I am so thankful that the President recognizes his ability to take a look at what is going on here and say, ''I don't like it.'' That is what he said. He doesn't like it and 46 of us over here, we don't like it either.

Because of that, we are in the position we are now in. No one is being humiliated. The word was used twice by the Senator from Pennsylvania. But, no one is being humiliated. The Constitution has been in effect for over 200 years. The President has an absolute right to do what he has done. If, in fact, the majority does not think the President will veto these bills, send them down and we will find out.

The problem is really that the bills are unfair. We have had very little input. We will let the American people decide who is right, whether President Clinton is right in doing what he is doing or the Republicans are right, doing what they are doing. I think the American people will resoundingly proclaim that what has gone on over here has been not only procedurally unfair, it has been substantively unfair.

I also say, using Nevada as a State that doesn't need help—no one is asking that local control of schools be taken away. This is something the majority always uses. Only about 7 percent of what any school district in America gets comes from Washington. There is not a person on the Democratic side who says they want to take control away from local schools. We are saying that schools need some help in helping pay the interest on the bonds. The illustration I used was that the State of Nevada spends $112 million in interest without paying a single penny on the principal. We are a small State, 2 million people. His State is 12 million people. We believe the people of America realize the school problems we have, the education problems in America are national in scope and Congress has to take a look at some of the national problems. Schools are crumbling, classes are too large, too many kids are dropping out of school. The solution the majority has is to take control away from public schools and put all the money in private schools; do what you can to damage and destroy public schools. We are not willing to do that. We believe that because the vast majority, in fact almost 95 percent, of kids go to public schools, we should do what we can to improve public schools.

Again, I think the Senator from Pennsylvania does an excellent job as chairman of that subcommittee. I understand his frustration. A lot of the control has been taken away from the subcommittee chairs and ranking members in these last days of Congress. The majority leadership is calling a lot of the shots. That is what we read about. The Democrats can only read about it because we are not in many of these negotiations. But the Senator's frustration does not take away from the fact that the President of the United States has done the right thing in saying Congress should be working this weekend, every day, until Congress completes it work.

The PRESIDING OFFICER. The Senator from Louisiana.

TAX CREDIT FOR SPECIAL NEEDS ADOPTIONS

Ms. LANDRIEU. Mr. President, I would like to begin by commending the Senator from Nevada for his remarks, and to say that I agree with him and urge the President to veto the upcoming tax package. As written, the tax bill allocates tax breaks and tax benefits to many different interests and entities throughout America. While there are some good provisions in this bill, it could be more fair, more just and could give greater tax relief to those who need it the most. As it stands know, the package fails to demonstrate our commitment to many of the principles that we claim to stand for here on this floor.

That is why I have come to this floor a number of times over the last couple of days, to just raise awareness about one small, but I think very important, part of the tax bill. I am happy to note that yesterday our majority leader, the Senator from Mississippi, Mr. LOTT, and one of the leaders on this issue, our colleague from Idaho, Senator CRAIG, came to the floor and recognized that there had been, perhaps, a mistake made or a phrase not included, that if left out, could have some dire consequences for some of the children in this Nation—quite a large group, I might add, about 100,000 of them and potentially several hundred thousand more—who are really the most vulnerable among us.

These are children who no longer have parents. They are the orphans of living, if you will. They are the children who are in foster care. These are the children who have already been abandoned once by an adult who was supposed to be taking care of them.

I say to the Members on this floor—I see my good friend, Senator GRASSLEY, who has been an outspoken advocate on this issue—that we have the opportunity because when this bill is presented to the President, he has said he will veto it because it is not distributing these benefits as equally across the board as they should be. I am hoping we can come to a bipartisan agreement, with Republicans and Democrats and the President himself, to fix what is missing in this tax credit.

Let me explain a little bit about that. In 1996, there was for the first time a credit put in our Tax Code to advance adoption. I am the proud mother of two adopted children. They have brought my husband and me the greatest joy. In fact, when he was 5 years old my husband was adopted from an orphanage in Ireland. We talk publicly about the great joy of adoption. We want people to know it is a wonderful way to build a family.

