

SC97211

IN THE SUPREME COURT OF MISSOURI

RONALD J. CALZONE,

Appellant,

v.

Chris Chinn, et al.,

Respondents.

Appeal from the Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Circuit Judge

BRIEF OF RESPONDENTS

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JURISDICTIONAL STATEMENT

This appeal challenges the constitutionality of the statutes contained in Senate Bill 665 (2016). Thus, this appeal falls within the scope of the Supreme Court's exclusive jurisdiction. Mo. Const. Art. V., § 3.

STANDARD OF REVIEW

As the Circuit Court granted Respondents' Motion for Judgment on the Pleadings and its Motion to Dismiss, this Court's review of the case is *de novo*. See *Claudia Lee & Assocs. v. Kansas City Bd. of Zoning Adjustment*, 489 S.W.3d 802, 809 (Mo. App. W.D. 2016) (holding that a grant of judgment on the pleadings is reviewed *de novo*); *Reynolds v. Diamond Foods & Poultry, Inc.*, 79 S.W.3d 907, 909 (Mo. banc 2002) (holding that a grant of a motion to dismiss is reviewed *de novo*). Furthermore, because this case involves the constitutionality of statutes, the Supreme Court "applies *de novo* review to questions of law decided in court-tried cases." *Pearson v. Koster*, 367 S.W.3d 36, 43 (Mo. banc 2012). Finally, constitutional claims against a bill's passage are strongly disfavored by the courts, and therefore courts are to "interpret[] procedural limitations liberally and will uphold the constitutionality of a statute against such an attack unless the act clearly and undoubtedly violates the constitutional limitation." *Hammerschmidt v. Boone Cty.*, 877 S.W.2d 98, 102 (Mo. banc 1994).

STATEMENT OF FACTS

Respondents supplement Appellant's Statement of Facts pursuant to Rule 84.04(f). Senate Bill 665 was introduced on January 6, 2016, in the Missouri Senate with the title, "An Act to repeal section 261.235, RSMo¹, and to enact in lieu thereof one new section relating to the establishment of a fee structure for sellers electing to use the AgriMissouri trademark associated with Missouri agricultural products." (LF 30). The House passed the House Committee Substitute (H.C.S.) for the bill, as amended, in April. The senate concurred in the H.C.S., and passed S.B. 665 as amended. (LF 36). The final bill was titled "An Act to repeal sections 135.679, 261.235, 262.960, 262.962, 348.430, 348.432, 348.436, and 414.082, RSMo, and to enact in lieu thereof ten new sections relating to agriculture." (LF 36).

On May 30, 2017, Calzone filed suit in the Circuit Court alleging that the bill as finally passed violated the Missouri Constitution's original-purpose and single-subject requirements and that the General Assembly impermissibly and substantively changed the bill's title. (LF 11-12). The parties filed dispositive motions, and on March 27, 2018, the Circuit Court granted Respondents' Motion to Dismiss and Motion for Judgment on the Pleadings. (LF 180). Calzone filed his appeal on May 3, 2018. (LF 191).

¹ Unless otherwise noted, all statutory references are to RSMo (2000) as supplemented and as amended by S.B. 665.

SUMMARY OF THE ARGUMENT

This case presents the same procedural constitutional challenges raised by this petitioner in *Calzone v. Dorson*, No. SC97132. True, S.B. 665 (2016) is an agriculture bill instead of an education bill. But Calzone raises the same arguments in both cases—asking this Court to rewrite its original-purpose and single-subject jurisprudence. The doctrine of *stare decisis* should be particularly compelling when the Court interprets procedural limits on the legislative process. *State v. Honeycutt*, 421 S.W.3d 410, 421 (Mo. banc 2013) (“decisions of this Court should not be lightly overruled”). The Court should reject the invitation to rewrite its prior decisions, and find in this case that S.B. 665 does not clearly and undoubtedly violate the original-purpose and single-subject provisions.

