The Senate met at 10 a.m. and was called to order by the Presiding Officer, the Honorable MARK DAYTON, a Senator from the State of Minnesota.

PRAYER
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, we belong to You. You gave us our talents, nurtured us by parents and teachers and friends, opened doors of opportunity we could never have pried open without You, and gave us creative vision of what we were to accomplish. You have been the author of our insights and the instigator of solutions to problems. We praise You for all that You have provided us so we can serve our Nation.

We thank You for the people You have sent to the Senate. Today we especially thank You for Gary Sisco as he completes his time of service as Secretary of the Senate. We thank You for his deep faith, his commitment to the work of Government through the Senate, and his loyalty to all of us as friends. We humbly thank You for all that we have and are because of Your incredible generosity. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Mark Dayton led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore (Mr. Byrd).

The assistant legislative clerk read the following letter:


To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Mark Dayton, a Senator from the State of Minnesota, to perform the duties of the Chair.

Robert C. Byrd, President pro tempore.

Mr. Dayton thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME
The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS
The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ORDER OF PROCEDURE
Mr. Reid. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be given his full 15 minutes. The two 15-minute spots would take us probably to 10:35 or thereabouts. I ask unanimous consent that Senator Specter control the first 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2217
Mr. Reid. Mr. President, I further ask unanimous consent that the Senate proceed to H.R. 2217 at 10:35 this morning. I note to anyone within the sound of my voice, we have been in touch with Senator Craig and Senator Kyl who had some suggestions last night in moving to this bill. Their questions have been addressed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

NOMINATION OF ROBERT MUELLER
Mr. Specter. Mr. President, I have sought recognition this morning to comment about the confirmation hearings which are scheduled later this month for Mr. Robert Mueller to be Director of the Federal Bureau of Investigation. That position arguably is as important as any position in the United States of America, perhaps even the most powerful position.

The statutory 10-year term is 2 years longer than the maximum a President may serve under the Constitution. The Director of the FBI has power over the largest investigative organization in the world, global in its exposure. There are an enormous number of problems which have befallen the agency in recent years. The confirmation hearing will provide a unique opportunity for oversight for the U.S. Senate to seek to establish standards as to what the FBI should be doing in cooperation with congressional oversight.

The FBI is a well-respected organization. I have had very extensive opportunities to work with the FBI. After graduation from college, I was in the Air Force Office of Special Investigations for 2 years and had training from the FBI. The commanding officer of the OSI was a former top aide to Director J. Edgar Hoover. I worked with the FBI on the prosecution of the Philadelphia Teamsters, an investigation which was conducted by the McClellan commission with Assistant Counsel, Robert Kennedy, and saw their very fine work. Then, as Assistant Counsel to the Warren Commission, I worked with the FBI; then as district attorney of Philadelphia and for the last 20 years extensively on the Judiciary Committee.

I have great respect for the Federal Bureau of Investigation. At the same time, my experience has shown me that there is an over concern by the personnel of the FBI with their so-called institutional image and that there cannot be a concession of any problems, which is really indispensable if problems are to be corrected.

(Disturbance in the visitors’ galleries.)

The ACTING PRESIDENT pro tempore. Will the Sergeant at Arms restore order in the galleries.

Mr. Specter. We have a nominee who has been put forward by the President who has very impressive credentials: United States Attorney in Boston, United States Attorney in San Francisco, 3 years as Assistant Attorney General in the Justice Department, where I had contacts and saw his impressive work.

He will be succeeding a man, Director Louis Freeh, who came to the Bureau with extraordinary credentials and overall did a good job, although he presided over the Bureau at a time when there were many institutional failures. I analogize Director Freeh to the little boy on the Netherlands dike running around putting his finger in all the holes to try to stop the water from coming through. With so many holes and so many problems, it was not possible.

I believe similarly that the Congress, including the Senate and the Senate Judiciary Committee, has not been sufficiently active on oversight. These hearings will give us an opportunity to set standards as to what the FBI
should be doing in response to oversight activities by the Senate Judiciary Committee. I will take advantage of this opportunity to talk for the better part of an hour today to FBI Director-designee Mueller and also to ask him in the public forum about the following:

1. I will say a little about the circumstances of the investigation into the appointment of Mr. Mueller as FBI Director. At that time, the Justice Department was still deciding whether to issue a subpoena, which I thought should have been done.

2. I will then talk about my questioning of the Attorney General and the Director of the FBI. It takes a congressional committee to get to the bottom of that. When Attorney General Reno testified, she said, "I haven't turned it over for Senate oversight." Of course, she said that, but she had not come to my attention, I certainly would have done something about it." In my view, anybody who is going to be confirmed for FBI Director has to have a commitment to making this sort of information available to Senate oversight.

