''(3) As used in this section—

''(A) 'actual wage' means total compensation, including base pay (whether expressed as an hourly rate or a salary), equity, and health, life, disability, and other insurance plans, and retirement and savings plans provided to regular employees. If the employer offers a benefit plan which enables employees to choose among options, then the employer's plan shall be deemed to be acceptable provided the same plan and options are offered to all employees in the occupational classification in which the nonimigrant is intended to be (or is) employed.

''(B) 'prevailing wage' means total compensation, including the rate of pay as determined based on the best information available as of the time of filing the application (whether expressed as an hourly rate or a salary), equity, and health, life, disability, and other insurance plans, and retirement and savings plans provided to regular employees. If the employer offers a benefit plan which enables employees to choose among options, then the employer's plan shall be deemed to be acceptable provided the same plan and options are offered to all employees in the occupational classification in which the nonimmigrant is intended to be (or is) employed.''●

INDEPENDENT COUNSEL LAW AND KENNETH STARR'S INVESTIGATION

● Mr. LEVIN. Mr. President, on October 8th I made a statement on the Senate floor regarding the independent counsel law and Kenneth Starr's investigation of President Clinton. I want to take the opportunity today to clarify one aspect of that statement to ensure that my words and their import are accurate.

I stated on October 8th that the so-called Starr Report failed to mention Ms. Lewinsky's testimony ''that when she asked President Clinton whether she should get rid of his gifts to her in light of the Jones subpoena, his response was 'I don't know' '' and her testimony that the President said he didn't want to see Ms. Lewinsky's affidavit when she offered to show it to him. The reference in my statement should have been to Mr. Starr's analysis of the evidence which is the key part of his report instead of the overall report. Mr. Starr did make reference to such testimony in the part of the report where he summarized the evidence. My criticism of Mr. Starr's report is that he left such exculpatory evidence out of or dismissed it in the key part of his report which analyzes the evidence and explains why he believes the evidence ''may constitute grounds for impeachment.''

Otherwise it was the imbalanced analysis of the evidence where Mr. Starr failed to address the significance or relevance of exculpatory facts such as these which is so disturbing.●

APPLICATION OF STATE LAW TO FEDERAL PROSECUTORS

● Mr. ABRAHAM. Mr. President, I rise to register serious concern over a provision in the Omnibus Appropriations bill, included as I understand it over the protest of the Senate. This is a legislative provision appended to the Commerce, Justice, State Appropriations portion of the bill that subjects federal prosecutors and other ''attorneys for the Government'' to State laws and rules governing attorneys ''to the same extent and in the same manner as other attorneys in that State.''

Now please understand, Mr. President. I think I am as much of a believer in federalism as anyone here. But federalism does not mean that control of all matters should be ceded to the States. One area where I think it is pretty clear that the national government should be the principal source of law is in setting rules of professional conduct for its own officers. To leave that question to the States, it seems to me, is to cede a very large portion of the control for how federal law is to be enforced to the States. That power can then be used to frustrate the enforcement of federal law. The risk that this will happen is significantly greater where the power is being turned over not to the States' elected representatives, but to bar associations vested with the States' powers, but without the accountability to the people of the States that elections generate.

I believe that we can be pretty sure that this provision imposing State laws and rules on federal prosecutors will be used to frustrate federal law simply by looking at the rules the State bars already have adopted that will have this effect. I believe this trend will only accelerate once those opposed to certain aspects of federal law know, as a result of our adoption of this provision, that they have this new tool at their disposal.

For many years members of the criminal defense bar have been sponsoring rules adopted in State codes of professional responsibility that trench upon legitimate and essential practices of federal prosecutors. The best known example involves rules of States such as California, Missouri, and New Mexico, as well as the District of Columbia, that limit prosecutors' contacts with represented persons in a way that can seriously complicate undercover investigations. The problem with this prohibition is that a low-level member of an organized crime ring may well be represented by counsel retained by the leaders of the ring. As a result, counsel's principal interest may be in preventing his or her ''client'' from giving useful information about those leaders to law enforcement—even if doing so would be in the client's interest because the client might get less prison time.