There are Members in this Senate, Republicans and Democrats, who have adopted children and who speak regularly about the choice of building families through adoption. The benefits to a birth mother, the benefits to the adoptive family, and most certainly the benefits to children, young and old. Some people think you don't need a family when you are 18, you just sort of age out of the system and with a good education and diploma in your hand you can go on.

I am 45. I am looking forward to going home to Thanksgiving dinner with my mother and father. My husband is 50. He is looking forward to going home for Christmas with his family. You are never too old to need a mother and father, and that is what this is about, changing attitudes in America to say every child deserves a family.

We have a provision in this bill that is a good provision in that it proposes to increase and extend this very important adoption tax credit. It is now $5,000. In this bill, it would be doubled from $5,000 to $10,000 for adoptions because, as we all know, the expense associated with adoption can be high. There are legal expenses. There are expenses associated with home study, agency fees. In fact, those expenses can range anywhere from a low of $2,000 to a high of $30,000, depending on what agencies you use or whether you are going through a domestic or an international adoption.

So far all is good because we have a tax credit in place and we are about ready to double it. It could not be at a better time because the number of adoptions are up in America. Last year we had 130,000 adoptions, 130,000 families. That is a lot of people affected, if you think about happy grandmothers and grandfathers and aunts and uncles and siblings. It is quite a number of happy Americans whose lives were made better through adoption.

But there is a problem. I have tried to keep raising this issue until it is fixed. In the current bill, although the special needs adoption is being doubled to $12,000, this Treasury report which was issued this month and other letters and reports that have been written over the last several years, have indicated that the credit is not working for the special needs children. Because of the language in the law, not—let me underline ''not'' because of a wrong interpretation by IRS—but because of our inability to write the proper phrase in the law—either our inability or our unwillingness—the tax credit is related to adoption-related expenses. We need to remove that phrase so the act of adoption itself of special needs children can get the credit.

I wish to show you pictures of a couple of the children who are going to be left out if we do not make this fix. There are 100,000 children in foster care. Jennifer is one of them. Because Jennifer has been in foster care for some time, her adoption will not be handled by a private agency. Her adoption, if a family would come forward to

adopt her—and as you can see she is a beautiful and lovely child—if someone would come forward to adopt Jennifer, they would probably go through a public agency.

There would be minimum home study expenses. The agency might actually pay for those.

There would really be no ''qualified adoption expenses'' because the public agency, wanting to have Jennifer adopted, would minimize the expenses to the adopting family. So this adoption could potentially go through with less than $1,000 of direct expenses to the family. Therefore, if a family adopted Jennifer, the expenses they had would not qualify for a $5,000 tax credit or for a $10,000 tax credit because they do not fit into the bill's definition. Yet adopting a child such as Jennifer can bring much added expense to a family, particularly a working family, a middle-class family, perhaps having children already of their own but thinking God would like them to make room in their homes for another child.

It is a tremendous financial responsibility, as all of us with children know, to raise a child. Much less, a child with special needs. A family who adopts a child with special needs does have additional expenses, they just are not covered under the very narrow definition of the code. Unless we change the law, they will not be able to get the tax credit. That is not what we intended.

They say Jennifer is very sweet and has a great sense of humor. She likes to play outside, ride bikes, and swim. She is a very active child. She has some emotional disorders. Anyone would have emotional disorders if they were abandoned as a baby, abused, and grossly neglected. These children need healing, and we need to do everything we can to support that.

This is Joshua and Jonathan. They are 5-year-old twins. As a sibling group, the hope is that they will be placed together. Therefore, a family who adopts them must have room in their hearts and homes for two children. Joshua is described as well-mannered, sneaky, and babyish. He enjoys school and its challenges. He has a nice smile and likes to cuddle. Jonathan is described as eager and easygoing. He likes to be helpful around the house. He likes talking about his feelings and explaining himself. Both are in excellent physical and mental condition. These are children we hope a family will identify and bring into their home and love.

There are many examples. If we do not fix the tax credit, the families who adopt Jennifer, Joshua, and Jonathan will not get the full benefit of the tax credit.

