

FLIP THE COIN TO THE FED:  
A COMMENT ON THE DYSFUNCTIONAL  
RELATIONSHIP AMONG THE FEDERAL  
RESERVE SYSTEM, CONGRESS, AND THE  
UNITED STATES MINT

KEELEY MCCARTY\*

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\* J.D. Candidate 2012, American University Washington College of Law; B.A. 2006, Japanese, University of Florida. The Author would like to first thank God for arranging life in such a way that she stumbled upon the incredibly odd and interesting world of coins during a summer internship at the Mint in 2010, then had the opportunity to work on the flip-side fight for the dollar bill the following year as a summer associate in the private sector. The Author has come to view Congress' coin-bill impasse as a manifestation of the larger brokenness of the U.S. political system, and a telling one at that.

Among the many people who made this Recent Development possible, the Author thanks her mother for nurturing her love of writing, and the *Administrative Law Review* for humoring her obsession with the coin-bill debate and facilitating great personal growth throughout the process—as a writer, as a leader, and as a concerned U.S. citizen.

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## INTRODUCTION

The dollar coin serves important markets and returns quite a sum of money to Congress each year, with potential for more.<sup>1</sup> Even with the dollar bill and coin in co-circulation, Congress earns a profit on each coin minted in the amount of the difference between the cost of production and the face value of the coin.<sup>2</sup> The Government Accountability Office (GAO) estimates that switching to the exclusive use of the dollar coin would save American taxpayers around \$184 million every year, primarily as a result of this cost–value difference.<sup>3</sup> Previously, GAO estimated the savings as high as \$522 million per year, attributable not only to seigniorage but also to the significantly longer lifespan of a coin.<sup>4</sup> An average coin stays in circulation for thirty years, while the dollar bill only lasts about forty months.<sup>5</sup> The Bureau of Engraving and Printing (BEP) uses approximately eight and a half tons of ink every day, and 95% of bills produced replace old bills taken out of circulation.<sup>6</sup>

Despite the undisputed benefits of the dollar coin, it has never achieved popular acceptance and continues to be seen as more of a novelty than

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1. *See, e.g.*, 133 CONG. REC. 3705 (1987) (statement of Sen. Udall) (requesting to redesign the dollar coin in response to criticisms of the Susan B. Anthony (SBA) dollar coin, rather than giving up on the coin altogether).

2. Michael Zielinski, *One Billion and Counting: The Mint Keeps Pumping Out \$1 Coins, but Few Are Buying In*, WASH. POST, Aug. 20, 2010, at A21, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/19/AR2010081905459.html>. This difference, called seigniorage, from dollar coins amounted to \$318.7 million in the 2009 fiscal year. *Id.*

3. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-11-281, U.S. COINS: REPLACING THE \$1 NOTE WITH A \$1 COIN WOULD PROVIDE A FINANCIAL BENEFIT TO THE GOVERNMENT 9 (2011) [hereinafter GAO 2011 REPORT].

4. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-B-284994, FINANCIAL IMPACT OF ISSUING THE NEW \$1 COIN 2 (2000). The GAO calculates its savings by subtracting the net benefit of using the dollar bill, \$225.3 million, from the net benefit of using the dollar coin, \$747.5 million. *Id.*

5. GAO 2011 REPORT, *supra* note 3, at 13.

6. *Annual Production Figures*, U.S. BUREAU OF ENGRAVING AND PRINTING, <http://www.moneyfactory.gov/uscurrency/annualproductionfigures.html> (last visited Feb. 8, 2012). In 2010, the Bureau of Engraving and Printing (BEP) printed 1.856 billion one-dollar bills, down from 2.6368 billion in 2009. The height of production in recent history was in 2000, when the BEP churned out 5.1904 billion one-dollar bills. *Id.*

spendable legal tender.<sup>7</sup> The Federal Reserve Banks (Reserve Banks) held a surplus of nearly one billion dollar coins as of May 31, 2010.<sup>8</sup> That number grew to 1.2 billion by June 28, 2011,<sup>9</sup> and is expected to grow to two billion by 2016, not including the surplus of coins retained at United States Mint (Mint) facilities around the country.<sup>10</sup> Over the years, Congress has revamped the dollar coin several times in efforts to persuade the public of its merits. In response to complaints about the oversized Eisenhower dollar coin, Congress introduced the smaller and lighter Susan B. Anthony (SBA) dollar coin.<sup>11</sup> When the SBA dollar coin was rejected because of its confusing similarity to the quarter, Congress passed the \$1 Coin Act of 1997 (1997 Act), unveiling a distinctive golden Sacagawea dollar with unreeded edges.<sup>12</sup>

Most recently, Congress passed the Presidential \$1 Coin Act of 2005 (2005 Act) with the intent to address the continued unpopularity of the Sacagawea dollar.<sup>13</sup> In light of the recently successful Fifty State Commemorative Coin Program for quarter dollars, Congress extrapolated that a similar educational commemorative design program could ignite public interest in the dollar coin and boost demand.<sup>14</sup> It has not.<sup>15</sup> Despite additional provisions in the 2005 Act to promote awareness and reduce

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7. See *The State of U.S. Coins and Currency: Hearing Before the Subcomm. on Domestic Monetary Policy and Technology of the H. Comm. on Fin. Servs.*, 111th Cong. 10 (2010) [hereinafter *2010 Hearing: Roseman*] (testimony of Louise L. Roseman, Director, Division of Reserve Bank Operations and Payment Systems) (“Transactional demand for dollar coins has not increased materially since the start of the Presidential \$1 Coin Program,” and overall demand continues to come primarily from collectors).

8. *Id.*

9. Robert Benincasa & David Kestenbaum, *\$1 Billion that Nobody Wants*, NPR (June 28, 2011), <http://www.npr.org/2011/06/28/137394348/-1-billion-that-nobody-wants>.

10. *Id.*

11. *Dollar Coins: Eisenhower Dollar Coin (1971–1978) Auctions*, US COINS COLLECTOR [hereinafter *Eisenhower Dollar*], <http://uscoinscollector.com/auctions/eisenhower-dollar-1971-78> (last visited Feb. 12, 2012).

12. Richard R. Holley III, Note, *Dueling Dollars: The Story of Sacagawea’s Journey*, 5 N.C. BANKING INST. 579, 585–86 (2001). The Act required that the new coin maintain the weight and electromagnetic properties of the SBA dollar coin to allow for an easy transition in the vending marketplace. *Id.*

13. See Presidential \$1 Coin Act of 2005, Pub. L. No. 109-145, sec. 101, § 2, 119 Stat. 2664, 2664 (codified as amended at 31 U.S.C. § 5112 (2006)) (acknowledging that the dollar coin has not been widely sought-after).

14. *Id.* §§ 3, 4. Congress also cited a study by the Government Accountability Office (GAO) showing that many Americans who currently reject the dollar coin might actively seek it if such a design program were instituted. *Id.* § 5.

