

107TH CONGRESS
2^D SESSION

H. R. 4846

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2002

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To amend title 31, United States Code, to clarify the sources
of silver for bullion coins, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Silver Eagle Coin Con-
3 tinuation Act of 2002”.

4 **SEC. 2. DELETION OF LIMITATION ON ACQUISITION OF SIL-**
5 **VER FOR \$1 COIN FROM ABOLISHED STOCK**
6 **PILE.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) the American Eagle silver bullion coin leads
9 the global market, and is the largest and most pop-
10 ular silver coin program in the United States;

11 (2) established in 1986, the American Eagle sil-
12 ver bullion program is the most successful silver bul-
13 lion program in the world;

14 (3) from fiscal year 1995 through fiscal year
15 2001, the American Eagle silver bullion program
16 generated—

17 (A) revenues of \$264,100,000; and

18 (B) sufficient profits to significantly re-
19 duce the national debt;

20 (4) with the depletion of silver reserves in the
21 Defense Logistic Agency’s Strategic and Critical
22 Materials Stockpile, it is necessary for the Depart-
23 ment of the Treasury to acquire silver from other
24 sources in order to preserve the American Eagle sil-
25 ver bullion program;

1 (5) with the ability to obtain silver from other
2 sources, the United States Mint can continue the
3 highly successful American Eagle silver bullion pro-
4 gram, exercising sound business judgment and mar-
5 ket acquisition practices in its approach to the silver
6 market, resulting in continuing profitability of the
7 program;

8 (6) in 2001, silver was commercially produced
9 in 12 States, including, Alaska, Arizona, California,
10 Colorado, Idaho, Missouri, Montana, Nevada, New
11 Mexico, South Dakota, Utah, and Washington;

12 (7) Nevada is the largest silver producing State
13 in the Nation, producing—

14 (A) 17,500,000 ounces of silver in 2001;

15 and

16 (B) 34 percent of United States silver pro-
17 duction in 2000;

18 (8) the mining industry in Idaho is vital to the
19 economy of the State, and the Silver Valley in north-
20 ern Idaho leads the world in recorded silver produc-
21 tion, with over 1,100,000,000 ounces of silver pro-
22 duced between 1884 and 2001;

23 (9) the largest, active silver producing mine in
24 the Nation is the McCoy/Cove Mine in Nevada,

1 which produced more than 107,000,000 ounces of
2 silver between 1989 and 2001;

3 (10) the mining industry in Idaho—

4 (A) employs more than 3,000 people;

5 (B) contributes more than \$900,000,000
6 to the Idaho economy; and

7 (C) produces \$70,000,000 worth of silver
8 per year;

9 (11) the silver mines of the Comstock lode, the
10 premier silver producing deposit in Nevada, brought
11 people and wealth to the region, paving the way for
12 statehood in 1864, and giving Nevada its nickname
13 as “the Silver State”;

14 (12) mines in the Silver Valley—

15 (A) represent an important part of the
16 mining history of Idaho and the United States;
17 and

18 (B) have served in the past as key compo-
19 nents of the United States war effort; and

20 (13) silver has been mined in Nevada through-
21 out its history, with every significant metal mining
22 camp in Nevada producing some silver.

23 (b) IN GENERAL.—Section 5116(b)(2) of title 31,
24 United States Code, is amended—

1 (1) in the 1st sentence, by striking “, except sil-
2 ver transferred” and all that follows through the pe-
3 riod at the end of such sentence and inserting “or
4 may obtain silver from other sources as appro-
5 priate.”; and

6 (2) by striking the 2nd sentence.

7 (b) STUDY REQUIRED.—

8 (1) STUDY.—The Secretary of the Treasury
9 shall conduct a study of the impact on the United
10 States silver market of the coins minted and issued
11 under section 5112(e) of title 31, United States
12 Code.

13 (2) REPORT.—Not later than 1 year after the
14 date of enactment of this Act, the Secretary of the
15 Treasury shall submit a report of the study con-
16 ducted under paragraph (1) to the chairman and
17 ranking minority member of—

18 (A) the Committee on Banking, Housing,
19 and Urban Affairs of the Senate; and

20 (B) the Committee on Financial Services
21 of the House of Representatives.

