

in some of the floor debate. It really is a shift back to the courts, to let them have the hammer and authority and power to ultimately decide where these children go to. By doing so, I think, number one, you're placing unconstitutional authority into the judicial system; and, secondly, you're opening up the state pursestrings without any real restraint whatsoever. But, if there is room for compromise, and I think there is, this starts us down that road with Senator Smith's amendment, recognizes at least that the review ought to be conducted by an independent panel, not by judges reviewing a judicial decision, which clearly would seem to not be a very fair review. But the problem that remains with this is how the whole system is set up and how it completely, again, sets it up to make the courts the last authority on these decisions. And, if you look at the one handout I have, it indicates that the review panel has to... is tied by what they can decide to having an overwhelming preponderance of the evidence against the court and in favor of the state department's position in order to overrule a judicial decision. If you're going to be fair, you're going to have to deal with that issue as well, and also the time constraints and other problems. This bill is filled with different pitfalls and problems that simply are going to take some time to resolve. I will support the Smith amendment. We won't have further time to further amend the bill. I would still oppose the bill, but at least we can start talking about some solutions if we can at least acknowledge this much. I don't know how the supporters of this bill are going to respond to this. I've been told privately that they will oppose it. If the supporters of the bill oppose this amendment, what they're saying is clear and loud and unmistakable that they're really not interested in a fair, and open, and impartial review on behalf of these children. What they're looking for is to give back the power, in these instances, to the judicial system and the judges and the courts and take it away from the Department of Social Services, and I think that is a mistake. In fairness, what we ought to do is recognize both courts and the department have made mistakes on occasion, hopefully, not very often, but in those few times that it has occurred we're all concerned and upset by that. But certainly the current system would need further review after the Smith amendment. But I'm willing to adopt it and work toward what she is trying to do, which I think is a very reasonable attempt to reach a compromise between these two warring factions.

SPEAKER BARRETT: Senator Bernard-Stevens.