First, S.B. 665’s original purpose—promoting and regulating agriculture in Missouri—did not change throughout the legislative process. As introduced, S.B. 665 revised a provision regarding the AgriMissouri trademark for agricultural products. Calzone argues that “original purpose” in Article III, § 21 is limited to that particular provision listed in the bill’s original title, rather than to the bill’s general or overarching purpose. But this Court has repeatedly said the opposite. A bill’s purpose is “not necessarily limited by specific statutes referred to in the bill’s original title or text,” and in fact does not have to “be state anywhere, let alone in the title as introduced.” *McEuen ex rel. McEuen v. Mo. State Bd. of Educ.*, 120 S.W.3d 207, 210 (Mo. banc 2003). Rather, the General Assembly may amend bills during the normal legislative process, so long as the amendments advance the bill’s *general or overarching purpose*. *Id.* Here, that purpose relates to agriculture. The Circuit Court correctly held that all of S.B. 665’s amendments

are germane to that original purpose: four involve tax credits extended to the agricultural industry, one involves a petroleum inspection fee often paid by those in the industry, and two involve agriculture-promotion programs, AgriMissouri and Farm-To-Table.

Second, S.B. 665 has one core subject under Article III, § 23—provisions “relating to agriculture”—and all of the bill’s provisions relate to that subject. Agriculture, like education, *Akin v. Director of Revenue*, 934 S.W.2d 295, 301 (Mo. banc 1996), is a permissible single subject under Article III, § 23. *Akin* held that changes to Missouri’s tax code did not violate the single-subject rule because revenue generated from the tax increases would partly fund education programs. *Id.* The same is true of S.B. 665’s tax credits and other provisions—they all relate to agriculture, as the bill’s final title explains.

Third, the Circuit Court correctly dismissed Calzone’s third count, which he acknowledges is a novel claim that seeks to prohibit the General Assembly from making substantive changes to a bill’s legislative title. This Court has repeatedly affirmed that a bill’s title is not part of the bill itself. *See, e.g., Lincoln Credit Co. v. Peach*, 636 S.W.2d 31, 38 (Mo. banc 1982). And nothing in the plain text of the Missouri Constitution authorizes a cause of action based only on changes to a bill’s title.

The Circuit Court carefully applied this Court’s Article III jurisprudence, correctly holding that S.B. 665 does not clearly and undoubtedly violate the Missouri Constitution’s procedural limitations. This Court should affirm the judgment below.

ARGUMENT

I. S.B. 665’s original purpose of promoting and regulating agriculture did not change during the bill’s passage through the General Assembly, and the Circuit Court correctly analyzed the bill using the proper standard of review for original-purpose challenges. (Responding to Appellant’s Point Relied On I).

Calzone’s challenge asks this Court to establish a new test for determining a bill’s original purpose—that it be limited and defined by the words in the bill’s original title. But adopting this test would not only overturn the Circuit Court’s careful analysis of S.B. 665, it would destabilize this Court’s established jurisprudence. This Court has squarely addressed Calzone’s argument in previous cases, holding that “[a] bill’s original purpose is not limited to what is stated in the bill’s original title.” *Jackson Cty. Sports Complex Auth. v. State*, 226 S.W.3d 156, 160 (Mo. banc 2007). Moreover, this Court has time and again held that the General Assembly can extend or limit the scope of a bill during the legislative process and can even include entirely new matter so long as it is germane to the bill’s overarching purpose. *See McEuen*, 120 S.W.3d at 210; *Mo. State Med. Ass’n v. Mo. Dep’t of Health*, 39 S.W.3d 837, 840 (Mo. banc 2001). This Court should apply the well-established framework from its original-purposes cases and hold that S.B. 665’s amendments are germane to the bill’s original purpose of promoting and regulating agriculture in Missouri.

- A. A bill’s original purpose is determined from a broad inquiry into the bill’s overarching objectives, and is not limited and defined by the words in its initial legislative title.**

Article III, § 21 of the Missouri Constitution states that “no bill shall be amended in its passage . . . as to change its original purpose.” Constitutional claims against a bill’s passage are strongly disfavored by the courts, and therefore courts are to “interpret[] procedural limitations liberally and will uphold the constitutionality of a statute against such an attack unless the act clearly and undoubtedly violates the constitutional limitation.” *Hammerschmidt v. Boone Cty.*, 877 S.W.2d 98, 102 (Mo. banc 1994). Courts must presume that the legislature enacted a constitutional bill and show a great deal of deference towards the legislative process. *Id.*

Courts determine a bill’s original purpose by looking to the bill at the time of its introduction in the General Assembly. *Mo. State Med. Ass’n*, 39 S.W.3d at 839. And the original purpose may be ascertained without referring to the original title itself. As this Court has held, “the Constitution does not require that the original purpose be stated anywhere, let alone in the title as introduced.” *Id.* In fact, even when a bill’s original title includes the specific statutes to be amended or repealed, the bill’s original purpose is “not necessarily limited by specific statutes referred to in the bill’s original title or text.” *McEuen*, 120 S.W.3d at 210.

