

Introduced by

Representatives Devlin, Delzer, Kempenich, Vigesaa, Weisz

Senators Klein, J. Lee

1 A concurrent resolution requesting the Legislative Management to consider studying the  
2 membership and state supervision of the state's occupational and professional licensing boards  
3 in order to retain antitrust law immunity.

4 **WHEREAS**, in the February 2015 case "North Carolina State Board of Dental Examiners v.  
5 FTC", the United States Supreme Court held if a controlling number of state regulatory board  
6 members are market participants, the board must be actively supervised by the state to be  
7 immune from antitrust law; and

8 **WHEREAS**, market participants hold a majority membership in the dozens of North Dakota  
9 occupational and professional licensing boards; and

10 **WHEREAS**, in October 2015, the Federal Trade Commission released guidance regarding  
11 the level of state supervision required for state regulatory boards to receive immunity from  
12 antitrust claims; and

13 **WHEREAS**, multiple states have taken executive and legislative action to minimize the risk  
14 of regulatory boards being subject to antitrust laws; and

15 **WHEREAS**, North Dakota seeks to minimize the risk of its occupational and professional  
16 licensing boards being subject to antitrust laws;

17 **NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF**  
18 **NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

19 That the Legislative Management consider studying the membership and state supervision  
20 of the state's occupational and professional licensing boards in order to retain antitrust law  
21 immunity; and

22 **BE IT FURTHER RESOLVED**, that the Legislative Management report its findings and  
23 recommendations, together with any legislation required to implement the recommendations, to  
24 the Sixty-sixth Legislative Assembly.