15. See *2010 Hearing: Roseman, supra* note 7, at 10 (stating that demand has not increased materially since the start of the program).

barriers to circulation,<sup>16</sup> the coins keep piling up. While there are temporary spikes in demand at the release of each new presidential design, even those spikes are progressively shrinking with each successive release.<sup>17</sup> In addition to the presidential dollars, the 2005 Act also requires that the Mint continue producing a proportionate number of Sacagawea dollar coins.<sup>18</sup> However, the 2005 Act does not require the Federal Reserve Banks to purchase these coins, and the Federal Reserve Banks have decided not to, citing lack of demand.<sup>19</sup> Without a release valve for the considerable number of coins it is required to produce, the Mint has been forced to experiment with unorthodox channels to the public, resulting in little relief and unforeseen negative externalities.<sup>20</sup>

This Recent Development examines the reasons underlying the failure of the 2005 Act to achieve its stated goal of improving dollar coin circulation. Part I provides an overview of how currency and coins circulate through commerce. It includes an explanation of how the Federal Reserve Banks, Mint, and the BEP work together and independently to move money into the economy. Part II discusses how the dollar bill acts as a roadblock to the acceptance of the dollar coin, highlighting the political strings tethering Congress to both the dollar bill and coin. It also focuses on the economic waste created by the 2005 Act's Native American coin production requirement. It looks back at how the Mint handled similar situations of oversupply in the past and applies those lessons to the current problem. In Part III, this Recent Development concludes that currency and coin production decisions should synergize and both be handled by the Federal Reserve Board. Part IV suggests that the dollar bill should be removed from circulation to enable the dollar coin's acceptance, and Part V discusses what that transition might look like.

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16. Presidential \$1 Coin Act, sec. 104, 31 U.S.C. § 5112.

17. *2010 Hearing: Roseman, supra* note 7, at 113, Chart 6. Initial demand is expected to be particularly high for certain future presidential designs, however. *Id.* at 108.

18. *See* Presidential \$1 Coin Act, sec. 102, § (n)(1)(B)(ii) (requiring that one-third of \$1 coins produced be of the Sacagawea design). The requirement was later reduced to 20% by the Native American \$1 Coin Act. Native American \$1 Coin Act, Pub. L. No. 110-82, sec. 2, § (r)(5), 121 Stat. 777, 777, 779 (2007) (codified at 31 U.S.C. § 5101 (Supp. III 2009)).

19. *2010 Hearing: Roseman, supra* note 7, at 10–11.

20. Zielinski, *supra* note 2, at A21; *see* Scott McCartney, *Miles for Nothing: How the Government Helped Frequent Fliers Make a Mint*, WALL ST. J., Dec. 7, 2009, at A1 (detailing the abuse of the direct-ship program by consumers purchasing the coins and immediately depositing them into depository institutions, circumventing the program's intent of increasing everyday use in commercial transactions).

## I. BACKGROUND

The U.S. dollar is unique as the only denomination of U.S. money that exists in both paper and coin form.<sup>21</sup> Although the dollar coin and dollar bill can be used interchangeably in commerce,<sup>22</sup> their paths from production to consumer are quite different. The United States' money is divided into two principle categories: currency and coin.<sup>23</sup> The BEP prints all forms of paper currency and the Mint is responsible for coins.<sup>24</sup> This division of responsibilities is rooted in American history. Shortly after drafting the Constitution, the U.S. government delegated the newly articulated congressional power to coin money to the Mint in 1792.<sup>25</sup> Initially, the Mint produced copper cents and silver and gold coins.<sup>26</sup> Coinage then had an intrinsic value—value based on its raw metal content—closer to the face value assigned by the government.<sup>27</sup> Due to the rising market value of gold and eventually silver, the metal composition of coins shifted over the years to greatly diminish the intrinsic value of coins in relation to the face value, at least for larger denominations.<sup>28</sup> Congress determines coin composition, design, and ratio of one design to another for coins of equal value.<sup>29</sup> Paper money did not exist until nearly seventy years after the establishment of the Mint, and Congress only officially recognized the BEP in 1874.<sup>30</sup> In the years between the first paper money and the

21. Holley, *supra* note 12, at 579.

22. See BLACK'S LAW DICTIONARY 979 (9th ed. 2009) (defining *legal tender* as the currency or coins in a country that act as units of exchange).

23. See generally HARRY D. HUTCHINSON, MONEY, BANKING, AND THE UNITED STATES ECONOMY (4th ed. 1980).

24. See *Bureaus*, U.S. DEP'T OF THE TREASURY, <http://www.treasury.gov/about/organizational-structure/bureaus> (last visited Feb. 11, 2011) (providing a list of bureaus and their descriptions, briefly, within the Treasury Department, and linking to their individual websites). In addition to currency, the BEP also printed postage stamps until 2006. Bureau of Engraving & Printing, DEP'T OF THE TREASURY, CHIEF FINANCIAL OFFICER PERFORMANCE AND ACCOUNTABILITY REPORT 26 (2006) [hereinafter 2006 BEP CFO REP.].

25. See *History of the Mint*, U.S. MINT, [http://www.usmint.gov/about\\_the\\_mint/historianscorner/?action=history](http://www.usmint.gov/about_the_mint/historianscorner/?action=history) (last visited Feb. 11, 2012) (identifying the Mint's constitutional link and giving the history of its founding); see also U.S. CONST. art. I, § 8 ("The Congress shall have Power . . . to Coin Money.").

26. *History of the Mint*, *supra* note 25.

27. Cf. HUTCHINSON, *supra* note 23, at 19 (noting that coins' metal value has been far below their face value for many years).

28. See *id.* ("U.S. coins . . . are now virtually silverless as a result of the rising market value of silver.").

29. 31 U.S.C. § 5132 (2006).

30. The first paper currency, Demand Notes printed by the Treasury Department in 1861, actually functioned as Government IOUs for coins. HISTORICAL RES. CTR., BUREAU

creation of the BEP, Congress had currency notes produced by private entities.<sup>31</sup>

A. *The Federal Reserve System and Its Agency Interactions*

Paper money as we know it today, Federal Reserve Notes, was first authorized by the Federal Reserve Act of 1913.<sup>32</sup> Congress created the Federal Reserve System, comprised of five governmental and private components, to function as the nation's central bank.<sup>33</sup> The Federal Reserve System currently functions to (i) conduct the nation's monetary policy by influencing the monetary and credit conditions in the economy; (ii) supervise and regulate banking institutions to ensure the safety and soundness of the nation's banking and financial system and to protect the credit rights of consumers; (iii) maintain the stability of the financial system and contain systematic risk that may arise in financial markets; and (iv) provide financial services to depository institutions, the U.S. government, and foreign officials, including playing a major role in the nation's payment system.<sup>34</sup> The Board of Governors of the Federal Reserve (Board) is the governing body and an independent government agency.<sup>35</sup> Its powers and responsibilities include, among others, supervising the issue and retirement of Federal Reserve Notes through the Secretary of the Treasury.<sup>36</sup> On the Federal Reserve's books, these notes are calculated as a liability collateralized by the Federal Reserve's assets.<sup>37</sup> The U.S. government also backs the notes.<sup>38</sup>

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OF ENGRAVING AND PRINTING, BEP HISTORY 2 (2004), [http://www.moneyfactory.gov/images/BEP\\_History\\_Sec508\\_web.pdf](http://www.moneyfactory.gov/images/BEP_History_Sec508_web.pdf).

31. *Id.* at 3. This currency was called the U.S. Note and was issued by the Department of the Treasury directly. See *History of the Federal Reserve*, FED. RESERVE EDUC., <http://www.federalreserveeducation.org/about-the-fed/history/> (last visited Feb. 12, 2012) (giving the history of U.S. notes).

32. BEP HISTORY, *supra* note 31, at 3; *History of the Federal Reserve*, *supra* note 31.

33. The five components are the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, the Federal Advisory Council, twelve Federal Reserve Banks, and about 6,000 commercial bank members. Sharon A. Sweeney & Jane Anne Schmoker, *Federal Reserve Bank and the Payment System: Regulation J, Regulation CC, Operating Circulars, and Other Deposit Account Issues*, 51 CONSUMER FIN. L. Q. REP. 204, 204 (1997).

