

are used, for example at a hospital may have been approved. They may be set. Now whether or not those methods or standards were followed is another issue and what we're saying is as long as the arresting officer gets that test done within that 90 minute window, as long as that is done then that test is valid no matter what, no matter what takes place, that presumption is there that it is an accurate test. There is no ability for rebuttal on the part of the defendant. They have to basically just take it as fact and, yeah, you can argue that it is rebuttable but it's one of those legal fictions that we like to talk about from time to time. There is no rebutting a statute in effect. All we do here is take that out of the amendment to LB 291 because really, ladies and gentlemen, you know I stated earlier in the discussion of the other amendment that in Douglas County alone, in Douglas County alone there is a 97 percent conviction rate, a 97 percent conviction rate. That means three out of a hundred, 30 out of 1,000, 30 out of a 1,000 and if there are in Douglas County as Senator Haberman stated, 3,828 convictions of LWI, what is that? Ninety, a little over ninety, 120? One hundred twenty individuals out of 3,828 are not convicted of DWI for one reason or another. Everything from the fact that they were innocent to some other issue that cannot be proved by the prosecution. What you're doing here is again turning the system on its head. You're saying that the test, as long as it's administered within this window of time, why not say 30 minutes? Why not say 15 minutes? Why not say 5 minutes? Senator Kristensen argues that well, three hours is what was wanted. Well, ladies and gentlemen, I mean with the ALR proceeding the whole issue here is...been turned around from being innocent to being guilty and you say, well, no, that's not the case, you've got the administrative hearing process, you can work through that system but yet you go about saying that the one thing that could very well prove faulty, and I'll tell you, ladies and gentlemen, you take something to the lab, the state lab, you have it tested. You take another test to a different lab, you have it tested independently, you're going to come up in many cases, in virtually all cases with some discrepancy. Now whether that discrepancy is enough to determine guilt or innocence, whether you have met that threshold of blood alcohol level or not is up for grabs, but with this amendment someone could take the test as long as it's done within 90 minutes, whatever it shows is presumed to be accurate. Even though after that time period you could take that same blood, not a new withdrawal of blood from the individual, but the same sample and request, unless they took it out of this bill and I didn't