

threat reduction initiatives that we are working on with the Russians. It is very important that this START treaty be ratified by the Senate. I note that there are some of my colleagues saying: The only way we will ratify the START treaty, the only way we would support that and not block that would be if we get dramatic new monies for new nuclear weapons or something of the sort.

So I am going to talk about that today. I also am going to talk about the financial reform bill, which is now staring us in the face, and about, as I mentioned, the issue of something that sounds like a foreign language, but it is not: naked credit default swaps. That is not a foreign language; that is flatout gambling that has been done by the largest financial firms in the country that steered America right into the ditch. It is very important they be dealt with, and dealt with the right way in financial reform.

Also, I am going to talk about the issue of too big to fail. In my judgment, if you are determined to be too big to fail, then, in my judgment, you are too big. I believe divestiture is an important part of the solution to that. I will talk about that more this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

#### EARTH DAY

Mrs. BOXER. I just want to say to my friend, I thank him for bringing the issue of the promotion of an Army Corps general to the floor today. I support his remarks. I support moving forward on that promotion.

Madam President, April 22 is Earth Day. It has been 40 years since then-Senator Gaylord Nelson first advocated setting aside a national day to focus on our environment. We have learned a lot in those 40 years. What we have learned is, it is very rewarding to protect and defend our environment. What we have learned is, when we do that, and we do it in the right way, we create millions of jobs and an economy that is very prosperous.

One very clear example of that is, take my California coastline. It is an economic driver. It is beautiful. It is an economic driver because people want to see it in all of its beauty. They want to enjoy its beauty. They spend a lot of dollars on tourism to come and visit my coast. They go to the restaurants. They go to the stores. That is why we have always argued against our colleagues who want to go and destroy—potentially destroy—that magnificent coastline, which is a gift from God, in my humble view.

It is interesting because the first Earth Day was inspired by a horrible oilspill that hit Santa Barbara, and the whole country saw the devastation, what happened to the wildlife, what happened to the ocean, what happened to the people there.

Ever since that time we have been taking a moment to take a deep

breath. By the way, breathing clean air is also an important part of Earth Day to actually appreciate this incredible gift that we have been given and to rededicate ourselves to the preservation of our environment.

In 1969, the Cuyahoga River in Ohio caught fire. Swaths of the Great Lakes were lifeless dead zones. Air in our cities was very unhealthy. All that happened in that year that then-Senator Gaylord Nelson decided to act on Earth Day.

When Senator Nelson took a trip, a plane trip, and looked down at the devastation of the awful Santa Barbara spill, he realized we needed a day to celebrate the Earth and to dedicate ourselves to protecting these gifts we have been given. Twenty million Americans rallied to celebrate the first Earth Day the following year in April 1970.

I think it is important to note that protecting the environment has been a bipartisan thing here, at least up until recent times. The Environmental Protection Agency opened its doors in November of 1970. It was Richard Nixon who signed that law. The Clean Water Act became law in 1972, the Safe Drinking Water Act in 1974, the Toxic Controlled Substances Act in 1976.

We have seen dramatic improvements in the air we breathe, the water we drink, and, again, very good growth in our economy over this period. We saw the gross domestic product rise from \$4.26 trillion in 2005 dollars, in 1970, to \$12.9 trillion. That is a three-fold increase in the GDP during the time we had these great environmental laws on the books.

So when the next politician stands up and says: You are going to devastate the economy, let's show him or her that is not so. If we take the lead—lead is a neurotoxin. When we keep it out of the area of our children, we know their IQs have gone up. It has been proven. We know what lies before us, clean energy. We know if we can get carbon pollution out of the air, it is going to unleash twice as many dollars from the private sector into finding new technologies, clean energy technologies. It will get us off of that addiction to foreign oil, \$1 billion a day. We will make products in this country that the whole world wants.

The world is going green. Why should we step back and allow China to make all of the solar panels? Why should we step back and allow Germany to make all of the windmills? They have taken over the lead from the United States of America.

I want to see the words “Made in America” again. I want to see them on products, clean energy technology products. I hope we will recommit ourselves to protecting this environment.

Today, we have a tremendous opportunity before us in clean energy. When we move forward to address the challenge of climate change, we will create millions of jobs and protect our children from dangerous carbon pollution.

Most importantly, clean energy will move us away from our dangerous dependence on foreign oil, which is costing us a billion dollars a day and making our country less secure.

