

done within that time frame. That goes well beyond what current law is all about, well beyond that. There is no burden on the part of the prosecution to make that case at that point. It, in effect, becomes fact. It's a factual question that no longer has any opportunity to be answered as long as it's within the 90 minute time frame. What you say is that that is accurate and, folks, I guarantee you if you go out and you test blood from one, whether it be the state lab, and I'm not impugning the state lab, they do a good job. It's just that from one lab to another lab, depending on the methods that they use and there are a number of different types of methods that can be approved by the Department of Health, the standards with regard to the testing that is done, the way that it is done with regard to the expertise and the conditions under which it is done, they vary greatly from laboratory to laboratory, from technician to technician. They can vary as much as much as .05 percent and they have. They have made all the difference in the world with regard to whether someone is legally over the threshold or not but yet, if it is done within 90 minutes, that is not a question any longer. It is presumed to be accurate. That means that the burden is then on the defendant, the individual who is guilty, then charged anyway and in effect, guilty under this legislation to go forward and try to rebut that. And, yes, you could use that alternative test but the question is, in effect, gone after that 90 minute threshold is met and I guarantee you that this is more than just a technical issue with regard to the bill. It is something that needs to be discussed and you need to understand what the ramifications are. Mr. President, I'd yield the balance of my time to Senator Chambers.

SENATOR WARNER: Senator Chambers, if I could break in just a moment to introduce a guest of Senator Hillman, Mr. Bob Wentz of Scottsbluff, seated under the south balcony. Mr. Wentz, if you would stand so the Legislature could recognize you. Senator Chambers, you have a minute and a half left of Senator Hall's time and then we can go to your time.

SENATOR CHAMBERS: Thank you, Mr. Chairman, and members of the Legislature, I would like to begin by asking Senator Kristensen a question. Senator Kristensen, why was this presumption placed in the law?

SENATOR KRISTENSEN: I proposed to put the presumption in there to aid in prosecutions. If you'd like me to elaborate, I will.