22 (c) ANNUAL REPORT.—

23 (1) IN GENERAL.—The Director of the United
24 States Mint shall prepare and submit to the Con-
25 gress an annual report on the purchases of silver

1 made by the Secretary of the Treasury under section
2 5116 of title 31, United States Code, on behalf of
3 the United States Mint.

4 (2) CONCURRENT SUBMISSION.—The report re-
5 quired by paragraph (1) may be incorporated into
6 the annual report of the Director of the United
7 States Mint on the operations of the mint and assay
8 offices, referred to in section 1329 of title 44,
9 United States Code.

10 **SEC. 3. CLARIFICATION OF EXISTING LAW.**

11 (a) IN GENERAL.—Section 5134(f)(1) of title 31,
12 United States Code, is amended to read as follows:

13 “(1) PAYMENT OF SURCHARGES.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of law, no amount derived from
16 the proceeds of any surcharge imposed on the
17 sale of any numismatic item shall be paid from
18 the fund to any designated recipient organiza-
19 tion unless—

20 “(i) all numismatic operation and pro-
21 gram costs allocable to the program under
22 which such numismatic item is produced
23 and sold have been recovered; and

24 “(ii) the designated recipient organi-
25 zation submits an audited financial state-

1 ment that demonstrates, to the satisfaction
2 of the Secretary, the amount of funds the
3 organization has raised from private
4 sources for all projects or purposes for
5 which the proceeds of such surcharge may
6 be used.

7 “(B) MATCHING FUND REQUIREMENT.—
8 Notwithstanding any other provision of law, the
9 amount derived from the proceeds of any sur-
10 charge imposed on the sale of any numismatic
11 item that may otherwise be paid from the fund,
12 under any provision of law relating to such nu-
13 ismatic item, to any designated recipient or-
14 ganization shall not exceed the amount the or-
15 ganization has demonstrated, in accordance
16 with subparagraph (A)(ii), that the organization
17 has raised from private sources for all projects
18 or purposes for which the proceeds of such sur-
19 charge may be used.

20 “(C) UNPAID AMOUNTS.—If any amount
21 derived from the proceeds of any surcharge im-
22 posed on the sale of any numismatic item that
23 may otherwise be paid from the fund, under
24 any provision of law relating to such numis-
25 matic item, to any designated recipient organi-

1 zation remains unpaid to such organization
2 solely by reason of the matching fund require-
3 ment contained in subparagraph (B) after the
4 end of the 2-year period beginning on the later
5 of—

6 “(i) the last day any such numismatic
7 item is issued by the Secretary; or

8 “(ii) the date of the enactment of the
9 Silver Eagle Coin Continuation Act of
10 2002,

11 such unpaid amount shall be deposited in the
12 Treasury as miscellaneous receipts.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply as of the date of the enactment
15 of Public Law 104–208.

16 **SEC. 4. RESTATEMENT AND REORGANIZATION OF SECTION**
17 **5136 OF TITLE 31, UNITED STATES CODE.**

18 (a) IN GENERAL.—Section 5136 of title 31, United
19 States Code, is amended to read as follows:

20 **“§ 5136. United States Mint Public Enterprise Fund**

21 “(a) ESTABLISHMENT.—There shall be established in
22 the Treasury of the United States, a fund to be known
23 as the United States Mint Public Enterprise Fund.

24 “(b) OPERATIONS OF THE FUND.—

1 “(1) DEPOSIT OF RECEIPTS.—All receipts from
2 Mint operations and programs, including the produc-
3 tion and sale of numismatic items, the production
4 and sale of circulating coinage, the protection of
5 Government assets, and gifts and bequests of prop-
6 erty, real or personal shall be deposited into the
7 Fund and shall be available without fiscal year limi-
8 tations.

9 “(2) PAYMENT OF EXPENSES.—All expenses in-
10 curred by the Secretary for operations and programs
11 of the Mint that the Secretary determines, in the
12 Secretary’s sole discretion, to be ordinary and rea-
13 sonable incidents of Mint operations and programs,
14 and any expense incurred pursuant to any obligation
15 or other commitment of Mint operations and pro-
16 grams that was entered into before the establish-
17 ment of the Fund, shall be paid out of the Fund.

18 “(3) BORROWING AUTHORITY.—

19 “(A) IN GENERAL.—The Secretary may
20 borrow such funds from the General Fund as
21 may be necessary to meet existing liabilities and
22 obligations incurred prior to the receipt of reve-
23 nues into the Fund.

