Establishes "New Jersey Tobacco Settlement Trust Fund" and provides additional funding for hospital charity care subsidies from the fund.

As introduced.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to read as follows:
2. There is established the Health Care Subsidy Fund in the Department of Health and Senior Services.
3. The fund shall be comprised of revenues from employee and employer contributions made pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b), revenues from the hospital assessment made pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-18.58c), revenues pursuant to section 3 of P.L.160 (C.160)(pending before the Legislature as this bill), revenues from interest and penalties collected pursuant to this act and revenues from such other sources as the Legislature shall determine. Interest earned on the monies in the fund shall be credited to the fund. The fund shall be a nonlapsing fund dedicated for use by the State to: (1) distribute charity care and other uncompensated care disproportionate share payments to hospitals, and other eligible providers pursuant to section 8 of P.L.1996, c.28 (C.26:2H-18.59f), provide subsidies for the Health Access New Jersey program established pursuant to section 15 of P.L.1992, c.160 (C.26:2H-18.65), and provide funding for children's health care coverage pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.); and (2) assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services.
4. The fund shall be administered by a person appointed by the commissioner.
5. The administrator of the fund is responsible for overseeing and coordinating the collection and reimbursement of fund monies. The administrator is responsible for promptly informing the commissioner if monies are not or are not reasonably expected to be collected or disbursed.
6. The commissioner shall adopt rules and regulations to ensure the integrity of the fund, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
7. The administrator shall establish separate accounts for the charity care component of the disproportionate share hospital subsidy, other uncompensated care component of the disproportionate share

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
hospital subsidy, hospital and other health care initiatives funding and
the payments for subsidies for insurance premiums to provide care in
disproportionate share hospitals, known as the Health Access New
Jersey subsidy account, respectively.

e. In the event that the charity care component of the
disproportionate share hospital subsidy account has a surplus in a
given year after payments are distributed pursuant to the methodology
established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and
section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and within the
limitations provided in subsection e. of section 9 of P.L.1992, c.160
(C.26:2H-18.59), the surplus monies in calendar years 1996 and 1997
shall lapse to the unemployment compensation fund established
pursuant to R.S.43:21-9, and each year thereafter shall lapse to the
care component of the disproportionate share hospital subsidy
account for distribution in subsequent years.

(cf: P.L.1998, c.37, s.1)

2. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to
read as follows:

9. a. The commissioner shall allocate such funds as specified in
subsection e. of this section to the charity care component of the
disproportionate share hospital subsidy account. In a given year, the
department shall transfer from the fund to the Division of Medical
Assistance and Health Services in the Department of Human Services
such funds as may be necessary for the total approved charity care
disproportionate share payments to hospitals for that year.

b. For the period January 1, 1993 to December 31, 1993, the
commission shall allocate $500 million to the charity care component
of the disproportionate share hospital subsidy account. The
Department of Health and Senior Services shall recommend the
amount that the Division of Medical Assistance and Health Services
shall pay to an eligible hospital on a provisional, monthly basis
pursuant to paragraphs (1) and (2) of this subsection. The department
shall also advise the commission and each eligible hospital of the
amount a hospital is entitled to receive.

(1) The department shall determine if a hospital is eligible to
receive a charity care subsidy in 1993 based on the following:
Hospital Specific Approved Uncompensated Care-1991

Hospital Specific Preliminary Cost Base-1992

= Hospital Specific % Uncompensated Care (%UC)

A hospital is eligible for a charity care subsidy in 1993 if, upon
establishing a rank order of the %UC for all hospitals, the hospital is
among the 80% of hospitals with the highest %UC.
(2) The maximum amount of the charity care subsidy an eligible hospital may receive in 1993 shall be based on the following:

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\text{Hospital Specific Approved Uncompensated Care-1991} \times \frac{\text{Total approved Uncompensated Care All Eligible Hospitals-1991}}{\$500 \text{ million}} = \text{Maximum Amount of Hospital Specific Charity Care Subsidy for 1993}
\]

(3) A hospital shall be required to submit all claims for charity care cost reimbursement, as well as demographic information about the persons who qualify for charity care, to the department in a manner and time frame specified by the Commissioner of Health and Senior Services, in order to continue to be eligible for a charity care subsidy in 1993 and in subsequent years. The demographic information shall include the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

(4) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(5) The department shall provide for an audit of a hospital's charity care for 1993 within a time frame established by the department.

c. For the period January 1, 1994 to December 31, 1994, a hospital shall receive disproportionate share payments from the Division of Medical Assistance and Health Services based on the amount of charity care submitted to the commission or its designated agent, in a form and manner specified by the commission. The commission or its designated agent shall review and price all charity care claims and notify the Division of Medical Assistance and Health Services of the amount it shall pay to each hospital on a monthly basis based on actual services rendered.

