An Act

ENROLLED HOUSE
BILL NO. 2173

By: Sears and Martin (Scott) of the House

and

Myers and Jolley of the Senate

An Act relating to the Office of the Attorney General; amending 56 O.S. 2001, Section 1003, which relates to the Medicaid Fraud Control Unit; authorizing the Attorney General to recover certain funds wrongfully paid by the Oklahoma Health Care Authority; specifying how recovered funds shall be deposited; limiting balance in revolving fund to certain percentage of current-year budget; requiring certain percentages of excess funds to be deposited in certain revolving funds; creating the Attorney General's Medicaid Fraud Revolving Fund; specifying type of fund; appropriating monies credited to the fund for certain activities; and providing for the expenditure of funds.

SUBJECT: Office of Attorney General

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 56 O.S. 2001, Section 1003, is amended to read as follows:

Section 1003. A. There is hereby created within the Office of the Attorney General, a Medicaid fraud control unit.

B. The Medicaid fraud control unit shall be the state entity to which all cases of suspected Medicaid fraud shall be referred by the Oklahoma Health Care Authority or its fiscal agents for the purposes

of investigation, civil action, criminal action or referral to the district attorney. Provided however, nothing contained in the Oklahoma Medicaid Program Integrity Act shall prohibit the Oklahoma Health Care Authority from investigating or additionally referring to other proper law enforcement agencies cases of suspected Medicaid fraud.

C. 1. In carrying out these responsibilities, the Attorney General shall have all the powers necessary to comply with federal laws and regulations relative to the operation of a Medicaid fraud unit, the power to cross-designate assistant United States attorneys as assistant attorneys general, the power to investigate cases of patient abuse, the power to issue or cause to be issued subpoenas or other process in aid of investigations and prosecutions, the power to administer oaths and take sworn statements under penalty of perjury, the power to serve and execute in any county, search warrants which relate to investigations authorized by the Oklahoma Medicaid Program Integrity Act and shall have all the powers of a district attorney.

2. Subpoenas ad testificandum or duces tecum issued pursuant to the Oklahoma Medicaid Program Integrity Act may be served by the Attorney General, any peace officer, or any competent person over eighteen (18) years of age, and may require attendance or production at any place in this state. A refusal to obey such subpoena, or willful failure to appear, be sworn, testify, or produce records at the place and time specified shall constitute contempt and shall be enforced by the district court of the county where issued or the county where served, at the election of the Attorney General, as if it was a contempt on that court.

D. The Attorney General shall have authority to collect all fines, penalties, amounts of restitution, or interest accruing on any amount of restitution to be made and any penalties to be paid from and after default in the payment thereof levied pursuant to the provisions of the Oklahoma Medicaid Program Integrity Act, the Oklahoma Medicaid False Claims Act, or any other charge, cause of action, prelitigation settlement or other settlement which recovers money wrongfully paid by the Oklahoma Health Care Authority on a claim submitted to the Oklahoma Health Care Authority. However, this subsection is not in any way intended to affect the contempt power of any court. Funds collected by the Attorney General pursuant to this section shall be deposited as follows:

1. Restitution recovered and interest thereon shall be returned to the Oklahoma Health Care Authority for deposit to the Oklahoma Health Care Authority Medicaid Program Fund created pursuant to Section 5020 of Title 63 of the Oklahoma Statutes.

2. Costs of investigation, litigation, attorney fees, and other expenses shall be retained by the Office of the Attorney General and shall be deposited in the Attorney General's Medicaid Fraud Revolving Fund created pursuant to subsection E of this section.

3. Fines and penalties and other funds recovered and interest thereon shall be deposited in the Attorney General's Medicaid Fraud Revolving Fund; provided, the balance in the Attorney General's Medicaid Fraud Revolving Fund shall not exceed an amount equal to fifty percent (50%) of the current-year budget for operating costs of the Medicaid Fraud Control Unit. Any funds exceeding that amount shall be deposited as follows:

a. seventy-five percent (75%) to the General Revenue Fund, and

b. twenty-five percent (25%) to the Attorney General's Evidence Fund created pursuant to Section 19 of Title 74 of the Oklahoma Statutes.

E. There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General, to be designated the "Attorney General's Medicaid Fraud Revolving Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies designated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Attorney General for activities related to the Medicaid Fraud Control Unit. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Passed the House of Representatives the 13th day of May, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 17th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 18th

day of May, **20** 11,

at 3:53 **o'clock** P **M.**

By: Jerman R Bryson

Approved by the Governor of the State of Oklahoma the 24th **day of** May, **20** 11, **at** 2:55 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 24th **day of** May, **20** 11,

at 4:05 **o'clock** P **M.**

By: Michelle R Day