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Transcriber's Office

Government, Military and Veterans Affairs Committee  
April 29, 2015

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[CONFIRMATION]

The Committee on Government, Military and Veterans Affairs met at 12:00 p.m. on Wednesday, April 29, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; Matt Hansen; Tyson Larson; and Beau McCoy. Senators absent: None.

SENATOR MURANTE: (Recorder malfunction)...continue to filter in, we will begin our proceedings today. Welcome to the Government, Military and Veterans Affairs Committee. My name is John Murante. I'm the Chairman of this committee and state senator for District 49 which includes Gretna and northwest Sarpy County. We are here today for the purposes of conducting two public hearings, both on gubernatorial appointments, one to the Department of Administrative Services and one to the Nebraska State Patrol. Those two appointments will be taken up in the order on which they appear on the agenda which is posted outside of this room. On both sides of the room we have green sheets of paper that look like this. If you intend on testifying in support, in opposition, or neutrality on either of the two appointees today, please fill this out and submit it to the clerk as you come forward to testify. If you are not going to testify but would like to have your support, opposition, or neutrality entered into the record, again, on both sides of the room we have a sign-in sheet where you can indicate your opinion of the appointees and we will consider that into the record. If you come up to testify, we ask that you begin by stating and spelling your name for the records. It's very important for our Transcribers' Office. Our order of proceedings will be to begin by allowing the appointee introductory remarks. We will then proceed to proponents, followed by opponent testimony. We'll then proceed to neutral testimony and the appointee will be given an opportunity to close. We ask that you listen very carefully to the testimony which has preceded you and try not to be repetitive. If someone has already articulated a point which you wish to convey, we ask that you fill out the sign-in sheet and, again, it will be taken into consideration just as if you had testified. In the Government, Military and Veterans Affairs Committee we do use the light system. The light system will be used for everyone other than the appointees, who will not have the light system utilized. Everyone is granted four minutes to testify. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, we ask that you conclude your remarks and we will open up the committee for any questions that they may have. I would ask at this time that you turn off or silence any electronic devices or anything that makes any noise. You'll notice that the Government, Military and Veterans Affairs Committee is technology equipped; so if you see some of the members using their computers, we're looking up information and taking notes and that's what we're doing with those. If you have a prepared statement, an exhibit, or anything that you would like submitted to the committee, we ask that you give it to the page, who will distribute it to us, and we ask that you provide us with 12 copies. If you do not have 12 copies, that's fine. Again, provide it to the

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page and he will make copies and submit it to us. So that is the general order of business today and I will proceed to the introduction of committee members. To my immediate left, State Senator Matt Hansen from Lincoln, Nebraska. To his left, Senator Beau McCoy will be joining us shortly. He represents Omaha. To his left, State Senator Joni Craighead, also represents Omaha. To the far left, Sherry Shaffer is our committee clerk. To my immediate right, Charles Isom is the committee's research analyst. To his right, State Senator Tommy Garret of Bellevue, Nebraska. Senator Garrett is the Vice Chair of this committee. To his right, State Senator Dave Bloomfield of Hoskins, Nebraska, followed by Senator Tyson Larson, who will be joining us shortly, and Senator Mike Groene, who is also on his way. We now have quorum, so we will proceed to the first item on the agenda, the confirmation hearing for Byron Diamond to the Department of Administrative Services. Welcome. [CONFIRMATION]

BYRON DIAMOND: (Exhibit 1) Good afternoon, Chairman. Thank you, Senator Murante. Chairman Murante and members of the Government, Military and Veterans Affairs Committee, it's an honor to appear before you this...for this confirmation hearing. I'm Byron Diamond, spelled B-y-r-o-n D-i-a-m-o-n-d, and I am honored and humbled to be appointed by Governor Ricketts as the next Director of Administrative Services. Let me begin by sharing with the committee some background information about myself: my education, professional work background, and military service. I was born in Belleville, Kansas, but attended and graduated high school from Columbus Senior High here in Nebraska. I have an associate's of applied science degree in finance from Southeast Community College, a bachelor of professional studies in business administration and technical services from Bellevue University, and a master of strategic planning from the United States Army War College. My private-sector work experience covers 19 years with the first 5 years working for the National Bank of Commerce in Lincoln in banking and IT operations. I then spent the next 14 years working for CSG Systems Incorporated (sic--International), in Omaha where I worked in customer service, training, business operations, IT operations, business continuity, and product life cycle planning. I enlisted into the Nebraska National Guard as an armored crewman in 1986 and just recently retired from the National Guard as a colonel with 28.5 years of service. I deployed overseas as the installation management director for the 67th Area Support Group from August 2005 to September 2006 at (Ayn) al-Asad air base, Anbar Province, Iraq. During this term of service I was awarded the bronze star medal for my service during that deployment. My commissioned career was spent entirely as a logistics officer service in units at the tactical, operational, and strategic levels. In July 2008, I took on the challenge to be the chief information officer for the Nebraska Military Department and held that role for five years and my last assignment being the chief logistics officer for the department for the final three years of my military career. I also want to share with the committee my vision of working with Administrative Services to make them...make the team a proactive, customer service-oriented organization that effectively supports all agencies within state government. One of the first items is to create a culture of positive change within this agency. This will be accomplished by establishing a clear vision and setting goals and objectives

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to move the organization forward. Secondly, having a clear understanding of all the applications and systems that are used statewide will also be a key objective. We must understand what the IT enterprise is comprised of and how it will...how it all currently works or doesn't work together today. A business process, an IT review project, is currently underway to map our current processes and platforms with the end state of creating a project plan of key initiatives, along with the business case to show a potential return on investment for each of these projects. Finally, in my role as the Director of Administrative Services, it will be a priority to establish and maintain positive relationships and proactive customer service practices with all of our customers within state government, across all agencies, that need our services and support in order to successfully support their customers, the citizens of the great state of Nebraska. Senator Murante and members of the committee, thank you for this opportunity to appear before you today. As I said, it's an honor. I would be happy to answer any questions you may have at this time. Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Garrett. [CONFIRMATION]

SENATOR GARRETT: Thank you, Mr. Chair. Thank you, Mr. Diamond, for your...for being here. Can you tell me what you see as your greatest challenge in this position?  
[CONFIRMATION]

BYRON DIAMOND: One of the key ones, Senator, that I see right now is over the last several decades, especially on the IT side because, again, as you see from my resume, I have a lot of IT background and experience, is first building better processes as we implement changes on the IT software and platforms not only within Administrative Services but potentially across the entire state platform. I've already had several discussions with the new Chief Operating Officer, Mr. Felix Donaldson (sic--Davidson) about some of those initiatives and also with the CIO's Office where we need to work together as a team to ensure that we bring the automation processes used within state government, to use them more effectively, more proactively, and are we spending the taxpayers' dollars wisely in the projects that we do as we go forward. [CONFIRMATION]

SENATOR GARRETT: Great. And what do you think your biggest fiscal challenge is going to be? [CONFIRMATION]

BYRON DIAMOND: I think the biggest one right now, sir, is just with the current staffing levels, is making sure that we can...again, with some of these efficiencies, my hope is that we can keep those costs down so I don't have to ask for additional personnel. These automation processes will hopefully drive us where we have better automation, better processes, and more proactive...be more proactive in supporting all the agencies across the state. [CONFIRMATION]

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SENATOR GARRETT: Thank you. [CONFIRMATION]

BYRON DIAMOND: You're welcome, Senator. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Garrett. Are there further questions? Senator Groene. [CONFIRMATION]

SENATOR GROENE: I'm not...I don't know a lot about...thank you, Mr. Chairman. I don't know a lot about what this agency does. In your definition, what is...what do you do? Besides the IT, I mean. [CONFIRMATION]

BYRON DIAMOND: It's very diverse, Senator. It's anything from state personnel, state benefits that we push to every single state employee across the state of Nebraska. This division or this agency also encompasses the State Transportation Bureau, which manages all state vehicles used for all of our different agencies to do their...the state's business across this entire state, also have the Building Division and Task Force 309 which manages all of our state property and buildings, which is a huge undertaking, well over 110-plus buildings that are currently on the state inventory that have to be managed, maintained, and to ensure that we have proper insurance on those facilities as well. And then lastly is the procurement branch which also handles any commodity contracts, any service contracts, or any construction contracts that are let by the state of Nebraska, also falls under the purview of this agency as well. [CONFIRMATION]

