

Public Law 89-502

AN ACT

July 13, 1966
[H. R. 12322]

To enable cottongrowers to establish, finance, and carry out a coordinated program of research and promotion to improve the competitive position of, and to expand markets for, cotton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Cotton Research and Promotion Act.

Cotton Research
and Promotion
Act.

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

SEC. 2. Cotton is the basic natural fiber of the Nation. It is produced by many individual cottongrowers throughout the various cotton-producing States of the Nation. Cotton moves in large part in the channels of interstate and foreign commerce and such cotton which does not move in such channels directly burdens or affects interstate commerce in cotton and cotton products. All cotton produced in the United States is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in cotton and cotton products. The efficient production of cotton and the maintenance and expansion of existing markets and the development of new or improved markets and uses is vital to the welfare of cottongrowers and those concerned with marketing, using, and processing cotton as well as the general economy of the Nation. In the years since World War II, United States cotton and the products thereof have been confronted with intensive competition, both at home and abroad, from foreign-grown cotton and from other fibers, primarily manmade fibers. The great inroads on the market and uses for United States cotton which have been made by manmade fibers have been largely the result of extensive research and promotion which have not been effectively matched by cotton research and promotion. The production and marketing of cotton by numerous individual farmers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary to the maintenance and improvement of the competitive position of, and markets for, cotton. Without an effective and coordinated method for assuring cooperative and collective action in providing for, and financing such programs, individual cotton farmers are unable adequately to provide or obtain the research and promotion necessary to maintain and improve markets for cotton.

It has long been found to be in the public interest to have, or endeavor to have, a reasonable balance between the supply of and demand for cotton grown in this country. To serve this public interest the Congress has provided for the comprehensive exercise of regulatory authority in regulating the handling of such cotton supplemented by price-support programs with the objective of adjusting supply to demand in the interest of benefiting producers and all others concerned with the production and handling of cotton as well as the general economy of the country. In order for the objective of such programs to be effectuated to the fullest degree, it is necessary that the existing regulation of marketing be supplemented by providing as part of the overall governmental program for effectuating this objective, means of increasing the demand for cotton with the view of eventually reducing or eliminating the need for limiting marketings and supporting the price of cotton.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential in the public interest through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development, financ-

ing through adequate assessments on all cotton harvested in the United States, and carrying out an effective and continuous coordinated program of research and promotion designed to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton.

COTTON RESEARCH AND PROMOTION ORDERS

SEC. 3. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend, orders applicable to persons engaged in the harvesting, marketing, ginning, or other handling of cotton, hereinafter referred to as handlers. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

NOTICE AND HEARING

SEC. 4. Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this Act, he shall give due notice and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any cotton producer organization certified pursuant to section 14 of this Act or by any other interested person or persons, including the Secretary.

FINDING AND ISSUANCE OF AN ORDER

SEC. 5. After notice and opportunity for hearing as provided in section 4, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

PERMISSIVE TERMS IN ORDERS

SEC. 6. Orders issued pursuant to this Act shall contain one or more of the following terms and conditions, and except as provided in section 7, no others.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for the advertising and sales promotion of cotton and its products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for cotton or its products but no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cotton products of other persons: *And provided further,* That no such advertising or sales promotion programs shall make use of false or unwarranted claims in behalf of cotton or its products or false or unwarranted statements with respect to the quality, value, or use of any competing product.

(b) Providing for establishing and carrying on research and development projects and studies with respect to the production, ginning, processing, distribution, or utilization of cotton and its products, to the end that the marketing and utilization of cotton may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(c) Providing that handlers or any class of handlers maintain and make available for inspection such books and records as may be

required by the order and for the filing of reports by such handlers at the times, in the manner, and having the content prescribed by the order, to the end that information and data shall be made available to the Cotton Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the Act or of any order or regulation issued pursuant to this Act: *Provided, however*, That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Cotton Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of handlers subject to an order, which statements do not identify the information furnished by any person, or (2) the publication by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDERS

SEC. 7. Orders issued pursuant to this Act shall contain the following terms and conditions:

(a) Providing for the establishment and selection by the Secretary, of a Cotton Board, and defining its powers and duties, which shall include only the powers:

(1) To administer such order in accordance with its terms and provisions;

(2) To make rules and regulations to effectuate the terms and provisions of such order, including the designation of the handler responsible for collecting the producer assessment;

(3) To receive, investigate, and report to the Secretary complaints of violations of such order; and

(4) To recommend to the Secretary amendments to such order.

(b) Providing that the Cotton Board shall be composed of representatives of cotton producers selected by the Secretary from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 14 of this Act, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States: *Provided, however*, That each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

Cotton Board.
Selection.

(c) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary

for his approval any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

(e) Providing that the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order and that such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board, an assessment prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by him. To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton. The rate of assessment prescribed by the order shall be \$1 per bale of cotton handled. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy: *Provided*, That the remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

(f) Providing that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for the development and carrying out of the activities authorized under the order pursuant to sections 6 (a) and (b), and for the payment of the costs thereof with funds collected pursuant to the order, with an organization or association whose governing body consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 14, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States, subject to adjustments to reflect lack of participation in the program by reason of refunds under section 11. Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such

Recordkeeping
and reporting re-
quirements.

projects, and that any such projects shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Cotton Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a) (4) of this section.