Under this Court’s precedent, the proper inquiry goes beyond the words in a bill’s title. And it goes beyond the particulars included in the bill at introduction. The original purpose of a given bill is “not narrowly limited . . . to the subject matter of the specific

statutes referenced in the original text.” *Jackson Cty. Sports Complex Auth. v. State*, 226 S.W.3d 156, 161 (Mo. banc 2007). Contrary to Calzone’s argument, App. Br. at 21 (suggesting a “general rule of particulars”), this Court has focused on *general* purpose not narrow specifics to determine a bill’s original purpose, both in recent cases and older ones. A bill’s “[o]riginal purpose is the general purpose, not the mere details through which and by which that purpose is manifested and effectuated.” *Mo. State Med. Ass’n*, 39 S.W.3d at 839 (internal quotation marks and citations omitted); *State v. Day-Brite Lighting*, 240 S.W.2d 886, 894 (Mo. banc 1951) (upholding amendments so long as “the subject matter of the amendatory act is germane to and within the scope of the general purpose of the bill . . . [and] although not set forth in the particulars expressed in the title, are not out of harmony with them”) (citations and quotation marks omitted).

An analysis that probes the objectives of a bill is consistent with the original understanding of Article III, § 21. Article III, § 21 “was not designed to inhibit the normal legislative processes, in which bills are combined and additions necessary to comply with the legislative intent are made.” *Blue Cross Hosp. Serv., Inc. of Mo. v. Frappier*, 681 S.W.2d 925, 929 (Mo. banc 1984). Rather, the goal of Article III, § 21 is to prevent “the introduction of matter that is not germane to *the object of the legislation* or that is unrelated to its original subject. Alterations that bring about an extension or limitation of the scope of the bill are not prohibited; even new matter is not excluded if germane.” *Stroh Brewery Co. v. State*, 954 S.W.2d 323, 325-26 (Mo. banc 1997) (emphasis added).

Courts may use a bill’s original title as an aid in determining the original purpose, but the analysis does not start and end there, as Calzone argues, App. Br. at 19-20. This

Court in *Legends Bank* did state that a bill's original purpose is "established by the bill's earliest title and contents," 361 S.W. 3d 383, 386 (Mo. banc 2012), but nothing in the *Legends Bank* opinion suggests that it overruled decades of precedent instructing courts to engage in a deeper analysis of a bill's purpose. To the contrary, it explained that the "original purpose requirement *does not* prohibit subsequent additions or changes to legislation." *Id.* (emphasis added). Indeed, the original-purpose analysis in *Legends Bank* focused on the addition of content that was clearly not germane to the bill's overarching purpose, such as the memorable keys-to-the-Capitol provision. *Id.* at 386-87. Calzone takes *Legends Bank* a step too far by limiting a bill's original purpose to the words that a legislator chose to place in the bill's title.

B. Each of S.B. 665's provisions relate to the bill's original purpose of promoting and regulating agriculture in Missouri.

Each statute amended by S.B. 665 relates to the bill's overarching original purpose, which is to promote and regulate agriculture in Missouri. Calzone does not identify a specific statute in S.B. 665 that he claims violates the change-of-purpose rule, but seems to argue that all of its provisions violate the rule except the AgriMissouri amendment contained in the original bill. *See* App. Br. at 25-26. This Court should apply its well-established Article III jurisprudence and properly determine S.B. 665's original purpose by considering the overarching objectives of the bill and not simply limiting the purpose to two words that appeared in the initial legislative title.