24 “(B) REPAYMENT WITHIN 1 YEAR.—The
25 General Fund shall be reimbursed by the Fund

1 for the amount of any loan under subparagraph
2 (A) within 1 year of the date of the loan.

3 “(4) PROCEEDS OF SALE OF CIRCULATING
4 COINS.—The Fund may retain receipts from the
5 Federal Reserve System from the sale of circulating
6 coins at face value for deposit into the Fund (reten-
7 tion of receipts is for the circulating operations and
8 programs).

9 “(5) EXPENSES OF CITIZENS COMMEMORATIVE
10 COIN ADVISORY COMMITTEE.—For purposes of para-
11 graph (2), any expense incurred by the Secretary in
12 connection with the Citizens Commemorative Coin
13 Advisory Committee established under section 5135
14 shall be treated as an ordinary and reasonable inci-
15 dent of Mint operations and programs.

16 “(6) TRANSFER OF EXCESS AMOUNTS TO THE
17 TREASURY.—

18 “(A) IN GENERAL.—At such times as the
19 Secretary determines appropriate, but not less
20 than annually, any amount in the Fund that is
21 determined to be in excess of the amount re-
22 quired by the Fund shall be transferred to the
23 Treasury for deposit as miscellaneous receipts.

1 “(B) REPORT TO CONGRESS.—The Sec-
2 retary shall submit an annual report to the
3 Congress containing—

4 “(i) a statement of the total amount
5 transferred to the Treasury pursuant to
6 subparagraph (A) during the period cov-
7 ered by the report;

8 “(ii) a statement of the amount by
9 which the amount on deposit in the Fund
10 at the end of the period covered by the re-
11 port exceeds the estimated operating costs
12 of the Fund for the 1-year period begin-
13 ning at the end of such period; and

14 “(iii) an explanation of the specific
15 purposes for which such excess amounts
16 are being retained in the Fund.

17 “(c) INITIAL CAPITALIZATION OF FUND.—The Sec-
18 retary shall transfer to the Fund all assets and liabilities
19 of the Mint operations and programs, including all Numis-
20 matic Public Enterprise Fund assets and liabilities, all re-
21 ceivables, unpaid obligations and unobligated balances
22 from the Mint’s appropriation, the Coinage Profit Fund,
23 and the Coinage Metal Fund, and the land and buildings
24 of the Philadelphia Mint, Denver Mint, and the Fort Knox
25 Bullion Depository.

1 “(d) BUDGET TREATMENT.—

2 “(1) IN GENERAL.—The Secretary shall pre-
3 pare budgets for the Fund, and estimates and state-
4 ments of financial condition of the Fund in accord-
5 ance with the requirements of section 9103 which
6 shall be submitted to the President for inclusion in
7 the budget submitted under section 1105.

8 “(2) INCLUSION IN ANNUAL REPORT.—State-
9 ments of the financial condition of the Fund shall be
10 included in the Secretary’s annual report on the op-
11 eration of the Mint.

12 “(3) TREATMENT AS WHOLLY OWNED GOVERN-
13 MENT CORPORATION FOR CERTAIN PURPOSES.—Sec-
14 tion 9104 shall apply to the Fund to the same ex-
15 tent such section applies to wholly owned Govern-
16 ment corporations.

17 “(e) FINANCIAL STATEMENTS, AUDITS, AND RE-
18 PORTS.—

19 “(1) ANNUAL FINANCIAL STATEMENT RE-
20 QUIRED.—By the end of each calendar year, the
21 Secretary shall prepare an annual financial state-
22 ment of the Fund for the fiscal year which ends dur-
23 ing such calendar year.

1 “(2) CONTENTS OF FINANCIAL STATEMENT.—

2 Each statement prepared pursuant to paragraph (1)
3 shall, at a minimum, contain—

4 “(A) the overall financial position (includ-
5 ing assets and liabilities) of the Fund as of the
6 end of the fiscal year;

7 “(B) the results of the numismatic oper-
8 ations and programs of the Fund during the
9 fiscal year;

10 “(C) the cash flows or the changes in fi-
11 nancial position of the Fund;

12 “(D) a reconciliation of the financial state-
13 ment to the budget reports of the Fund; and

14 “(E) a supplemental schedule detailing—

15 “(i) the costs and expenses for the
16 production, for the marketing, and for the
17 distribution of each denomination of circu-
18 lating coins produced by the Mint during
19 the fiscal year and the per-unit cost of pro-
20 ducing, of marketing, and of distributing
21 each denomination of such coins; and

22 “(ii) the gross revenue derived from
23 the sales of each such denomination of
24 coins.