34. U.S. FED. RESERVE SYS., THE FEDERAL RESERVE SYSTEM: PURPOSES & FUNCTIONS 1 (2005), [http://www.federalreserve.gov/pf/pdf/pf\\_complete.pdf](http://www.federalreserve.gov/pf/pdf/pf_complete.pdf).

35. *Id.* at 3.

36. 12 U.S.C. § 248(d) (2006).

37. Federal Reserve Notes comprise 99% of circulating U.S. paper currency and are legally issued by the Reserve Banks, not the Treasury Department. *Currency and Coin Services*, BD. OF GOVERNORS OF THE FED. RESERVE SYS., [www.federalreserve.gov/paymentsystems/coin\\_about.htm](http://www.federalreserve.gov/paymentsystems/coin_about.htm) (last visited Feb. 12, 2011).

38. *Id.* Federal Reserve Notes used to be backed by gold or silver, meaning that a note-

The BEP functions almost like a wholesale printer for the Federal Reserve.<sup>39</sup> Economists at the Federal Reserve determine how much paper currency should be produced to meet public demand and replace old or damaged currency in circulation, and the Federal Reserve pays the costs of printing and shipping the bills.<sup>40</sup> The BEP prints only enough bills to fill yearly orders placed by the Federal Reserve Bank, thus preventing waste.<sup>41</sup>

In contrast, the Mint determines production volume for coins itself, with some guidance from demand forecasts and orders by the Federal Reserve.<sup>42</sup> While these forecasts and orders influence production, the converse is not true. In other words, the Federal Reserve is under no obligation to buy what the Mint is selling. There is an exception for some coins for which legislation mandates that the Reserve Banks purchase enough coins to meet public demand.<sup>43</sup> Not only is the supply and demand system different, but so are the costs. The Federal Reserve purchases coins from the Mint at face value, generating an immediate profit for the Mint and, ultimately, the government.<sup>44</sup> Because they have been purchased from the Mint, coins show up as assets on the Federal Reserve accounting books.<sup>45</sup> The Mint is responsible for delivering the coins to the Reserve Banks and the Reserve Banks distribute them to other depository institutions around the country.<sup>46</sup> To this end, the Reserve Banks utilize armored carriers and coin terminals.<sup>47</sup>

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holder could take one to the Treasury and receive the value in whichever metal it was secured by. This system ended in 1964. HUTCHINSON, *supra* note 23, at 4 & n.1.

39. *See Currency and Coin Services*, *supra* note 37 (limiting what the Federal Reserve pays the BEP for its service to the costs of printing and shipping, not the face value of the currency).

40. *Id.*

41. *See id.* (outlining briefly the order and supply process). The Treasury Department issues less than 3% of the nation's money, which consists mostly of coins. HUTCHINSON, *supra* note 23, at 17–19.

42. *Currency and Coin Services*, *supra* note 37.

43. *See, e.g.*, Presidential \$1 Coin Act of 2005, sec. 104, § (p)(3), 31 U.S.C. § 5112 (2006).

44. United States Mint Public Enterprise Fund, 31 U.S.C. § 5136 (2006); *see Frequently Asked Questions*, U.S. MINT, [https://answers.usmint.gov/app/answers/detail/a\\_id/10](https://answers.usmint.gov/app/answers/detail/a_id/10) (last visited Feb. 12, 2011) (explaining that net income comes from sales of circulating coins and numismatic items, and helps reduce the government's deficit).

45. *Currency and Coin Services*, *supra* note 37.

46. *Id.* Depository institutions include banks, savings and loans, and credit unions. The District Reserve Banks serve 9,500 of these institutions around the United States. BD. OF GOVERNORS OF THE FED. RESERVE SYS., ANNUAL REPORT TO THE CONGRESS ON THE PRESIDENTIAL \$1 COIN PROGRAM 5 (2007) [hereinafter 2007 FRB REPORT], <http://www.federalreserve.gov/boarddocs/RptCongress/dollarcoin/dollarcoin.pdf>.

47. *Currency and Coin Services*, *supra* note 37.

### B. Coins and Currency to Commerce

There is no statutory requirement that coins enter commerce through the Federal Reserve System.<sup>48</sup> The Mint makes most coins available directly to the public at a markup.<sup>49</sup> In recent years, the Mint has found other channels to commerce, primarily for the dollar coin, as an extra boost to achieve regular circulation.<sup>50</sup> These channels have taken shape as an online order site, partnerships with retail chains, and even ATM dispensers, to name a few.<sup>51</sup> The creation of some of these channels met with objections by banks and smaller retailers who felt slighted or uneasy about such untraditional distribution methods.<sup>52</sup>

Once coins and currency reach everyday commerce they can be spent, saved, or deposited. Saving can become an obstacle to circulation, which is something the Federal Reserve and the Mint must take into account when deciding production volume.<sup>53</sup> Often when notes and coins of equal face value are co-circulated the public will hoard the coins, which are inherently more valuable.<sup>54</sup> Individual depository institutions disseminate deposited currency and coins to other customers as needed, and when deposits fill their supply they send the surplus back to the Reserve Banks.<sup>55</sup> Older coins

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48. See Philip N. Diehl, *Why Don't the Banks Pass the Buck?*, WASH. POST, Sept. 2, 2000, at A25 (noting that banks do not have exclusive rights to new coins).

49. See *How Are United States Mint's Two-Roll Coin Sets Priced?*, U.S. MINT, [https://answers.usmint.gov/app/answers/detail/a\\_id/204](https://answers.usmint.gov/app/answers/detail/a_id/204) (last visited Feb. 12, 2011) (itemizing the price of coin rolls to include the face value of coins, packaging, transportation, storage, and other administrative costs). Dollar coins were excepted from this mark-up if ordered through the Circulating \$1 Coin Direct Ship Program, which ended on November 15, 2011. Consumers could get up to four boxes of 250 coins each every ten days, free of shipping fees. The Mint ended the free program to address fiscal concerns. See *U.S. Mint Online Product Catalog*, U.S. MINT, <http://www.usmint.gov> (follow "Shop Online" hyperlink; then follow "\$1 Coin Direct Ship" hyperlink; then follow "Circulating \$1 Coin Direct Ship Rolls—2011 Native American Dollar(N05)" hyperlink) (last visited Feb. 12, 2011) (listing the available products and order limit).

50. See Holley, *supra* note 12, at 591 (describing the Mint's partnerships with large nationwide retail institutions as a strategy to supplement normal bank distribution).

51. *Id.* at 592–600.

52. See *id.* at 597–98, 603–04 (including bankers, the National Federation of Independent Business, the National Grocers Association, and the Community Bankers Association among the groups bothered by the Mint's alternative distribution methods).

53. See *id.* at 602 (citing hoarding as the primary reason that few Sacagawea dollar coins could be found in circulation, despite the incredible number produced).

54. *Id.* Gresham's Law explains this tendency to hoard based on differences in intrinsic value of co-circulating money of equal face value. See *id.* at 602 nn.129–30.

