

The abortion empire strikes back against Phill Kline

# WORLD

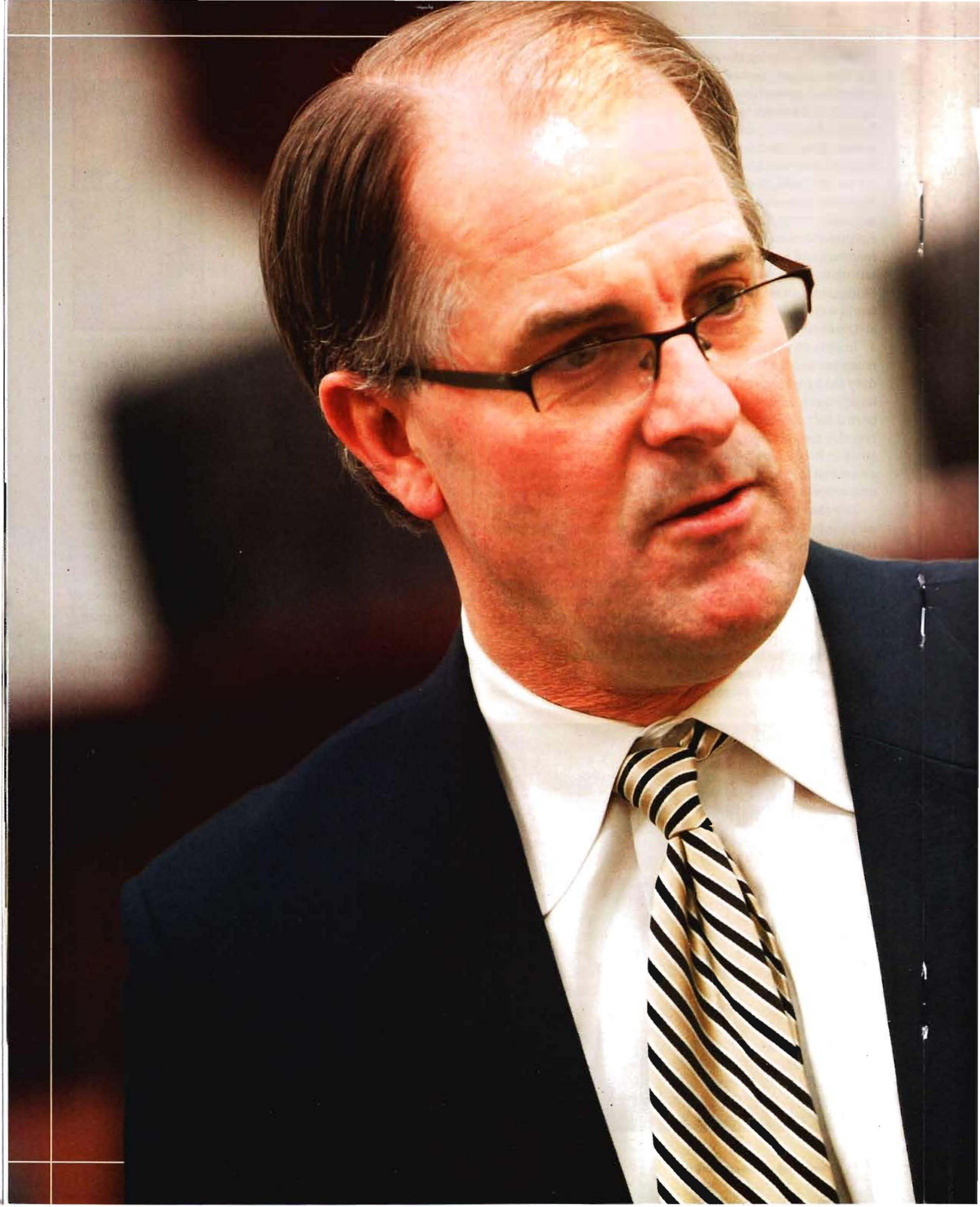
MAY 21, 2011

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# VENGEANCE *on the* PRAIRIE

Two ethics investigations have cleared former Kansas prosecutor **PHILL KLINE** of allegations that he mishandled evidence in abortion cases, but he's now facing a third. Critics suspect that challenging Planned Parenthood was his real crime

*by* LES SILLARS *in* LYNCHBURG, VA.

