

Today's News

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Nebraska Supreme Court Removes U. of Nebraska Regent for Breaking Campaign Laws

By [PAUL FAIN](#)

The Nebraska Supreme Court on Friday convicted a member of the University of Nebraska system's Board of Regents of manipulating campaign-finance procedures during his 2004 campaign and of attempting to cover up the violations. C. David Hergert, 66, whom the Nebraska Legislature voted in April to impeach, was immediately dismissed from the board as a result of the court's [ruling](#).

The state's governor, Dave Heineman, a Republican, said in a written statement that he would hold a news conference today to discuss the process for selecting a replacement for Mr. Hergert.

The court convicted Mr. Hergert on two of 10 articles of impeachment passed by the Legislature, rendering the justices' consideration of the remaining articles moot because of Mr. Hergert's expulsion from the board.

Mr. Hergert was unavailable for comment on Friday and has not recently responded to the campaign-finance charges in the news media. His wife, however, said she was speaking for both of them in an interview published on Sunday in the *Lincoln Journal Star*.

"We have no reason to hide our heads in the sand," said Nancy Hergert. "If anyone needs to hide their heads in the sand, it's Ernie Chambers and Chris Beutler," two of the state senators who led the effort to impeach her husband. She declined to say how Mr. Hergert would respond to his dismissal.

In its unsigned ruling, six participating members of the state's seven-member court wrote, "Hergert's various explanations for his actions contradict one another and are not believable when the clear and convincing evidence before this court is considered."

James E. McClurg, the board's chairman, said in an interview with *The Chronicle* that he supported the court's decision and hoped the "substantial distraction" over Mr. Hergert, which has dogged the university for more than a

year, is now over. However, Mr. McClurg said, the board had operated smoothly throughout the controversy.

"In the boardroom, our agenda has not changed," Mr. McClurg said. "This has not been a divisive issue for the board at all."

He also said the campaign-finance case was specific to Mr. Hergert and did not indicate systemic problems with the board or how it is elected.

"I don't think this specifically speaks of how the university is governed," Mr. McClurg said. "I think this was about an individual."

Nebraska election officials began investigating complaints about Mr. Hergert shortly after his November 2004 election to the board. Mr. Hergert, who owns a livestock feed operation in Scottsbluff, Neb., was accused of failing to disclose the bulk of his campaign spending in a timely fashion during both the primary- and general-election campaigns.

As a result of Mr. Hergert's delinquent filings, his opponent, Don S. Blank, an incumbent who was then chairman of the Board of Regents, received no public funds during the campaign preceding the November election. Mr. Hergert spent a large amount of his campaign money in a last-minute flurry of advertising, much of it attacking Mr. Blank, according to news reports. Regents in Nebraska run without party affiliation, as do candidates for the Legislature.

Mr. Hergert decided to forgo the voluntary spending limit of \$25,000 for the primary election and \$50,000 over all. Accepting that limit is a precondition for accepting public money. By Nebraska law, he was required to notify election authorities within five days of spending 40 percent of his estimated total expenditures. At that point, Mr. Blank, who had agreed to the spending limit, was entitled to a public contribution in the amount of the difference between the voluntary limit and Mr. Hergert's spending estimate.

In the November election Mr. Blank was to have received \$15,000 from the state but got nothing because Mr. Hergert failed to disclose that he had passed the 40-percent spending threshold until 10 days after the election, according to the court's ruling. The *Lincoln Journal Star* reported that Mr. Hergert had spent \$150,000 during the primary and general elections, nearly three times what Mr. Blank spent.

"Hergert intentionally manipulated and violated Nebraska's campaign-finance laws in a scheme to prevent his opponents from receiving public campaign funds," the court wrote. "During the campaign and, significantly, after he took office, Hergert intentionally filed false reports of campaign spending in an attempt to cover up his conduct."

In April 2005, Mr. Hergert agreed to a settlement with the Nebraska Accountability and Disclosure Commission in which he admitted to four violations related to his late filings during the elections and agreed to pay \$33,000 in fines. Mr. Hergert's lawyer during the settlement negotiation was Kermit Brashear, a senator and speaker of the state's unicameral Legislature.

The 2005 settlement did not end Mr. Hergert's troubles, however. A Nebraska law-enforcement agency subsequently opened an investigation of his campaign activities. Then, this past April, the Nebraska Legislature voted, 25 to 22, to impeach Mr. Hergert.

Jack Gould, the issues chairman for Common Cause Nebraska, the watchdog group that filed the first complaint about Mr. Hergert's campaign activities, said he was surprised that Mr. Hergert had fought the charges for so long, particularly after being impeached by the Legislature. Mr. Gould said the attempted cover-up probably sank Mr. Hergert.

"That didn't help his situation at all," Mr. Gould said.

Anne D. Neal, president of the American Council of Trustees and Alumni, said Nebraska joins only Michigan, Colorado, and Nevada in selecting members of public-university governing boards through general elections. Ms. Neal said her organization recommends that boards be appointed by governors.

"If a governor's appointees fail, the governor can be held accountable," Ms. Neal wrote in an e-mail message. "There is no comparable accountability with an elected board."

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