Some people have been critical about my passion with regard to this issue. They say: Senator, you shouldn't speak about it; at least the adoption credit is working for children from China, Honduras, and Guatemala. You know the desperate situation in those countries. Since this is the only form of financial assistance for families who want to adopt these kids, if it expires, they will be left with nothing.

Yes, I want this tax credit to work when families choose to adopt internationally, when families choose to adopt a domestic healthy infant, and when they choose to adopt perhaps an older child, a sibling group, and give these kids who have already been let down once a chance to come into a family. I am here today because I want the tax credit to be available for all families regardless of what type of adoption they pursue. Mr. President, as I am sure you are aware, their are many different types of adoptions, each with different costs, different processes, and different children. All I ask, is that we have a tax code that recognizes and appreciates those differences.

I believe there is consensus. There is an easy and relatively inexpensive way to fix this problem once and for all. That is why I am taking this time now to bring it to the attention of those who have the power to fix it at this late date, and hopefully we can.

Some say we should wait until next year to fix it. If we can fix it now, why take another year out of the lives of some of these children? Why not help parents now?

I will make one final point. The Senator from Iowa may be interested to know this. Yesterday, as I was on the floor speaking about this issue, the New York Times ran a full-length story about the problems with our foster care system. For the first time in our Nation's history, two girls in the foster care system and their attorneys successfully sued the Department of Social Services of Florida and received a judgment of $4.4 million.

The case was brought by an attorney who believed that the children had been shortchanged. These two beautiful little girls had been abandoned by their mother. They were left in a Miami park or public place when they were 2 or 3 years old. Instead of determining whether these children could ever be reunited with their mother, father, or some relative to make them safe, the Department of Social Services put them in foster care. Those little girls spent the next 14 years of their lives going from home to home, with 30 different placements. They were sexually molested and physically abused.

The court rightfully said the State of Florida now owes these two little girls 4.4 million dollars. There is a happy ending. They have subsequently been adopted by a wonderful family.

I am here to say we had better fix this tax credit because if this case goes forward—and I think it will—the taxpayers of the United States are going to pick up a far greater expense than perhaps providing a few thousand dollars to families willing to adopt these children.

Even if it is not the money, it is the justice and morality of this Nation, which is the strongest nation in the world. We do not have our strength represented by how high our stock market goes up. Our strength is represented by our willingness and ability to help kids and families, and if we cannot do this, then I do not know what we are doing here.

I yield back the remainder of my time. I thank Senator LOTT, Senator CRAIG, and Senator GRASSLEY for their great leadership in this area. I look forward to working with them on this project.

Mr. President, I ask unanimous consent to print the New York Times article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 27 2000]

FOSTER-CHILD ADVOCATES GAIN ALLIES IN INJURY LAWYERS

STATES FACE THE DUAL THREAT OF CLASS ACTIONS AND HUGE INDIVIDUAL DAMAGE AWARDS

(By Nina Bernstein)

The girls were 2 and 4 when their mother abandoned them near a city park in Miami in 1986. Under federal law, the Florida Department of Children and Family Services was supposed to place them for adoption or return them home within 18 months.

Instead, over the next 14 years the sisters were shuttled through more than 30 foster homes and institutions, beaten, raped and repeatedly separated from each other while a stream of caseworkers overlooked such obvious evidence of abuse as the diagnosis of syphilis in the older girl when she was 9.

The sisters' ordeal could have been just another horror story in a national litany of foster care abuses. But last year a Florida Circuit Court jury awarded them $4.4 million in damages from the state.

The case laid the groundwork for a new strategy in which advocacy groups for children and personal injury lawyers, some fresh from winning billions of dollars in legal settlements with the tobacco companies, are using the threat of multimillion dollar damage awards to try to change the deeply troubled foster care system.

In the past, individual damage suits for injured foster children were typically settled behind the scenes for small amounts. And efforts to win systemic changes through court orders have often been frustrated by failures of enforcement.

But court rulings that make government agencies easier to sue and sizable jury awards in foster care cases like the one in Florida have encouraged advocates for foster children and personal injury lawyers to join forces over the past few months in two-track litigation. Their lawsuits ask the courts to change the system, while separately seeking damages on behalf of children already harmed.