SENATOR GROENE: So when I see a state car driving down the highway, you probably...that department purchased it and negotiated the purchase of them and then you keep track of the records on them and when they are traded and...? [CONFIRMATION]

BYRON DIAMOND: Correct, Senator. One of the things we do, we run that full life cycle on that vehicle. We will handle the purchase of the vehicle. It'll either go into a temporary fleet that is used to dispatch out to anyone that needs it within state government or they're permanently assigned to an agency that has a need for the use of that vehicle. Throughout the life cycle of the vehicle, we also have maintenance infrastructure that allows us to maintain and repair those vehicles, so that keeps it at a lower cost. That allows us to save the taxpayers money. [CONFIRMATION]

SENATOR GROENE: Then are you the one that divides the cost of that vehicle and then...and portions the cost out...off to each department? [CONFIRMATION]

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BYRON DIAMOND: That's correct, Senator, yes. And at the end of the life cycle, when that car has reached its useful life, then we take it out to our state excess warehouse, where it's sold, and we've had some great success over the last six months with the way the state excess warehouse is ran. The last sale we had, just this last month in the first part of April, we netted the state a return of over \$50,000 that was returned to the General Fund. [CONFIRMATION]

SENATOR GROENE: And then like this office building to the north, there's a coffee shop in there. Do you handle the leases and all of that, too, with private businesses that operate within some of the buildings? [CONFIRMATION]

BYRON DIAMOND: Yes, sir. We'll put out a services contract and that's bid upon and then that contractor is selected and put into that to provide that service to the employees or to the general public that comes to that facility. [CONFIRMATION]

SENATOR GROENE: Thank you. [CONFIRMATION]

BYRON DIAMOND: You're welcome, Senator. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Groene. Are there additional questions? Seeing none, thank you very much for your testimony. [CONFIRMATION]

BYRON DIAMOND: Thank you, Senator. [CONFIRMATION]

SENATOR MURANTE: Before we continue, I would recognize the arrival of Senator Beau McCoy and Senator Mike Groene, Senator Tyson Larson, and I neglected to introduce the committee's page, Brandon Metzler of Omaha, Nebraska. With that, we'll proceed to proponent testimony. Does anyone wish to testify in support of Mr. Diamond? Is there any opposition testimony? Is there any neutral testimony? Seeing none, you have an opportunity to close. [CONFIRMATION]

BYRON DIAMOND: Senator, thank you for the opportunity. I request to waive that opportunity. [CONFIRMATION]

SENATOR MURANTE: Okay. He waives closing and that ends the hearing on Byron Diamond to the Department of Administrative Services. Thank you very much for coming down today. We'll try and let you know as quickly as we can. [CONFIRMATION]

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BYRON DIAMOND: Thank you, Senator. [CONFIRMATION]

SENATOR MURANTE: And we'll proceed to the next item on the agenda, the appointment of Bradley Rice to the Nebraska State Patrol. And welcome to the Government, Military and Veterans Affairs Committee. [CONFIRMATION]

BRADLEY RICE: Thank you, Senator. [CONFIRMATION]

SENATOR MURANTE: Welcome. [CONFIRMATION]

BRADLEY RICE: (Exhibits 1 and 2) Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Brad Rice, B-r-a-d R-i-c-e, and I have been appointed by the...by Governor Ricketts to serve as the Superintendent of Law Enforcement and Public Safety in command of the Nebraska State Patrol. I look forward to this opportunity to share with you my experiences and qualifications for this position, as well as the opportunity to discuss the future of the Nebraska State Patrol. I was born and raised in Chapman, Nebraska, and graduated from Grand Island Northwest High School. In 1981, I joined the Nebraska State Patrol and attended the Patrol's training academy where I graduated and received my commission as a law enforcement officer on November 13, 1981. Initially assigned to field services division and Troop A-Omaha, I served as a road trooper, was a member of the SWAT team, was a police service dog handler, a defensive tactics instructor, a radar instructor, and I mentored younger troopers as a field training officer. In 1994, I was promoted to the rank of sergeant in Troop A-Omaha where I served as a first-line supervisor. In 1999, I accepted a promotion to lieutenant in Troop A-Omaha, assigned to the field services division. I was promoted to captain in command of Troop B-Norfolk in 2002. As commander of Troop B, I was responsible for 56 troopers, 16 civilian staff, and 23 counties in northeast Nebraska. As commander, I oversaw specific law enforcement responses, patrolling and scheduling, security assessments for the state of Nebraska critical assets, and worked to develop meaningful relationships with Native American nations. In 2002, I graduated from the school of the Northwestern University Police Staff and Command. I have also had the opportunity to serve on many boards and committees to include the Northeast Nebraska Sheriff and Police Officer Board. In addition, I have received numerous awards and commendations during my time as a member of the Nebraska State Patrol, including being named supervisor of the year in 2007 for the state of Nebraska. I retired from the Nebraska State Patrol after serving the citizens of our state for 29 years. Most recently, I have served as a communications director for the Sarpy County, Nebraska, E911 center. I would submit to the committee that my experience meets the four-year law enforcement requirement for the Superintendent of Law Enforcement and Public Safety as required by Nebraska Revised Statute 81-2001. As Nebraska's only statewide, full-service, law enforcement agency, our responsibilities are diverse. First and foremost, our role is

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to provide primary enforcement and investigative duties. Just as important is our responsibility to support our local law enforcement and public safety partners. The agency maintains strong relationships with our federal, state, and local partners. Chief among those would be to continue to assist local agencies as they work to become a part of the statewide radio system. As a user of the statewide radio system, the Patrol works closely with the Office of the Chief Information Officer in the effort to continue to improve upon statewide communications to include the interoperability with local law enforcement and emergency partners. In my previous role as the director of Sarpy County E911 center, I had the opportunity to work with a variety of agencies and gained an understanding of their needs and expectations when it comes to interoperability. I am looking forward to growing the already positive relationship the agency has with OCIO, while bringing an understanding of local issues when it comes to radio communication needs. I am excited about the future of the agency. This fall, the Nebraska State Patrol Crime Lab will open the doors on a brand-new facility in Lincoln. This new state-of-the-art facility, made possible through your approval and support, will more than double the space of our old lab, enabling us to continue to grow the services we offer to all law enforcement agencies across the state, free of charge. This Friday the Patrol will graduate its largest recruit class in this decade. When these recruits receive their badge of office, they will have been given the skills, knowledge, and abilities needed to serve and protect the citizens of Nebraska. I believe our agency does well in retaining qualified employees; however, I would like to see us continue to improve our efforts in the area of career development. We need to ensure all of our employees continue to move forward. They need to have a plan, clear, defined goals, and understand what they need to do to achieve those goals. I want to challenge and engage our employees who hold supervisory positions. They are the leaders of our agency. I believe we need to look at what we can do to help them continue to grow, not only as supervisors but as mentors passing their experience and knowledge to those under their command. I will work to ensure the State Patrol maintains its fiscal responsibility through the responsible planning and management of resources. Before I conclude, I want to take a brief moment to address some media stories that arose at the time the Governor announced my appointment. I want to assure this committee, your colleagues, and fellow Nebraskans that I am fully committed to ensuring equal opportunities for all qualified employees of my agency. I appreciate your support and I thank you for the opportunity to meet with you today. I'd be happy to answer any questions you might have.  
[CONFIRMATION]

SENATOR MURANTE: Thank you very much for your testimony. Senator Larson.  
[CONFIRMATION]

SENATOR LARSON: Thank you for coming, Mr. Rice. And, you know, for the record, I've heard from many troopers within my legislative district, which is the troop area that you commanded, Troop B for the most part, and I've heard many good things. So I appreciate you and from what they've said and the willingness that you've showed them when you commanded

