Chapter 126A.

North Carolina Human Resources Act.

Article 1.

State Human Resources System.

Part 1. Goals, Definitions.

§ 126A-1-1. Purpose of Chapter.

(a) It is the intent and purpose of this Chapter to establish a decentralized human resources system, where appropriate, without additional cost to the State, under the direction of the Governor, based on modern principles of personnel administration, that applies the best methods evolved through government and industry. It is also the purpose of this Chapter to apply the human resources system to the employees of the executive branch and to local employees paid entirely or in part from federal funds, except to the extent that local governing boards are authorized by this Chapter to establish local rules, local pay plans, and local personnel systems. Agency heads shall be responsible and accountable for execution of Commission policies and rules for their employees.

(b) To ensure that State government continuously serves the best interests of the people of North Carolina, the human resources system established by this Chapter shall be governed by the following core principles:

(1) Public service employment should be based on equal opportunity and free of discrimination on any basis prohibited by federal or State law.

(2) The value of public service should be bolstered by fair compensation and benefits, stable career paths, employment protections, opportunities for engagement and development, and an ability to make a positive impact for the people of North Carolina.

(3) Accountability to the public and within agencies should be maintained by establishing clear roles, measurable goals, and transparent reporting to ensure compliance with law and policy. (2026-40, s. 1.)

§ 126A-1-2. Definitions.

(1) Agency. – An executive branch agency or a local agency.

(2) Agency head. – The head of an agency, such as a member of the Council of State, a cabinet Secretary, the President of The University of North Carolina, or an executive director of a commission.

(3) Cabinet agency. – An executive branch agency that is under the control of the Governor.

(4) Career employee. – An employee in a career appointment as provided in Part 2 of this Article.

(5) Commission. – The State Human Resources Commission.

(6) Council of State agency. – An executive branch agency under the control of a member of the Council of State.

(7) Director. – The Director of the Office of State Human Resources.

(8) Employee. – An individual hired to carry out assigned tasks in return for payment operating under the guidance and supervision of an employing agency. This term does not include independent contractors.

(9) Employing agency. – The agency that hired an employee and has the power to separate the employee from a position.
(10) Executive branch agency. – Any department, commission, division, board, bureau, council, or institution of the State within the executive branch of government, including The University of North Carolina.
(11) Exempt managerial employee. – An employee designated as an exempt managerial position as provided in Part 3 of this Article.
(12) Exempt policymaking employee. – An employee designated as an exempt policymaking position as provided in Part 3 of this Article.
(13) Experiential program. – A program for both employment and educational or training purposes, such as a registered apprenticeship, informal apprenticeship, fellowship, or other work-based learning program.
(14) Local agency. – One of the following:
a. Area mental health, developmental disabilities, and substance abuse authorities, except as otherwise provided in Chapter 122C of the General Statutes. A consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered a local agency under this subdivision.
b. Local social services departments.
c. County health departments and district health departments.
d. Local emergency management agencies that receive federal grant-in-aid funds.
(15) Local employee. – An employee of a local agency and any other county employee as designated by a board of county commissioners.
(16) OSHR. – The Office of State Human Resources.
(17) Personnel professional. – Any employee whose primary job duties involve administrative personnel and human resources functions.
(18) Policy. – A policy, rule, standard, practice, procedure, criteria, or regulation established by the Commission, subject to the approval of the Governor.
(19) Qualifications. – Training, education, years of experience, or other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the position.
(20) State employee. – An employee of an executive branch agency, including The University of North Carolina.
(21) Supervisor. – A position that has other employees directly report to it.
(22) Temporary employee. – An employee classified as a temporary employee as provided in Part 2 of this Article.
(23) The University of North Carolina. – As defined in G.S. 116-1. A constituent institution of The University of North Carolina has only the authority delegated to it by the Board of Governors or the University of North Carolina System Office. (2026-40, s. 1.)

Part 2. Appointment Types.

§ 126A-1-10. Appointment types.

(a) All employees are assigned a position with a designated appointment type.