America should be the leader in creating clean energy technologies that are made in America and work for America.

It will mean manufacturing jobs for people who build solar panels and wind turbines; it will mean jobs for salespeople who will have a world-wide market for these American made exports.

It will mean jobs for engineers, office workers, construction workers, and transportation workers too.

But today, other countries are moving quickly to take advantage of the enormous opportunities to manufacture and sell the solar, wind, geothermal and other clean energy technologies that will power the world in the coming decades.

Venture capitalists tell us that when we pass clean energy and climate legislation, it will unleash a wave of private investment that will dwarf the capital that poured into high tech and biotech combined. That means new businesses, new industries, and millions of new jobs for American workers.

Colleagues on both sides of the aisle are working on legislation to step up to the clean energy and climate challenge, building on the work we have done in the Environment and Public Works Committee. I look forward to working with them as this process moves forward.

This Earth Day, we have an unprecedented opportunity to reinvent our economy, create jobs, and put America on a new course to recovery and prosperity. Let's remember the lessons of the past and seize this opportunity.

I yield the floor.

Mr. SCHUMER. Madam President, I rise today to speak in support of the nomination of Judge Denny Chin to the United States Court of Appeals for the Second Circuit. Judge Chin is, first and foremost, a highly qualified and experienced nominee to one of the busiest courts in the country.

Judge Chin's life story speaks volumes about his own talent and determination, but also about the opportunities that this country offers—opportunities that made it possible for him to make the journey from Hong Kong, through Hell's Kitchen, to New York's best schools and now to the Second Circuit.

No one could be more qualified. No one could have a more impeccable record on the district court. And, he has the bonus of providing needed diversity to our appellate bench.

Nonetheless, after passing him out of committee unanimously, my Republican colleagues required the majority leader to file cloture on his nomination. It took 4 months—4 months—to get an up or down vote on him. It is good for the court system and the country that we are finally doing it this morning.

He has been a sitting judge in the Southern District of New York for 15 years, during which time he has presided with exceptional skill over some of the most challenging and important cases in the country.

Judge Chin is a quintessential New Yorker: He graduated from our best schools—including Stuyvesant High School and Fordham University Law School—and practiced there his entire career. His family emigrated from Hong Kong to America when Judge Chin was just 2 years old. His father worked as a cook and his mother worked as a garment factory seamstress in Chinatown. He grew up in a cramped tenement in Hell's Kitchen with his four siblings. He later practiced in New York as both a private lawyer and a Federal prosecutor.

Throughout my time in the Senate, I have applied the following criteria to each nominee for the federal bench: Is he excellent? Is he moderate? And will he bring diversity to the bench?

On excellence: Besides his obvious academic and professional credentials, Judge Chin has earned a unanimous well qualified rating excellent by ABA.

But more important than this, in my book, are the views of his peers who come in contact with him every day. Few judges have earned the accolades that litigants have given Judge Chin, whether they have experienced his courtroom in victory or defeat.

For example, in the Almanac of the Federal Judiciary—which compiles evaluations of judges from practitioners—lawyers describe Judge Chin as “a judge’s judge,” “conscientious,” “extremely hard-working,” “very bright,” and “an excellent judge.”

In short, no one—no one—questions Judge Chin’s excellence, his intellect, or his temperament.

On moderation: There is more than one way to evaluate Judge Chin’s moderation.

First, he is a tough, but fair, sentencing judge. In an observation that is emblematic of Judge Chin’s moderation, one attorney has even said of Judge Chin: “[h]e is a decent human being but he doesn’t let that influence his sentencing.”

Judge Chin is, in fact recently best known for sentencing Ponzi scheme operator Bernard Madoff. In a case that could have been a complete circus, that involved hundreds of victims who lost every penny they had, Judge Chin ran the proceedings with dignity and efficiency and sentenced Madoff to the highest possible sentence.

Judge Chin said:

The message must be sent that Mr. Madoff’s crimes were extraordinarily evil and that this kind of irresponsible manipulation of the system is not merely a bloodless financial crime that takes place just on paper, but that it is . . . one that takes a staggering human toll.

In addition, Judge Chin has said explicitly that he believes in a modest, moderate role for judges. In his 1994 questionnaire that he submitted during

his confirmation to be a district court judge, he wrote:

My view is that judges ought not to legislate; that is not their function. Judges interpret and apply the law, keeping in mind the purposes of the law.