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Troop B. And I think that's important and that kind of leads into my first question. I'm very close to my troopers and that communication. And I think one of their frustrations with the last administration of...within the State Patrol was the openness or how...the distance they felt from them to the top. Can you just kind of address what your feelings are on that moving forward in the sense of, you know, making them feel like they're more...you know, they have your ear, there's more of a voice, because I really do feel like they felt like they were shut out at times. [CONFIRMATION]

BRADLEY RICE: Sure. I appreciate that, Senator. One of the things I plan to do is schedule at least one day a week, block it open, so...and to remove myself from State Headquarters and use that time to get out in the field. And I plan to use that in several different ways. First of all, I want to make contact with the troopers that are out there to maintain a connection with the field. And secondly, that will give me an opportunity to see some of the sergeants, lieutenants, and captains face to face and address some concerns that they might have and continue to build that line of communication. And thirdly, it'll give me an opportunity to visit on occasion with the allied agencies that we have, that...well, I...we have a lot of great partners out there. [CONFIRMATION]

SENATOR LARSON: Good. And that's kind of what I was looking for. You know, I really hope you express the...to the everyday guy, you know, that "be open with me, let me know what's happening." And I think that's very important because, like I said, I felt like, from my conversations with them, a lot of them, that they felt just a disconnect, like kind of the ivory tower and they were down here. So if you could do that, that would be great. Another thing that I heard a lot about and has been an issue in moving forward, what is your stance on the 4/10s versus the 5/8s and where are we moving forward with that? Because I know that was also a very important issue to the troopers across my district and specifically Troop B. [CONFIRMATION]

BRADLEY RICE: There are a lot of different ways to look at that type of scheduling. Generally, I would like to leave that scheduling of troopers up to the decision of the local field commanders and sergeants because they know best where the problems are occurring within their agency. Now I know 4/10s is very important to them, but whatever we do we have to make sure that we do it in the best manner possible to put the most resources out in the best places to best serve the public. [CONFIRMATION]

SENATOR LARSON: And I appreciate that. And as you know, we...the troopers do like the 4/10s and in our area it does seem to work, specifically the Troop B area. You know, I understand maybe, in Senator Groene's area, 5/8s might work better. But where we are...and I appreciate your willingness to not mandate down the line and let those troop commanders understand that, you know, they understand the areas that they are serving best. One thing that I



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do...also, I think one complaint I hear, not so much from the trooper side and just to be mindful of as you continue on and through the State Patrol--this is more on the agricultural side of things--I do hear a lot of complaints about DOT and just a little uniformity, I think that's something that you...the Patrol might look into, would be something of...I hear one trooper might measure the length between X and Y and the next DOT officer they come to is like, no, it's supposed to be measured from here to here, and there's just a little ambiguity of, you know, what is actually right and what is actually wrong. So just working forward, I know that's not your fault, but I...those are kind of the concerns that I've heard within the troop area. And I appreciate your time. Like I said, you...from your time as Troop B commander, you come highly recommended from many people and I commend how you ran that troop. And obviously, since that's my district for the most part, I really appreciate that and that means a lot to me that those officers are speaking in your favor. [CONFIRMATION]

BRADLEY RICE: Thank you, sir. [CONFIRMATION]

SENATOR LARSON: Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you, Colonel Rice. I have a couple. You had touched on some of the media controversy and I'd like to maybe delve into that with a little more specificity. As you know, one of your colleagues said to a court and under oath that you had told him that in your opinion women were not qualified to be in law enforcement, and I would like you to address that statement directly. [CONFIRMATION]

BRADLEY RICE: First of all, I want to say that I have complete confidence in all the employees of the State Patrol. And I would say about this incident, it...we were talking about a very specific incident that occurred within an allied agency. And if you look at the content and context of the conversation we were having, we were talking specifically about training. As a young trooper, I was involved in a close-combat situation and as a result of that I was...well, I wound up spending a night in a hospital and then I was almost killed. I learned several things from this. First of all, I learned that I was not mentally ready in the game yet, ready for that type of encounter, and I learned that I was not physically ready for that. I'm very fortunate in that the agency at that time provided me the means to become mentally ready and physically ready, and through that I became a defensive tactics instructor for over ten years. So you can see, being mentally and physically ready means very much to me. In addition to that, as a Troop B commander, I had the very unfortunate duty of making a notification on the spouse of one of our troopers who was deceased. That's not something I ever want to do again and that's not something I ever want any of our commanders to have to do. So I'm very passionate about being mentally and physically ready in the game. And I think if you go on and address, if you look at the rest of that testimony, you'll see that it concludes with my thought of...that we...men and women need to be...have the

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same type of training. Regardless of gender, we need to be ready to go. So I would not dispute that testimony, but I would say that I think the intent was misunderstood. [CONFIRMATION]

SENATOR MURANTE: And what, specifically, what role does gender play in your view in making a determination as to whether a law enforcement officer is qualified or not? [CONFIRMATION]

BRADLEY RICE: The State Patrol has a very extensive background and application process. The process itself lasts about six months and in...through this process applicants are tested academically, physically. They're given a psychological exam and upon completion of that they submit themselves to a polygraph exam. And after that they are subject to a very, very extensive background examination. It's our belief...it's my belief in the...as Superintendent of the State Patrol that, regardless of gender, every individual has to successfully complete that rigorous set of background investigation, so I would say gender really doesn't make much difference as long as they are qualified candidates to enter into the State Patrol Training Academy. [CONFIRMATION]

SENATOR MURANTE: And correct me if I'm wrong as I understand the process of promotions within the State Patrol, but a group of your colleagues make a recommendation to a person, to either yourself or your predecessors, and ultimately the decision about hiring is yours and your predecessors', and ultimately that burden lies on you. Is that correct? [CONFIRMATION]

BRADLEY RICE: That is correct. [CONFIRMATION]

SENATOR MURANTE: So of the allegations in years past, you were not the colonel who ultimately made those decisions, is that correct, of the discrimination suits and the controversies that played out in years past? That's...is that correct? [CONFIRMATION]

BRADLEY RICE: That's correct. [CONFIRMATION]

SENATOR MURANTE: So how would you go about making those hiring decisions, specifically with respect to the role of gender? What...when you have a recommendation on your desk, what role, if any, does gender play in your mind, the specific issue of gender? What role does it play in your mind in how you're making that decision? [CONFIRMATION]

BRADLEY RICE: Senator, I think you're...we're talking about two things. Are we talking about hiring and promoting or hiring? [CONFIRMATION]

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SENATOR MURANTE: At the moment, promotions. [CONFIRMATION]

BRADLEY RICE: Promotions. [CONFIRMATION]

SENATOR MURANTE: Let's stick with promotions for a moment. [CONFIRMATION]

BRADLEY RICE: I think maybe we need to talk about the process just for a moment.  
[CONFIRMATION]

SENATOR MURANTE: Okay. [CONFIRMATION]

BRADLEY RICE: To make...in order for an eligible candidate to submit himself to the process of a promotion, he is required...that person is required to go through a testing process, an academic testing process. Once they complete that, if they receive a sufficient score, they can move on to the next step which would be an interview process. During that interview process, each and every candidate is asked a very specific set of questions by the interview board and the interview board scores those, the responses to those questions, by a...and in regards of how they answer those questions by a very specific set of bullets that they're provided. Every candidate has the same question; every candidate has the...is scored on the same bullets or answers that they give. Once those scores are tallied and compiled, they are sent up the chain of command, in my case, to the Superintendent's office for his review. He'll review that and then make a promotion based upon the scores that are given to him. In some cases, if the scores are very close and both candidates are qualified, you can use a method of seniority, whoever it might be, seniority, senior to that...senior might receive the nod and get that promotion, or whoever might have the most experience in whatever division they might be "lateraling" to or asking for a promotion in. So there are various other things that can be taken into account. And to specifically answer your question, in my opinion, I don't think gender plays a role in that. I think the most qualified individual plays a role in that, as Superintendent. [CONFIRMATION]

SENATOR MURANTE: And not to beat a dead horse, but I'm going to ask the question maybe in one different angle. [CONFIRMATION]