S.B. 665's original purpose can be reasonably characterized as promoting and regulating agriculture in Missouri. The terms in S.B. 665's title as introduced, regulating

the AgriMissouri trademark used on Missouri agricultural products, served the general purpose of promoting and regulating Missouri agriculture. Indeed, promoting Missouri agriculture is the very reason the AgriMissouri trademark exists.

The same is true for each statute ultimately created or amended by S.B. 665. Calzone does not seem to dispute that each provision in S.B. 665 is in fact an additional way to promote and regulate Missouri agriculture. Four of the sections amended by S.B. 665 set out tax credits designed to promote Missouri agriculture. S.B. 665 extends the qualified beef tax credit from 2016 to 2021, *see* section 135.679; it creates the meat processing facility investment tax credit, *see* section 135.686; it revises the agricultural product utilization contributor tax credit, *see* sections 348.430, 348.436; and it revises the new generation cooperative incentive tax credit, *see* sections 348.432, 348.436. Each of these tax credits promotes Missouri agriculture and encourages investment within the industry by, for example, encouraging the sale of beef from animals born or raised in Missouri, or encouraging Missouri meat processors to modernize and expand. These are the same purposes advanced by the AgriMissouri trademark. A fifth part of the bill changes the allowable rates of the Department of Agriculture's petroleum inspection fee, which is used to fund the petroleum inspection program. *See* § 414.082, RSMo. Like the fees collected for the AgriMissouri fund, the fees collected for the petroleum inspection fund relate to the regulation and promotion of Missouri agriculture.

S.B. 665 also amends two state programs designed to promote Missouri agriculture, the AgriMissouri Fund and the Farm-to-Table Program. The AgriMissouri Fund collects fees from the use of the AgriMissouri trademark and provides that those funds will be used

by the Department of Agriculture’s agriculture business development division to promote the trademark, encourage local efforts to promote Missouri agricultural products, advertise and market Missouri agricultural products, and provide training and technical assistance to cooperative-marketing partners. See § 261.235.2, RSMo. The Department of Agriculture’s Farm-to-Table program does something similar. See §§ 262.960, 262.962 and 348.407, RSMo. It connects Missouri farmers with local institutions like schools, correctional facilities, hospitals, nursing homes, long-term care facilities, and military bases. § 262.962.1(1), RSMo. The two programs are, in fact, connected. The farm-to-table taskforce is classified under the AgriMissouri marketing program. § 262.962.2, RSMo.

In sum, SB 665 was an agriculture bill in both its original and final form. As this Court held in *Westin Crown Plaza Hotel v. King*, 664 S.W.2d 2 (Mo. banc 1984), the “later amendments merely changed the details through which the original purpose was to be manifested and effectuated. The additions, therefore, were not unconstitutional.” *Id.* at 6. The General Assembly’s amendments to S.B. 665 do not clearly and undoubtedly violate the constitutional limitation on changes to a bill’s original purpose.

C. This Court has regularly affirmed the constitutionality of bills similar to S.B. 665 against original-purpose attacks.

S.B. 665 is similar to the bills upheld as constitutional in this Court’s original-purpose jurisprudence. For example, in *St. Louis County v. Prestige Travel, Inc.*, 344 S.W.2d 708 (Mo. banc 2011) this Court considered a bill related to taxation. When introduced in the General Assembly, the bill’s title read, “relating to city sales taxes.” 344

S.W.3d at 715. During the legislative process, the bill expanded to include provisions that fell outside the scope of city sales taxes. The new provisions created a new political subdivision taxing district, authorized the district to impose new taxes to fund the district, and granted certain political subdivisions the authority to contract with each other to share tax revenue. *Id.* Reflecting these new provisions, the bill’s final title was broadened to read, “relating to taxes.” *Id.* This Court did not strike the bill even though the new provisions did not strictly relate to *city sales taxes*. Rather, this Court held that the changes were permissible because the bill’s original purpose was to regulate taxes generally, and the “[r]egulation of taxes was also the purpose of the final version of the bill.” *Id.*

Similarly, in *McEuen*, this Court considered education-related legislation that was originally introduced as a bill that repealed and enacted two statutes “relating to resolution conferences.” 120 S.W.3d at 209. The two new statutes addressed only the discipline of students with disabilities and the rights of parents to challenge through judicial review the assignment of their children to special education programs. *Id.* Before its passage, the bill was amended to include new provisions addressing a broader range of educational services for students with disabilities. Accordingly, the General Assembly amended the title to reflect the repeal and enactment of four statutes “relating to the appropriate educational placement of students.” *Id.* This Court reasoned that the General Assembly’s amendments to the bill’s content and title did not change the bill’s original purpose, which this Court determined was “to address the educational placement of special education students[.]” *Id.* at 210.