''This is for change, and to get the attention of the powers that be—any money will go to the kids,'' said Robert Montgomery, the lead counsel in the tobacco settlements in Florida and one of a dozen top trial lawyers who began working without pay on the foster care suits this summer.

The sisters' case was filed by Karen Gievers, who has a lead role in both the lawsuits for damages and the class action seeking changes in the Florida system.

Across the country, a similar pincer approach is typified by Tim Farris, a Bellingham, Wash., trial lawyer who has brought damage suits in state courts for 13 children shuttled from foster home to foster home in a total of 208 placements. The California-based National Center for Youth Law,

a nonprofit children's advocacy group, recently joined his effort to leverage those cases into a multi-million-dollar overhaul of the state's child welfare system.

''In my own small-town way I said, 'Look, you can move these children as often as you wish, but if you do, you're going to have to pay for the damages you do to them.'' Mr. Farris said, ''and it's going to be cheaper to treat them right.''

Few suggest this kind of litigation is a shortcut either to riches or to an overhaul of the state programs that are trying to care for 600,000 children outside their homes. State agencies typically can only be sued for compensation, not punitive damages, and they can make it daunting in time and money to unearth confidential records needed to prove a case and collect. The $4.4 million Florida verdict is on hold pending an appeal.

But at a time when child-friendly policies figure prominently in election campaigns, the political potency of such cases may outweigh the legal drawbacks, said John Coffee, a professor of law at Columbia University. ''Plaintiffs' lawyers have learned that the class action can be very, very useful when the state agency has some vulnerability,'' he said.

The vulnerability of government agencies has grown considerably in some states. Jeff Freimund, as assistant attorney general for Washington, said courts there had rejected legislative caps on negligence awards, and government payouts in civil cases in general have quadrupled in six years, to $38 million in the last three months alone.

''The courts have opened the door to litigation on child welfare activities,'' Mr. Freimund said. ''They're very difficult cases to defend in front of juries because juries often have the benefit of 20–20 hindsight.''

Some officials, including Kathleen A. Kearney, the secretary of the Florida Department of Children and Families, say such litigation unfairly detracts from continuing efforts to improve child welfare, diverting resources that legislatures, not courts, should control. But others, frustrated at the persistence of problems documented and denounced for 20 years, welcome the new strategy.

''Money talks, and money makes policy,'' said Jean Soliz, who headed Washington's Department of Social and Health Services for three years, until 1995. She recalled that state legislators made all the right speeches during her tenure, but put $30 million into a new sport stadium rather than provide court advocates or mental health care for Washington's 11,000 foster children. Today, fewer than half have an advocate in court proceedings, and more than a third have been moved through three or more foster homes, studies show.

''The torts give you leverage to make them take it seriously; the torts don't fix anything,'' said Ms. Soliz, who now directs the spending of a tobacco tax earmarked for children in Nevada County, Calif. She emphasizes the importance of enlisting national advocacy groups that can draw on lessons from court consent decrees they have won in suits against child welfare systems in at least 20 states.

Bill Grimm, a lawyer with the National Center for Youth Law, said groups like his had become more open to alliances with personal injury lawyers because conventional strategies had run into obstacles. While Congress has enacted tougher foster care requirements—foster care time limits, for example, are now set at a year rather than 18 months—federal judges in some states have recently made it harder for children to seek enforcement of those laws in federal court. Their rulings hold that Congressional requirements intended to protect foster children do not constitute rights.

We are at a bit of a crossroads,'' Mr. Grimm said.

Even in states already operating under sweeping settlements, damage suits are playing a more prominent role. In New York City, where an ambitious child welfare consent decree imposed a moratorium on new class-action lawsuits, the Administration for Children's Services has paid hundreds of thousands of dollars in settlements to fathers who were not notified that their children were in foster care. And city lawyers are negotiating to settle a multi-million-dollar lawsuit over a toddler who was beaten to death by foster parents with a known history of abuse.

But there are perils to trying to turn such cases into a broader crusade in the absence of national allies or deep pockets, said Lawrence Berlin, an Arizona lawyer who has won settlements averaging $250,000 for a dozen children sexually abused in foster care. His motion to turn the cases of some children into a more powerful class action was denied in federal court after six years of litigation that consumed his practice, he said. The state rejected his offer to settle for systemic changes.