BRADLEY RICE: Sure. [CONFIRMATION]

SENATOR MURANTE: If a recommendation on a promotion were sent to your desk and there were two equally qualified candidates to receive that promotion, one was a male and one was a female, does the gender difference play any role in your decision? [CONFIRMATION]

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BRADLEY RICE: No. [CONFIRMATION]

SENATOR MURANTE: Okay. The next subject matter that came to our attention recently was the hiring of a former Lincoln Police Department officer, Jeremy Wilhelm, and some of the controversy that led to him not being on the Lincoln Police Department anymore, and I'd like you to go into a little bit of the background as to what the State Patrol's policy is on hiring members of law enforcement and of other agencies and how exactly...what the rationale behind that decision was. [CONFIRMATION]

BRADLEY RICE: I think I need to go back again to the background process and hiring process. And it's very extensive and in that hiring process our investigators, background investigators, made some extensive interviews with members of the Lincoln Police Department and those who would have worked around this individual in question. And after submitting to the polygraph and this background investigation and then the interview board, we felt that he was more than qualified, met the qualifications to become a recruit at the academy. [CONFIRMATION]

SENATOR MURANTE: Okay. And it's my understanding, and I am just familiarizing myself with this situation, but it's my understanding that he was released because of the use of excessive force in the Lincoln Police Department. Is that your understanding? [CONFIRMATION]

BRADLEY RICE: Well, I'm not...that's not my understanding, no. [CONFIRMATION]

SENATOR MURANTE: Okay. All right. We'll leave that to the side for a moment then. You had been accused in different newspaper articles of proselytizing, I believe, in Norfolk, and I'd like you to address that concern as well. [CONFIRMATION]

BRADLEY RICE: Well, Senator, I am a man of faith. Faith plays an important role in my life and I do attend church regularly. I would say that I have not proselytized on the job and that what I would require of my employees and require of myself is that we simply follow the Constitution of the State of Nebraska. [CONFIRMATION]

SENATOR MURANTE: And if you had been proselytizing, would that been cause for disciplinary action within the State Patrol? [CONFIRMATION]

BRADLEY RICE: Yes. [CONFIRMATION]

SENATOR MURANTE: And were you disciplined? [CONFIRMATION]

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BRADLEY RICE: No, sir. [CONFIRMATION]

SENATOR MURANTE: Okay, I think that's all I had at this point. Senator Garrett.  
[CONFIRMATION]

SENATOR GARRETT: Thank you, Chair. Thank you, Superintendent Rice. One of the things you said in your testimony--I got a multipart question for you here--you talked about graduating the largest class in the last ten years, which makes me think, why are you...obviously, do you have a retention problem? And if you have a retention problem, well, what's the reason that most officers are leaving and what do you intend to do about it? [CONFIRMATION]

BRADLEY RICE: It's not a retention problem, Senator. It was a lack of training. We did not...we did...we have not held as many classes as we would have liked to, and so it's simply a process of our troopers retiring, leaving through the retirement process. [CONFIRMATION]

SENATOR GARRETT: Okay, and the reason you didn't have classes previous to this, was it a fiscal issue or just scheduling issue? [CONFIRMATION]

BRADLEY RICE: I cannot answer that clearly, Senator, because that was prior to my appointment. We had...there was a class in...last year, class 55 graduated in July of last year and is...it's simply a matter of sometimes recruiting enough people and sometimes not having the...not being fiscally able to holding a class. [CONFIRMATION]

SENATOR GARRETT: One other multipart question: What do you see as your biggest challenge, and what is the...for the State Patrol and what is the biggest criminal challenge for the State Patrol that you're facing? [CONFIRMATION]

BRADLEY RICE: What was second question, Senator? [CONFIRMATION]

SENATOR GARRETT: What's the biggest criminal challenge that the State Patrol is facing? What crimes do you see that... [CONFIRMATION]

BRADLEY RICE: Oh, criminal challenge. [CONFIRMATION]

SENATOR GARRETT: Right. [CONFIRMATION]

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BRADLEY RICE: Within the agency I would say the greatest challenge right now is the completion and...of the statewide radio system and encouraging allied agencies to get on the state system so we can achieve complete interoperability. The State Patrol is...you know, consists of many different divisions, traffic enforcement, criminal, drug, alcohol and tobacco, and the fusion center, intelligence. So the biggest...each division has a problem that's significant to them. So I'm going to answer that question, you know, like this: For traffic services, the biggest issue right now is keeping our youthful drivers alive. We...our fatality rate on youthful drivers is significantly high. For the criminal division, it is maintaining our various certifications so that we can, to the very best of our abilities, support the allied agencies in various investigations and have successful prosecutions. For the drug investigators, for the drug division, it would be virtually the same thing: making sure that we have maintained our various certifications so we can best serve the allied agencies. And for the fusion center, it is, again, reaching out to the allied agencies and encouraging them to use the facility and submit intelligence to the facility so that it's accessible to all agencies statewide. [CONFIRMATION]

SENATOR GARRETT: Thank you. [CONFIRMATION]

BRADLEY RICE: Yes, sir. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Garrett. Senator Craighead, then Senator Groene. [CONFIRMATION]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, Mr. Rice. Thank you for being here and thank you for your service to our state. [CONFIRMATION]

BRADLEY RICE: Thank you. [CONFIRMATION]

SENATOR CRAIGHEAD: How many professional employees, troopers and up, are employed by the Nebraska State Patrol, approximately? [CONFIRMATION]

BRADLEY RICE: There are 385 sworn officers. [CONFIRMATION]

SENATOR CRAIGHEAD: (Inaudible)...okay. And how many of those are women in upper management? [CONFIRMATION]

BRADLEY RICE: Right now we have one captain and two lieutenants and one sergeant. [CONFIRMATION]

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SENATOR CRAIGHEAD: So 4 out of 385? [CONFIRMATION]

BRADLEY RICE: Yes, ma'am. [CONFIRMATION]

SENATOR CRAIGHEAD: Okay, thank you. [CONFIRMATION]

BRADLEY RICE: Yes, ma'am. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Craighead. Senator Groene. [CONFIRMATION]

SENATOR GROENE: Thank you, Chairman. So only 4 out of 385 employees right now are female? [CONFIRMATION]

BRADLEY RICE: No, sir, we have... [CONFIRMATION]

SENATOR GROENE: No, that...I think that was misunderstood. You... [CONFIRMATION]

BRADLEY RICE: You bet. We have 14 troopers...26, 26 females out of that number.  
[CONFIRMATION]

SENATOR GROENE: All right. And you have no control over recruitment. It's who comes to...but that's in the past. And you would probably try to improve that? [CONFIRMATION]

BRADLEY RICE: Yes, sir. In fact, we just held an expo and our intent is to...our desire is to get out into the public and recruit, retain the most qualified individuals that we can find.  
[CONFIRMATION]

SENATOR GROENE: And what's your ethnic makeup? [CONFIRMATION]

BRADLEY RICE: I don't have that number in front of me. [CONFIRMATION]

SENATOR GROENE: I'm just curious. My last question is, you know, across the United States, police officers are taking a lot of beating on incidents and they're all being labeled for some incidents, and how do you see your role in keeping...do you believe in cameras? Or are we using cameras on the officers? And quite frankly, I travel a lot and I would compare the friendliness and the...of the Nebraska State Patrol with Wyoming, Colorado, Kansas, not that I get stopped

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that often. But anyway, I'm talking 25 years of travel. Anyway, but where do you see that with this national problem we have with...it just seems to be an assault on good public servants and the police forces across this nation in the press and how do you head that off in Nebraska?  
[CONFIRMATION]