And in *Jackson County Sports Complex Authority* this Court made clear that courts should look beyond the words in the bill’s original title and provisions to find the bill’s general purpose. The bill in *Jackson County Sports Complex Authority* originally included sixteen provisions mostly dealing with the duties and salaries of county officials and an original title of “relating to county government.” 226 S.W.3d at 160-61. Though the bill’s original provisions were limited to the salaries and duties of county officials, this Court found that the original purpose was broader—regulating “political subdivisions” in a larger sense. This Court emphasized *McEuen*’s holding that the bill’s original purpose was not defined by the words in the bill’s initial title and reasoned that the bill’s “purpose was not narrowly limited, as the trial court held, to the subject matter of the specific statutes referenced in the original text.” *Id.* at 161. Hence, this Court upheld an amendment that imposed competitive bidding requirements on sports complex authorities, which is one type of political subdivision in Missouri. *Id.*

Prestige Travel, McEuen, and Jackson County Sports Complex Authority are not alone. Numerous other cases from this Court endorse giving a broad construction to a bill’s original purpose. See *Mo. State Med. Ass’n*, 39 S.W. 3 at 839 (reasoning that notwithstanding words in the bill’s original title, the bill’s general purpose was not just a mandate to health insurance companies to provide a co-payment for certain cancer screenings, but a mandate to insurers to provide a variety of health care services in general); *C.C. Dillon Co. v. City of Eureka*, 12 S.W.3d 322, 325 (Mo. banc 2000) (upholding a bill with the title “related to transportation” despite an amendment that gave cities and counties the authority to adopt outdoor advertising regulations for highway billboards); *Stroh*, 954

S.W.2d at 326 (holding that a bill initially introduced to enact a single statute “relating to the auction of vintage wine” also encompassed a number of later amendments regulating the sale and labeling of beer and malt liquor). And these cases affirm this Court’s instruction that a bill’s original purpose is to be interpreted liberally with the aim of finding no constitutional violation. *See also Hammerschmidt*, 877 S.W.2d at 102.

S.B. 665 is analogous to the bills that this Court has upheld as constitutional in these cases. Like the bills considered in *Prestige Travel*, *McEuen*, and *Stroh*, when S.B. 665 was introduced it referenced a specific statute within a broader subject area. S.B. 665 initially referenced the “AgriMissouri trademark associated with Missouri agricultural products,” just as the initial bill in *Prestige Travel* referenced city sales taxes, 344 S.W.3d at 715, and the initial bill in *Stroh* referenced vintage wine, 954 S.W.2d at 326. *Prestige Travel* explained that the general purpose of the bill there related to taxation, 344 S.W.3d at 715, and *Stroh* explained that the general purpose of the bill at issue in that case related to the liquor control law, 954 S.W.2d at 326. So here. From the start, the general purpose of S.B. 665 related to Missouri agriculture.

The amendments to S.B. 665 are not remotely like the changes made to the few bills that this Court has struck down for violating Article III, § 21, such as the bill in *Legends Bank*. *Legends Bank* represents what is perhaps the classic example of an original-purpose violation. The legislation in *Legends Bank* began as a procurement bill containing provisions related to bidding procedures applicable to the Office of Administration. *Legends Bank*, 361 S.W.3d at 386. During the legislative process, it morphed into an omnibus campaign finance and ethics bill, and it included a provision granting legislators

keys to the capitol dome. *Id.* Those disparate provisions (procurement and elected officials, to name two) are nothing like the straightforward amendments to S.B. 665, which are plainly “germane to” Missouri agriculture. *Prestige Travel*, 344 S.W.3d at 715. And neither *Legends Bank* nor any other case holds that the words in the bill’s original title *state* the bill’s overarching purpose.