55. See *The Structure of the Federal Reserve System*, BD. OF GOVERNORS OF THE FED. RESERVE SYS., <http://www.federalreserve.gov/pubs/frseries/frseri3.htm> (last updated April 17, 2009) (explaining that during seasons of decreased cash demand by the public, institutions deposit the excess cash in their accounts with Reserve Banks).



and bills that were returned to the Reserve Banks are used to fill the next outgoing shipments unless determined unfit for circulation.<sup>56</sup> Careful ordering is required to prevent shortages or surpluses of coins; the Federal Reserve is still honing this skill for most coins.<sup>57</sup> After disposing of unfit coins and currency, the Federal Reserve orders replacements and any additional coins and currency necessary from the Mint.<sup>58</sup> Commemorative coins create difficulty for the Reserve Banks that paper currency does not. Note that in everyday transactions, depository institutions have no preference for a bill from one year over a bill from another year, or one coin design over another.<sup>59</sup> However, much of the demand banks see for commemorative coins, particularly dollar coins, comes from collectors, to whom the particular design is paramount.<sup>60</sup> Due to such particularized demand, the Federal Reserve uses special inventory and distribution procedures for commemorative coins.<sup>61</sup>

## II. THE PRESIDENTIAL \$1 COIN ACT OF 2005

The Presidential \$1 Coin Act of 2005 was passed to increase circulation of dollar coins without removing the dollar bill from co-circulation.<sup>62</sup> To this end, Congress included an entire section of the Bill entitled “Removal of Barriers to Circulation.”<sup>63</sup> The Section is divided into subsections, “Acceptance by Agencies and Instrumentalities,” “Publicity,” and “Coordination,” each of which requires agencies and federally funded entities to take steps to increase public awareness and acceptance of the dollar coin.<sup>64</sup> The extensive nature of these provisions is likely a result of

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56. *See id.* (noting that the Federal Reserve Banks sort and count, then remove unfit currency and coin from circulation).

57. *See 2010 Hearing: Roseman, supra* note 7, at 105–06 (crediting improved management and a 31% decrease in orders to the Mint with the lowest inventory levels since 2000). On May 31, 2010, the Federal Reserve vaults held 1.5 billion pennies, 343 million nickels, and 546 million dimes. *Id.* at 106 & n.11.

58. *The Structure of the Federal Reserve System, supra* note 55.

59. *See 2007 FRB REPORT, supra* note 46, at 6 (distinguishing typical transactional demand for coins of any design from collector demand of particular commemorative coin designs).

60. *Id.*

61. *See id.* (identifying special introductory periods in which the Federal Reserve suspends its normal distribution practices and only ships out the new design as one of the mechanisms for handling the challenges presented by commemorative coins).

62. *See* Presidential \$1 Coin Act of 2005, Pub. L. No. 109-145, sec. 105, § 1, 119 Stat. 2664, 2671 (codified as amended at 31 U.S.C. § 5112 (2006)) (delineating Congress’s intent for the legislation would increase use of dollar coins and circulation of the Sacagawea dollars).

63. *Id.* sec. 104 (codified as amended at 31 U.S.C. § 5112(p)).

64. The statute includes requirements for the acceptance of the coin by all agencies and

the many prior failures of the dollar coin to succeed in meaningful circulation.<sup>65</sup>

The dollar coin has a long history of struggles and failures. Five years after the Coinage Act of 1965 eliminated silver from U.S. circulating coins, Congress authorized the minting of the first modern dollar coin.<sup>66</sup> The Eisenhower Dollar coin was meant to honor the recently deceased ex-President, and the Mint continued issuance from 1971 to 1978.<sup>67</sup> The coin was heavier than any previous dollar coin and was unpopular in everyday circulation as a result.<sup>68</sup> The dollar bill remained the public's first choice for transactions.<sup>69</sup>

The Mint attempted to address the size and weight concerns with the SBA dollar coin, first issued in 1979.<sup>70</sup> Designers reduced the coin to about the size of a quarter, with reeded edges also like the quarter. This spurred complaints from consumers who felt the SBA dollar coin was too similar to the quarter and therefore easily confused.<sup>71</sup> The Federal Reserve and Mint overshot demand expectations and initially had significant backed stock of the coin.<sup>72</sup> Regardless of its design flaws, the government recognized early that the primary roadblock to success of the dollar coin was the continued co-circulation of the dollar bill.<sup>73</sup> Countries like Canada proved that

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instrumentalities of the government, a publicity campaign by the Director of the Mint to ensure the public knows about the coin, and coordination by the Federal Reserve to guarantee an adequate supply of the Presidential dollar coins to meet public demand. *Id.* § (p)(1)–(3).

65. *See generally id.* sec. 101 (finding that the Sacagawea dollar has not achieved popularity, but that people might be more receptive to a commemorative Presidential design).

66. *See Eisenhower Dollar, supra* note 11 (naming the Eisenhower Dollar as the first dollar coin minted after the Coinage Act of 1965). It was composed of 75% copper and 25% nickel. *Id.*

67. *See id.* (describing the Eisenhower dollar as honoring both President Dwight D. Eisenhower, who died in 1969, and the first landing on the moon by Apollo 11).

68. *See id.* (noting that the 22.68 gram weight of the coin makes it not “as friendly to be carried around . . . in your pant wallet”). The Eisenhower Dollar’s size and weight have made it one of the most popular coins among collectors, on the other hand. *Id.*

69. *Id.*

70. *See id.* (noting that after nine years, the unpopular Eisenhower dollar coin was replaced by the smaller, but equally unpopular dollar coin honoring Susan B. Anthony).

71. *See A Dollar Coin Could Save Millions: Hearing Before the S. Comm. on Banking, Hous., and Urban Affairs*, 104th Cong. 3 (1995) [hereinafter *1995 Hearing: Stevens*] (statement of L. Nye Stevens, Director, Federal Management and Workforce Issues General Government Division) (citing close similarity to the quarter, the continued co-circulation of the dollar bill, and a lack of effective promotion efforts as the causes for failure of the SBA dollar coin).

72. Holley, *supra* note 12, at 584.

73. *See 1995 Hearing: Stevens, supra* note 71, at 3 (including co-circulation of the dollar bill as one of the three primary impediments to success of the SBA coin). Looking at other

although initially difficult, a quick flip of coin for bill was an effective method of transition.<sup>74</sup> However, even with clear sight of the problem and solution, the Treasury hesitated to push Congress for the change due to potential backlash from the public.<sup>75</sup> Instead, Congress kept the SBA dollar coin until 2000, when it passed new legislation attempting to address the superficial problems with the SBA dollar coin, while ignoring the most important factor in its failure: the dollar bill's co-circulation.<sup>76</sup>

To be fair, the SBA dollar coin has been and continues to be embraced by a small subset of the population: the vending industry and mass transit systems.<sup>77</sup> The vending industry has spent hundreds of millions in the last few decades to equip machines with apparatus to accept bills.<sup>78</sup> Even billions in investment cannot help the simple problem of a crumpled one-dollar bill. Vending machine operators estimate up to 30% in lost profits each year due to crumpled bills.<sup>79</sup> This loss could be nearly eliminated by a switch to dollar coins, which move through vending machines more easily and take up less space inside, allowing for fewer collections.<sup>80</sup> Perhaps it

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countries who had successfully transitioned to dollar coin equivalents, the GAO identified five essential elements for a successful conversion in the United States: (1) elimination of the dollar bill; (2) a reasonable transition period; (3) a well-designed and readily distinguishable dollar coin; (4) adequate public awareness; and (5) continuing administration and congressional support to handle a potentially negative reaction from the public. *Id.* at 4.

74. Five years after Canada's switch, public disapproval of the coin was only 18%. *Id.* at 5.

75. *See id.* at 4 (stating that Treasury officials from the past two administrations expressed reluctance to support the dollar coin because of a belief that Congress would eventually cave in to negative pressure from the public that would result from elimination of the dollar bill).

