150th GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**SENATE BILL NO. 123**
AS AMENDED BY:	**SA 2**
SPONSOR:	**Senator McBride**
DESCRIPTION:	**AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO FINES, COSTS, PENALTIES, AND FORFEITURES.**

Assumptions:

1. This Act becomes effective upon signature by the Governor.
2. This Act authorizes that if a person is convicted of a crime under Titles 11 or 16 to pay fees or fines and orders a person to be incarcerated at a Level V facility that the Judiciary may order that the person may discharge the fees or fines through an earned credit program established by the Department of Correction in lieu of paying the fees or fines.
3. This Act authorizes the Judiciary to use an hourly rate, in accordance with the State's minimum wage, to compute the number of hours necessary to discharge the fees or fines. The Judiciary would have the discretion to include a defendant's previously accrued balance of fees and fines as appropriate. The earned credit program cannot be used to discharge other financial obligations owed, such as restitution, child support obligations, or bail.
4. There is no required or planned increase in Department of Correction (DOC) programming or DOC supervision as the Department currently has a program in place where an offender may earn small amounts of compensation for jobs related to such things as kitchen or laundry work. This proposed work credit would be in addition to offenders existing compensation.
5. This Act is intended to specifically target individuals who would otherwise be in a difficult position as it relates to paying their fees or fines due to incarceration and difficulties associated with reentry.
6. Collections from criminal fees and fines go to the General Fund, as well as to state and local agencies that may receive sums from various assessments. Presently, statistics on the payment of fees by type of offender are not readily available. Preliminary data provided from the Office of State Court Collection Enforcement indicates that many of the individuals this credit program would be geared toward, were either already incarcerated or had unknown addresses. Therefore, the fiscal impact is indeterminable and assumed to be insignificant.
7. This Act prohibits a court or the Department of Transportation, Division of Motor Vehicles (DMV) from suspending a driver's license for nonpayment of a fine, fee, cost, or assessment and from charging a penalty, assessment, or fee after July 1, 2020. Presently, the DMV charges a $50 reinstatement fee when a defendant's license has been suspended due to failure to pay a fine, fee, cost, or assessment. All license reinstatement fees are receipted to the Transportation Trust Fund (TTF). The number of suspensions issued and the collection of the reinstatement fee for the past three fiscal years are as follows:

	FY 2017	**FY 2018**	**FY 2019** *(as of June 14, 2019)*
Failure to Pay Number of Suspensions Issued	21,865	20,679	15,697
Total Reinstatement Fees ($50)	$1,093,250	$1,033,950	$784,850

FY 2019 numbers are as of June 14, 2019, leaving two weeks remaining with no expectation that the numbers will dramatically increase. Based on the totals above, a three year average of the total reinstatement fees collected is $970,683, which would be the estimated revenue loss to the TTF.

Cost:	**General Fund**	**Transportation Trust Fund**
Fiscal Year 2020:	Indeterminable; assumed insignificant	Not in effect until July 1, 2020
Fiscal Year 2021:	Indeterminable; assumed insignificant	Estimated $970,683 revenue loss
Fiscal Year 2022:	Indeterminable; assumed insignificant	Estimated $970,683 revenue loss

Prepared by Jason R. Smith
Office of the Controller General