S.B. 665’s purpose remained consistent throughout the bill’s journey through the legislature, similar to the bills in *Prestige Travel*, *McEuen*, *Stroh*, and others. For these reasons, the amendments to S.B. 665 do not clearly and undoubtedly violate Article III, § 21’s original-purpose requirement. This Court should affirm the Circuit Court’s decision.

II. S.B. 665’s single core subject is Missouri agriculture, and each of its provisions fairly relates to that single subject. (Responding to Appellant’s Point Relied On II).

A. The final, enacted version of a bill is the only relevant version when determining a bill’s core subject.

Article III, § 23 provides that “[n]o bill shall contain more than one subject which shall be clearly expressed in its title[.]” Unlike an original-purpose analysis, the “bill as enacted is the only version relevant to the single subject requirement.” *Mo. State Med. Ass’n*, 39 S.W.3d at 840. Focusing on the final title of the bill, *not* the relationship between the individual provisions, the test is whether all provisions of the bill “fairly relate to the

same subject, have a natural connection therewith or are incidents or means to accomplish its purpose.” *Hammerschmidt*, 877 S.W.2d at 102 (citation omitted).

As this Court has said for 150 years, the “‘subject’ within the meaning of article III, § 23, includes all matters that fall within or reasonably relate to the general core purpose of the proposed legislation.” *Id.* (citing *State v. Mathews*, 44 Mo. 523, 527 (1869)). “The subject of a bill may be ‘clearly expressed by . . . stating some broad umbrella category’ when a bill has ‘multiple and diverse topics’ within a single, overarching subject.” *Am. Eagle Waste Indust. v. St. Louis Cty.*, 379 S.W.3d 813, 826 (Mo. banc 2012) (quoting *Jackson Cty. Sports Complex Auth.*, 226 S.W.3d at 161).

Thus, courts must first identify the “single subject core of th[e] bill.” *Mo. Roundtable for Life, Inc. v. State*, 396 S.W.3d 348, 352 (Mo. banc 2013). Courts do this by first looking to the final bill’s legislative title. Where the core subject is not expressed in the final title, only then do courts look elsewhere—such as to the arrangement of the subjects in the Constitution or to the contents of the bill itself. *Stroh*, 954 S.W.2d at 327. After determining the core subject, courts then consider whether the bill impermissibly contains provisions not “germane, connected and congruous” to that subject. *Am. Eagle Waste Indust.*, 379 S.W.3d at 826. This Court has recognized that this standard is “a most liberal standard for reviewing [a bill’s] challenged provisions.” *Akin*, 934 S.W.2d at 301.

Calzone’s brief improperly shoehorns elements of the original-purpose test into the single-subject test. Calzone claims that S.B. 665’s true subject comes from the bill’s original title—amending the AgriMissouri program. App. Br. at 32-34. Citing *Hammerschmidt*, Calzone claims that when the title of a bill does not properly express the

bill's original purpose, courts should look back to the bill's initial legislative title to determine the bill's subject. *Id.* at 33 (citing *Hammerschmidt*, 877 S.W.2d at 102). But when this Court in *Hammerschmidt* noted that “[t]o the extent the bill’s original purpose is properly expressed in the title to the bill, we need not look beyond the title to determine the bill's subject,” 877 S.W.2d at 102, this Court was referring to the final title of the bill. This Court later clarified the test in *Stroh*, holding that “[w]here an amorphous title to a bill renders its subject uncertain, but the party challenging the bill claims a ‘one subject’ violation and not a ‘clear title’ violation, the Court may determine the subject of the bill from either reference to the subjects of the Constitution, or the contents of the bill itself.” 954 S.W.2d at 327. Here, Calzone did not raise a clear-title claim under Article III, § 23.

This Court has unequivocally stated that the “bill as enacted is the only version relevant to the single subject requirement.” *Mo. State Med. Ass’n*, 39 S.W.3d at 840. In a single-subject analysis, courts consider whether the enacted legislation is impermissibly broad such that its provisions do not relate to a common subject. *See id.* One source for the bill’s subject is the final legislative title. *See, e.g., Mo. State Med. Ass’n*, 39 S.W.3d at 840; *Stroh*, 954 S.W.2d at 327. If the final title does not articulate the single subject, it defies logic to repeat an original-purpose analysis—comparing the final version of the bill with the original version—to find the bill’s core subject. And no case from this Court suggests that this would be the proper framework.

