

SAFER Act, would authorize the Attorney General to award grants to State and local governments to audit and reduce the backlog of untested rape kits.

Mr. President, I think you will share my shock and alarm at the number of these kits which are sitting in the possession of law enforcement agencies and which could contain DNA evidence that would lead to prosecutions and help get rapists off the streets and yet have not been analyzed. The estimate is that between 300,000 and 400,000 of these kits are just sitting in the possession of law enforcement agencies but have not been analyzed. That is totally unacceptable.

The reauthorization bill we introduced last week would help ensure that Maine and every other State has the necessary resources to support victims of violence and, whenever possible, to prevent violence from occurring in the first place.

Elizabeth Saxl, the executive director of the Maine Coalition Against Sexual Assault, recently wrote to me in support of the reauthorization of the Violence Against Women Act. She noted this in her letter:

By reauthorizing and making significant improvements to these important programs, this legislation will help fulfill the critical unmet needs of victims of violence and expand protections to currently under-protected populations.

Mr. President, I ask unanimous consent that her letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Ms. COLLINS. The Violence Against Women Act has made a significant difference in combating domestic violence, sexual assault, and stalking, through grants to State and local governments and nonprofit organizations. Since it was first passed in 1994, the programs authorized under this law have provided State and local partners with more than \$4.7 billion of assistance. This assistance helps to ensure that the victims of violence get the help they need to recover and has prevented incalculable suffering by stopping violent crimes before they happen.

It is extremely important to pass this legislation because all men and women—and men are victims as well as women. In some ways, the name of this law should be changed. But all women and men, regardless of race, religion, sexual orientation, or disability deserve to be safe and protected from physical violence, and that is what this reauthorization would help to do.

Finally, this is not and never should be a partisan issue. Violence and domestic assaults do not discriminate between Republicans and Democrats, Independents and Greens, or people who are not politically active at all.

This is an equal opportunity crime that harms people regardless of their political affiliation, their profession,

their location, or their status in life. It is an issue that deserves bipartisan support. I hope my colleagues on both sides of the aisle will come together and pass this important bill.

I recognize there may be some provisions of this bill which are controversial; but, surely, we can come together in support of the goal of this vital legislation. We can work out differences if not on the Senate floor then in conference with the House; but, surely, we can come together and reauthorize this law that has made such a difference to so many in our country.

EXHIBIT 1

MAINE COALITION AGAINST

SEXUAL ASSAULT,

Augusta, ME, February 4, 2013.

Hon. SUSAN M. COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Maine Coalition Against Sexual Assault (MECASA), and the sexual assault crisis and support centers we represent, I am writing to express our strong support for S. 47, the Violence Against Women Reauthorization Act (VAWA) of 2013. By reauthorizing and making significant improvements to these important programs, this legislation will help fulfill the critical unmet needs of victims of violence and expand protections to currently under-protected populations.

VAWA has provided invaluable support for law enforcement, courts, sexual assault crisis and support centers, domestic violence service providers, prevention efforts, and community outreach. In the past decade, nearly half of Maine's homicides have been the result of domestic violence, many of which included elements of sexual violence. Additionally, nearly 13,000 Mainers will experience sexual violence this year alone while Maine's ten-year average for rapes reported to law enforcement is only 364. The cost of these crimes to Maine is enormous. VAWA helps control these costs by enabling support centers to provide free, necessary, quality services to victims who need help, not to mention the incalculable suffering that these programs help prevent.

Since the original passage of VAWA, Maine has strengthened laws regarding domestic violence, sexual violence, and stalking and has implemented programs which continue to yield tangible results for victims and for public safety. Despite VAWA's success, its criminal justice and community-based programs remain acutely necessary. According to a recent study by the University of Southern Maine's Muskie School of Public Service, nearly one in five Mainers reported having been the victim of sexual assault or an attempted sexual assault in his or her lifetime. Nationally, the Center for Disease Control and Prevention estimates that nearly one in five women and one in 71 men have been raped at some time in their lives, and one in four women and one in seven men experience severe physical violence by an intimate partner.