BRADLEY RICE: The answer to your first question is, yes, we do have cameras, and each uniformed officer is equipped with an in-car camera and a body mike. We have explored the possibility of body cameras. That's the camera...the body cameras themselves are not that expensive but storage of that type of video is. And I believe the best way to ensure the trust of the public is to make sure...my job is to make sure that the troopers that we have and investigators that we have working right now have the same benefit that I had as a young "troop" and for the 29 years. I consider myself very fortunate because everywhere I went, everywhere I was stationed, I had great mentors and great teachers who constantly gave me education and the nudge in the side of the rib when, you know, you might be doing something that we just don't do. So one of my goals is to ensure that we create a solid line of secession and that each and every trooper, when they're trained and continuously after that, receive the benefit of that type of mentorship, of servanthood, stewardship. And when I say stewardship, I don't mean just financial. I mean we're the guardians of a democracy and that takes a very, very special kind of a person so, thus, one of the reasons why our background process takes so long. We're looking for the most qualified individuals and it's very important that, as we retire and pass that uniform off to the next person, that they are fully trained and ready to go. [CONFIRMATION]

SENATOR GROENE: Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Groene. Senator Hansen, then Senator Bloomfield.  
[CONFIRMATION]

SENATOR HANSEN: Thank you, Chairman Murante. Mr. Rice, earlier, in response to Senator Murante's questions, you said you felt that men and women should be held to equal training and education standards. Is that correct? [CONFIRMATION]

BRADLEY RICE: Yes, sir. [CONFIRMATION]

SENATOR HANSEN: That would seem to imply that you feel that there currently or previously were differences in education and training? [CONFIRMATION]

BRADLEY RICE: No. I think, Senator, we were referring to a specific incident that occurred with an allied agency. And through that discussion, in my opinion, it was apparent that



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somebody wasn't trained well, very well, or...let me back up. That's not a fair statement. I think the fairer statement would be that an individual wasn't...maybe wasn't fully ready to meet some of the challenges, so through our discussion I just...I firmly believe that we all need to be trained to the same standard. [CONFIRMATION]

SENATOR HANSEN: Okay, I guess I'm trying that...I've been thinking about this since it came up. I'm trying to connect how, kind of, your comments on everyone should be trained and educated similarly had a gender component with them in the first place or how they were interpreted to be. [CONFIRMATION]

BRADLEY RICE: Well, the person in...the person that we were...in the allied agency that we were referring to happened to be a female. [CONFIRMATION]

SENATOR HANSEN: So in that...so from that conversation, was there the implication that maybe an allied agency was holding different standards for men and women? Was that part of the discussion then? [CONFIRMATION]

BRADLEY RICE: I don't recall if that was part of the discussion or not. [CONFIRMATION]

SENATOR HANSEN: Okay. All right. Well, thank you. The other issue...not the issue, but the other term has come up a couple times is talking about qualified, talking about qualified employees moving ahead and equal opportunities for qualified employees. Is the qualifications just...is that like, say, a specific written description, or are there other subjective measures that, say, individuals doing the interviews will use? That being said, is...if I went and asked for a copy of the qualifications for any given position in the State Patrol, would I be able to find that? [CONFIRMATION]

BRADLEY RICE: Oh, yes, sir. [CONFIRMATION]

SENATOR HANSEN: Okay. And when...during the interview process, is there any other, I want to say, more subjective of people's personalities--whether they're arrogant or not, whether they're, you know, too talkative, too quiet--do those come into the role of hiring decisions? [CONFIRMATION]

BRADLEY RICE: Yes, they do, through the background investigation. [CONFIRMATION]

SENATOR HANSEN: And how is that? [CONFIRMATION]

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BRADLEY RICE: Hypothetically, during the...let's just say during the polygraph examination something may have come up that indicated a problem in anger control. So that would be something that the background investigator would be made aware of. And when that background investigator went out and interviewed both referred individuals and nonreferred, you know, individuals, that's something that a background investigator could specifically ask for and maybe drill down into to find out if there was a problem or if there wasn't a problem. And then in his report, then he would just indicate that either he felt it was or he felt it wasn't and then the reasons why, one way or the other. [CONFIRMATION]

SENATOR HANSEN: And so then where does that come in, into the hiring and promotion process, in determining qualifications? [CONFIRMATION]

BRADLEY RICE: Well, that would come into...well, what I just spoke to would come in the process in the hiring, in the hiring process. In the promotional process, if an individual is interviewing for a...or, pardon me, if an individual is applying for a promotion, then if that promotion requires an examination, then there would simply be a cutoff point. You'd have to have a specific percent to make it to the oral interview board. And once at the oral interview board, then once again they're scored on a very specific set of questions and answers are scored very specifically on a very specific set of bullet points. [CONFIRMATION]

SENATOR HANSEN: Okay, so let's say for the hiring process that someone did have a red flag. I think you mentioned anger issues. Is that something that's addressed before they get in the hiring process and there's some sort of trimming of the list of candidates or is that something that's just noted for (inaudible) interviewers or how does that work? [CONFIRMATION]

BRADLEY RICE: That would be listed and then submitted up to the hiring board. There is a board of troopers and HR director and one of our legal lawyers who would review each packet and then as they reviewed each packet they would make a recommendation up to the colonel's office whether or not they thought that individual should or shouldn't be considered for an offer of employment. [CONFIRMATION]

SENATOR HANSEN: Okay. Thank you, Mr. Rice. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Hansen. Senator Bloomfield. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you, Chairman. Thanks for being here, Mr. Rice. And like Senator Larson, I'm in an area where Troop B was very active and I've never heard any big issues out of there, so thank you for your service up there. I've had a couple senators and several staff

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members ask me about Capitol Security down here. What would your involvement be in that? And where do you see an opportunity to improve that? [CONFIRMATION]

BRADLEY RICE: We directly oversee Capitol Security here and our involvement in them is to ensure that they are aware of all the different nuances of the Capitol itself, the Capitol building itself, and then the security measures that we have in place. And we would ensure that they are appropriately trained and maintain that training for the security measures in the Capitol. [CONFIRMATION]

SENATOR BLOOMFIELD: In particular, when we're not in session the staff members seem to feel particularly vulnerable, that there's nobody around to...in case somebody would come in. And I think more and particularly the people on the first floor feel vulnerable. Is there any plans down the road to address any of that, to maybe put a little more security in here? [CONFIRMATION]

BRADLEY RICE: I wasn't aware of that, but we can certainly review that and we'd be happy to get back with you, Senator, and provide you with some detail and a plan. [CONFIRMATION]

SENATOR BLOOMFIELD: And it's certainly not something I would like to see come here. But I had an opportunity to visit the capitol in Nashville and you...the first thing you run into in there is glass doors inside and you state your business and clarify what you're doing there. I do feel we're a little open here with...maybe more open than we should be. I certainly don't want a metal detector on every door, but I guess I would like to see a little more presence, particularly when we're not in session. We've had a couple incidents, and nothing bad came of it, where people just wander into the Chamber the other day and that can be a little disconcerting. [CONFIRMATION]

BRADLEY RICE: Yes, sir. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any final questions? Seeing none, thank you very much for your testimony today. And we will proceed to proponent testimony, those wishing to speak in support of Bradley Rice's appointment to the Nebraska State Patrol. And welcome to the Government Committee. [CONFIRMATION]

MARILYN GABLE: Thank you, Senators. My name is Marilyn, M-a-r-i-l-y-n, Gable, G-a-b-l-e. For the past 33.5 years, I have been employed at the Sarpy County 911 Center. My current

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position is acting director. I became acquainted with Brad Rice in the early 1980s when he began his career with the Nebraska State Patrol and I as a Sarpy Count dispatcher. Most recently, I worked very closely with Brad when he was hired as the director of Sarpy County 911 in July 2014 and helped him to get settled in his new role. He was very personable, fair, appreciative and, most of all, very approachable to me and the entire dispatch staff. His positive attitude was infectious. In the short time he was with us, he brought the department morale to an all-time high. Teamwork was his motto and Brad made sure all employees felt that they were a valuable part of our dispatch team. He made sure he visited all the shifts. He was in the communications center numerous times during the day and he sometimes came in at 3:00 or 4:00 in the morning just so he could see the night shifts and make sure they knew they were an important part of the team. He also made personal contact with all of our responding agency chiefs, soliciting feedback on the performance of our staff or any technical issues they may have had. Brad truly had the best interest of our department at heart. For the first time ever, he organized a department Christmas party on his own and the attendance was great. He was a good listener and made good decisions for the department. He was a joy to work for, an awesome leader, and in all my years here at Sarpy County with numerous directors, I can honestly say he was the best. I believe I can speak for all the dispatchers and employees of the Sarpy County 911 Center and also Commissioner Jim Warren, who also is in attendance, from Sarpy County that he would be an awesome candidate for the Superintendent of the Nebraska State Patrol. We will miss him but wish him the best. Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciated. Additional proponents wishing to speak on the appointment of Bradley Rice. Welcome to the Government Committee. [CONFIRMATION]