B. Each of S.B. 665’s provisions fairly relate to the bill’s single, core subject of Missouri agriculture.

First, it is easy to extract S.B. 665’s core subject, because it can largely be deduced from the bill’s final title—“relating to agriculture.” (LF 37). Like “health services” in *Missouri State Medical Association*, 39 S.W.3d at 840-41, and “education” in *Akin*, 934 S.W.2d at 301, “agriculture” is a permissible single subject under Article III, § 23. The question, then, becomes whether S.B. 665’s provisions fairly relate or are germane, connected, and congruous to Missouri agriculture. *See Am. Eagle Waste Indust.*, 379 S.W.3d at 826.

As with his original-purpose challenge, Calzone does not identify which statutes in S.B. 665 are too far afield from the bill’s single core subject. He seems to suggest that every statute not included in the original bill violates the single-subject rule. App. Br. at 34. However, a plain-text reading of S.B. 665 shows that each of the final bill’s provisions relate to Missouri agriculture, as the bill’s final title says.

As discussed in Part I above, S.B. 665 creates or amends ten statutes each of which relate to the bill’s “single subject core.” *Hammerschmidt*, 877 S.W.2d at 102. The four tax credits relate to the sale of Missouri beef, investment in Missouri meat processing facilities, and other agricultural incentives. *See* §§ 135.679, 135.686, 348.430, 348.432, 348.436, RSMo. Petroleum inspections are a safety measure relating to Missouri farms. § 414.082, RSMo. And the AgriMissouri and Farm-To-Table programs, run by the Department of Agriculture, also plainly relate to Missouri agriculture. *See* §§ 262.960, 262.962, 348.407, and 261.235, RSMo.

Therefore, this Court need not look beyond S.B. 665's final title to determine its core subject. But even if this Court were to depart from the final title, the next place to look for S.B. 665's core subject is not the bill's initial legislative title. It would be the content of the bill itself, which, as discussed above, includes provisions that share the common subject of Missouri agriculture.

C. This Court has regularly affirmed the constitutionality of bills similar to S.B. 665 against single-subject attacks.

S.B. 665 closely parallels bills that this Court has upheld in single-subject challenges. For example, in *Akin*, this Court held that "education" is a permissible single subject for legislation, drawing that title directly from the bill's final title. *Akin*, 934 S.W.2d at 301. In *Akin*, the challenger asserted that the bill violated the single-subject rule because it included provisions related to taxation and to education. *Id.* The taxation provisions were far-reaching: it increased corporate tax rates and limited the standard Missouri tax deductions for individual and corporate filers. *Id.* at 297. The Court reasoned that "[i]f the tax was designed just to raise general revenue, one might agree." *Id.* at 302. However, one of the taxation statutes provided that the revenue collected from the tax would partly be transferred to the Missouri outstanding schools trust fund. *Id.* Because "the tax increases are a means of funding the education programs provided for elsewhere in" the statute, the Court held that the corporate and individual tax provisions were means of accomplishing the bill's purpose. *Id.*

In *Missouri State Medical Association*, this Court considered a bill with wide-ranging health care provisions. 39 S.W.3d at 840-41. The bill's final title read "relating

to health services,” and Court did not consider whether the bill’s provisions—which amended statutes addressing health care insurance, confidentiality of health care records, and pre-operation information for certain medical procedures—related to each other. *Id.* Instead, this Court found that the bill’s provisions “are (at least) incidents or means to” the bill’s core subject of health services. *Id.*

Akin and *Missouri State Medical Association* are not the only cases where this Court has upheld bills with a similar scope as S.B. 665 against single-subject attacks. *See, e.g., C.C. Dillon Co. v. City of Eureka*, 12 S.W.3d 322, 328-29 (Mo. banc 2000) (reasoning that the addition of provisions related to billboard regulation is encompassed within the single subject of “transportation”); *Corvera Abatement Techs., Inc. v. Air Conservation Comm’n*, 973 S.W.2d 851 (Mo. banc 1998) (holding that a permissible single subject was “environmental control” when a bill’s provisions created a state commission to respond to the release of hazardous substances, established procedures and penalties relating to the use of underground storage tanks, and enacted provisions related to asbestos abatement projects); *Fust v. Attorney Gen. for the State of Mo.*, 947 S.W.2d 424 (Mo. banc 1997) (holding that each of a bill’s provisions “purport to do the same thing—promote compensation for certain tort victims” and therefore satisfied the single-subject rule, when the provisions created a new state fund for tort victims, regulated the insurance industry, and modified common law rules for tort liability).