MECASA supports efforts to further strengthen and improve the response of the criminal justice, legal, and victim support systems for survivors of domestic violence, dating violence, sexual assault, and stalking. We are grateful to you for your steadfast support of VAWA and your commitment to violence prevention and response.

Thank you for all you do on behalf of Maine and our nation.

Sincerely,

ELIZABETH WARD SAXL,
Executive Director.

Ms. COLLINS. Mr. President, seeing no one seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. CORKER. I thank the Chair.

(The remarks of Senator CORKER pertaining to the introduction of S. 215 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CORKER. Mr. President, I notice the absence of a quorum, and I thank the chair for the time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KING.) Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I speak as in morning business.

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

DOD REFORM

Mr. MCCAIN. Mr. President, this past year, our national debt passed a staggering \$16 trillion, more than \$51,000 for every man, woman, and child in America. Today, several very serious fiscal matters that would seriously impact the Department of Defense and the U.S. defense industrial base, including budget sequestration, the debt limit, and disposition of the defense budget for fiscal year 2013 remain unresolved. Underpinning all of these matters is the larger issue of why the culture of how the Department of Defense does business must change. While daunting, this question provides us with a valuable prism through which Senator Hagel's nomination, now pending consideration by the Armed Services Committee, should be considered.

By "culture," I mean that the mindset that has for years pervaded how the Department of Defense buys goods and services and manages assets and resources without regard to either their affordability or what our service men and women actually need to defend the Nation.

After years of developing legislative initiatives intended to reform how the Department does business, I am convinced that the single most effective agent of cultural change at the Department is the right leadership: leadership that recognizes that the Department owes to the taxpayer a stewardship obligation to extract maximum value for every defense dollar spent, and a moral responsibility to the warfighter that these dollars are being spent wisely, to effectively procure desired combat capability.

We need strong fiscal leadership to reject the use-or-lose mentality that incentivizes managers of the Department's programs and activities to spend every dollar, no matter what our priorities really are, and replace it with a process that actually rewards sound program management, incentivizes efforts to cut costs, and rewards those who use entrepreneurship and ingenuity to meet mission requirements, while returning taxpayer funds to the U.S. Treasury. In other words, cultural change needs leadership that not only rejects "business-as-usual" but also challenges it. Where Senator Hagel is on this is not clear.

One area that reflects how desperately the Department of Defense needs to change its culture of inefficiency is how it procures goods and services, in particular, how it acquires major weapons systems. While reforms in this area have been attempted for more than 25 years, the same deplorable outcomes—major cost overruns, schedule slips, or failures to perform as promised—all persist. Why? It is because despite these efforts, the underlying culture within the Department of "business-as-usual," which predisposes its largest programs to these outcomes, has been allowed to live on.

In how the Department procures its largest and most expensive weapons systems, this translates into a mindset that so fails to recognize the need for affordability that it has made the Department more willing than it should be to accept (at any cost) more risk than it can responsibly manage. There are far too many examples of where the Department begins a major program without knowing what it really wants or how these requirements should translate into technical specifications that are designed to generate the combat capability it really needs. Also, all too many times, there is no traceability between these specifications through a test regime that is sufficient to ensure that the system the Department is procuring is operational effective, suitable, and survivable before entering operational testing or early production. So what happens? These systems stay "on rails"; blow through their original cost and schedule estimates; and, at the end of the day, bear little resemblance to what the war-fighter actually needs.

But program management, fixated on "keeping the money flowing", push the program—many times, reimbursing the contractor for its costs throughout, and with the parochial support of Members of this body—down the development pipeline, offering facile excuses for poor performance and, ultimately, less-than-desired capability. All of this happens within an overall management system that is overly cumbersome and costly and provides for no meaningful accountability.

In the aggregate, this has been a "perfect storm". A defense procurement culture that is content with promises of exquisite solutions over ac-

tual affordability has squandered literally billions of taxpayer dollars. According to a recent study, since 2004, programs canceled by the Army alone consumed between \$3.3 billion and \$3.8 billion per year. That is 35 to 45 percent of the Army's annual budget for development, testing, and engineering over this period. Obviously, this is simply unacceptable and unsustainable.