(1) A position is the unique duties and responsibilities of a job to which a person is assigned.
(2) An appointment type defines the terms and expected duration of employment, benefits eligibility, and the applicability of this Chapter to the position.

(b) Appointment types are as follows:
(1) Permanent. – An appointment to a permanent position established and expected to continue indefinitely. All permanent employees are designated as one of the following subcategories:
a. Career appointment. – Assigned to an employee who has been continuously employed for the time period provided in G.S. 126A-1-11.
b. Probationary appointment. – Assigned to an employee who has not been continuously employed long enough to become a career employee under G.S. 126A-1-11.
c. Permanent experiential appointment. – Assigned to an employee in an experiential program who has not been continuously employed long enough to become a career employee under G.S. 126A-1-11.
(2) Non-permanent. – An appointment to a position for a finite period of time. All non-permanent employees are designated as one of the following subcategories:
a. Temporary appointment. – Assigned to an employee employed for a period typically not to exceed 11 months.
b. Time-limited appointment. – Assigned to an employee employed in a position that has a limited period not to exceed three years.
c. Non-permanent experiential appointment. – Assigned to an employee in an experiential program for a limited period of time.
(3) Exempt. – An appointment to a position designated by statute as exempt as defined in G.S. 126A-1-20. An exempt appointment may be made to a permanent or time-limited position.

(c) An employee who moves from a non-permanent or exempt appointment to a permanent appointment shall have a probationary appointment for at least 12 months.

(d) The following exceptions apply:
(1) When a time-limited appointment exceeds three years, the employee shall be designated as having a permanent appointment and, notwithstanding subsection (c) of this section, shall not be required to have a probationary appointment.
(2) A time-limited appointment may be made to a permanent position only when that position is vacant due to the incumbent's leave of absence and the replacement employee's services will be needed for a period of one year or less.
(3) A career employee who is assigned a position that is designated as exempt under G.S. 126A-1-20(1)a., 126A-1-20(2), and 126A-1-20(3) may, once that employee is no longer in the designated exempt position, be reassigned as a career employee with no probationary period if the employee remains continuously employed by the State.

(e) Except for career and probationary appointments, the appointment types in this section do not apply to local employees. (2026-40, s. 1.)

§ 126A-1-11. Qualification as career employee.

(a) An employee in a probationary appointment shall be assigned a career appointment as follows:

(1) An employee who successfully completes 12 months of employment in a probationary appointment shall be assigned a career appointment except as provided in subdivisions (2) and (3) of this subsection. The employee shall be assigned a career appointment unless there is a supervisory extension of the probationary period or separation based on performance or conduct prior to the completion of the 12 months of employment.

(2) If the employee's supervisor determines an additional six-month period is needed to assess whether the employee's performance in the probationary appointment is successful or needs improvement, the employee who successfully completes a total of 18 months of probationary appointment shall be assigned a career appointment.

(3) An employee hired in a sworn law enforcement position or forensic scientist position who is required to complete a formal training program prior to assuming law enforcement or forensic scientist duties with the employing agency shall be assigned a career appointment only after being employed by the agency for 24 continuous months in a probationary appointment. An employee who has a career appointment retains that appointment if the employee transfers from a position that does not require completion of a formal training program into a position under this subdivision that does require a formal training program, even if the employee has worked for the agency for fewer than 24 continuous months.

(b) An employee in a permanent experiential appointment shall be assigned a career appointment as follows:

(1) For experiential programs of 12 months or longer, an employee who successfully completes an experiential program in a permanent experiential appointment shall be assigned a career appointment. The employee shall be assigned a career appointment unless there is a separation based on performance or conduct prior to the completion of the experiential program.

(2) For experiential programs of less than 12 months, an employee who successfully completes the experiential program shall be assigned a probationary appointment and shall receive a career appointment as provided in subsection (a) of this section.

(c) When an employee transfers employment between two local agencies, or between an executive branch agency and a local agency, that employee resets the period of consecutive service required in subsection (a) of this section.