JANE TOOLEY: Senators, I appreciate this opportunity to address this committee regarding the appointment of Brad Rice. My name is Jane Tooley, J-a-n-e T-o-o-l-e-y, and I'm a retired lieutenant from the Nebraska State Patrol. I've known Brad Rice his entire career. He was the troop area commander in Norfolk when several very serious law enforcement events took place in that area, including a bank robbery where there were multiple deaths and the death of a trooper in that area. Brad Rice did an exemplary job of dealing with these situations. As a female officer on the State Patrol, I have always had great respect for Brad Rice and I've always been treated with respect and as an equal by him. I think that Brad Rice would make an excellent colonel for the Nebraska State Patrol. [CONFIRMATION]

SENATOR MURANTE: All right, thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. [CONFIRMATION]

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JANE TOOLEY: Thank you very much. [CONFIRMATION]

SENATOR MURANTE: Additional proponents wishing to speak on behalf of Bradley Rice. Welcome to the Government Committee. [CONFIRMATION]

JAMES PARISH: (Exhibit 3) Thank you, Chairman Murante. And members of the committee, good afternoon. My name is James, J-a-m-e-s, J. Parish, P-a-r-i-s-h. I thank you for this opportunity to address this committee on the matter of the nomination of Brad Rice to be the next superintendent of law enforcement and a colonel for the Nebraska State Patrol. I'm here to speak in support of Mr. Rice's nomination, and I feel that I have the qualifications to speak on this as I am a retired captain myself from the Nebraska State Patrol, having been employed for just under 37 years as a State Trooper, the last 18 of which were as the commander at Troop D headquarters in North Platte when I had the distinct opportunity to meet Senator Groene and have conversations with him and so forth. I did not have an opportunity to stop him. I will say that. I'm currently employed as a professional Boy Scout. I'm the executive director for the Buffalo Bill District of the Boy Scouts of America, Overland Trails Council. I've known Brad Rice for over 25 years and was stationed with him in Omaha from 1990-1996. He was not in my direct chain of command during those years, but he worked on a shift different. I was a lieutenant. He was a trooper and then later promoted to sergeant. Later, he served as the commander in Troop B in Norfolk, which you guys are well aware of, while I served as the commander at Troop D in North Platte. During that time that we both served as troop commanders, I got to know Brad well and spent considerable time with him at functions, both professional and social. He is an absolute model of integrity and honesty. He is trustworthy and honest. Many times in his life he raised his right hand, swore to tell the truth, and I believe that he did each and every time. He's always displayed character that was consistent with what we expect from the best of those around us and from professional law enforcement officers. It has come to my attention, as you have mentioned, that there are those that have detracted. I have no idea why they do that. But I'm also familiar with most of those people and I will assure this group that most of those assertions, all of those assertions that I'm aware of, are completely without merit. I wasn't privy to a lot of those conversations, but I was privy to an awful lot of personal conversations with Brad Rice and never did I hear him refer to...make gender an issue or his religious faith enter into any of his decisionmaking when it came to matters of personnel. I've had opportunities to discuss matters of public interest with Brad Rice on many occasions. I've never known him to act other than in the public's best interest with a genuine concern for the safety of motorists and the state's citizens. His actions reflect his commitment to public safety and the safety of troopers and law enforcement personnel. Brad Rice clearly possesses the requisite qualifications for this position. In addition to his administrative positions he held, he mentioned some of these, he...with the Patrol career he was a K-9 handler, a member of a SWAT team. He supervised the, I think, liquor investigations in Omaha for a brief period of time and served as a field training officer. You've heard about his experience at the 911 center. He's an

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active member of his church and respected by his peers, colleagues, and members of his community. I want to thank you for your time. I strongly endorse this nomination. I would encourage this committee to do the same. And if you have any questions, I would be more than happy. Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciated. [CONFIRMATION]

JAMES PARISH: Thank you very much. [CONFIRMATION]

SENATOR MURANTE: We are still on proponent testimony. And welcome to the Government Committee. [CONFIRMATION]

MIKE JONES: Thank you. Chairman Murante, my name is Mike Jones, M-i-k-e J-o-n-e-s. It's a pleasure to be here today to address the committee. I served at the Nebraska State Patrol for 27.5 years. I retired in 2005 as the troop area commander in Omaha. The past 9.5 years, I've served as the chief deputy for the Sarpy County Sheriff's Office under Sheriff Jeff Davis. I retired from that position in 2000...at the end of 2014 and I'm currently the director of corrections for Sarpy County. I've known Brad Rice for over 30 years. I know him on both a personal and professional level. I'm also blessed to call him a friend. Brad Rice was a sergeant under my supervision and also was a lieutenant when I was the troop area commander in Omaha. When he was promoted to troop commander in Norfolk, I was extremely proud that one of my officers had been given that promotion. We work closely with other captains throughout the state to help the Patrol function in a more efficient manner. General Colin Powell, a former U.S. Secretary of State and Chairman of Joint Chiefs, is widely recognized as one of the most premier leaders of our time. He often speaks of some leadership principles he calls leadership primers. Brad Rice possesses many of those traits that Colin Powell talks about. One of Powell's lessons says, and I'm quoting, being responsible sometimes means pissing people off. Good leadership involves responsibility to the welfare of the group, which means that some people get angry at your actions and decisions. If you're honorable, it's inevitable. Trying to get everyone to like you is a sign of mediocrity. You'll avoid the tough decisions. In my time as a supervisor and as his peer, never once did I see Brad Rice balk at making a tough decision. Time and time again, his leadership proved to be honorable. In another lesson Colin Powell teaches us, the day the soldiers stop bringing you their problems is the day you have stopped leading them, they have either lost confidence that you can help them or conclude that you don't care, either case is a failure of leadership. Real leaders make themselves accessible. They show concern for the effort and challenges faced by subordinates, even as they demand high standards. Been referred to already today from Senator Larson, one of the hallmarks of Brad's supervisory styles is his willingness to set aside time to be available on a personal level for his troops. His ability to mentor his

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subordinates has led to a progression of Patrol supervisors who care deeply about their people. This is extremely important to the agency. General Powell also tells us that perpetual optimism is a force multiplier. The ripple effect of a leader's enthusiasm and optimism is awesome. Brad Rice possesses the ability to see the good in everything and every person. I'm certain this comes from his deep spiritual faith. He has demonstrated his leadership ability in the aftermath of the Norfolk bank robbery in 2002, the tragic deaths of five citizens. And the death of one of his own troopers a few days later caused much turmoil in his troop area. His leadership and his credibility with those people kept a grim situation from deteriorating further. Brad Rice has had a distinguished career with the Nebraska State Patrol and his leadership abilities are recognized by this Governor. I urge you to vote for his confirmation. Thank you for your time.  
[CONFIRMATION]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciated. We remain on proponent testimony. Welcome to the Government Committee. [CONFIRMATION]

KEVIN STUKENHOLTZ: Good afternoon, Mr. Chairman. Members, my name is Kevin Stukenholtz, K-e-v-i-n S-t-u-k-e-n-h-o-l-t-z. I'm a retired captain with the Nebraska State Patrol after 27 years, currently the sheriff in Saunders County. I've known Brad Rice for his entire career. After his retirement, he worked for me at the Saunders County Sheriff's Office as a part-time deputy prior to taking the job at the 911 center. I have always found him to be a person of high integrity and moral character, fair-minded, and a conscientious public servant. These characteristics were verified when he was a troop commander in Norfolk during the time of the robbery and the subsequent suicide of one of our employees. That's already been mentioned here. His leadership and ability to work with "multiagencies" during this difficult time and to lead his troop area out of that crisis is commendable. An individual's character and integrity is measured during difficult times. Brad Rice demonstrated his high character during the Norfolk crisis and he again demonstrated the same character when he was attacked personally in the media and continued to do his job in a professional manner, taking the high road. Unfortunately, some people have chosen to use this appointment to revisit some old political battles. I believe Brad Rice has all the skills and abilities necessary to lead and direct the Nebraska State Patrol. I believe Brad Rice will continue to do the right thing for the right reason. Thank you, and I'll answer any questions at this time. [CONFIRMATION]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. [CONFIRMATION]

KEVIN STUKENHOLTZ: Thank you. [CONFIRMATION]

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SENATOR MURANTE: Are there any additional proponents wishing to speak on behalf of the appointment of Bradley Rice? Seeing none, is there opposition testimony? And welcome to the Government, Military and Veterans Affairs Committee. [CONFIRMATION]

VINCENT VALENTINO: (Exhibits 4-6) Thank you. My name is Vince Valentino. I'm a lawyer here in Lincoln, Nebraska. I was elected county attorney in 1976. I've been practicing law for 41 years. I'm currently in private practice and also work for the Nebraska Governmental Risk Management Association. But I'm here in my individual capacity because I tried the case in the United State District Court in 2007, in May, that involved certain individuals who had discriminated against my client, Carla Schreiber, who is now a lieutenant with the Nebraska State Patrol. I come before you not to denigrate the career of a longtime trooper. Bradley Rice, as far as I'm concerned, qualifications and backgroundwise, for his agency did a wonderful job as a trooper. My appearance here is...I think it's important to give you a perspective of what a head of an agency needs to be. Leading by example is something that I hear all the time as a motto of the Nebraska State Patrol. I represented the State Troopers Association and the State Law Enforcement Bargaining Council for...well, since 1970...or 1993 until 2010. One of the things that I've provided to you are the statistics that were presented in 2007 of the Nebraska State Patrol. On page 2 of the Soto report, which is not the EEOP report that you have in front of you, on page 2 are the actual statistics of the promotions that were going on in the Nebraska State Patrol for female troopers. It was 4 percent, compared to Lincoln and Omaha which were three to four to five times higher. If you look at the EEOP report that's in 2014, I can tell you those statistics have not improved. They're worse than they ever were, even in 2007. It wasn't until Carla Schreiber broke the glass ceiling in the Nebraska State Patrol by actually having a jury award her damages for the discrimination that had occurred to you...to her on five different promotional panels, three of which Captain Rice at that time sat on, that we thought maybe we had broken the agency's mind-set toward minorities and females in particular. The statistics unfortunately are worse now than they were before. My guess is whatever troopers you folks may have talked to are probably male troopers. I don't think you maybe have discussed with female troopers some of the roles that they've been assigned to or that they've had to serve or the opportunity that they've missed or the classes that they haven't been able to attend that they've put in for. I can tell you that, and this was not Captain Rice, I can tell you that this is the type of conduct that some of the female troopers, one of them in particular that I took to the agency, this statue of a female trooper on a bicycle and it says, "Tag, you're it," was found on a supervisor's table. [CONFIRMATION]

SENATOR MURANTE: Do you have copies of that we may distribute? [CONFIRMATION]

VINCENT VALENTINO: I'll provide you with the two that I copied off my printer this morning that I had. I took that to the agency head about four years ago, maybe not quite. At that time, it was a different colonel than Dave Sankey. He was his predecessor. And I asked him, do you



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condone this kind of behavior after we've tried Carla's case? And he said, absolutely not. Nothing happened as a result of the investigation of this. In fact, the woman that I've represented was told by her captain at that time, well, you're really hypersensitive, maybe you need to see a psychologist or a psychiatrist to help you. Folks, there has been a mind-set in this agency for a long time. I have no opposition to Brad Rice as a person. I think he's a man of integrity. But I can tell you that he's part of a system that has been in this agency for 80 years. You don't find too many minorities in this agency, you don't find too many females in this agency, and there's a reason for that and they don't last that long either. Jane Tooley is an exception. I've known Jane for a long time, wonderful, wonderful person, great trooper. But she is one person. And they're all retired that show up here. They're not the people that are active that have to put up with some of this stuff. That said,... [CONFIRMATION]

SENATOR MURANTE: Okay, your red light is on. Let's see if there are any questions from the committee. [CONFIRMATION]

VINCENT VALENTINO: I'm sorry my red light came on. [CONFIRMATION]

SENATOR MURANTE: Senator Larson. [CONFIRMATION]

SENATOR LARSON: Thank you, Mr... [CONFIRMATION]

VINCENT VALENTINO: Valentino. [CONFIRMATION]

SENATOR LARSON: ...Valentino. You know, I appreciate your defense of...you know, in your...in what you...the pictures you hand out in your defense of what you believe, may or may not have happened. My question is just kind of to follow your train of thought. Do you think, you know, because, you know, your very strongly defending one thing, do you think a trooper should be able to make, you know, comments in support of the Ku Klux Klan or a be affiliated with that and be part of the State Troopers as well? [CONFIRMATION]

VINCENT VALENTINO: I defended a man that was accused of that. In fact, that case was actually petitioned to the United States Supreme Court on a First Amendment issue. In 1954, as a matter of fact, the court had actually taken up a case involving the oath on communism. [CONFIRMATION]

SENATOR LARSON: I'm familiar and that's why I'm asking you. I'm reading your comments and that's kind of where I'm going with here because you have such a strong defense in one side but I then read your comments that, you know, that is acceptable, that...especially with what

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we're seeing today in terms of police brutality and race riots, you say that he should be openly...and I understand the free speech argument and I am a true believer in the free speech, in the First Amendment. [CONFIRMATION]

VINCENT VALENTINO: As I am. [CONFIRMATION]

SENATOR LARSON: But the...to...I just feel there's a little bit of disingenuous behavior when you comment over here yet you're saying over here that a trooper and officer should...you know, that that's completely okay, that they could be a member of a Ku Klux Klan and that they should have the ability to be affiliated with them, because we are...they are about public safety. And obviously, like I said, we've seen a number of issues arise lately about, you know, problems within the police force. And I...certain police forces, not Nebraska. These have all happened in other places. But this is something that we have to be aware of. And like I said, I just feel a little disingenuous in how you attack and how Mr. Rice handled the situation but you're on the record saying things like that. So I appreciate your... [CONFIRMATION]

VINCENT VALENTINO: Well, lawyers... [CONFIRMATION]

SENATOR LARSON: I appreciate it but just wanted to be clear. [CONFIRMATION]

VINCENT VALENTINO: Lawyers wear different hats, as you're well aware, when they defend union members. [CONFIRMATION]

SENATOR LARSON: I under...like I said, I understand, but you're...I have you on the record and I appreciate that. [CONFIRMATION]

VINCENT VALENTINO: That's fine, thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you. Thank you, Senator Larson. And I have kind of a question based on your testimony because it was interesting in that it would appear that you're here in opposition not based on Bradley Rice--as a matter of fact, you went out of your way to say that he was...did a very good job in what he did--but that there is...and I guess you said... [CONFIRMATION]

VINCENT VALENTINO: Except on promotions. [CONFIRMATION]

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SENATOR MURANTE: Except...okay, except on promotions, but that there is an 80-year tradition, as you stated, of gender discrimination. I'll use... [CONFIRMATION]

VINCENT VALENTINO: Not friendly to female or minority officers, they don't recruit them, they don't promote them, they certainly don't nurture them. [CONFIRMATION]

SENATOR MURANTE: Okay. [CONFIRMATION]

VINCENT VALENTINO: And I mean it's not a diverse agency. The statistics don't lie. They're there. [CONFIRMATION]

SENATOR MURANTE: Sure. But what's the logical conclusion then, that we just can't...whoever the next colonel of the State Patrol is just can't be a Nebraskan? [CONFIRMATION]