*photograph by* SAM DEAN/GENESIS PHOTOS

**R**ECENTLY PHILL KLINE, EX-ATTORNEY GENERAL OF KANSAS, APPROACHED THE lunchroom vending machines in the Liberty University School of Law, where he is now a visiting professor. A maintenance worker looked up with a glimmer of recognition and asked, "How's that, ah, trial going?"

Kline paused and considered the allegations he faces, all stemming from the six tumultuous years he investigated Planned Parenthood and late-term abortionist George Tiller. The ethics hearing, which will conclude in July, is the state legal establishment's third investigation into Kline's efforts to prosecute the abortion facilities. The previous two had cleared him.

The allegations are that he misled judges and mishandled evidence while serving as attorney general and then Johnson County district attorney. Many pro-lifers, though, believe he's really on trial for trying to uphold Kansas law regarding child rape and late-term and underage abortions.

Kline has spent over \$250,000 of his own money on his defense. The fourth-generation Kansan has been so vilified in the media that he left the state to find work. Somebody in a grocery store threw a can of vegetables at him. His wife found her car smeared with feces. In the current trial he could lose his license to practice law in Kansas.

"I have faith in the truth," Kline, with a weary grin, told the maintenance worker, "not in the system."

The system has been very good to Planned Parenthood, which collects about \$360 million in taxpayer dollars annually. Despite years of reports suggesting that Planned Parenthood workers nationwide routinely violate laws, no affiliate has ever been convicted in a criminal court. Until Kline, none had even been charged. If convicted, Planned Parenthood could lose its federal funding (see sidebar).

In 2008, before losing his seat as Johnson County district attorney, Kline filed 107 criminal charges against Planned Parenthood of Kansas and Mid-Missouri for manufacturing client records, failing to keep proper records, and failing to determine the viability of a late-term baby before performing an abortion. To many pro-lifers, the ethics hearing against Kline looks like an effort to discredit those charges and send a clear message to other prosecutors across the country who might investigate the group: Don't even think about it.

**T**HIS STORY BEGINS IN 2000 when Kline, as a member of the Kansas legislature, co-authored a law that limited post-viability abortions to two exceptions: if the pregnancy threatens the life of the mother or if two doctors certify that continuing the pregnancy would result in severe and "irreversible impairment of a major bodily function" of the mother.

When Kline became Kansas attorney general in early 2003, he began investigating child rape and illegal late-term abortions. After a year of legal wrangling that reached all the way to the Kansas Supreme Court, he and his investigators pried the relevant figures out of two state agencies, the Department of Health and Environment and the Department of Social and Rehabilitation Services.

(The agencies answered at that time to strongly pro-abortion Gov. Kathleen Sebelius, now the U.S. Secretary of Health and Human Services. In 2007 Planned Parenthood threw her a birthday party at which, according to its newsletter, local Planned Parenthood CEO Peter Brownlie led a conga dance around the ballroom.)

The numbers, when they finally arrived, were disturbing:

During 18 months in 2002 and 2003, Planned Parenthood and Tiller performed 166 abortions on girls aged 14 or younger, yet state agencies had only one report of statutory child rape from each. Why weren't they reporting clear cases of child rape, as required by law?

Kline brought the evidence to District Judge Richard Anderson, who in October 2004, found probable cause and issued subpoenas to Planned Parenthood

and Tiller's Women's Health Care Services for 90 records of late-term abortions, some involving children and some adult women. To preserve client privacy, Judge Anderson ordered the records sent straight to him; he would redact out the names of adult clients before passing them on