(d) Employees of The University of North Carolina who are exempt from the minimum wage and overtime compensation provisions of the Fair Labor Standards Act and who attained career status before September 1, 2023, have the option of either (i) continuing employment with a career employee appointment if the employee remains in the position the employee occupied on August 31, 2023, or (ii) waiving the career employee appointment and continuing employment as a statutorily exempt employee, as defined in Part 3 of this Article. The University shall provide each affected employee with a written explanation of the impact of an election to waive the career employee appointment. An employee's election to waive the career employee appointment must be

acknowledged either through the employee's written or electronic signature within 60 days of receiving the written explanation. (2026-40, s. 1.)

Part 3. Application of the North Carolina Human Resources Act.

§ 126A-1-20. Definitions.

For the purposes of this Part, the terms used in Part 2 of this Article and the following definitions apply:

(1) Designated employees of policymakers. – Any of the following who have been designated as exempt by the agency head and provided written notice:
   a. For each agency, three confidential assistants for each agency head and one confidential assistant for each chief deputy or chief administrative assistant.
   b. The chief deputy or chief administrative assistant to the head of each agency.

(2) Exempt managerial employee. – A position designated under G.S. 126A-1-24.

(3) Exempt policymaking employee. – A position designated under G.S. 126A-1-24.

(4) Exempt wardens. – Wardens of State adult correctional facilities that have been designated as exempt by the agency head and provided written notice. Exempt wardens shall be public servants under G.S. 138A-3(70) and shall file Statements of Economic Interest under G.S. 138A-22.

(5) Limited exemption employees. – Any of the following:
   a. The Office of the Commissioner of Banks and its employees.
   b. The following employees of the Department of Natural and Cultural Resources:
      1. Director and Associate Directors of the North Carolina Museum of History.
      2. Program Chiefs and Curators.
      3. Regional History Museum Administrators and Curators.
      4. Employees assigned to assist the North Carolina Symphony Society, Incorporated.
      5. Director, Associate Directors, and Curators of Tryon Palace.
      6. Director, Associate Directors, and Curators of the Transportation Museum.
      7. Director and Associate Directors of the North Carolina Arts Council.
      8. Director, Assistant Directors, and Curators of the Division of State Historic Sites.
   c. Employees of the Department of Information Technology (DIT), and employees in all agencies, departments, and institutions with similar classifications as DIT employees, who voluntarily relinquish annual longevity payments, relinquish any claim to longevity pay, or voluntarily relinquish any claim to career status or eligibility for career status as approved by the State Chief Information Officer and the Director of OSHR.
   d. Employees of the Utilities Commission's Public Staff.

(6) Specialized Treasurer's Office employees. – All of the following:
   a. Employees of the Department of State Treasurer possessing specialized skills or knowledge necessary for the proper administration of investment programs and compensated pursuant to G.S. 147-65.2(b).
   b. Employees of the Department of State Treasurer possessing specialized skills or knowledge necessary for the proper administration of the Supplemental Retirement Plans and compensated pursuant to G.S. 135-91(c2).

(7) State employees compensated as teachers. – Teaching and related educational classes of employees of the Division of Juvenile Justice of the Department of Public Safety, the Department of Health and Human Services, and any other agency whose salaries are set in the same manner as for corresponding public school employees in accordance with Chapter 115C of the General Statutes.

(8) Statutorily exempt employees. – Any of the following:
   a. Constitutional officers of the executive branch of the State.
   b. Deputy commissioners appointed pursuant to G.S. 97-79.
   c. Members of executive branch boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.
   d. Officials or employees whose salaries are fixed by the General Assembly, except for those employees on a legislatively established salary schedule not otherwise exempted by this Chapter, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
   e. Employees of the Office of the Governor that the Governor, at any time, in the Governor's discretion, exempts from the application of this Chapter by means of a letter to the Director designating these employees.
   f. Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in the Lieutenant Governor's discretion, exempts from the application of this Chapter by means of a letter to the Director designating these employees.
   g. Employees of The University of North Carolina who are exempt from the minimum wage and overtime compensation provisions of the Fair Labor Standards Act, instructional and research staff, student-oriented professionals, finance professionals, business office professionals, auditor professionals, information technology professionals, physicians, dentists, pilots, and the faculty of the North Carolina School of Science and Mathematics, and all temporary employees. The Board of Governors of The University of North Carolina shall have the authority to establish positions under this subdivision to be exempt from this Chapter without further review or approval by any other agency.
   h. Employees of a regional school established pursuant to Article 15A of Chapter 115C of the General Statutes.
   i. Employees of a school for the deaf or blind governed by Article 9C of Chapter 115C of the General Statutes hired on or after July 1, 2024.

j. Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.

k. Employees of the North Carolina Cooperative Extension Service of North Carolina State University and North Carolina Agricultural and Technical State University who are employed in county operations and who are not exempt pursuant to sub-subdivision g. or j. of this subdivision.

l. Employees of the North Carolina State Ports Authority.

m. Employees of the North Carolina Global TransPark Authority.

n. The executive director and one associate director of the North Carolina Center for Nursing established under Article 9F of Chapter 90 of the General Statutes.

o. Employees of the Tobacco Trust Fund Commission established in Article 75 of Chapter 143 of the General Statutes.

p. Employees of the North Carolina Turnpike Authority.

q. The Executive Administrator of the State Health Plan for Teachers and State Employees and employees of the State Health Plan for Teachers and State Employees as designated by law or by the Executive Administrator of the Plan.

r. The North Carolina State Lottery Director and employees of the North Carolina State Lottery.

s. The Chief Administrative Law Judge of the Office of Administrative Hearings and five employees of the Office of Administrative Hearings as designated by the Chief Administrative Law Judge.

t. The Executive Director and the Assistant Director of the U.S.S. North Carolina Battleship Commission.

u. The Executive Director, Deputy Director, all other directors, assistant and associate directors, and Center fellows of the North Carolina Center for the Advancement of Teaching.

v. Employees of the Department of Commerce employed in the Rural Economic Development Division.

w. Employees of the North Carolina Health Information Exchange Authority.

x. Employees of the Division of Health Benefits of the Department of Health and Human Services.

y. The Associate Superintendent of Early Education of the Department of Public Instruction who serves as chief academic officer of early education.

z. Employees of the North Carolina Youth Outdoor Engagement Commission.

aa. Employees of the Division of State Operated Healthcare Facilities of the Department of Health and Human Services who are (i) health care professionals licensed under Chapter 90 or Chapter 90B of the General Statutes or (ii) engineers responsible for maintenance or buildings

operations at one of the health care facilities operated by the Secretary of the Department of Health and Human Services under G.S. 122C-181.

bb. The Executive Director of the North Carolina Boxing and Combat Sports Commission created pursuant to G.S. 143-652.2.

cc. No more than 10 employees of the State Bureau of Investigation designated by the Director of the State Bureau of Investigation.

dd. No more than 17 employees of the State Highway Patrol as designated by the Commander of the State Highway Patrol.

ee. The Chief Investment Officer of the North Carolina Investment Authority and employees of the North Carolina Investment Authority who possess specialized skills or knowledge necessary for the proper administration of investment programs and who are employed in a position designated by the Chief Investment Officer as exempt in accordance with G.S. 147-72.1.

ff. Liaisons to the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 for the Departments of Commerce, Environmental Quality, and Transportation.

gg. Employees of the Utilities Commission who work under the direction of the Commission as provided by G.S. 62-14.

hh. **(For effective date, see note).** Employees of the Building Codes and Interpretations Bureau established pursuant to Article 24 of Chapter 95 of the General Statutes.

(9) University health employees. – Any of the following:

a. Employees of the University of North Carolina Health Care System.

b. Employees of the University of North Carolina Hospitals at Chapel Hill.

c. Employees of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill.

d. Employees of the Medical Faculty Practice Plan, a division of the School of Medicine of East Carolina University.

e. Employees of UNC-CH Dental School Clinical Operations, a division of the Adams School of Dentistry at the University of North Carolina at Chapel Hill.

f. Employees of ECU Dental School Clinical Operations, a division of the School of Dental Medicine at East Carolina University.