(1) (Deleted by amendment, P.L.1995, c.133.)

(2) If the commission is not able to fully implement the charity care claims pricing system by January 1, 1994, the commission shall continue to make provisional disproportionate share payments to eligible hospitals, through the Division of Medical Assistance and Health Services, based on the charity care costs incurred by all hospitals in 1993, until such time as the commission is able to
implement the claims pricing system.

If there are additional charity care balances available after the 1994 distribution based on 1993 charity care costs, the department shall transfer these available balances from the fund to the Division of Medical Assistance and Health Services for an approved one-time additional disproportionate share payment to hospitals according to the methodology provided in section 12 of P.L.1995, c.133 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed $75.5 million.

(3) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(4) (Deleted by amendment, P.L.1995, c.133.)

d. (Deleted by amendment, P.L.1995, c.133.)
e. The total amount allocated for charity care subsidy payments shall be: in 1994, $450 million; in 1995, $400 million; in 1996, $310 million; in 1997, $300 million; for the period January 1, 1998 through June 30, 1998, $160 million; and in fiscal year 1999 and each fiscal year thereafter, $320 million in addition to the amounts made available pursuant to section 3 of P.L. , c. (C. )(pending before the Legislature as this bill). Total payments to hospitals shall not exceed the amount allocated for each given year.

f. Beginning January 1, 1995:

(1) The charity care subsidy shall be determined pursuant to section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

(2) A charity care claim shall be valued at the same rate paid to that hospital by the Medicaid program, except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be valued at a rate appropriate for primary care according to a schedule of payments adopted by the commissioner.

(3) The department shall provide for an audit of a hospital's charity care within a time frame established by the commissioner.

(cf: P.L.1997, c.263, s.4)

3. (New section) a. There is established the "New Jersey Tobacco Settlement Trust Fund" within the General Fund as a special, nonlapsing fund into which the State Treasurer shall deposit all monies made available to the State from tobacco companies under the nationwide settlement of the respective actions by state governments against those companies, entered into by the State in the Master Settlement Agreement in State of New Jersey v. R.J. Reynolds Tobacco Company, et al. Superior Court, Chancery Division,
Middlesex County, No. C-254-96. The interest earned on the monies in the fund shall be credited to the fund.

b. The monies in the trust fund shall be expended only upon appropriation by the Legislature and shall be used for health-related purposes exclusively.

c. In fiscal year 2000 and each fiscal year thereafter, the Governor shall recommend and the Legislature shall appropriate, from the balance in the trust fund as of June 30 of each year, to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) for the purpose of funding hospital charity care subsidy payments in accordance with the provisions of section 7 of P.L.1996, c.28 (C.26:2H-18.59e), an amount which, when added to the annual sum allocated pursuant to subsection e. of section 9 of P.L.1992, c.160 (C.26:2H-18.59), shall be sufficient to cover all of the documented hospital charity care costs reported to the Department of Health and Senior Services for the preceding fiscal year, or the entire balance in the trust fund as of June 30 of each year, whichever amount is less.

4. This act shall take effect immediately.

STATEMENT

This bill establishes the "New Jersey Tobacco Settlement Trust Fund" as the depository for monies received by New Jersey under the nationwide tobacco settlement of November 23, 1998. The monies in this trust fund are to be dedicated to health-related purposes, and shall be expended only upon appropriation by the Legislature for these purposes.

The bill specifies that the monies in the trust fund shall be annually appropriated by the Legislature, from the balance in the trust fund as of June 30 of each year, to the Health Care Subsidy Fund and used to fund hospital charity care subsidy payments in an amount which, when added to the annual sum allocated for charity care subsidies pursuant to N.J.S.A.26:2H-18.59 (i.e., currently $320 million), shall be sufficient to cover all of the documented hospital charity care costs reported to the Department of Health and Senior Services for the preceding fiscal year, or the entire balance in the trust fund as of June 30 of each year, whichever amount is less.