25 “(3) ANNUAL AUDITS.—

1 “(A) IN GENERAL.—Each annual financial
2 statement prepared under paragraph (1) shall
3 be audited—

4 “(i) by—

5 “(I) an independent external
6 auditor; or

7 “(II) the Inspector General of
8 the Department of the Treasury,
9 as designated by the Secretary; and

10 “(ii) in accordance with the generally
11 accepted Government auditing standards
12 issued by the Comptroller General of the
13 United States.

14 “(B) AUDITOR’S REPORT REQUIRED.—The
15 auditor designated to audit any financial state-
16 ment of the Fund pursuant to subparagraph
17 (A) shall submit a report—

18 “(i) to the Secretary by March 31 of
19 the year beginning after the end of the fis-
20 cal year covered by such financial state-
21 ment; and

22 “(ii) containing the auditor’s opinion
23 on—

24 “(I) the financial statement of
25 the Fund;

1 “(II) the internal accounting and
2 administrative controls and account-
3 ing systems of the Fund; and

4 “(III) the Fund’s compliance
5 with applicable laws and regulations.

6 “(4) ANNUAL REPORT ON FUND.—

7 “(A) REPORT REQUIRED.—By April 30 of
8 each year, the Secretary shall submit a report
9 on the Fund for the most recently completed
10 fiscal year to the President, the Congress, and
11 the Director of the Office of Management and
12 Budget.

13 “(B) CONTENTS OF ANNUAL REPORT.—

14 The annual report required under subparagraph
15 (A) for any fiscal year shall include—

16 “(i) the financial statement prepared
17 under paragraph (1) for such fiscal year;

18 “(ii) the audit report submitted to the
19 Secretary pursuant to paragraph (3)(B)
20 for such fiscal year;

21 “(iii) a description of activities carried
22 out during such fiscal year;

23 “(iv) a summary of information relat-
24 ing to numismatic operations and pro-
25 grams contained in the reports on systems

1 on internal accounting and administrative
2 controls and accounting systems submitted
3 to the President and the Congress under
4 section 3512(c);

5 “(v) a summary of the corrective ac-
6 tions taken with respect to material weak-
7 nesses relating to numismatic operations
8 and programs identified in the reports pre-
9 pared under section 3512(c);

10 “(vi) any other information the Sec-
11 retary considers appropriate to fully inform
12 the Congress concerning the financial man-
13 agement of the Fund; and

14 “(vii) a statement of the total amount
15 of excess funds transferred to the Treas-
16 ury.

17 “(5) MARKETING REPORT.—

18 “(A) REPORT REQUIRED FOR 10 YEARS.—

19 For each fiscal year beginning before fiscal year
20 2003, the Secretary shall submit an annual re-
21 port on all marketing activities and expenses of
22 the Fund to the Congress before the end of the
23 3-month period beginning at the end of such
24 fiscal year.

1 “(B) CONTENTS OF REPORT.—The report
2 submitted pursuant to subparagraph (A) shall
3 contain a detailed description of—

4 “(i) the sources of income including
5 surcharges; and

6 “(ii) expenses incurred for manufac-
7 turing, materials, overhead, packaging,
8 marketing, and shipping.

9 “(f) SUPERSESION OF NUMISMATIC PUBLIC ENTER-
10 PRISE FUND, THE COINAGE PROFIT FUND, AND THE
11 COINAGE METAL FUND.—

12 “(1) IN GENERAL.—The Numismatic Public
13 Enterprise Fund, the Coinage Profit Fund, and the
14 Coinage Metal Fund shall cease to exist as separate
15 funds as the activities and functions of the respec-
16 tive funds are subsumed under and become subject
17 to the Fund.

18 “(2) REFERENCES IN FEDERAL LAW TO OTHER
19 FUNDS.—Any reference in any Federal law to the
20 Numismatic Public Enterprise Fund, the Coinage
21 Profit Fund, or the Coinage Metal Fund shall be
22 deemed to be a reference to the Fund.