(10) University police officers. - Commissioned police officer positions of The University of North Carolina. Employees in these positions are eligible for all employment and retirement benefits provided to State law enforcement officers subject to this Chapter. (2026-40, ss. 1, 5(e)-(g), (j).)

§ 126A-1-21. Application of this Chapter.

(a) Except as otherwise provided, this Chapter applies to all executive branch employees and local employees.

(b) This Chapter does not apply to the following:

(1) Public school superintendents, principals, teachers, and other public school employees, except for G.S. 126A-7-2 and Article 14 of this Chapter.

(2) Employees of community colleges whose salaries are fixed in accordance with G.S. 115D-6.1 and G.S. 115D-20 and employees of the Community Colleges System Office whose salaries are fixed by the State Board of Community Colleges in accordance with G.S. 115D-3, except for G.S. 126A-7-2, 126A-10-4, and 126A-10-5 and Article 14 of this Chapter.
(3) Employees of the Office of Proprietary Schools whose salaries are fixed by the State Board of Proprietary Schools in accordance with G.S. 115D-89.2.
(4) Officers, employees, and members of the governing board of a North Carolina nonprofit corporation with which the Department of Commerce has contracted pursuant to the authority granted in G.S. 143B-431.01.
(5) Constitutional officers, officials, and employees of the Judicial Department.
(6) Constitutional officers, officials, and employees of the General Assembly. (2026-40, s. 1.)

§ 126A-1-22. Exemptions from this Chapter.

(a) Probationary employees are exempt from the following:
(1) All of Article 8 of this Chapter, except for G.S. 126A-8-5(c)(1) and (2).
(2) G.S. 126A-9-2.

(b) Permanent experiential employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) All of Article 8 of this Chapter, except for G.S. 126A-8-5(c)(1) and (2).
(4) G.S. 126A-9-2.

(c) Non-permanent experiential employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) All of Article 8 of this Chapter, except for G.S. 126A-8-5(c)(1) and (2).
(4) Article 9 of this Chapter.

(d) Temporary employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) Article 5 of this Chapter, except for G.S. 126A-5-3.
(4) Part 2 of Article 6 of this Chapter.
(5) Article 7 of this Chapter.
(6) Article 8 of this Chapter.
(7) Article 9 of this Chapter.

(e) Time-limited appointments are exempt from the following:
(1) All of Article 8 of this Chapter, except for G.S. 126A-8-5(c)(1) and (2).
(2) Article 9 of this Chapter.

(f) Employees in a position with an experience-based salary schedule established in the Current Operations Appropriations Act, as defined in G.S. 143C-1-1, are exempt from Article 4 of this Chapter.

(g) Limited exception employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) G.S. 126A-5-1(a)(4) and policies adopted pursuant to that subdivision.

(4) G.S. 126A-7-10(a)(1), covering hours and days of work, vacation, and sick leave.
(5) Part 3 of Article 7 of this Chapter.

(h) Specialized Treasurer's Office employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter.
(3) Article 5 of this Chapter, except for G.S. 126A-5-14.
(4) Part 2 of Article 6 of this Chapter.
(5) Parts 2 and 3 of Article 7 of this Chapter.
(6) Article 8 of this Chapter.

(i) Exempt policymaking employees and designated employees of policymakers are exempt from the following:
(1) Article 5 of this Chapter, except for G.S. 126A-5-3 and G.S. 126A-5-13.
(2) Part 2 of Article 6 of this Chapter.
(3) Article 8 of this Chapter.
(4) G.S. 126A-9-3(b).
(5) G.S. 126A-9-4.
(6) Article 10 of this Chapter.

(j) Exempt managerial employees and exempt wardens are exempt from the following:
(1) Part 2 of Article 5 of this Chapter.
(2) All of Article 8 of this Chapter, except for G.S. 126A-8-5(c)(1) and (2).
(3) G.S. 126A-9-3(b).
(4) G.S. 126A-9-4.
(5) Article 10 of this Chapter.