Yet it happened again just recently. A couple of months ago, the Air Force, quite rightly, decided to kill a huge logistics supply chain management business system called the Expeditionary Combat Support System, ECSS. But it did so only after, one, sinking about \$1 billion into the program since its start in 2005; two, recently finding that another \$1.1 billion would be needed to field just 25 percent of ECSS's promised capability; and, three, extracting from the taxpayer's total \$1 billion investment less than \$150 million in usable hardware and software. I repeat: A total \$1 billion investment, less than \$150 million was obtained in usable hardware and software. This is a travesty. In terms of how little benefit we realized compared to how much was spent, it is one of the most egregious examples of mismanagement in recent memory.

Some reforms have helped, but much work needs to be done. The Weapons Systems Acquisition Reform Act of 2009 and its prescription to "start programs off right," was a move in the right direction. I am pleased to report that in its last of the three reports focused on how effectively the Department has been implementing that act, the Government Accountability Office recently found that the Department has been taking positive steps to implement this reform act.

It did so having sampled 11 weapons acquisition programs, including the KC-46A tanker, the SSBN(X) *Ohio*-class ballistic missile submarine replacement, and the Ground Combat Vehicle, GCV. But getting rid of poor cost-, schedule-, and performance-outcomes and how the Department procures goods and services will require the sustained and enduring change that only a change in culture can provide. When it comes to defense procurement, a change in culture is possible only with leadership that recognizes that for government to act as a responsible steward over defense dollars, it must be as knowledgeable, skilled, and sophisticated a buyer as industry is a seller.

Whether Senator Hagel would serve as the right leader at the Department of Defense to foster needed cultural changes in the Department's procurement practices is unclear. What we do know is that the right person must embrace the following principles: Set realistic requirements early and manage changes to those requirements aggressively. The Department must enforce better discipline and achieve greater accountability in how it meets its most critical military needs by dismantling stovepipes among the requirements, ac-

quisition policy, and budgeting communities and ensure clear lines of authority within acquisition organizations. With the benefit of robust participation by the uniformed military, requirements should be frozen early, allowing for sufficient trade-space among the program's cost- schedule- and performance-variables to ensure that it is effectively managed throughout its lifecycle. Exquisite high-risk, next-generation solutions should be spiraled out over time. In other words, programs should be set to shorter acquisition timelines and should be managed to them.

Improve the Department's ability to price risk—effectively and independently of industry—and budget to that cost. By "risk," I mean the risk that a system is exposed to throughout its life cycle: technical-, software-, development-, integration-, manufacturing-, and sustainment-risk—all of them. Acquiring weapons systems thoughtfully vis-a-vis risk would minimize funding instability which can absolutely decimate a program's ability to deliver required capability on budget and on time and ultimately result in reliable systems that will be affordable to own and operate.

Revitalize, and where necessary, build-up the Department's "organic" workforce in areas most vital to "buying smart", like cost-estimating, technical- and systems-engineering, developmental testing, et cetera. The Department must be able to conduct proper should-cost analysis to inform its positions when it negotiates contracts and conduct engineering trade-off analysis to manage programs effectively over their lifecycles. With the benefit of this capability, the Department will be able to more effectively target affordability and control cost growth.

Require the use of the type of contract that is most appropriate to the level of risk to be managed in the fee structure that is most appropriate to the type of performance to be incentivized. This requires the Department to know what it needs and, in connection with that requirement, exactly what kind of contractor performance it wants to incentivize. To that extent and as quickly as possible, the Department must get its programs into a low- to moderate-risk environment where it can use fixed-price contracts to effectively incentivize cost control.

Better incentivize productivity and innovation. Rationalize profit policy and effectively use performance-based contracting and other tools in the contracting toolkit to incentivize and reward contractors for effectively managing costs, successfully managing their supply chains and indirect expenses, and actually delivering promised capability.

Promote real competition, instead of "checking the blocks". Nothing drives costs down and enhances quality more effectively than competition. The Department has to make sure that competition, or the option of competition,

is brought to bear on a program throughout its lifecycle, at both the systems and subsystems level. To the extent that the Department has been recently successful with some of its large, high-profile procurements, it is because it has been able to leverage competition aggressively.