''I'm not saying children haven't been abused,'' said Tom Prose, an assistant Arizona attorney general in charge of liability cases, who emphasized that the current administration had made child protection a top priority. ''The issue is, is it pervasive and are we ignoring it? And my answer to you is, in Arizona, it's neither.''

In Florida, where the number of children in foster care has nearly doubled since 1998, to 15,000, the class-action suit contends that foster children are now in greater danger of emotional and physical injury from the state than from the families from which they were taken.

''We had a toddler in a foster home so overcrowded the kid spent the weekend strapped into a car seat,'' said Marcia Robinson Lowry, the director of Children Rights, a national advocacy organization based in New York, which recently joined the Florida class action.

Among the companion damage suits in Florida are some that highlight the harm flowing from one bad foster home, that of a couple in Hillsborough County. After the couple were arrested in May on 40 felony charges of child abuse and neglect, it emerged that the state had entrusted them with 28 foster children over four years, even as caseworkers recorded their abusive practices.

''My brother has severe problems because of what happened in that home,'' said Ashley Rhodes-Courter, now 14, who entered foster care at 3 because of her mother's drug problems, and endured 14 placements. She was 7 and her brother 4 during their year in the couple's home.

''He was abused,'' she said. ''He had hot sauce put on his tongue; he was dunked in a bathtub until he was nearly drowned. It was very frightening to watch someone you love being mistreated and you being able to do nothing about it.''

For Ashley, a resilient and academically gifted child, there was a happy ending. A family with the love, money and persistence to extract her from the system adopted her in 1998. But her brother, who entered foster care at birth, lives in a treatment center, still waiting for a family capable of coping with the damage he suffered. He is one of 22 plaintiffs in the class action.

Separately, he and Ashley are plaintiffs in damage suits brought or planned against the state on behalf of all the Hillsborough County couple's former foster children, including the 23 that the state has refused to identify, and 8 the couple adopted with state subsidies who are now back in the foster care system.

Proponents of double-edged litigation say that even if institutional change remains elusive, at least financial help can be won for a few of the children the system has wronged—children like the two Florida sisters, now 17 and 18, who are both literate and both mothers.

''You all hurt me all my life,'' the older sister told officials in a deposition last year, declaring her determination to keep her own baby daughter out of foster care. ''I hate every last one of you.''

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Mr. President, parliamentary inquiry. If the bill has not come from the House by the time the Senator from Iowa completes his statement, I ask unanimous consent that the Senator from New York be recognized for 10 minutes. He has been waiting for most of the morning.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority has 5 minutes remaining.

Mr. GRASSLEY. Mr. President, I believe morning business is going to expire at 10:30. Do I need to ask unanimous consent to extend morning business?

The PRESIDING OFFICER. The situation is that the majority has an additional 5 minutes for morning business, after which the Senator from New York will be recognized for 10 minutes.

ADOPTION TAX CREDIT

Mr. GRASSLEY. Mr. President, I come to the floor today to discuss a critical issue: adoption of children with special needs. I appreciate the work of my Senate colleagues who cochair the Congressional Coalition on Adoption, Senators CRAIG and LANDRIEU. I thank them for their dedication in furthering adoption. Both have demonstrated their commitment to adoption through word and deed. I respect their efforts and look forward to working with them in the coming years to increase adoptions and to improve the lives of vulnerable children.

The adoption tax credit which passed in 1996 was a step in the right direction. It provided a 5-year credit for adoptions of nonspecial needs children. It provided a permanent credit for adoptions of children with special needs. I commend Senator CRAIG for his efforts to extend the provision relating to nonspecial needs adoptions. As Senator CRAIG mentioned on the floor earlier today, while extending the credit is another step in the right direction, we must not rest on our laurels. There is more to be done especially as it relates to adoption of special needs children. The cost of adoption varies widely. Private or international adoptions can cost as much as $30,000 per child. In contrast, adoptions from foster care are often subsidized by the government.

Parents who choose to adopt a child from foster care or through a public