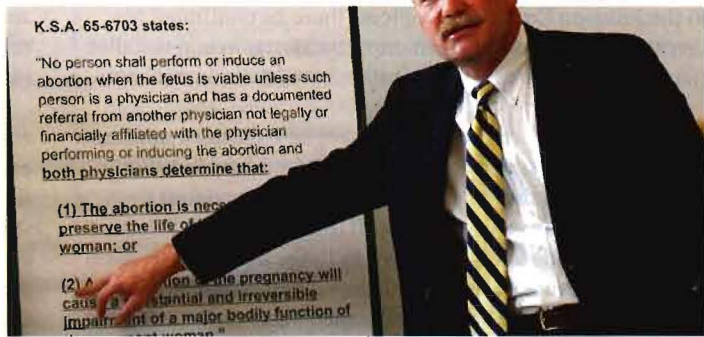
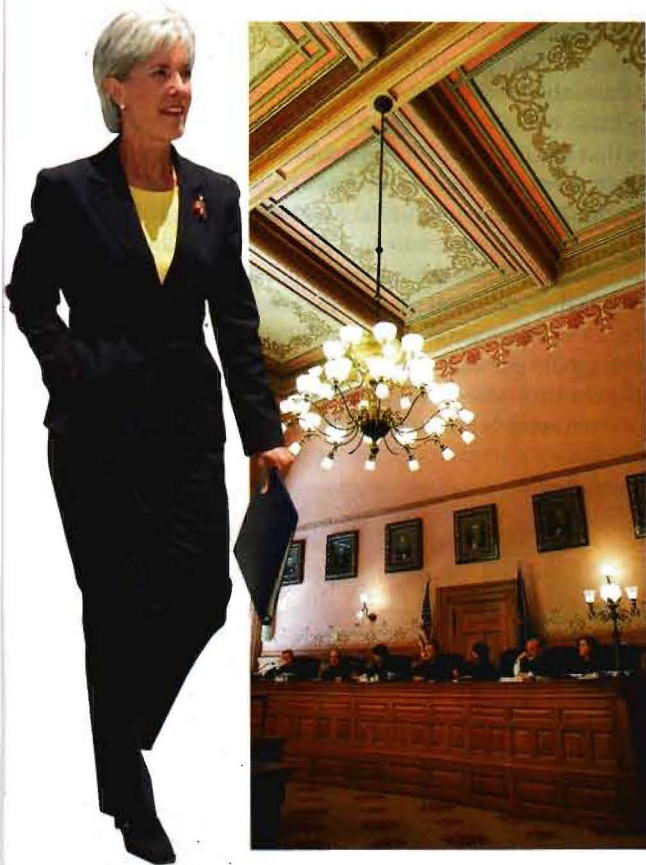
to Kline. He needed the names of children to investigate possible cases of child rape.

The clinics objected. In January 2005, the Kansas Supreme Court ordered that both sides file briefs regarding the subpoenas: That ruling was unusual because criminal investigators routinely obtain private medical records. Reporters broadcast the abortionists' briefs, by Court order made public a week before Kline's, and portrayed him as a fanatic using his office to pry into the sexual histories of vulnerable women. "The assault was unbelievable and unrelenting for the next several years," Kline said.



**UNTOUCHABLE?**  
Pro-life demonstrators outside the Planned Parenthood clinic in Overland Park, Kan.

SEBELIUS: LAURE SISK/THE PITTSBURGH MORNING SUN/PA; KANSAS STATE SUPREME COURT: GUY IN WAGNER/PA; MORRISON: ANN WILLIAMSON/THE TOPEKA CAPITAL JOURNAL/PA; KLINE: ED ZURGA/PA; TILLER: MIKE HUTMACHER/THE WICHITA EAGLE/PA



In 2006, the state Supreme Court ruled that Planned Parenthood and Tiller had to turn over the patient records. But, astonishingly, the Supreme Court also let Planned Parenthood and Tiller redact their own records before turning them over to Judge Anderson, even though they were the targets of a criminal investigation and Anderson already planned to black out names.

The abortionists got the records to Anderson only two weeks before the 2006 elections. Kline lost his reelection attempt to Republican-turned-Democrat Paul Morrison, the district attorney for Johnson County (in suburban Kansas City). Tiller and others supporting Gov. Sebelius spent hundreds of thousands of dollars promoting Morrison and funding anti-Kline advertising. The *Kansas City Star* kept slamming Kline and earned a 2006 “Maggie” award from the national Planned Parenthood office for its abortion coverage.

The end result: The Kansas high court had delayed prosecution of Planned Parenthood until Kline left office and was replaced by a pro-abortion Democrat. But then, in a remarkable twist, Johnson County Republicans appointed Kline to take over as DA. (Morrison had been elected DA as a Republican, so the

**BUILDING AND TEARING DOWN A CASE:**

Then-Gov. Sebelius in 2005; the Kansas Supreme Court; Morrison points out the charges filed against Tiller in June 2007; Kline, with his wife Deborah and daughter Hillary, concedes defeat in Nov. 2006 (from left to right); Tiller in court in Nov. 2008 (below).



