File Number: H.F. 2022 **Date:** March 10, 2017
Version: As introduced

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Subject: Income tax sourcing rules for directors' compensation

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This bill modifies the sales factor under the apportionment formula to provide a special rule for compensation received by members of boards of directors who are not Minnesota residents. This rule provides that these receipts (e.g., payments made to a nonresident member of the board of directors of a corporation) are sourced to Minnesota based on the proportion of time the board member physically spends in Minnesota providing board service. In other words, a nonresident board member will treat payments received for board service as having a Minnesota source based on the percentage of total board time the member spends in Minnesota.

Effective for tax year 2017

Background. Under present law, the general rule is that receipts of these types are sourced to the state where the services are received. For a corporation, that location must be a place where the corporation has a fixed place of doing business (e.g., a board meeting in Hawaii would be sourced to Hawaii only if the corporation has a facility in Hawaii). The Department of Revenue (DOR), however, promulgated a Revenue Notice (#14-02) in 2014 under its power to provide special apportionment rules. The Revenue Notice provides a rule very similar to the bill's special sourcing rule, but it is limited to individuals who serve on no more than two corporate boards. The bill would, thus, both codify the Revenue Notice (take away DOR's future discretion to not allow this) and expand it to individuals who serve on more than two corporate boards.