Improve how the Department acquires services. Military departments that have started diving into this area have already found massive opportunities for savings and efficiency—easily amounting to billions of dollars. This initiative should not only continue; it should expand throughout the defense enterprise.

Reform how the Department procures information systems, especially, major automated information systems. While the technical aspects of these products are, of course, fundamentally different from major weapons systems, the basic tradecraft, especially those that reflect best business practices, shouldn't be that different. Procuring cyber-security capability may, however, require greater agility and flexibility than what can be provided under the long and slow "deliberative" acquisition process.

Improve the "rapid acquisitions" process. In support of on-going operations, the war-fighter cannot rely on the "deliberative" acquisition process to satisfy its needs. The process by which these sorts of urgent operational requirements are satisfied reliably and cost-effectively needs to be reformed.

Rein in the Department's ability to reprogram funds. I have been appalled that in fiscal year 2011 alone, the Department of Defense transferred nearly \$27 billion among Defense accounts and that only \$11 billion, or 40 percent of these transfers, received any type of congressional oversight. That oversight was limited to just 8 Senators out of 100. The oversight of the transfer of billions of dollars is confined to the oversight of eight Members of the U.S. Senate. I happened to be one of them for the last 6 years, but I don't think it is appropriate to transfer that kind of money without all 100 percent being apprised of the need to do so. Despite that the Department cannot be audited—the Department of Defense has never been audited—we continue to provide it with the flexibility to engage in what amounts to budget gamesmanship where certain accounts, such as operation and maintenance and base-operations support, which are intended to satisfy "must-pay" bills, are historically underfunded in the President's annual budget request, with the understanding that the Department will be able to transfer funds between accounts down-the-road. In my view, this type of budget gamesmanship is a big reason why the Department cannot annually produce auditable financial statements and frustrates objectively assessing the priority or urgency of the Department's requirements.

This brings me to the other major area of how the Defense Department

"does business" that underscores the need for cultural reform, defense financial management, and the most significant thing that can be done in this area is finally getting the Department auditable.

There can be no doubt that the ability of the Department to be audited independently would help ensure that the defense dollars are not wasted, lost, or otherwise misused. Absent auditability, the Government Accountability Office (GAO) has, since 1995, designated the Department's financial management as "high-risk".

Today's fiscal challenges bring new urgency to the issue of auditability at the Department of Defense. To navigate successfully through this period of austerity and fiscal uncertainty without inadvertently impinging on military readiness, the Department will have to make management decisions that are fully informed and carefully calibrated. To ensure intended results, the Department has to make sure these decisions are being executed as planned.

From well-managed companies in the private sector, which have to make decisions like this all the time, we know that reliable financial data, effective internal controls, efficient business processes, and sound business systems are needed to support an organization whose finances can be audited.

Granted, the Department won't use auditable financial statements themselves to make important management decisions, but the high quality of the financial information that feeds into financial statements that are ready-for-audit would be incredibly valuable, indeed indispensable, for identifying opportunities for savings and efficiencies; successfully implementing initiatives and management controls to realize these savings and efficiencies; and making sure that increasingly scarce defense dollars are redirected to higher defense priorities. This would give the primary stakeholders in how the Department is managed—the war-fighter and the taxpayer—confidence that the defense management decisions can be relied upon to produce intended results. Given the state of financial management at the Department of Defense today, we do not now have that confidence.

One big reason why we don't is that to date the Department's commitment to achieving financial auditability has been characterized by blown-deadline after blown-deadline. Various statutes, including the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994, the Federal Financial Management Improvement Act of 1996, and other provisions in various Defense authorization and appropriations acts, have required financial improvements at the Department of Defense for the Department to produce auditable financial statements. After continuous failure, we are at a point now where, for example, when then-Secretary of Defense Gates was trying

to find efficiency and reduce waste at the Department a few years ago, he said what he was doing was "something akin to an Easter egg hunt". He explained, "[M]y staff and I learned that it was nearly impossible to get accurate information and answers to questions such as '[h]ow much money do you spend?' and '[h]ow many people do you have?'"