Finally, Judge Chin has plenty of bipartisan support. His nomination garnered glowing letters from former Attorney General Michael Mukasey and Republican-appointed U.S. Attorney John Martin, who hired him 30 years ago and has practiced before Judge Chin. He had not a single vote against him, Democrat or Republican, in committee.

On the topic of diversity: It goes without saying that Judge Chin’s confirmation would improve the diversity of the Federal appellate bench. He already has the distinction of being the only Asian American judge to serve on the Federal district court outside of the Ninth Circuit. With his confirmation, he will be the only currently active Asian American appellate judge on the Federal bench.

So, let us proceed to approve Judge Chin without further delay, and keep one of the busiest dockets in the Federal judiciary functioning smoothly. I am proud and pleased to have a role in this historic moment for our Federal courts.

Mrs. GILLIBRAND. Madam President, I am pleased to rise today in strong support of the nomination of fellow New Yorker, Judge Denny Chin, to be a judge on the U.S. Court of Appeals for the Second Circuit. Judge Chin has a distinguished legal career, having dedicated the majority of his life to public service and education. His experience in the court room spans more than a decade as a litigator, and over 15 years as a Federal judge.

When he was 2 years old, Judge Chin moved with his parents from Hong Kong to New York, where he later attended Stuyvesant High School. Through hard work, he was able to attend Princeton University, where he received the Athlete Award from the National Football Scholarship Foundation and graduated magna cum laude. After graduating from Princeton, Judge Chin attended Fordham School of Law, where he earned his juris doctorate and became managing editor of the Fordham Law Review.

As impressive as his educational background is, Judge Chin has enjoyed an equally notable legal career in public service and private practice, beginning with a job clerking for U.S. District Judge Henry Werker in the Southern District of New York for 2 years. He then spent another 2 years at Davis Polk & Wardwell before resuming his commitment to public service at the U.S. Attorney’s Office for the Southern District of New York. As a Federal prosecutor, Judge Chin honed his litigation skills by arguing cases in the U.S. District Court and the U.S. Court of Appeals for the Second Circuit. Following his time at the U.S. Attorney’s Office, Judge Chin went back

into private practice, working as a litigator and a partner at several law firms in New York, and also as a solo practitioner, becoming a specialist in employment and commercial law.

In 1994, Judge Chin was the first Asian American appointed to Federal district court outside the Ninth Circuit, where he has served for 15 years. During his time on the bench, Judge Chin has presided over more than 4,700 civil and 650 criminal cases, issuing more than 1,500 opinions. He has served as designated judge on the Second Circuit Court of Appeals on 84 appellate cases, of which nine decisions are his written opinions. Notably, Judge Chin presided over the high profile trial of Bernard Madoff, whom Judge Chin ultimately sentenced to 150 years in prison for defrauding billions of dollars from New Yorkers and individuals from across the United States.

Judge Chin has demonstrated a strong commitment to education and the next generation of the legal profession as a professor of law for more than 23 years at his alma mater, Fordham University’s School of Law. He has contributed to legal scholarship by publishing seven law review articles and is frequent speaker at bar associations, law schools, law firms, corporations, and non-profit organizations. In 2009, he received the Professor of the Year Award from the Fordham Law School Public Interest Resource Center, and previously was awarded the Fordham Law School Alumni Association’s Medal of Achievement in 2006. He currently cochairs the Fordham Law School Minority Mentor Program.

Judge Chin’s dedication to public service extends to community leadership, and he is actively involved in local community and in legal associations. He is a member of the Second Circuit’s bar association, the Federal Bar Council, formerly serving as the President, and currently serving on the Public Service Committee. Prior to assuming the bench, he also served on numerous community boards, including the Brooklyn Center for Urban Environment, Care for the Homeless, Hartley House, and St. Margaret’s House. Upon assuming the bench, Judge Chin remained involved in his local community by becoming a member of numerous cultural organizations in New York. The outstanding dedication he demonstrated throughout his career and years of community involvement has led to numerous awards and honors—such as the J. Edward Lumbard Award for Public Service from the United States Attorney’s Office for the Southern District of New York, and the Lifetime Achievement Award from the New York State Division of Human Rights.

The American Bar Association gave Judge Chin its highest rating, as he is an exceptional and highly competent judge. He has always followed a thoughtful, reasoned approach to each case, strictly adhering to the application of facts and legal precedent.