VINCENT VALENTINO: No. What my sense is, is if I'd heard somebody come in here and say to you as an agency head, I will allow female and minority officers to choose their duty stations, so we have an open ability to create an environment that we welcome minorities and female officers in this agency and we will give them a privilege and a priority to placement of duty stations that are user friendly to them. I've had black troopers tell me that when they've stopped white people that they were told that, there's no black troopers in this agency, why are you out here arresting me? That's the perception of the Nebraskans, unfortunately. That man left after ten years. He had been in the Air Force, career Air Force. He said, I'm not going to do this anymore. [CONFIRMATION]

SENATOR MURANTE: But we're back talking about problems that exist in the Nebraska State Patrol. [CONFIRMATION]

VINCENT VALENTINO: Correct. [CONFIRMATION]

SENATOR MURANTE: The issue...we're not...the issue before us is not a reform package of the Nebraska State Patrol, it's whether or not to confirm a gubernatorial appointment. So I agree with you, the statistics are problematic. [CONFIRMATION]

VINCENT VALENTINO: They can be improved. [CONFIRMATION]

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SENATOR MURANTE: And they can be improved. And from what it's...the...  
[CONFIRMATION]

VINCENT VALENTINO: The question is, do you go outside the agency to do it?  
[CONFIRMATION]

SENATOR MURANTE: And I... [CONFIRMATION]

VINCENT VALENTINO: My suggestion is, yes. [CONFIRMATION]

SENATOR MURANTE: Okay. Senator Groene. [CONFIRMATION]

SENATOR GROENE: Thank you, Chairman. You're talking about hearsay. How many complaints have there been besides the client that you've...that's been through the department complains about misuse, abuse, being overlooked, discrimination? How many actual filed complaints have there been? [CONFIRMATION]

VINCENT VALENTINO: I had five female troopers actually testify in this case and the jury...  
[CONFIRMATION]

SENATOR GROENE: Did the... [CONFIRMATION]

VINCENT VALENTINO: A jury of 12 people believed every one of them. [CONFIRMATION]

SENATOR GROENE: Did those five file complaints like your... [CONFIRMATION]

VINCENT VALENTINO: No, they testified to the same treatment that they had received.  
[CONFIRMATION]

SENATOR GROENE: And then... [CONFIRMATION]

VINCENT VALENTINO: There is retaliation that goes on. That was the other thing that the jury found was retaliation for filing the complaint. [CONFIRMATION]

SENATOR GROENE: And another question. There's a class of 100. Is there any evidence that they have 20 female and 10 black and 70 applicants of white males that the whites are favored in

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the choosing of those who makes it into the class of 30? Is...has there ever been any evidence of that? [CONFIRMATION]

VINCENT VALENTINO: Never had a complaint filed by an individual who was excluded from the class. No one ever contacted me. That doesn't mean it didn't happen. [CONFIRMATION]

SENATOR GROENE: So when you say they don't recruit, is it the responsibility of the... [CONFIRMATION]

VINCENT VALENTINO: Well, there's a way to recruit. [CONFIRMATION]

SENATOR GROENE: ...department to recruit or is it to put an ad out saying that we're looking for 100 applicants? [CONFIRMATION]

VINCENT VALENTINO: Oh, absolutely. Well, Brad Rice mentioned that they have job fairs. One of those job fairs ought to be, we will allow you a duty station, we will put you at a duty station that's close to your family or your husband or your community. That was nixed about nine or ten years ago. Colonel Nesbitt was the one who had originally implemented that. Some of these very captains that have come in and testified were absolutely opposed to that. They didn't want to have that happen because that was favoritism. They just wanted to be able to draw them out of a hat and pick the duty stations that way. There's a way you can...the agency can be female and minority friendly without doing that. [CONFIRMATION]

SENATOR GROENE: But the existing officers, no matter what their race or sex, were under that same...they got assigned by whatever the...they weren't favored by saying, you grew up in this North Platte and you can be stationed in North Platte. So nobody was treated special; everybody was treated the same. [CONFIRMATION]

VINCENT VALENTINO: Now? [CONFIRMATION]

SENATOR GROENE: Yeah, you were... [CONFIRMATION]

VINCENT VALENTINO: I don't...I can't tell you what they're doing now. I know...I can pretty much tell you that it's not by... [CONFIRMATION]

SENATOR GROENE: Who you station, it's by... [CONFIRMATION]

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VINCENT VALENTINO: ...we choose we're going to put you in this duty station because you've chosen it and you're one of our females and our minorities that we're going to lose if we don't give you a duty station that is in your hometown, it's with your spouse, with your children. You follow what I'm saying? [CONFIRMATION]

SENATOR GROENE: But there is no evidence now that, no matter what race or sex, that somebody is allowed to do that? [CONFIRMATION]

VINCENT VALENTINO: I haven't represented the union for... [CONFIRMATION]

SENATOR GROENE: So they treat...everybody is treated equally. [CONFIRMATION]

VINCENT VALENTINO: I can't tell you that because I haven't represented the agency...the union for five years. [CONFIRMATION]

SENATOR GROENE: Well, you would recommend to the agency they do that, but they have not given a duty station because of somebody's race or sex and then favored somebody else and said, you can have a duty station. That has not happened. [CONFIRMATION]

VINCENT VALENTINO: That I can't tell you. [CONFIRMATION]

SENATOR GROENE: All right. [CONFIRMATION]

VINCENT VALENTINO: I know what the past history has been. I know what was and I know what was done and what was stopped being done. [CONFIRMATION]

SENATOR GROENE: I just wanted to clarify that, that that was no favoritism in the past. [CONFIRMATION]

VINCENT VALENTINO: Sure. [CONFIRMATION]

SENATOR GROENE: Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Groene. Senator Bloomfield. [CONFIRMATION]

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SENATOR BLOOMFIELD: Thank you, Chair. Is it your belief, being as we have such a minority participation between females, that a less qualified female should take the appointment over a more qualified male? [CONFIRMATION]

VINCENT VALENTINO: I think that if they all pass the training test that they should all be treated the same... [CONFIRMATION]

SENATOR BLOOMFIELD: So if... [CONFIRMATION]

VINCENT VALENTINO: ...whether it's promotions, whether it's schools that they're allowed to attend. I would be hard pressed if Superintendent Rice could recall one female that went to the same class that he did at Northwest Academy or even the FBI Quantico school. [CONFIRMATION]

SENATOR BLOOMFIELD: Would your belief be that if a male were to pass with, say, a 90th percentile and a female passed with 75 percent, they both passed, the female should be given the position? [CONFIRMATION]

VINCENT VALENTINO: If she's qualified for it...just because there's a test, I mean, not everybody performs well on tests. [CONFIRMATION]

SENATOR BLOOMFIELD: Even if the male candidate is more qualified or better qualified? [CONFIRMATION]

VINCENT VALENTINO: I had a female that tested...I had a female that was number one on her test and couldn't get anywhere in the promotional process, anywhere. [CONFIRMATION]

SENATOR BLOOMFIELD: You still didn't answer my question. [CONFIRMATION]

VINCENT VALENTINO: Go ahead. I'm sorry. I didn't mean to avoid you. [CONFIRMATION]

SENATOR BLOOMFIELD: If the male is more qualified and the female is qualified but not to the same degree, do you believe that the female should get that position? [CONFIRMATION]

VINCENT VALENTINO: Absolutely. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you. [CONFIRMATION]

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SENATOR MURANTE: Okay. Any additional questions? Seeing none, thank you very much for your testimony. [CONFIRMATION]

VINCENT VALENTINO: You bet. Thank you. [CONFIRMATION]

SENATOR MURANTE: Is there additional opposition testimony to the appointment of Bradley Rice? Seeing none, Mr. Rice, you are afforded a closing. [CONFIRMATION]

BRADLEY RICE: I want to express my appreciation to the committee for allowing me to come testify and I just want to close by saying I appreciate your support. Thank you.  
[CONFIRMATION]

SENATOR MURANTE: Okay. Thank you very much. And with that, we close the hearing on Bradley Rice's appointment to the Nebraska State Patrol. And that ends our hearings for the day, so thank you everyone for coming down. [CONFIRMATION]