76. *See* Holley, *supra* note 12, at 585 (recognizing Sacagawea's design in 2000 was in deliberate response to the complaints about the SBA dollar coin's physical characteristics).

77. *See* Lorene Yue, *Furor Tamishes Dollar Coin Debut*, DET. FREE PRESS, Mar. 13, 2000, at 8F, available at 2000 WLNR 8100529 (statement of Philip Diehl attributing the eventual depletion of SBA dollar coin surplus to the increase in demand generated by the vending industry). The demand shot from fifteen million to sixty million sometime in the mid 1990s. *Id.*

78. *See* Paul Huggins, *Goodbye, Bill? Government Still Hopes \$1 Coins Will Catch On*, DECATUR DAILY (Decatur, Ala.), Nov. 11, 2008 (interviewing a vending company owner who said that switching to the dollar coin might render bill-accepting apparatus, which the industry has spent hundreds of millions installing over the last thirty years, obsolete).

79. This estimation is based on the statistics showing that the average vending machine has a 99% chance of accepting a coin, but only a 70% chance of accepting a bill, creating a potential 30% loss. *Id.*

80. Richard Minitier, Op-Ed, *Trust Your Pocket: Don't Fall for This Campaign for Change*, ADVOCATE (Newark, Ohio), Dec. 10, 2008.

was the recognition of this important market that encouraged Congress to give the dollar coin another shot, or perhaps there were other interests at play.<sup>81</sup>

A. *The Role of Congress in the Dollar Debate*

Certain politicians have been fervently pushing for and against a complete transition to the dollar coin since the 1990s.<sup>82</sup> The issue has heated up in recent months in the Joint Committee on Deficit Reduction, a special supercommittee formed in August of 2011 to address the politically divisive national deficit.<sup>83</sup> Congressional Representatives looking to reduce the \$1.5 trillion deficit have zeroed in on the dollar coin as a possible chunk of that change.<sup>84</sup> Over the years, representatives from Massachusetts have played key roles not only in keeping the dollar bill in circulation, but also in keeping the production process as close to home as possible.<sup>85</sup> Crane & Co., a paper manufacturer in Dalton, Massachusetts, has been supplying the Treasury with its currency paper since 1879.<sup>86</sup> While the Treasury

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81. See Presidential \$1 Coin Act of 2005, sec. 101, § 1, 31 U.S.C. § 5112 (2006) (“There are sectors of the United States economy, including public transportation, parking meters, vending machines, and low-dollar value transactions, in which the use of a \$1 coin is both useful and desirable for keeping costs and prices down.”). But see Zielinski, *supra* note 2, at A21 (discussing the profits the Mint generates, which go back to Congress for appropriation at the end of each fiscal year, from producing unnecessary dollar coins).

82. See, e.g., 137 CONG. REC. 32,982 (1991) (submission of an article from *The Columbia Dispatch* outlining the benefits of the dollar coin over the dollar bill by Rep. Kolbe to show that Americans support the dollar coin when given the facts). But see, e.g., 141 CONG. REC. 5891 (1995) (statement of Rep. Davis) (arguing that the dollar coin would be a burden to banks and businesses and that it is unwanted by the American people).

83. Gregory Korte, *Replacing \$1 Bill with Coin Could Save \$5.6 Billion*, USA TODAY (Oct. 25, 2011, 11:56 AM), <http://www.usatoday.com/news/washington/story/2011-10-24/dollar-enters-deficit-debate/50898164/1>.

84. *Id.*

85. See, e.g., 136 CONG. REC. 9640 (1990) (address by Representative Silvio O. Conte of Massachusetts urging the House to beware of a bill proposing a switch to the dollar coin, calling the dollar bill a “symbol of prosperity, the image of our country’s greatness, the emblem of American economic might,” and the dollar coin, “a giant penny”); see also 31 U.S.C. § 5114 note (2006) (requiring that all distinctive currency paper be manufactured in the United States and by companies owned by American citizens). The language in 31 U.S.C. § 5114 note, enacted in 1987, is often called the Conte Amendment, referencing Rep. Conte of Massachusetts. See U.S. GOV’T ACCOUNTABILITY OFFICE, GAO/GGD-98-181, CURRENCY PAPER PROCUREMENT: MEANINGFUL COMPETITION UNLIKELY UNDER CURRENT CONDITIONS 5 (1998) [hereinafter PAPER PROCUREMENT] (acknowledging the limitation on paper procurement placed on the Treasury Secretary by 31 U.S.C. § 5114).

86. U.S. currency has the longest lifespan of any world currency. See *Currency & Security Papers*, CRANE & CO., <http://www.crane.com/about-us/currency-paper?RPL> (last visited Jan. 26, 2012) (giving the facts about Crane & Co.’s history producing currency paper for

Secretary has tried to encourage competition from other paper manufacturers, certain legislative limits on procurement, some of which were driven by Massachusetts Representatives, have made other companies wary of entering the market.<sup>87</sup> One-dollar bills comprise nearly half of all paper currency printed by the BEP each year,<sup>88</sup> which means that a similar proportion of the paper supplied by Crane & Co. is used for one-dollar bills. Crane & Co. estimates that the death of the dollar bill would mean the loss of 350 jobs for the company.<sup>89</sup> Crane & Co.'s government contract awards for paper in 2010 alone totaled over \$108 million.<sup>90</sup> The company continues to fight to keep its hold on the market by closely monitoring government requests for proposals.<sup>91</sup>

There are also staunch supporters of the dollar coin, including politicians and private trade and interest groups. Former Representative Jim Kolbe of Arizona played a large role in the 1990s in pushing for the elimination of the dollar bill and adoption of the dollar coin.<sup>92</sup> He now serves as chairman of the Dollar Coin Alliance, comprised mostly of vending and mass transit industry members, which also actively participates in the legislative process.<sup>93</sup> With all the push and pull, Congress has gotten caught up in the past with politics and lost sight of the goal of successful coinage and currency.<sup>94</sup> Recognizing potential political difficulties but also the

the U.S. Treasury).

87. See PAPER PROCUREMENT, *supra* note 85, at 22 (naming the four-year contract limit and domestic manufacturing requirement as reasons given by other paper manufacturers for not competing for BEP paper contracts).

88. In 2009, the BEP printed 2,636,800,000 one-dollar bills, or 42.26% of overall production of 6,240,000,000 bills of all denominations. *Annual Production Figures*, *supra* note 6.

89. Janie Lorber, *Super Committee Members Square Off on Bills vs. Coins*, ROLL CALL (Sept. 27, 2011, 6:50 p.m.), [http://www.rollcall.com/news/super\\_committee\\_members\\_square\\_off\\_on\\_bills\\_vs\\_coins-209038-1.html](http://www.rollcall.com/news/super_committee_members_square_off_on_bills_vs_coins-209038-1.html).

90. See *Prime Award Spending Data*, USASPENDING.GOV, <http://usaspending.gov/search?query=&searchtype=&formFields=eyJJSZWNpcGllbnROYWl1TGhlc2UiOlsiQ3JhbmUgQU1QLVJFUC1BTVAgQ28uICBJbmMuIl19> (last visited Feb. 12, 2012) (calculating the total dollars awarded at \$108,803,330 for 124 individual contracts). Crane & Co. earned over \$176 million in 2008 for paper awards. See *id.* (listing the total award for 87 contracts at \$176,374,604).

91. *E.g.*, Crane & Co., Inc., B-297398, 2005 WL 3682359 (Comp. Gen. Jan. 18, 2006).