GOP could choose someone to finish his term.) Kline and Morrison swapped offices in January 2007. Kline said about becoming DA, “It was not a job I wanted, but I was convicted that I had to see this done.”

Kline also hoped to convict Tiller: Just before leaving the AG’s office, he filed misdemeanor charges against Tiller for performing late-term abortions without proper medical justification and failing to report the procedures properly to the state. Tiller had stated on the clients’ medical records that not aborting would produce “severe and irreversible bodily harm” to the mother—but not what that harm would be. It turned out that one young mother wanted an abortion so she wouldn’t have to hire a babysitter to attend a rock concert.

Kline’s case was strong. A distinguished Johns Hopkins University psychiatrist, Dr. Paul McHugh, said in an affidavit that none of the records he examined would have justified a late-term abortion under Kansas law. But the day after Kline filed the charges, a county judge dismissed all counts on a jurisdictional technicality. Kline left office, and the case died.

Before leaving office Kline had also arranged for copies of the patient records he’d collected to be transported

to the Johnson County DA's offices. There he continued his investigation despite legal attempts by Morrison and the abortionists to get him to give up the copies of the client records.

**A**S DISTRICT ATTORNEY, Kline began building a new case against Planned Parenthood, which is supposed to submit to the state a report for each abortion it performs and keep a copy of that report in each client's file. The files it turned over to Judge Anderson in 2006 were missing those copies, a misdemeanor, so when Anderson asked for the copies Planned Parenthood provided documents. But in 2007, Kline and his staff noticed that the handwriting on the documents Planned Parenthood gave Judge Anderson didn't match the handwriting on the reports

accusations that they mishandled evidence, among other things. Attorney General Morrison intervened on behalf of Planned Parenthood.

Judge King, in his January 2008 report, found no credible evidence that Kline or his staff had mishandled evidence, even though when transferring records to the Johnson County DA's office one investigator (without Kline's knowledge) stored some records temporarily in his living room. King sternly rejected speculation from Morrison's deputy solicitor general that Kline had given some of the records to Bill O'Reilly prior to an appearance on *The O'Reilly Factor*.

Kline doggedly pursued his case. In April 2008, he subpoenaed Judge Anderson to testify at a hearing as custodian of the redacted records and to produce the originals. The



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Planned Parenthood filed with the state. It looked like someone had manufactured the reports.

Judge Anderson thought so, too, and consulted a Topeka police handwriting expert to confirm it. At a later hearing Anderson would testify that the organization appeared to have “committed felonies to cover up misdemeanors.” In October 2007, Kline filed 107 charges—23 of them for felonies—against Planned Parenthood: It had allegedly produced “false writings,” failed to maintain proper records, and failed to determine the viability of a late-term baby before performing an abortion.

Supporters of Planned Parenthood struck back. A week later the Kansas Supreme Court ordered Kline to appear before District Judge David King for a closed “evidentiary hearing”—what critics say amounted to a Star Chamber secret trial. Kline and his staff were put under oath to answer

Kansas Supreme Court, with no explanation, promptly ordered Anderson not to appear at the hearing. That stonewalled the prosecution again; no records, no case.

But the Supreme Court did release thousands of pages of documents in June 2008, with passages in judicial rulings that were critical of Kline helpfully highlighted for reporters. With such bad publicity, Kline then lost the Republican primary for Johnson County DA to Stephen Howe, who went on to win election. For a second time the Kansas Supreme Court had delayed a prosecution of Planned Parenthood until Kline was out of office.

Other twists and turns have occurred all along the way. Attorney General Morrison in 2007 had filed his own charges against Tiller: 19 counts that he had an “improper” financial relationship with the second doctor who signed off on his late-term abortions, Dr. Ann Neuhaus. But before Tiller came

# AT THE TROUGH

to trial, Morrison himself resigned as AG in 2008, following a sex scandal.

A Sebelius-appointed successor, Stephen Six, made a sham prosecution of Tiller in March 2009. The state stipulated that all of Tiller's abortions were medically necessary and called one witness: Neuhaus, who was hostile to the prosecution. Tiller gained acquittal.