There are currently 129 judicial nominees waiting to be confirmed by this Senate. It is unfortunate that when there are such highly qualified nominees as Judge Chin, they cannot be quickly voted on so that they may begin to handle the many critically important cases that are currently pending in our Federal courts.

In conclusion, Judge Denny Chin possesses the judicial temperament, breadth of legal knowledge, and commitment to justice, civil rights, and the rule of law necessary for this appointment. He is well qualified, and I am confident that he would make an outstanding judge on the U.S. Court of Appeals for the Second Circuit. I urge my colleagues in the Senate to support his confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Denny Chin, of New York, to be U.S. circuit judge for the Second Circuit?

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. KAUFMAN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from South Carolina (Mr. DEMINT).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "yea."

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 123 Ex.]

YEAS—98

Akaka	Ensign	Menendez
Alexander	Enzi	Merkley
Barrasso	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bayh	Franken	Murray
Begich	Gillibrand	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bennett	Grassley	Pryor
Bingaman	Gregg	Reed
Bond	Hagan	Reid
Boxer	Harkin	Risch
Brown (MA)	Hatch	Roberts
Brown (OH)	Hutchison	Rockefeller
Brownback	Inhofe	Sanders
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Burriss	Johanns	Shaheen
Byrd	Johnson	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Landrieu	Thune
Coburn	Lautenberg	Udall (CO)
Cochran	Leahy	Udall (NM)
Collins	LeMieux	Vitter
Conrad	Levin	Voinovich
Corker	Lieberman	Warner
Cornyn	Lincoln	Webb
Crapo	Lugar	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	

NOT VOTING—2

DeMint Kaufman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business, with Senators permitted to speak for up to 15 minutes each.

The Senator from Wisconsin.

#### PROHIBITING A COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS IN 2011

Mr. FEINGOLD. Madam President, over the years, Members of Congress have had a lot of perks, but one of them stands out; that is, the ability to raise their own pay. Not many Americans have the power to give themselves a raise whenever they want, no matter how they are performing. To make it worse, Members do not even have to vote on this pay raise. Congress has set up a system whereby every year Members automatically get a pay raise. No one has to lift a finger.

I do not take these pay raises, and I have been fighting for years to pass my bill to end this cozy system. Thanks to the majority leader, we took an important step last year when the Senate passed legislation to end automatic annual pay raises for Members of Congress. Unfortunately, the leadership of the other body has, so far, refused to take up that bill.

Well, I am going to keep fighting to pass it, but there is another step we can take in the meantime; that is, to make sure we do not get a pay raise next year. We already enacted legislation to block a pay raise this year, and now we have to do the same thing for 2011. With so many Americans looking for jobs and trying to figure out how to pay their bills, now is no time to give ourselves a taxpayer-funded \$1,600 pay increase.

I have a bill to block the scheduled 2011 pay raise.

Madam President, I ask unanimous consent that Senators BURR, VITTER, BENNET, LINCOLN, GRASSLEY, MCCASKILL, BEGICH, and MCCAIN all be added as cosponsors to the bill.

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

Mr. FEINGOLD. Madam President, I also ask unanimous consent that Senator WHITEHOUSE be added as a cosponsor to the bill.

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

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consider-

ation of S. 3244, a bill to prohibit a cost-of-living adjustment for Members of Congress in 2011; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I ask the Senator to add me as a cosponsor.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senator from Vermont, Mr. LEAHY, be added as a cosponsor to the bill.

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

Mr. FEINGOLD. Madam President, I renew my request.

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

The bill (S. 3244) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3244

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. NO COST OF LIVING ADJUSTMENT IN PAY OF MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2011.

Mr. FEINGOLD. Madam President, I thank the Chair, and I will be urging the other body to pass this bill as soon as possible and send it to the President. I will keep fighting so that in the future the burden will be on those who want a pay raise—not on those who want to block one—to pass legislation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I believe the Senator from Vermont has a brief statement.

Mr. LEAHY. Madam President, I just wish to make a unanimous consent request.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I thank my dear friend, the senior Senator from Missouri.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: Nos. 780, 781, 795, 796, 797, 798, 816, 817, 818, 819, and all nominations on the Secretary's desk in the Coast Guard, Foreign Service, and NOAA; that the nominations be confirmed en bloc; the motions to reconsider be considered made and laid upon the table en bloc; any statements relating to the nominations be printed