92. He was unsuccessful after nearly a decade of efforts. Greg Hassell, *Sacagawea Guides Americans Back to Dollar Coin*, HOUS. CHRON., Mar. 26, 2000, at 1D. Kolbe admits that his initial advocacy primarily supported mining interests in Arizona. Korte, *supra* note 83.

93. See Korte, *supra* note 83. The Dollar Coin Alliance was formerly known as the Dollar Coin Coalition. See Hassell, *supra* note 92 (including the vending machine industry, mass transit authorities, and mining interests as Dollar Coin Coalition members who backed the efforts by Representative Jim Kolbe in the dollar coin-dollar bill debate).

94. See Hassell, *supra* note 92 (quoting Philip Diehl, then-Director of the Mint, revealing that the SBA dollar coin had been tangled in political debate over feminism and the Equal

potential to profit from a successful dollar coin, Congress passed the power to design a new dollar coin to the Treasury in the 1997 Act, a dramatic change from the past.<sup>95</sup> That power remains with the Mint today.<sup>96</sup> Delegating the design responsibility allowed the legislation to pass in a matter of months.<sup>97</sup>

This advocacy continues in the new supercommittee.<sup>98</sup> In September, congressional Representatives introduced bills to both kill the dollar bill and save it.<sup>99</sup> Republican Representatives David Schweikert of Arizona and Jeb Hensarling of Texas back the proposal to phase out the dollar bill.<sup>100</sup> Democratic Representative John Kerry and Republican Representative Scott Brown, both of Massachusetts, introduced a bill to end production of the dollar coin.<sup>101</sup>

### B. *The Modern Golden Dollar Coin*

The Mint unveiled the new Sacagawea dollar coin in 2000—about the same size as the SBA dollar coin, but with a golden finish, unreeded edges, and a depiction of the iconic Native American, Sacagawea, holding her baby on the obverse face.<sup>102</sup> With the same electromagnetic properties and weight as the SBA dollar coin the Sacagawea dollar coin did not present an adaptation issue for vending machine operators.<sup>103</sup> The biggest problem at the time of release was that banks did not want the dollar coin.<sup>104</sup> The

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Rights Amendment during the 1970s, causing Congress to lose sight of the goal of successful coinage).

95. *See id.* (characterizing the new dollar coin law as written broadly and radically leaving the design up to the Treasury and the Mint).

96. *See* 31 U.S.C. § 5112(d)(1) (2006) (“The Secretary of the Treasury, in consultation with the Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin.”).

97. *See* Hassell, *supra* note 92 (contrasting the near decade it took to get Congress on board to redesign the SBA coin with the few months it took for the Dollar Coin Act of 1997 to pass). The biggest boost in speed might have come from the potential profit Congress would make from the seigniorage. *See id.* (attributing the fast-tracked legislative process to the lure of easy money for Congress).

98. *See* Korte, *supra* note 83.

99. Lorber, *supra* note 89.

100. *Id.*

101. *Id.*

102. *See* Holley, *supra* note 12, at 585–89 (describing the visual appearance of the Sacagawea coin); *see also* *Coin Image Detail Sacagawea Golden Dollar—2000*, U.S. MINT, <http://www.usmint.gov/historianscorner/?action=coinDetail&id=29346> (last visited Feb. 12, 2012) (depicting a photo of the obverse of the Sacagawea dollar coin).

103. Holley, *supra* note 12, at 585–86.

104. *See id.* at 589–90 (noting resistance by both the banking and retail sectors to accept the new Sacagawea dollar coin).

dollar bill was still in circulation and, after the unpopularity of the SBA dollar coin, most banks did not foresee much demand for the golden dollars.<sup>105</sup> As a result, the Federal Reserve placed very minimal orders.<sup>106</sup> From a circulation standpoint, this impeded the success of the Sacagawea dollar from the outset. The Mint would have preferred not just an average number of coins put into circulation, but an oversaturation to overcome the initial hoarding instinct of people who had never seen such a golden coin.<sup>107</sup> The idea would have been to show people that the dollar coin was not just a commemorative collector's item but also money to be spent freely.

Without the traditional distribution pathways, the Mint initiated several programs designed to utilize unconventional channels to commerce. The 1997 Act authorized the Mint to run an advertising and awareness campaign to promote the new coin.<sup>108</sup> The Mint spent \$40 million on such efforts.<sup>109</sup> This involved, among other measures, experimental partnerships with Wal-Mart, General Mills, and several smaller banks willing to take a risk.<sup>110</sup> The surprising outcome was that public demand far exceeded the banks' expectations. By the time banks realized how much people really wanted the coin, it was a slow scramble to place orders with the Federal Reserve for their piece of the action. The Mint offered a direct-ship program to banks to circumvent the sluggish Federal Reserve process, shipping the banks free orders within five to ten business days. This program was minimally utilized and the supply eventually overtook the demand again, creating a constant backed inventory of dollar coins at Federal Reserve Banks.<sup>111</sup>

When the Sacagawea dollar coin stopped moving, Congress delivered another shot of life into the dollar coin with the Presidential \$1 Coin Act of

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105. *Id.* at 589 & n.56.

106. *Id.* at 589.

107. *See id.* (describing the challenge as changing the way the American public viewed the dollar coin from a collectible to legal tender).

108. United States \$1 Coin Act of 1997, Pub. L. No. 105-124, sec. 4, § (f)(1), 111 Stat. 2534, 2537.

109. *See* Holley, *supra* note 12, at 590 (citing a statement by then-Director of the Mint, John P. Mitchell).

110. *See id.* at 592-601 (explaining, in depth, the various efforts made by the Mint to popularize and circulate the Sacagawea dollar coin).

111. *Id.* In June, 2006, the Federal Reserve Banks and Mint held enough dollar coins to meet transactional demand for three and one-half years. The Federal Reserve Banks had approximately ninety-four million dollar coins, and the Mint had 115 million Sacagawea coins alone in inventory. *Coin and Currency Issues Facing Congress: Can We Still Afford Money?: Hearing Before the Subcomm. on Domestic and Int'l Monetary Policy, Trade, and Tech. of the H. Comm. on Fin. Servs.*, 109th Cong. 11-13 (2006) (testimony of Louise L. Roseman, Director, Division of Reserve Bank Operations and Payment Systems).

2005. Satisfied with the physical properties of the coin, the legislation focused on creating an interesting, educational coin-face design, increasing publicity without too much cost to the taxpayers and opening more markets to acceptance of the dollar coin.<sup>112</sup> Modeled after the successful Fifty State Quarters Program, the presidential dollar was to feature four deceased presidents on the coin's obverse each year.<sup>113</sup> This time the legislation was a bit more conservative in its advertising authorization, calling only for the Mint's "publicity" of the new coin.<sup>114</sup> The 2005 Act also mandated the concurrent minting of the former Sacagawea dollar coin, largely in response to objections by interest groups in Congress.<sup>115</sup> While the 2005 Act requires that the Federal Reserve purchase enough presidential dollar coins to meet public demand, it does not require that the Federal Reserve purchase the Sacagawea dollars.<sup>116</sup> With a majority of demand for the presidential dollar coins seeming to come from coin collectors—and a plentiful surplus of older Sacagawea dollar coins in its vaults—the Federal Reserve has openly opted not to purchase the new Sacagawea coins.<sup>117</sup> In fact, the Federal Reserve Board has expressed concern over the unwanted

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112. See Presidential \$1 Coin Act of 2005, Pub. L. No. 109-145, sec. 104, § (p), 119 Stat. 2664, 2669 (codified as amended at 31 U.S.C. § 5112 (2006)) (attempting to remove various barriers to circulation).