But the ''represented parties'' context is not the only one where State rules governing attorneys raise problems. Colorado, New Hampshire, Pennsylvania, and Tennessee have ''ethics'' rules requiring prior judicial approval of subpoenas of attorneys, even though federal case law has (for good reason) adopted no such requirement. Colorado also has a rule requiring submission of exculpatory evidence to grand juries, which it adopted shortly after the Supreme Court found in United States versus Williams that federal courts could not use their ''supervisory powers'' to impose such an obligation. And, at least according to the 10th Circuit's vacated Singleton opinion, it is an ''unethical'' practice, under Kansas state rules, for an Assistant U.S. Attorney to offer leniency in exchange for truthful testimony. Even assuming the 10th Circuit does not reinstate that portion of the panel opinion when it rules en banc, hardly an inevitable outcome, the suggestion the opinion made will continue to chill any federal prosecutor practicing in Kansas. It will continue to do so regardless of what the 10th Circuit does, since Kansas could adopt this theory even if the Tenth Circuit abandons it. Indeed, any State bar will be free to declare that offering leniency to accomplices to obtain their testimony is ''unethical'' and, under the provision we have unwisely adopted, that rule will control federal prosecutions. The result will be a drastic reduction in the effectiveness of federal efforts to combat crime.

State bar associations have adopted the rules I have described despite previously grave doubt about their legal authority to make these rules binding on federal prosecutors. It seems to me that now that we have established as a matter of federal law that six months from now, rules like this will indeed govern federal prosecutors' conduct, these rules will only multiply further. For example, States could ban as unethical the forfeiture of cash intended to pay a defense lawyer—indeed, the ABA came very close to doing just that in an attempt effectively to overrule the Supreme Court's holding Caplin & Drysdale. States could rule it ''unethical'' to examine a witness in the grand jury room without his attorney being present, or to adduce evidence of one party-consent tape recordings—proposals the Senate, of course, rejected last month during the CJS debate. The potential list is limited only by the criminal defense bar's imagination.

To be sure, the Department of Justice can argue its case to the bar associations considering such rules. But that is no solution. At best, it will require an inordinate expenditure of effort and resources that could instead be used to lock up dangerous criminals. At worst, and more likely in my view, the Department will lose the argument much of the time, and we will end up with constraints on federal officers that bear no connection with the federal policies those officers are charged with enforcing.

This is not to say that I am opposed to requiring that lawyers who work for the federal government behave professionally. I am not. In fact, I am strongly for it. But I believe that it makes no sense to have the judgment about what ''professional conduct'' consists of be made by State bar associations. Of necessity these associations have little or no stake in securing the enforcement of the federal laws with which these

federal government lawyers are charged; and it is easy to imagine instances where a number of their members may have an affirmative stake in frustrating that enforcement.

Perhaps my concerns will turn out to be misplaced. I understand that one important concession the Senate obtained in the negotiations leading up to the inclusion of this provision in the omnibus legislation is a 6 month delay in the provision's effective date. This will give us some opportunity to see whether the result of the adoption of this provision is a greater effort by the State bars to accommodate federal interests, or the opposite. It will also give us a better opportunity to assess what the real impact of applying existing State rules in the context of federal prosecutions will be. In the long run, however, it seems to me that the right answer here is not for the federal government to abdicate to State bars the important responsibility of establishing these rules, but, at least with respect to its own officers, to perform that responsibility itself.●

TRIBUTE TO 1999 MARYLAND TEACHER OF THE YEAR

● Mr. SARBANES. Mr. President, I rise to recognize the remarkable achievements of one of my constituents, Rachael Younkers, who has won the title of 1999 Maryland Teacher of the Year. This honor is a tribute to her dedication to and mastery of the art of teaching seventh and eighth grade students at Plum Point Middle School, and is even more impressive by the fact that this 27-year-old is the youngest person ever to win the award in its twelve year history. I am so proud to congratulate Mrs. Younkers, the first winner from Southern Maryland, for being named the 1999 Maryland Teacher of the Year from 23 other Maryland candidates.

Mrs. Younkers is a native of Calvert County who, according to students and peers alike, brings a unique energy to her classes which serves to excite her students about social studies topics that may otherwise seem dull or out-of-date. Through the use of innovative teaching techniques, including learning games and exploration of the internet, Mrs. Younkers has brought a fresh perspective to her teachings.

It has always been my firm belief that the education and training of our young people is one of the most important tasks in a democratic society. Mr. President, I would like my colleagues to join me in recognizing the hard work that has led Mrs. Younkers to receive this recognition. I ask unanimous consent that an article from the Southern Maryland Extra to the Washington Post be inserted into the RECORD immediately following my remarks, and I yield the floor.

(From the Washington Post, Southern Maryland Extra, Oct. 22, 1998)

In Room, 216 at Plum Point Middle School, social studies teacher Rachael Younkers is quizzing her students on the great European explorers: Christopher Columbus, Vasco da Gama, Sir Francis Drake and so forth. You wouldn't think a roomful of 13-year-olds would be interested in a bunch of long-dead strangers, but that's clearly not the case in this class.

Hand after hand shoots up in the air, students eager to supply the appropriate answers. Later, when the class adjourns to the library, the youngsters rush about looking for the needed information. There's a certain excitement in the air, a feeling that school and learning and even homework can be, well, fun.

