health care, Medicare select automatically becomes a permanent option after 3 years. If, on the other hand, the Secretary finds serious problems with Medicare select, the program expires June 30, 1998.

This is a very sensible compromise. It protects the Government against unintended consequences while also allowing the program, if successful, to become permanent without having Congress take additional action.

CORRECTION IN THE ENROLLMENT OF H.R. 483

Mr. CHAFEE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Concurrent Resolution 19, submitted earlier today by Senator PACKWOOD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 19) to correct the enrollment of the bill H.R. 483.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CHAFEE. Mr. President, I ask unanimous consent the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 19) was considered and agreed to as follows:

S. CON. RES. 19

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, the Clerk of the House of Representatives shall make the following correction: Amend the title so as to read as follows: ''An Act to amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.''.

Mr. CHAFEE. Mr. President, I thank the manager of the bill very much for permitting us to proceed like this.

Mr. SARBANES. If the Senator will yield, I think his thanks should really be directed to the distinguished Senator from California, who, under the unanimous consent request, was in order to offer her amendment and deferred from doing so in order to allow the Senator to proceed.

Mr. CHAFEE. The Senator from Maryland is absolutely correct. I stand admonished.

I thank the Senator from California for her kindness in letting me proceed as we did. Otherwise, I would have been here, hanging upon every word of her amendment, but that might have taken me past important appointments at home.

So I thank the lovely lady from California. I count it fortunate that she is a member of the Environment and Public Works Committee, where she does distinguished service, and has ever since she has been in the Senate.

Mr. President, I thank the Senator from California, the distinguished Senator from Maryland, and the floor manager of the bill, the honorable Senator from New York.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mrs. BOXER. Mr. President, let me say to my chairman of the Public Works and Environment Committee, if I could get his attention, I greatly appreciate the kind words he said about me. If he votes for my amendment, I will appreciate it even more.

I hope he will do that because, Mr. President, I think I do have a good amendment.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1475

(Purpose: To establish procedures governing the appointment of lead plaintiffs in private securities class actions)

Mrs. BOXER. Mr. President, I send an amendment to the desk on behalf of myself and Senator BINGAMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. BINGAMAN, proposes an amendment numbered 1475.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 98, strike line 3, and all that follows through page 100, line 22, and insert the following:

''(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

''(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

''(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

''(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.''.

On page 102, strike line 3, and all that follows through page 104, line 22, and insert the following:

''(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) of (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

''(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

''(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

''(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.''.

Mrs. BOXER. Mr. President, let me explain my amendment. My amendment deletes language in the bill which instructs the judge to make the largest investor in a securities class action suit the lead plaintiff in that suit. To me, on its face, as a nonlawyer, this is an amazing proposition. The richest investor gets to be the lead plaintiff.

My amendment is designed to give the little investor, people with IRA's, Keoghs, a 401–K plan, the chance to be the lead plaintiff.

My amendment is simple, reasonable, fair and, I believe, democratic. This bill assumes the wealthiest investor is somehow better suited to represent smaller investors in the suit.

Mr. President, class action securities lawsuits are supposed to protect the average and the small investor—not only the largest investor. Of course we want to protect them as well. But clearly we are concerned about the small investor. In fact, class action lawsuits are the only practical chance that the small investor has to recover if he or she has been defrauded.

Why do I say that? The small investor, let us say, has been defrauded out of $500 or $1,000 or $5,000. That small investor simply cannot afford to bring an individual action against a fraudulent party. It would cost way more than even the $5,000 to do so, maybe even more than the investor's total net worth, just to recover the small investment.

So in practical terms, class actions are the small and average investor's only chance to recover. This bill, S. 240, without my amendment, would