

correct and that was the statement that if you did not file that criminal penalties would, in all events, be assessed. And maybe Senator Hall didn't mean to leave that impression with you but I want to rise and dispel that impression if you have it, because, first of all, as I see the system, you have at least two levels of discretion. One is the county assessor who may or may not report a potential offense to the county attorney's office. You have one level of discretion there. You have a second level of discretion once the matter comes to the county attorney's office. Remember, that the standard in the statute is willful or fraudulent. It has nothing to do with impossibility or other circumstances that might have made it impracticable for you to file. And I don't know a county attorney across the State of Nebraska that would file under circumstances where you could come in as a defense and, for example, show that you were in your hospital bed. That will not happen. Nor do I think the county assessors would be so cold-hearted as to even report that kind of an incident to the county attorneys. I simply want to make the point that you have at least two levels of discretion. It is not a hard and bright line as you may have had the impression that it is. The system that we currently have in place in addition gives the county boards discretion as to what you might consider to be the civil penalties and I have every confidence that those county boards will be able to exercise that discretion carefully. Senator Warner made an absolutely valid point about the burden that will be on the honest persons if we allow a loophole in the system and do not maintain any penalties for failure to file. I cannot see how we should be in a position to, in effect, penalize the honest people and reward those who are able and willing to take advantage of every loophole or opportunity to evade.

SPEAKER BAACK: Thank you, Senator Wickersham. Senator Hall.

SENATOR HALL: Thank you, Mr. Speaker, and members, and I appreciate Senator Wickersham's remarks but I have to disagree with him in terms of the issue of whether or not the penalty exists. And the penalty exists, whether there is discretion or not is not the issue. The issue is, is the penalty there and can it be invoked? And the answer to that is yes. And that's what Senator Schmit's amendment does. It strikes it, otherwise there wouldn't be a need for the amendment if it didn't exist. We build in safeguards but let me tell you, Senator Wickersham, about two or three years ago one would think that...and I would tend to trust the county board, but we had folks who were...had