3. Another matter which I intend to discuss with Mr. Mueller in the confirmation hearing is the failure of the FBI to cooperate with the Senate oversight. Now, this memorandum did not come to light until very recently, in August of 1996. Hanssen's voice was recorded by an FBI wiretap on his Soviet contact's telephone. In 1992, Hansen improperly accessed his supervisor's computer. In 1997, Hansen began to search the FBI computerized card database for his name, his home address, and for terms referring to espionage activities. A question arises, what steps have been taken by the FBI to detect a spy such as Hansen? There was a very long report issued by the inspector general of the CIA after Aldrich Ames was detected as a spy, and the inspector general of the CIA, Fred Hitz, wrote this in the report:

We have no reason to believe that the director of Central Intelligence who served during the relevant period were aware of the deficiencies described in this report.

4. That relates to Aldrich Ames. But directors of Central Intelligence are ordered to ensure that they are knowledgeable of significant developments relating to crucial agency missions. Sensitive human source reporting on the Soviet Union and Russian and East European intelligence agencies was such a mission, and certain directors of Central Intelligence must therefore be held accountable for serious shortcomings in that reporting.

Now, what that does essentially is to say that the Directors are at fault, even though they didn't know about Aldrich Ames, or have reason to know about Aldrich Ames, because the presence of spies in the Central Intelligence Agency who were in office when this matter that we are going to have to discuss, and for terms referring to espionage activities.

5. It is very tough standard to say that a public official is liable for matters that he didn't know about. But if our Nation's secrets are to be guarded, and if we are to be secure from spies such as Ames and Hansen, this is a matter that we are going to have to determine as to what is the appropriate standard to be applied.

When I talked to Mr. Mueller, I didn't ask him for a response, but this is another subject that will be probed during the course of the confirmation hearings. The issues of management in the FBI are just gigantic; they are enormous. We have seen repeated failures by the FBI to cooperate with the Senate oversight as to what happened between the Attorney General and the Director of the FBI.
McVeigh case, for example, the FBI had reason to know as early as January of this year that all of the documents related to McVeigh had not been turned over to McVeigh’s lawyers. Yet those documents were not made available until May. And then there was the issue about the fairness to McVeigh. No doubt he was guilty; he had confessed to the most horrendous crime in American history, where 168 people were killed in a Federal building in Oklahoma City—women, children, men, going there for official business, blameless, and it was done in a cold, calculated way.

There was no doubt as to guilt or as to the justification for the death sentence which was imposed, but there was an obligation on the part of the part of the prosecution to turn over all the papers. Then, at Waco. The hostage rescue team bore on sentencing. Here you had a 5-month delay where the Federal Bureau of Investigation had reason to know that all those documents were not turned over.

The question is: What is to be done in the management of the Federal Bureau of Investigation to avoid this sort of an error? In an age of computerization and mechanization, we search for an answer and must find a way that the FBI will correct these kinds of problems.

A similar issue was confronted in the Waco matter. It was an incident which occurred on April 19, 1993, where the compound was attacked and where so many people lost their lives in one of the most controversial incidents in American history, but it was not until August of 1999 that the FBI suddenly found a whole ream of records. Here again, management responsibilities require something much, much better than that.

The incident at Waco is really a very sad chapter in American history for many reasons: The confrontation, the deaths, the failure of congressional oversight, the failure of candid disclosure by the officials who were in charge.

On April 28 of 1993, Attorney General Reno and then FBI Director William Sessions testified before Congress that no pyrotechnic tear gas rounds were used at Waco. The hostage rescue commander, Richard Rogers, who was present for their testimony but who did not testify, did not correct them.

Regrettably, that is an occurrence which has happened too often where there is a concern about the FBI institutional image which blinds people who ought to be coming forward and who ought to be making a disclosure as to what the facts were when there is congressional oversight and you have critical individuals such as FBI agents and the Attorney General of the United States and by the Director of the FBI.

When Mr. Mueller and I talked yesterday, we discussed at some length the culture of the Federal Bureau of Investigation and the difficulties of even the Director finding out what is going on in his agency, such as a challenging task which Robert Mueller is going to have to confront.

In the context of what has happened with Wen Ho Lee, Waco, McVeigh, Hanssen, and the campaign finance investigation, there are issues which need to be very thoroughly explored in the confirmation hearing, and we ought to come to some common understanding between those of us who have oversight responsibilities on the Judiciary Committee and the Director of the FBI as to what his standard will be and what we think the standard should be so that we can come to a meeting of the minds or so that we may not confirm a Director who does not measure up to what we think is required as a matter of legitimate oversight.

At the same time, as I suggested before, Congress has not done its job on oversight. We had the incident at Waco on April 19 of 1993. In my view, there should have been a prompt, detailed, piercing oversight investigation of what went on there. It was not until former Senator Danforth undertook that investigation in 1999 that anything really was done.

Who can say as to the bombing of the Oklahoma City Federal building 2 years to the day after the Waco incident, when the Oklahoma City bombing occurred on April 19, 1995, whether that was related to the Waco incident or whether it might have been prevented had there been vigorous congressional oversight?