(k) Statutorily exempt employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) Article 5 of this Chapter, except for G.S. 126A-5-3.
(4) Part 2 of Article 6 of this Chapter.
(5) Parts 2 and 3 of Article 7 of this Chapter.
(6) Article 8 of this Chapter.
(7) Article 9 of this Chapter, except for G.S. 126A-9-5.
(8) Article 10 of this Chapter.

(*l*) State employees compensated as teachers are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) Article 5 of this Chapter, except for G.S. 126A-5-3.
(4) Part 2 of Article 6 of this Chapter.
(5) Part 1 of Article 7 of this Chapter, except as to G.S. 126A-7-2.
(6) Article 8 of this Chapter.
(7) Article 9 of this Chapter, except for G.S. 126A-9-5.
(8) Article 10 of this Chapter.

(m) University health employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) Article 5 of this Chapter, except for G.S. 126A-5-3 and G.S. 126A-5-14.

(4) Part 2 of Article 6 of this Chapter.
(5) Parts 2, 3, and 4 of Article 7 of this Chapter.
(6) Article 8 of this Chapter.
(7) Article 9 of this Chapter, except for G.S. 126A-9-5.

(n) University police employees are exempt from the following:
(1) Article 3 of this Chapter.
(2) Article 4 of this Chapter, except for G.S. 126A-4-3.
(3) Article 5 of this Chapter, except for G.S. 126A-5-3 and G.S. 126A-5-14.
(4) Part 2 of Article 6 of this Chapter.
(5) Parts 2, 3, and 4 of Article 7 of this Chapter.
(7) Article 9 of this Chapter, except for G.S. 126A-9-5.
(8) Article 10 of this Chapter.

(o) Local employees are exempt from the following:
(1) G.S. 126A-5-14.
(2) Parts 1, 2, and 3 of Article 7 of this Chapter.
(3) G.S. 126A-9-5.
(4) Article 13 of this Chapter. (2026-40, s. 1.)

§ 126A-1-23. Additional exemptions for experiential programs.

Notwithstanding G.S. 126A-1-22, for good cause or based on requirements of an experiential program set by the federal government or an external funding source, the Director may make an experiential program exempt from additional Articles or sections of this Chapter. (2026-40, s. 1.)

§ 126A-1-24. Process for designating exempt managerial and policy positions.

(a) Exempt Managerial Position. – An exempt managerial position is a position delegated with significant managerial or programmatic responsibility that is essential to the successful operation of an agency, so that the application of G.S. 126A-8-2 to an employee in the position would cause undue disruption to the operations of the agency.

(b) Exempt Policymaking Position. – An exempt policymaking position is a position delegated with the authority to impose the final decision as to a settled course of action to be followed within an agency, so that loyalty to the Governor or member of the Council of State in their respective offices is reasonably necessary to implement the policies of their offices. The term does not include personnel professionals.

(c) Exempt Policymaking and Exempt Managerial Positions in Cabinet Departments. – Subject to this Chapter, the Governor may designate a total of 425 exempt policymaking and exempt managerial positions throughout the following departments and offices:
(1) Department of Administration.
(2) Department of Commerce.
(3) Department of Public Safety.
(4) Department of Natural and Cultural Resources.
(5) Department of Health and Human Services.
(6) Department of Environmental Quality.
(7) Department of Revenue.
(8) Department of Transportation.
(9) Department of Information Technology.
(10) Department of Military and Veterans Affairs.

(11) Department of Adult Correction.
(12) Office of State Human Resources.
(13) Office of State Budget and Management.

(d) Exempt Policymaking and Exempt Managerial Positions in Council of State Departments and Offices. – The following officials may designate up to 25 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater, and 25 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater, except as described below:

(1) The Secretary of State.
(2) The Auditor.
(3) The Treasurer.
(4) The Attorney General.
(5) The Commissioner of Agriculture.
(6) The Commissioner of Insurance.
(7) **(Effective until contingency met – see note)** The Commissioner of Labor. – Notwithstanding the designation limits of this subsection, the Commissioner shall designate three additional full-time equivalent attorney positions as exempt policymaking positions.
(7) **(Effective once contingency met – see note)** The Commissioner of Labor. – Notwithstanding the designation limits of this subsection, the Commissioner shall designate (i) three additional full-time equivalent attorney positions and (ii) one additional official primarily responsible for ensuring compliance with Article 2 of Chapter 64 of the General Statutes as exempt policymaking positions.
(8) The Superintendent of Public Instruction. – Notwithstanding the designation limits of this subsection, the Superintendent may designate up to 70 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater, and up to 70 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater.

(e) Exempt Policymaking and Exempt Managerial Positions in the Office of the State Controller and the State Board of Elections. –

(1) The State Controller. – The total number of exempt positions, policymaking and managerial, is limited to 10.
(2) The Executive Director of the State Board of Elections. – The total number of exempt positions is limited to the following seven positions: Agency Human Relations Director II, Agency General Counsel II, Assistant General Counsel II, Public Information Manager, Legislative Affairs Manager, Internal Auditor, and Administrative Officer III.

(f) Designation of Additional Positions. – The Governor or member of the Council of State may request that additional positions be designated as exempt. The request shall be made by sending a list of exempt policymaking and exempt managerial positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President Pro Tempore of the North Carolina Senate. A copy of the list also shall be sent to the Director. The General Assembly may authorize all, or part of, the additional positions to be

designated as exempt policymaking and exempt managerial positions. [The following provisions apply:]

(1) If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list is deemed approved by the General Assembly, and the positions shall be designated as exempt positions.

(2) If the General Assembly is not in session, the list shall be submitted to the Joint Legislative Commission on Governmental Operations, and if the Commission does not meet within 90 days of submission, the list is deemed approved pursuant to G.S. 120-76.1(b), and the positions shall be designated as exempt.

(g) Letter. – Exempt policymaking and exempt managerial positions shall be designated in a letter to the Director, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate by July 1 of the year in which the oath of office is administered to each Governor unless subsection (h) of this section applies.

(h) Vacancies. – In the event of a vacancy in the Office of the Governor, the office of a member of the Council of State, the Office of the State Controller, or the Executive Director of the State Board of Elections, the person who succeeds to or is appointed or elected to fill the unexpired term shall make designations in a letter to the Director, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate within 180 days after the oath of office is administered to that person.

(i) Creation, Transfer, or Reorganization. – The Governor or member of the Council of State may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after July 1 of the year in which the oath of office is administered to the Governor. The designation shall be made in a letter to the Director, the Speaker of the North Carolina House of Representatives, and the President Pro Tempore of the North Carolina Senate within 180 days after the position is created, transferred, or in which reorganization has occurred.

(j) Reversal. – Subsequent to the designation of a position as an exempt policymaking or exempt managerial position, the status of the position may be reversed and made subject to this Chapter by the Governor or by a member of the Council of State in a letter to the Director, the Speaker of the North Carolina House of Representatives, and the President Pro Tempore of the North Carolina Senate.

(k) No Designation for Certain Positions. – Except for deputy commissioners appointed pursuant to G.S. 97-79 and as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings, take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents, shall be designated as exempt. (2026-40, ss. 1, 5.7(e).)

§ 126A-1-25. Notice of being exempt from this Chapter; disputes about whether employees are subject to this Chapter.

(a) No employee shall be placed in an exempt policymaking or exempt managerial position without 10 working days' prior written notification of the position's designation. A person applying for a position that is designated as exempt policymaking or exempt managerial shall be notified in writing at the time the person makes the application that the position is designated as exempt.

(b) Where a statute specifies a process for a position that is inconsistent with the process established in this Chapter, the position is exempt from this Chapter to that extent.

(c) In case of a dispute as to whether an employee is subject to this Chapter, the dispute shall be resolved as provided in Article 3 of Chapter 150B of the General Statutes. (2026-40, s. 1.)

§ 126A-1-26. Agencies to adopt policies for exempt employees.

When a statute makes a position exempt from this Chapter regarding any subject, an agency shall address that subject by either adopting its own policy or the Commission policy. (2026-40, s. 1.)