For this reason, after succeeding Secretary Gates, Secretary Panetta immediately elevated financial improvement to a top priority of the Department by directing the Department to cut in half the time to make a key financial statement, called the Statement of Budgetary Resources (SBR), ready-for-audit. This goal must be achieved by fiscal year 2014. Seeking to leverage Secretary Panetta's initiative and with the assistance of Senator AYOTTE, the Senate Armed Services Committee included a provision in its authorization bill this year that formalizes this goal.

I am pleased to say that while much work needs to be done for the Department of Defense to achieve its audit-readiness goals, the Department has made some limited progress, particularly through its Financial Improvement and Audit Readiness (FIAR) plan, which the Senate Armed Services Committee legislated as a requirement a few years ago. The House Armed Services Committee's Panel on Defense Financial Management and Auditability Reform found early this year contained a "reasonable strategy and methodology."

In my view, it is no longer the case that top defense managers "just don't get it" or that they are dragging their feet because they don't see financial improvement as a priority. Indeed, perhaps the silver-lining in today's fiscal challenges is that it seems to have united top management at the Pentagon into finally realizing how important it is for the Department to become financially auditable.

Indeed, over the last few years, some agencies within the Department, such as the Army Corps of Engineers, the Military Retirement Fund, Defense Contracting Audit Agency, and TRICARE's Contract Management Activity have received clean audit opinions. As GAO's Director of Financial Management and Assurance Asif Khan recently said, Secretary Panetta's directive has resulted in a "change in tone at the top" that has "reset" the Department's efforts to achieve an unqualified audit opinion. How exactly would Senator Hagel, if confirmed, further Secretary Panetta's efforts here?

This is not an academic question. As the Department of Defense's Deputy Inspector General for Auditing Dan Blair recently noted, for the Department to achieve an auditable statement of budgetary resources (SBR) by 2014, it must run what amounts to "a big checking account with thousands of people being able to write checks" and that capturing an "auditable universe"

within it will require reconciling between a general ledger and subsidiary ledgers.

A big problem is ongoing delay in implementing very expensive business computer systems called “enterprise resource planning” or ERPs, which perform a number of business-related functions vital to transforming the Department’s business operations. The ECSS system I mentioned a few minutes ago is one of these ERPs.

As of December 2009, the Department of Defense has invested over \$5.8 billion in these ERPs and will invest billions more before they are fully implemented. Most of them are over budget and behind schedule or haven’t provided promised capability. Yet these ERPs make up more than half of the Department’s entire expenditure in the area of business transformation, costing the taxpayers more than \$1 billion per year.

This is vitally important. If the Department doesn’t get ERPs right, like a system known as ECSS that cost \$1 billion dollars, not only will the Department have squandered monies that it had already sunk into these programs but it will also severely undermined its ability to improve the efficiency and the effectiveness of scores of business-missions such as logistics and supply chain management, et cetera, that are key to supporting those service-men and -women who defend the Nation.

What needs to be done? From the top down, lines of authority must be clarified. The relevant workforce must be well-versed in government accounting practices and standards and be experienced in related-information technology. Given how vitally important these ERPs are to this mission, people who have actual experience successfully implementing global business systems must be properly mixed into the workforce, and contractors hired to integrate these business systems into the Department must be the best-qualified partners and held to the same high performance standards that should apply to any other major defense acquisition.

Within this overall structure, there must be sufficient oversight and accountability vis-a-vis a well-defined and federated business enterprise architecture that ensures that, in terms of organizational transformation and systems modernization, all the different elements of the Department are moving in the same direction toward a single goal. These kinds of issues need to have the day-to-day attention of the Department’s Chief Management Officer, that is, the Deputy Secretary of Defense and the chief management officers within the military departments.