Plum Point Principal Michael Reidy sums up the situation this way: ''Mrs. Younkers has a spirit about her that creates magic in the classroom.''

That spirit has won Younkers the title of 1999 Maryland Teacher of the Year. Younkers, 27, is the youngest teacher to win the award in its 12-year history and the first from Southern Maryland. She received the award—which includes a $5,000 check and other prizes—at a ceremony Friday evening in Baltimore.

Younkers has taught seventh- and eighth-grade social studies at the Huntingtown school for five years, her entire career in education. Younkers, a native of Calvert County, said her inspiration in teaching has been her mother, a social studies teacher at Northern High School. One of the most important lessons her mother passed along was the importance of actively involving students in their education, she said.

''My teaching philosophy is based on an ancient Chinese proverb: 'Tell me, I forget. Show me, I remember. Involve me, I understand,''' Younkers said.

And involve her students she does. During a class on Tuesday, Younkers divided her 28 eighth-graders into teams and dispatched them to the library to research a specific explorer. Among their tasks: Finding the explorer's photograph on the Internet, drawing a detailed picture of his ship and writing a daily log of weather conditions during his voyage. The students even had to compose a letter to the king and queen explaining why they should fund the explorer's trip.

''Learning is not a spectator sport,'' Younkers said. ''The kids are the actual players in the game, and they need to be actively involved in their own learning. I see myself as a partner in their education, and that's how we win.''

Her students seem to like the technique. ''It's not like we're talking about a lot of dead guys,'' said Nathan Bowen, an eighth-grader from Prince Frederick. ''She really brings it to life.''

Nathan said he especially likes all the fun games Younkers comes up with, including baseball and basketball matches that are played in the classroom and adapted to the subject being studied. Treasure hunts and ''Social Studies Jeopardy'' also are frequent occurrences in Room 216.

Larkin Jones, also an eighth-grader, said she admires her teacher's personality. ''She's always smiling and happy, and she knows a lot about you.'' And that fact that she's young makes it ''really easy to talk to her,'' Jones said.

Indeed, Younkers has made such an impression on Larkin that she recently confided in her mother that she might want to be a social studies teacher when she grows up, ''just like Mrs. Younkers.''

''She's been a tremendous influence on her,'' said Donna Jones, Larkin's mother. Jones, a guidance counselor at Plum Point added that Younkers has a unique ability to help all students—whether they're honor roll or in need of remedial instruction.'' As a counselor, it's very comforting to know that no matter what level a student is, if they have Mrs. Younkers, they'll have a wonderful year.''

Younkers beat out 23 state semi-finalists, who were chosen from among Maryland's 49,000 teachers. She now advances to the national Teacher of the Year competition.

For the national contest, she must adopt an issue that she will advocate. Younkers said she will work to encourage the best and the brightest students to become teachers. Maryland, like other states, will face a severe teacher shortage in coming years, and, as Younkers said, ''Our students deserve to learn from highly qualified instructors.''

The national Teacher of the Year will be selected in the spring. In the meantime, Younkers is maintaining a rigorous speaking tour—talking to other educators, as well as politicians—and her students are getting used to the extra media attention and the parents who stop by with gifts and words of praise.●

THE 90TH ANNIVERSARY OF ST. MARY'S BANK IN MANCHESTER, NH

● Mr. GREGG. Mr. President, on November 24th, we will be celebrating the 90th anniversary of the birth of credit unions. St. Mary's Bank of Manchester, New Hampshire opened its doors in 1908 as a true local establishment serving the community on which it was built. St. Mary's Bank was formed by Manchester's French-Canadian immigrant and working class families to help other working class families. I want to congratulate St. Mary's Bank on being the pioneer in the field of credit unions and for continuing to grow and provide community support for the last 90 years.

In these times of bank mergers and takeovers designed to expand markets beyond boundaries of local communities, St. Mary's has always stood by its roots and the people of Manchester. St. Mary's Bank exemplifies a community institution built on local values and relationships. It continues its tradition of donating to community causes and has begun a $10 million investment in the Manchester community to help low and moderate income families purchase and rent homes, and to provide assistance in emergency situations.

I wish to recognize St. Mary's Bank of Manchester, New Hampshire for its 90 years of service to the community of Manchester's West Side and for marking the beginning of credit unions nationwide.●

OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1999—CONFERENCE REPORT

(In the RECORD of October 21, 1998, on page S12785, a page of the text of Mrs. FEINSTEIN's remarks was inadvertently omitted. The permanent RECORD will be corrected to reflect the following:)

QUINCY LIBRARY GROUP LEGISLATION

● Mrs. FEINSTEIN. Mr. President, I am very pleased that the Quincy Library Group bill has been included in