23 “(3) REFERENCES IN FEDERAL LAW TO SEC-
24 TION 5134.—Any reference in any Federal law to

1 section 5134 shall be deemed to be a reference to
2 this section.

3 “(g) DEFINITIONS.—For purposes of this section, the
4 following definitions shall apply.—

5 “(1) FUND.—The term ‘Fund’ means the
6 United States Mint Public Enterprise Fund estab-
7 lished under this section.

8 “(2) MINT.—The term ‘Mint’ means the United
9 States Mint.

10 “(3) MINT OPERATIONS AND PROGRAMS.—The
11 term ‘Mint operations and programs’—

12 “(A) means the activities concerning, and
13 assets utilized in, the production, administra-
14 tion, distribution, marketing, purchase, sale,
15 and management of coinage, numismatic items,
16 the protection and safeguarding of Mint assets
17 and those nonmint assets in the custody of the
18 Mint, and the Fund; and

19 “(B) includes capital, personnel salaries
20 and compensation, functions relating to oper-
21 ations, marketing, distribution, promotion, ad-
22 vertising, official reception and representation,
23 the acquisition or replacement of equipment,
24 the renovation or modernization of facilities,

1 and the construction or acquisition of new
2 buildings.

3 “(4) NUMISMATIC ITEM.—The term ‘numis-
4 matic item’ includes any medal, proof coin, numis-
5 matic collectible, other monetary issuances and prod-
6 ucts, and accessories related to any such medal or
7 coin.

8 “(5) SECRETARY.—The term ‘Secretary’ means
9 the Secretary of the Treasury.

10 “(h) GENERAL WAIVER.—No provision of law gov-
11 erning procurement or public contracts shall be applicable
12 to the procurement of goods and services necessary for
13 carrying out Mint programs and operations.”.

14 (b) RULE OF CONSTRUCTION.—The amendment
15 made by subsection (a) to section 5136 of title 31, United
16 States Code—

17 (1) may not be construed as making any sub-
18 stantive change in the meaning of any provision of
19 such section (as in effect on the day before the effec-
20 tive date of such amendment); and

21 (2) shall not affect any regulation prescribed,
22 any order issued, or any action taken before the ef-
23 fective date of such amendment under or pursuant
24 to such section (as in effect on the day before such
25 date).

1 (c) TECHNICAL CORRECTION.—

2 (1) IN GENERAL.—Section 522 of Public Law
3 104–52 (109 Stat. 494) is amended—

4 (A) by striking the closing quotation marks
5 after “PUBLIC ENTERPRISE FUND.” and insert-
6 ing “—”; and

7 (B) by inserting closing quotation marks
8 and a second period after the period at the end.

9 (2) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall be effective as if such amend-
11 ment had been included in section 522 of Public
12 Law 104–52 as of the date of the enactment of that
13 Act.

14 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

15 (1) TRANSFER OF SUPERSEDED PROVISIONS
16 NOT PREVIOUSLY INCLUDED.—Subsections (f) and
17 (g) of section 5134 of title 31, United States Code
18 (as subsection (f) is amended by section 3 of this
19 Act) are hereby—

20 (A) transferred to section 5136 of title 31,
21 United States Code (as amended by subsection
22 (a) of this section);

23 (B) inserted after subsection (h); and

24 (C) redesignated as subsections (i) and (j),
25 respectively.

1 (2) REPEAL OF SUPERSEDED PROVISIONS.—

2 (A) Section 5111 of title 31, United States
3 Code, is amended by striking subsection (b) and
4 inserting the following:

5 “(b) [Repealed]”.

6 (B) Section 5116(b)(1) of title 31, United
7 States Code, is amended by striking the last
8 sentence.

9 (C) Section 5120(a) of title 31, United
10 States Code, is amended—

11 (i) in paragraph (1), by striking “the
12 coinage metal fund under section 5111(b)
13 of this title” and inserting “the United
14 States Mint Public Enterprise Fund”; and

15 (ii) by striking paragraph (2).

16 (D) Section 5132(a)(1) of title 31, United
17 States Code, is amended by striking the first 2
18 sentences.

19 (E) Section 5134 of title 31, United States
20 Code, is hereby repealed.

21 (e) CLERICAL AMENDMENTS.—The table of sections
22 for subchapter III of chapter 51, United States Code, is
23 amended—

24 (1) by striking the item relating to section 5134
25 and inserting the following new item:

“5134. [Repealed].”;