At this point, I am of the view that, with all of the congressional reforms and mandates in the area of financial improvement over the past few years, the Department of Defense has all the tools it needs to have in its tool-kit to achieve audit-readiness on time and on budget. The issue is leadership and exe-

cution. As the House Panel on Financial Management and Auditability Reform noted, a vital part of that is “ensuring that senior leaders are held accountable when audit readiness goals are not met, and conversely, rewarded when goals are achieved”. Also, defense financial improvement must no longer be regarded as an activity important only to the Department’s financial community. Field commanders have to be fully engaged and interested in driving change outside the Pentagon. If Senator Hagel is confirmed, his setting this tone from the top will be vitally important.

Is all this enormously challenging? It absolutely is, as befits an organization of the size and complexity of the Department of Defense. With an annual budget equal to the 17th largest economy in the world, as the Institute for Defense Analyses recently noted, the Department’s “business” of achieving its unique and disparate missions worldwide on an ongoing and contingency basis equates more to an economy than a commercial business.

Be that as it may, with an annual federal budget deficit of \$1.3 trillion and defense reductions of at least \$487 billion and possibly, with sequestration, another \$500 billion over the next 10 years, the Department needs to have reliable financial management data to help it distinguish between defense budget cuts that are prudent and necessary, and those that may impinge on military readiness and, therefore, endanger our national security.

Only a Department that can be audited can give us the assurance that the Department is moving in the right direction in terms of identifying the right opportunities to save defense dollars and eliminate waste, and redirecting increasingly scarce defense dollars to higher defense priorities.

All I have discussed today illustrates how important sound leadership at the top of the Department of Defense is to “buying smarter” and getting the Department ready-for-audit. Without leadership fundamentally and unalterably mindful of the Department’s responsibility to the American people to use defense dollars wisely, this cultural change will forever remain elusive. For this reason, this body’s consideration of the President’s nominee to serve as the next Secretary of Defense will be more important than it has been in recent memory.

I would like to give credit to the present Secretary of Defense, Mr. Leon Panetta, who brought his knowledge and expertise on budgetary matters to his work at the Pentagon. I will say more about him later on, but I am very appreciative of the outstanding service present Secretary of Defense Panetta has provided to this Nation, with many long years of service both in elected as well as appointed office. We are proud to have Americans such as Secretary Panetta serving our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

IMMIGRATION

Mr. GRASSLEY. Mr. President, I am glad the Senate is now having some discussion among Members not yet on the floor about the issue of immigration because it is a very important problem that we have to deal with. I look forward to the debate that I think is coming up this year on immigration, and I would like to share my thoughts and my past experiences on this issue. I particularly want to share my personal experience from the 1980s amnesty law and what we can learn from that debate.

But before I go into that history, I wish to commend many Senators who are working together to forge a consensus and produce a product on this terribly difficult issue. I commend them for sitting down and agreeing to a set of principles that were put forth in a news conference last week. As ranking member of the Judiciary Committee, I expect to play a role in brokering an even broader consensus with additional Members.

I have read the bipartisan framework for immigration reform this group has written, and the one thing that struck me—in fact, it is the last sentence in the preamble—is this:

We will ensure that this is a successful, permanent reform to our immigration system that will not need to be revisited.

In other words, the group understands we need a long-term solution to the problem. We need a serious fix so future generations don’t have to deal with 11 million or 15 million or 30 million people who have come illegally. That sentence is the most important part of that document, and we must not lose sight of the goal expressed by the eight Senators who enunciated that.

But we need to learn from our previous mistakes so we truly don’t have to revisit the problem. So let us discuss the 1986 amnesty under President Reagan. There are few of us in the Senate today who were present during that debate. In 1980, President Reagan campaigned on a promise that he would work to reform our immigration laws and legalize foreign workers in the United States. The President’s policies were further shaped by the Select Commission on Immigration and Refugee Policy that was created in 1978 under President Carter.

President Reagan signed a bill into law on November 6, 1986. So 6 years after he first ran for President, he signed a law. This law was known as the Immigration Reform and Control Act. The process to finalize the bill was long and arduous. It took years—6 years, to be exact.

In 1981, when I was a freshman Senator, I joined the Judiciary Committee and was a member of the Subcommittee on Immigration and Refugee Policy. Back then, subcommittees did real work. They actually sat down and wrote legislation. We had 100 hours of hearings and 300 witnesses before we