of Election Board and Poll Clerks:** Inspectors, judges, and clerks must be qualified voters of the polling places in which they are assigned to work unless the county auditor has exhausted all means to appoint election judges from precincts within the polling place according to (NDCC § 16.1-05-01). No individual may serve as a member of the election board or as a poll clerk who has anything of value bet or wagered on the result of an election. (NDCC § 16.1-05-02)