113. See *id.* sec. 101, §§ (3)–(4) (acknowledging the success of the Fifty State Commemorative Coin Program both as an educational tool and a catalyst for increased quarter-dollar demand); *id.* sec. 102, §§ (n)(1)–(4) (detailing the requirements for the Presidential dollar coins).

114. See *id.* sec. 104, § (p)(2) (framing the promotion of the new coin as publicity, not expressly advertising, but including cooperation with the media as one aspect of publicity). However, the Mint spent about \$12 million just on advertising targeted at environmentally conscious consumers. See Barbara Hagenbaugh, *U.S. Mint Tries to Get Consumers to Use Dollar Coins*, USA TODAY (Oct. 20, 2008, 11:58 AM), [http://www.usatoday.com/money/advertising/2008-10-19-dollar-coins-mint-ads\\_N.htm](http://www.usatoday.com/money/advertising/2008-10-19-dollar-coins-mint-ads_N.htm) (calling the pilot program an effort to convince consumers that dollar coins are greener than dollar bills).

115. See Presidential \$1 Coin Act, sec. 102, § (n)(1)(B)(ii) (requiring that Sacagawea dollars constitute one-third of all dollar coins minted under the Act). *Cf. id.* sec. 101, § 7 ("Sacagawea, as currently represented on the new \$1 coin, is an important symbol of American history."). The Native American \$1 Coin Act of 2007 changed the production requirement for Sacagawea and future Native American dollar coins to 20% of dollar coin production. Native American \$1 Coin Act of 2007, Pub. L. No. 110-82, sec. 2, § (r)(5), 121 Stat. 777, 779 (to be codified as 31 U.S.C. 5101).

116. See Native American \$1 Coin Act, sec. 104, § (p)(3)(D) (mandating the Federal Reserve System to ensure adequate supply of Presidential dollar coins and First Spouse bullion coins, also included under the Act, in unmixed quantities, to meet initial public demand).

117. See *2010 Hearing: Roseman*, *supra* note 7, at 10 (comparing the demand for dollar notes to the demand for dollar coins).



Sacagawea coins and advised Congress to eliminate the production requirement, to little avail.<sup>118</sup>

### III. THE FEDERAL RESERVE AND COINAGE RESPONSIBILITIES

The Federal Reserve should absorb responsibilities for determining the production volume of dollar coins. The dollar coin dilemma is the clearest evidence of the disconnect between the Federal Reserve System, Congress, and the Mint. While the Federal Reserve is busy determining broad monetary policy and avoiding major crises, and Congress is pulled from both sides by interest groups demanding opposite results, the Mint is left to take what it can get from both. When required by statute to mint coins that the Federal Reserve does not want, the Mint is either stuck stockpiling coins it just wasted time and resources making or forced to find alternate paths to commerce at its own expense. At least in the case of the dollar coin, Congress is effectively setting the Mint up for failure while possibly motivated by the lure of easy seigniorage revenue.

#### A. *Centralization for Efficiency and Better Choices*

The authority to decide whether the paper dollar or dollar coin is better for the United States, or if both should continue to co-circulate, should be centralized. Although Congress holds the Constitutional power to coin money, it long ago delegated that authority to the Mint. With the development of paper currency, the BEP, and the Federal Reserve System, responsibilities for the nation's monetary supply have been scattered among several groups. Now, Congress has authorized and aggressively pushed the co-circulation of two forms of the same tender value, forcing U.S. currency into competition with U.S. coins. This is costing everyone more money. The Mint is spending \$40 million here and \$12 million there on advertising campaigns for its circulating product. Congressional representatives have debated the issue for over twenty years, all the while recognizing that co-circulation is a poor choice but afraid to make a definitive move in the direction of either the coin or bill. By giving the Federal Reserve, or even the Treasury, the authority to decide the best course of action, the United States might actually get what is best for it practically and economically.

#### B. *One Money, One Method*

Production volume for circulating coins should be determined by the

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118. See, e.g., 2007 FRB REPORT, *supra* note 46, at 24 (advising that requiring continued production of Sacagawea dollar coins will result in increased costs to the taxpayer with no offsetting benefits).

same method as volume of currency by the Federal Reserve. U.S. coins may only account for 3% of the nation's money supply, but the resources that go into those 3% add up to hundreds of millions of government dollars every year.<sup>119</sup> Because the Mint decides how many coins to produce each year with only minimal help from the Federal Reserve Banks in the form of orders and demand forecasts, coins are often produced unnecessarily and must be stored until the Federal Reserve needs them. For most coins, this is not a problem because they can be used to fill Federal Reserve orders after only brief storage; the Mint can also adjust its next cycle of production to compensate. Dollar coins do not fall into this model, in part because of their commemorative nature. Each time a new design is issued, the Federal Reserve is required to purchase a sufficient quantity to meet demand, regardless of how many dollar coins of other designs it might already hold, often creating overstock.<sup>120</sup> This problem may seem inherent to commemorative coins, but the quarter dollar provides a clear example of how easily the issue can be worked out with independently circulating coins. Commemorative quarters, which have similar ordering requirements to the presidential dollar coins, may present the initial hardship of creating overstock when each new design is issued, but that overstock is almost guaranteed to be depleted eventually. The quarter dollar is consistently used in everyday cash transactions, so even after collector demand wears off consumers still consistently demand the quarter over time. The dollar coin has not achieved such transactional fluency, so when collector demand drops off, whatever supply of coins is left does not move much. The Federal Reserve then is stuck with what it ordered, and the Mint cannot move any amount it overproduced, except through alternative channels to the public. Thus, even commemorative coins must become part of standard cash transactions to be a useful addition to the U.S. money supply.

The Federal Reserve does not see this problem with paper currency; the BEP prints only as much as the Federal Reserve requests, and that amount is carefully determined by economists based on the currency as tender, not

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119. See U.S. MINT, 2010 ANNUAL REPORT: CONNECTING AMERICA THROUGH COINS 28, [http://www.usmint.gov/downloads/about/annual\\_report/2010AnnualReport.pdf](http://www.usmint.gov/downloads/about/annual_report/2010AnnualReport.pdf) (calculating the cost of coins shipped to the Federal Reserve Banks in 2010 at \$317.4 million).

120. Before the Presidential \$1 Coin Act, the Federal Reserve already held a large surplus of dollar coins. See Presidential \$1 Coin Act, sec. 104, § (p)(1)–(3) (requiring the Federal Reserve to purchase enough of each Presidential design to meet public demand); 2007 FRB REPORT, *supra* note 46, at 7 (reporting a twelve-month inventory in the Federal Reserve Banks alone at the start of the Presidential \$1 Coin Program).

as a collector's item.<sup>121</sup> There is no reason for currency to be treated differently than coins in the ordering process. It is true that the Mint produces coins not only for circulation but also for numismatic and bullion functions—numismatic and bullion production volume should be left to the Mint as a matter of commercial business. For circulating coinage, however, the Federal Reserve should decide coin production volume as an element of its greater considerations in overall money supply for the nation.

#### IV. NO MORE DOLLAR BILL

The most prevalent argument for keeping the dollar bill seems to come from people who do not want to carry a heavy coin around in their wallets. The first Americans forced to put license plates on their cars probably also felt burdened, but when greater policy concerns are at stake, citizens must sometimes sacrifice personal preference for the benefit of all.