REQUIREMENT OF REFERENDUM AND COTTON PRODUCER APPROVAL

SEC. 8. The Secretary shall conduct a referendum among persons who, during a representative period determined by the Secretary, have been engaged in the production of cotton for the purpose of ascertaining whether the issuance of an order is approved or favored by producers. No order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the cotton produced during the representative period by producers voting in such referendum and by not less than a majority of the producers voting in such referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 9. (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of cotton producers voting in the referendum approving the order, to determine whether cotton producers favor the termination or suspension of the order, and he shall suspend or terminate such order at the end of the marketing year, as defined in the order, whenever he determines that suspension or termination of the order is approved or favored by a majority of the producers of cotton voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cotton, and who produced more than 50 per centum of the volume of the cotton produced by the cotton producers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 10. The provisions of this Act applicable to orders shall be applicable to amendments to orders.

PRODUCER REFUNDS

SEC. 11. Notwithstanding any other provision of this Act, any cotton producer against whose cotton any assessment is made and collected from him under the authority of this Act and who is not in favor of supporting the research and promotion program as provided for

herein shall have the right to demand and receive from the Cotton Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.

PETITION AND REVIEW

SEC. 12. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 13(a) of this Act.

ENFORCEMENT

SEC. 13. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this Act.

(b) Any handler who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than \$1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

CERTIFICATION OF COTTON PRODUCER ORGANIZATION

SEC. 14. The eligibility of each cotton producer organization to represent cotton producers of a cotton producing State to request the issuance of an order under section 4, and to participate in the making of nominations under section 7(b) shall be certified by the Secretary and shall be based in addition to other available information upon a factual report submitted by the organization which shall contain

information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Geographic territory within the State covered by the organization's active membership;

(b) Nature and size of the organization's active membership in the State, proportion of total of such active membership accounted for by farmers, a map showing the cotton-producing counties in such State in which the organization has members, the volume of cotton produced in each such county, the number of cotton producers in each such county, and the size of the organization's active cotton producer membership in each such county;

(c) The extent to which the cotton producer membership of such organization is represented in setting the organization's policies;

(d) Evidence of stability and permanency of the organization;

(e) Sources from which the organization's operating funds are derived;

(f) Functions of the organization; and

(g) The organization's ability and willingness to further the aims and objectives of this Act:

Provided, however, That the primary consideration in determining the eligibility of an organization shall be whether its cotton farmer membership consists of a sufficiently large number of the cotton producers who produce a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. The Secretary shall certify any cotton producer organization which he finds to be eligible under this section, and his determination as to eligibility shall be final.

REGULATIONS

SEC. 15. The Secretary is authorized to make such regulations with the force and effect of law, as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act.

INVESTIGATIONS: POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS: AID OF COURTS: SELF-INCRIMINATION

SEC. 16. (a) The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether a handler or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any order, or rule or regulation issued under this Act. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the produc-

tion of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(b) No person shall be excused from attending and testifying or from producing books, papers, and documents before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any order, or rule or regulation issued thereunder on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

DEFINITIONS

SEC. 17. As used in this Act:

(a) The term "Secretary" means the Secretary of Agriculture.

(b) The term "person" means any individual, partnership, corporation, association, or any other entity.

(c) The term "cotton" means all upland cotton harvested in the United States, and, except as used in section 7(e), includes cottonseed of such cotton and the products derived from such cotton and its seed.

(d) The term "handler" means any person who handles cotton or cottonseed in the manner specified in the order or in the rules and regulations issued thereunder.

(e) The term "United States" means the 50 States of the United States of America.

(f) The term "cotton-producing State" means any State in which the average annual production of cotton during the five years 1960-1964 was twenty thousand bales or more, except that any State producing cotton whose production during such period was less than such amount shall under regulations prescribed by the Secretary be combined with another State or States producing cotton in such manner that such average annual production of such combination of States totaled twenty thousand bales or more, and the term "cotton-producing State" shall include any such combination of States.

(g) The term "marketing" includes the sale of cotton or the pledging of cotton to the Commodity Credit Corporation as collateral for a price support loan.

SEPARABILITY

SEC. 18. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 19. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for the payment of the expenses or expenditures of the Cotton Board in administering any provisions of any order issued pursuant to the terms of this Act.

EFFECTIVE DATE

SEC. 20. This Act shall take effect upon enactment.
Approved July 13, 1966.

Public Law 89-503

AN ACT

July 18, 1966
[S. 2266]

To authorize the Attorney General to transfer to the Smithsonian Institution title to certain objects of art.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General is authorized and directed to transfer to the Smithsonian Institution title to the jade, stone, and bronze objects of art consisting of forty-four pieces which were vested in or transferred to the Attorney General pursuant to the provisions of vesting order 18344, dated August 21, 1951.

Smithsonian Institution.
Transfer of certain art objects.

SEC. 2. After the transfer of title by the Attorney General, the Smithsonian Institution shall have complete discretion to retain, exchange, sell, or otherwise dispose of the objects of art referred to in section 1 in promotion of the purposes for which that Institution was founded.

Disposition.

Approved July 18, 1966.