Two months later Scott Roeder murdered the abortionist. "I was physically ill when I heard that Dr. Tiller was dead," Kline said. "I knew it would cover up the truth in Kansas a lot longer."

More judicial meanderings are likely on July 14 and 15, when a hearing on the charges Kline filed in 2007 will finally come. A Planned Parenthood statement to WORLD said the criminal charges are "completely unwarranted and the outcome of a politically- and ideologically-motivated investigation."

While some Kansas pro-lifers believe District Attorney Howe is not determined to pursue the charges, Howe told me that he wouldn't comment on that or other specifics of the case, but pledged that the July proceedings "will be open to the public."

**F**OUR DAYS AFTER the Planned Parenthood hearing will come the second half of Kline's new ethics hearing. A three-member panel of the state Board for Discipline of Attorneys conducted the first half in February.

Disciplinary administrator Stanton Hazlitt raised several complaints, such as mishandling evidence and the O'Reilly appearance, even though Judge King had laid those to rest in 2008.

Other allegations were also replays of an inquiry conducted in 2008, when investigators Lucky DeFries and Mary Beth Mudrick looked into allegations from abortionists' lawyers that Kline had lied about desiring names of abortion clients and having probable cause for his charges, and had talked too much to the press.

DeFries and Mudrick at that time found that Kline had set up the plan with Judge Anderson to redact out client names. They noted that Anderson had found probable cause to pursue the investigation. (Two other judges later agreed.)

The investigators also found that Kline's comments to the press were well within bounds in a heated political debate, and that there was "not probable cause to find that Phill Kline violated any of the rules of ethics."

Kline will present his defense at the conclusion of his hearing in July. He is not entirely alone. "It's an abuse of the ethics regime for blatantly political purposes," said Thomas Brejcha, chief counsel of the pro-life Thomas More Society. That the Kansas Supreme Court would repeatedly delay a prosecution where probable cause was established and instead go after a prosecutor three times is "just incredible," he said.

Kansas state representative Steve Brunk, a Republican, asked, "Why are we dragging Phill Kline back here after all these years for these ethics charges? . . . Ironically, the more the abortion industry and its defenders attempt to persecute Phill Kline for upholding the law, the more evidence comes to light about their own misconduct." ☉

This year's budget debate featured calls from congressional pro-lifers like Rep. Chris Smith, R-N.J., to defund Planned Parenthood. "They are indeed 'Child Abuse Incorporated,' and we've got to defund them," he said.

That didn't happen in the budget deal passed in early April; the abortion giant is among the Democrats' strongest allies. Defunding Planned Parenthood is "too extreme," said Sen. Barbara Boxer, D-Calif. "I don't see it happening."

But if Planned Parenthood were ever convicted of a criminal offense, the federal government's own rules suggest defunding.

Planned Parenthood collects about \$360 million per year from all levels of government, with 80 percent of that coming from the federal government. Federal Acquisitions Regulations require all "contractors" with the federal government to "exercise due diligence to prevent and detect criminal conduct."

Contractors are also supposed to "promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law." Undercover investigations by organizations such as Live Action show Planned Parenthood representatives flouting state reporting laws.

Jim Sedlak, vice president of the American Life League, said about \$75 million comes to Planned Parenthood from grants under Title X of the Public Health Service Act, designed to provide "comprehensive family planning and related preventive health services."

A March memo from the U.S. Department of Health and Human Services, headed by ex-Kansas Gov. Kathleen Sebelius, reminded grantees that "Title X providers are also required to comply with specific State reporting and notification laws." Failure to comply with state laws covering the reporting of child sexual abuse or violence "may result in the disallowance of Title X funds, or the suspension or termination of the Title X grant award."

If Obamacare goes into effect and Planned Parenthood beats back investigations and prosecutions, it might be on its way to receiving billions of dollars more from Washington. Last year, for example, a spokesman for the Minnesota

affiliate told the *Minneapolis Star-Tribune* that it was moving to new, larger facilities in part because of the healthcare overhaul. CEO **Sarah Stoesz** said, "I anticipate that more people will access healthcare."

Other affiliates also are gearing up for a major influx of new clients. A new directive

from the head office requires all clinics to have the capability to perform abortions.

—L.S.

