

result of any test administered within ninety minutes after the termination of the operation or actual physical control of a motor vehicle shall be presumed to accurately reflect the alcohol concentration or the presence of drugs in the blood, breath, or urine tested at the time such operation or actual physical control terminated if the test is administered in accordance with the methods approved by the Department of Health. What the Hall amendment would do, the amendment that I am carrying here, is strike that language. I think it is important when we start debating this issue, I can't speak for Senator Hall, but I know for myself I want to get LB 291 in a position where I can vote for it because I think that there are elements in 291 that are good, that are responsible ways to address the problem of drunk driving, and there is not a person on this floor that is in favor of drunk driving. The only disagreements we have are the methods that the state can use to combat it, and in attempting to get the bill in that shape, this is an amendment that I think is important to adopt. This is an important part of the committee amendment. This is a major change. We are presuming that a blood alcohol test is accurate. This, in essence, is taking the level playing field and giving the prosecution a leg up, and it is fine. We want to go after drunk drivers. We don't want to impede the ability to prosecute drunk drivers, but I think we are starting down a dangerous path when we are starting to build presumptions into the law about test results. This is a fact matter that is better decided by a judge, by a jury, rather than having a presumption built into law that a test result is accurate. We heard yesterday during the debate about how irregularities can occur within tests, about how there can be procedural things that go wrong that taint the results of a test. Now Senator Kristensen will come back and tell you, well, the presumption is rebuttable, and you can come in and you can present those irregularities in a trial, but the fact of the matter is that when you have that presumption built in, you are starting off with an unfair advantage being given to the prosecution, and this is an unfair advantage in an area where you heard yesterday also that the conviction rate is somewhere in the range of 97 percent. So why is this needed? It is not. This is not anything that can be used to better combat drunk drivers. This is a presumption that is built in. It is a prosecutor's tool. Senator Kristensen will talk about how we are trying to confuse you, and that is what defense attorneys do and that is what the people that are against this bill, or against...or in favor of some of these amendments are doing on the floor of the Legislature. I would