##### *A. The Bottom Line*

The true bottom line is that either the bill or the coin must go. Their co-circulation is wasting resources and costing taxpayers, and even killing the dollar coin is better than that. But switching to dollar coins would save American taxpayers \$5.5 billion over the next thirty years. With over a billion dollar coins in storage, Congress is in a position to turn a wasteful legislative mistake into a head start for the transition to dollar coins. The surplus of dollar coins would allow the Mint a smoother increase in production, minimizing the challenges that would face any manufacturer suddenly forced to assume a new responsibility in the market. The dollar bills currently in circulation can be removed as they wear out over the next few years. If Congress voted instead to stop production of dollar coins, the billion-dollar mistake would have to be disposed of somehow—the Mint would have to transport the coins to a facility that could melt them down, thereby wasting more taxpayer money. And while the decrease in dollar bill production would certainly cost jobs in the paper and ink industry, many jobs would be created in the coin industry.

##### *B. The Environmental Argument*

Aside from the budget incentives, the dollar coin is also a more environmentally friendly option than the dollar bill. Metal coins can be used for decades before wearing out, and even after they are removed from

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121. *Currency and Coin Services*, *supra* note 37.

circulation, the raw metal content is melted down and reused repeatedly.<sup>122</sup> In contrast, dollar bills must be printed on entirely new cotton paper, and once unfit for circulation, 90% of each bill goes to landfills.<sup>123</sup> The other 10% is recycled in roofing shingles.<sup>124</sup>

Surprisingly, there is very little mainstream public commentary in the United States on the environmental implications of dollar bills. However, Australia and recently Canada have switched to money made from a polymer-like plastic in light of both environmental and counterfeit security concerns.<sup>125</sup> Plastic money lasts four to five times longer than cotton paper money like that currently used in the United States.<sup>126</sup> They not only resist tearing, soiling, and water damage, the plastic notes are also recyclable at the end of their lifespan.<sup>127</sup> So while other countries are addressing environmental concerns from paper money by creating new technology and replacing their entire spread of currency, the U.S. Congress is passively refusing to take the small step of eliminating one portion of the paper currency currently produced. Even more alarming is that Congress is willing to continue this wasteful expenditure despite a reasonable alternative already in existence.

## V. THE TRANSITION

With a few strategic moves, the government could make the transition to dollar coins relatively painless. Congress has recognized in the past that the dollar coin serves important markets, and this might be key in making the coin more appealing to Americans. If these markets could be expanded, making the coin more useful to more people, there would likely be less backlash against the change. Congress took some steps in this direction

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122. See *Coins & Medals*, U.S. MINT, [http://www.usmint.gov/faqs/circulating\\_coins/index.cfm#anchor7](http://www.usmint.gov/faqs/circulating_coins/index.cfm#anchor7) (last visited Feb. 12, 2012) (estimating the lifespan of a coin at twenty-five years and explaining that uncurrent and mutilated coins are melted down, shipped to a fabricator, and made into new coinage strips). Uncurrent coins are those that are worn but still recognizable for denomination and genuineness, while mutilated coins are chipped, fused, or not machine-countable. Uncurrent coins are forwarded to the Mint by the Federal Reserve Banks, but mutilated coins are only accepted directly by the Mint. *Id.*

123. Michael J. Claus et al., *Life Cycle Assessment of Environmental Impact of United States Dollar Note and Coin* (undated) (unpublished undergraduate report, Mich. State Univ.), available at [https://www.msu.edu/~alocilja/undergrad/BE230/dollar\\_vs\\_coin.pdf](https://www.msu.edu/~alocilja/undergrad/BE230/dollar_vs_coin.pdf).

124. *Id.*

125. See Michael Lauzon & Kate Tilley, *Canada Switching to Polymer Money*, PLASTICS NEWS (Akron, Ohio), Mar. 15, 2010, at 5 (listing both enhanced security and longer circulation as reasons for Canada's switch to polymer money, and indicating Australia as a possible source of polymer).

126. *Id.*

127. *Id.*

with the 2005 Act by requiring all agencies and instrumentalities of the government to accept the coin, including federally funded transit systems.<sup>128</sup> Although not included in this group, some cities are unilaterally converting parking meters to accept dollar coins,<sup>129</sup> which is something the government might consider endorsing on a wider scale to increase the utility of a dollar coin. The Federal Reserve, acting for the government, could offer subsidies to cities or parking meter companies to update their machines to accept dollar coins as an interim step to killing the dollar bill altogether.

Absent such an interim measure, even a swift shift to the dollar coin would not be unreasonably difficult. Given the stockpile of coins housed by Federal Reserve Banks, the GAO estimates that supply of one-dollar currency would exceed demand during the first two years of a transition.<sup>130</sup> Countries like Canada have shown that while some Americans' initial reaction to the switch might be negative, those sentiments should die down quite quickly.<sup>131</sup> Another factor to consider is that Americans are using credit and debit cards more and cash less. Even the same parking meters that have been outfitted to accept dollar coins can also accept credit or debit cards.<sup>132</sup> With the convenience of carrying just one card that can be used to pay for anything, people are generally using cash less<sup>133</sup> and therefore should be less impacted by the switch than they would have been ten years ago. Once the BEP ceased production of the one-dollar bill, the Federal Reserve Banks could gradually pull the bills from circulation. Thus, the transition to dollar coins should not be as difficult as some make it out to be.

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128. Presidential \$1 Coin Act of 2005, Pub. L. No. 109-145, sec. 104, § (p)(1)–(3), 119 Stat. 2664, 2669 (codified at 31 U.S.C. § 5112 (2006)).

129. Among these are Minneapolis and Chicago. See James Lileks, *A New Era Dawns: Solar Parking Meters*, STAR TRIB. (Minneapolis St. Paul), Dec. 5, 2010, at 5B, available at 2010 WLNR 24263066 (introducing Minneapolis's new parking meters, which accept credit and debit cards, quarters, and dollar coins); Joe Smydo, *City Looks to Chicago for Privatized Parking Ideas*, PITT. POST-GAZETTE, Mar. 14, 2010, at A1 (describing Chicago's experience with new, more expensive parking meters as a potential lesson for Pittsburgh).

130. See GAO 2011 REPORT, *supra* note 3, at 11 (explaining that to come to its conclusions, GAO reviewed other countries' transition from dollar notes to coins and the impact of such a transition).

131. See *supra* note 73 and accompanying text.

132. See *supra* note 129.

133. Cf. *Annual Production Figures*, *supra* note 6 (showing an overall decrease in currency production since 2000).

## CONCLUSION

If the Federal Reserve System is meant to play a significant role in U.S. payment systems and to control monetary policy, it should have the sole power to make decisions about U.S. coin and currency production. With one centralized agency weighing the interests of the BEP, Mint, and American taxpayers, decisions would more likely reflect objective reasonableness, rather than the conflicts of interest necessarily influencing Congress. Therefore, Congress should delegate its authority and the authority of the Mint regarding circulating coins to the Federal Reserve Board. As demonstrated by the Federal Reserve's relationship with the BEP, according production levels with what is actually needed is the most economically efficient option.

Regardless of whether Congress delegates its authority to the Federal Reserve, it should eliminate the dollar bill from circulation to save the government money and other resources. Other countries have not only been using dollar coin equivalents for years, some are now going a step further and developing new currency technology, leaving the United States in the environmentally taxing dust. A little discomfort and public backlash at the transition should not be a reason to ignore the clear sensibility of the switch to dollar coins. While it is important that American policies reflect what the people want, the United States did not become a great nation by maintaining the status quo. It is time to make the responsible choice for our country's coins and currency.