Department of Planning and Budget
2016 Fiscal Impact Statement

1. **Bill Number:** HB1018

   House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Massie

3. **Committee:** Finance

4. **Title:** Educational improvement scholarships tax credit program.

5. **Summary:** Modifies the Education Improvement Scholarships Tax Credits Program by increasing the tax credit beginning in taxable year 2017 from 65 percent to 90 percent of the value of donations made to nonprofit scholarship foundations.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** Preliminary. See Item 8.

8. **Fiscal Implications:** The Department of Education (DOE) anticipates an increased volume of donations to Department-approved scholarship foundations as a result of this bill. Entities seeking to make donations under this program must receive preauthorization for the tax credit from the Superintendent of Public Instruction, and an increased utilization of the program will increase the workload for DOE staff. DOE anticipates that this cost can be absorbed within existing resources; however, if the program demand increases significantly and DOE is unable to support this initiative with existing staff, DOE estimates a state cost of $115,000 per year for salary, benefits, and related costs for an additional full-time equivalent pay band five position.

   The Department of Taxation indicates that this bill would have an unknown negative general fund revenue impact, beginning in FY18. DOE issued approximately $6 million worth of credits for Taxable Year 2015. If the credit amount was increased to 90 percent and donations remained at the same levels as they were in Taxable Year 2015, the amount of such credits would be $8.3 million, resulting in a $2.3 million negative revenue impact. However, such impact may be greater to the extent that taxpayers increase their donations due to their ability to receive a larger credit. Such impact, though, could not exceed the difference between the amount of credits that would have been issued under current law and the $25 million cap. The reduction in general fund revenues would be partially offset by a reduction in state per pupil funding for students receiving a scholarship under the program who are no longer enrolled in the state's public schools.

9. **Specific Agency or Political Subdivisions Affected:** Department of Education, Department of Taxation

10. **Technical Amendment Necessary:** No.

11. **Other Comments:**

    <u>Current Law</u>

    Taxpayers are allowed to claim Education Improvement Scholarships Tax Credits equal to 65 percent of the monetary or marketable securities donation they made to a qualifying scholarship foundation. Tax credits are awarded to taxpayers on a first-come, first-served basis. The total amount of tax credits available in any given fiscal year is capped at $25 million. No tax credit is allowed if the donation is less than $500. No more than $125,000 in tax credits may be issued to an individual in a taxable year. The $125,000 limitation does not apply to tax credits issued to any business entity, including a sole proprietorship.

    For purposes of the credit, a person seeking to make a monetary or marketable securities donation to a scholarship foundation or a scholarship foundation on behalf of such person is required to request preauthorization for a specified credit amount from the Superintendent of Public Instruction. The person making a monetary or marketable securities donation must provide the preauthorization notice to the scholarship foundation at the time of such donation. Within twenty days of receiving a preauthorization notice from a donor, the scholarship foundation is required to return such notice to the Department of Education certifying the value and type of the donation received. Within thirty days of the Department of Education's receipt and approval of the preauthorization notice and other required documentation, the Superintendent of Public Instruction is required to issue a credit certificate to the person eligible for the credit.

    A scholarship foundation that receives donations under the Education Improvement Scholarships Tax Credit program is required to disburse at least 90 percent of any donated amount it receives during each twelve-month period ending on June 30 within one year by issuing scholarships for qualified educational expenses to eligible students. Credit-derived funds that are not used for such scholarships may only be used for the administrative expenses of the scholarship foundation. A scholarship foundation that fails to disburse at least 90 percent of any donated amount within the appropriate one-year period will, for the first offense, be required to pay a civil penalty equal to 200 percent of the difference between 90 percent of the donated amount and the amount that was actually disbursed. For a second offense within a five-year period, the scholarship foundation will be prohibited from receiving credit-derived funds.

    <u>Similar Bills</u>

    House Bill 1017 would make several administrative changes to the Education Improvement Scholarships Tax Credit.

House Bill 1019 would allow certain pre-kindergarten children who are enrolled in or attending nonpublic pre-kindergarten programs to be awarded scholarships from Education Improvement Scholarships Tax Credit-derived funds.

Senate Bill 589 would extend from one year to three years the time during which a scholarship foundation must disburse donations it receives for which Education Improvement Scholarship Tax Credits were issued.