In 1995, I served as the chairman of the Subcommittee on Terrorism and to have oversight hearings at that time on both Waco and Ruby Ridge and to know that a great deal more needed to be done. Finally, the subcommittee was permitted to have oversight as to Ruby Ridge.

That was an incident where Randy Weaver was on the mountain and refused to come down. There was a veritable army which approached him and had a firefight, and a U.S. marshal was killed in the process.

The oversight in which the Terrorism Subcommittee got to the bottom of the matter was Director Louis Freeh, the FBI changed the rules of engagement related to the use of deadly force in what was a very important matter.

When we finished the hearings, Mr. Weaver said in the hearing room, had he known there was going to be this kind of congressional oversight, he would have come down from the mountain if he had believed there would be an inquiry and an appropriate resolution.

It was at that time that militia were springing up in some 40 States across the United States. If Congress exercises appropriate oversight, it is my view that will do a great deal to quell public unrest and public doubts as to what is happening with Federal action in a place such as Ruby Ridge and Federal action in a place such as Waco.

In summary, these are matters which are of the utmost importance when we will be confirming the next Director of the FBI, an occurrence which happens only once every 10 years because it is a 10-year turn, although a Director may leave earlier. Louis Freeh is leaving after 8 years, a term of office longer than the maximum a President may serve under the Constitution. The Justices of the Supreme Court have enormous power on 5-4 decisions establishing the law of the land, but there are four others who go with the one deciding vote.

The FBI, with all of its power—most of what it does is necessarily confidential and secret—requires that there be very profound changes in FBI management on the items which have been mentioned and an attitude that will not emphasize the institutional image to the sacrifice of not having appropriate congressional disclosure of the memorandum referred to, having appropriate congressional disclosure when a matter is pending, even if it is a criminal matter.

Mr. President, I ask unanimous consent that the full text of the memorandum from Director Freeh, dated December 9, 1996, be printed in the CONGRESSIONAL RECORD.

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

MEMORANDUM

As I related to you this morning, I met with the Attorney General on Friday, December 6, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first-rate DOJ legal team from outside Main Justice to conduct the inquiry. In fact, I said that these prosecutors should be “junk-yard dogs” and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radeke’s comment to you that there was a lot of “pressure” on him and PIS regarding this case because the “Attorney General’s job might hang in the balance” (or words to that effect). I stated that PIS was not up to what Congress thinks is required of what it does is necessarily confidential and secret—requires that there be very profound changes in FBI management.

To: Mr. Esposito.
From: Director, FBI.
Subject: Democratic National Campaign Matter.

CONGRESSIONAL RECORD—SENATE  July 11, 2001
key witnesses without the knowledge or participation of the FBI.

I strongly recommend that the FBI and hand-picked DOJ attorneys from outside the Attorney General and I spoke today and she asked for a meeting to discuss the “investigative team” and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Dole will attend. I intend to repeat my recommendations from Friday’s meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang’s recent release letters to the President as well as Radek’s comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.

It was most unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ’s experience with this matter—which has only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude this law-making process.

Nevertheless, based on information recently reviewed from PJS/DOC, we should determine whether or not an Independent Counsel referral to the Attorney General should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. Mr. President, I ask unanimous consent that an extract of a report from CIA Inspector General Frederick Hitz be printed in the CONGRESSIONAL RECORD.

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

We have no reason to believe that the DCIs who provided the relevant period were aware of the deficiencies described in this report. But DCIs are obligated to ensure that they are knowledgeable of significant developments related to crucial Agency missions. Sensitive human source reporting on the Soviet Union and Russia during and after the Cold War clearly was such a mission, and certain DCIs must therefore be held accountable for serious shortcomings in that reporting.

Mr. SPECTER. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise to express grave disappointment and concern that yesterday the Secretary of Health and Human Services, Tommy Thompson, indicated he would incorporate it in Medicare prescription drug legislation. We must guarantee that this law be written in the clearest terms that American labels will be used on the wholesale products that come from another country and that there will be complete safety precautions to make sure Americans will be receiving American-made, safe, FDA-approved drugs.

What is the difference in cost for prescription drugs? The difference is clear when I stand in Detroit, MI, and look across the river, I know that prices for American-made prescription drugs can be cut in half for my constituents with breast cancer treatment drug, is $136 a month in Canada. A quick 5 minute drive across the bridge with a group of seniors to purchase the exact same medicine; the price was only $15. There is something wrong with this picture.

The bill the Secretary chose not to implement would have begun to address this price difference by opening the border and allowing our people to buy prescription drugs wherever they can get the best price. I urge us to act as quickly as possible.

Mr. BURNS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk pro tempore. The Senator from Michigan.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will begin consideration of H.R. 2217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30th, 2002, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely: