

SENATOR HOAGLAND: Mr. Speaker and colleagues, I think Senator Kahle's comments really hit the nail on the head as far as my concerns with Senator Chambers' bill are concerned. Since I filed this amendment I have received a letter from Colonel Kohmetscher of the state patrol and I assume some of the others of you have also and Colonel Kohmetscher expresses concerns about this particular section that I am moving to have stricken and the previous section in the bill and frankly, what I am most worried about as far as Senator Chambers' bill is concerned is that it is going to make it considerably more difficult to convict people in the State of Nebraska of speeding, using radar devices, particularly as Senator Kahle has indicated in the rural areas where there is really heavy traffic and where radar is not as useful. Now I can sympathize Senator Chambers' due process concerns about people charged with speeding but I guess my own feeling about that is that while in more serious offenses, felony offenses and capital offenses, we need to be very concerned about due process violations. I'm not quite as concerned in a very minor offense like speeding where we lose so many lives annually because of the reckless use of automobiles on the highway whether the people are intoxicated or whether they are not and I would just hate to see this Legislature pass a bill which would, it seems to me, make two mistakes. First of all, take away from the courts their ability to set down the standards by which radar ought to be used and we are doing that in this bill. We are telling the courts that before a state patrol officer can convict somebody of speeding using radar, he has got to testify to all these specific things and it seems to me the courts are able to impose whatever due process requirements it thinks are appropriate. And my second concern is that by laying down all these criteria that have to be proven in court at a speeding trial before somebody can get convicted, the simple fact of the matter is we're making it a lot tougher to convict people and that in turn is going to encourage more people to speed if they want, particularly as Senator Kahle indicates in high truck traffic volume areas around the interstate around Omaha where radar is of less use anyway. So coming back to the specific issue here, I think it is too burdensome to require a state trooper to testify at a trial under oath that he has made an independent judgment to somebody's speeding before he has used that radar device. If you are going to require him to testify to that in some instances you are going to be requiring him to fabricate testimony because that is simply not going to be the case and the bottom line, it is just going to be tougher to get speeding convictions and it seems to me, if anything, we ought to make it easier to get speeding convictions even if occasionally the radar is faulty and even if occasionally we're convicting the wrong person because it is going to have