Here, the Circuit Court correctly held that S.B. 665’s single subject is agriculture. (LF 188). Missouri agriculture is at the core of every provision in S.B. 665. Just as corporate and individual tax provisions can relate to education as in *Akin*; just as the

confidentiality of health care records relates to health care as in *Missouri State Medical Association*; and just as asbestos abatement projects relate to environmental control as in *Fust*; each of S.B. 665's provisions relate to agriculture. This case does not require this Court to approach the outer boundaries of its single-subject jurisprudence. But at the very least, the statutes satisfy this Court's liberal standard that a bill's provisions must fairly relate to the same subject, have a natural connection therewith, or are incidents or means to accomplish its purpose. *See, e.g., Hammerschmidt*, 877 S.W.2d at 102.

This case is nothing like the few cases where this Court has struck down bills for violating the single-subject requirement. For example, in *Cooperative Home Care, Inc. v. City of St. Louis*, this Court recently held that a statute prohibiting municipalities from increasing their minimum wage above the state minimum wage violated the single-subject rule because the bill's single subject was the regulation of community improvement districts. 514 S.W.3d 571, 579 (Mo. banc 2017). And in *SSM Cardinal Glennon Children's Hospital v. State*, this Court held that a statute related to hospital liens violated the single-subject rule because the bill's core subject was professional licensing. 68 S.W.3d 412, 416-17 (Mo. banc 2002).

Because S.B. 665's core subject can be found in the bill's final legislative title, there is no need to look beyond the title. But even if this Court were to depart from the bill's final legislative title, a plain reading of S.B. 665's provisions make clear that each provision is comfortably related to agriculture. Therefore, this Court should affirm the Circuit Court and find that S.B. 665 has one subject. The bill does not clearly and undoubtedly violate Article III, § 23.

III. Neither the Missouri Constitution nor this Court’s jurisprudence prohibits substantive changes to a bill’s legislative title. (Responding to Appellant’s Point Relied On III).

In Count III of the Petition, Calzone alleged that S.B. 665’s title was substantively changed during the amendment process in violation of both Article III, §§ 21 and 23. (LF 25). He argues that a bill’s title is part of the legislation itself, and so it must independently follow the commands of Article III, §§ 21 and 23. App. Br. at 38-39. In support of this claim, Calzone alleged in the Petition that “allowing legislators to change the title of bills to fit the evolving bill, rather than requiring the evolution of the bill to remain true to the original title, defeats [the requirements of Article III, §§ 21 and 23].” (LF 55). The Circuit Court properly dismissed this claim because it is not recognized under the Missouri Constitution.

This Court has often stated that changing a bill’s title is an ordinary and proper act of the General Assembly done to reflect amendments to a bill. *See, e.g., Westin Crown Plaza Hotel Co.*, 664 S.W.2d at 5-6. Of course, the final bill as passed must not violate the original-purpose, clear-title, and single-subject commands of the Missouri Constitution, but there is no provision that forecloses “substantive” changes to a bill’s title. Respondents have not located any Missouri case that has permitted a single cause of action for a “combined,” hybrid violation of Article III, §§ 21 and 23. *See Mo. Roundtable for Life*, 396 S.W.3d at n.3 (noting that the Missouri Constitution imposes only three relevant procedural requirements on a bill’s passage: the original-purpose, single-subject, and clear-title requirements).

Calzone's claim contravenes the plain text of the Constitution and this Court's precedents. Calzone's brief acknowledges the novel nature of this claim, correctly noting this Court's holding in *Lincoln Credit* that a bill's "title is not a part of the bill and so [it] can be changed without violating Art. III, Section 21." App. Br. at 38 (quoting *Lincoln Credit Co. v. Peach*, 636 S.W.2d 31, 38 (Mo. banc 1982)). *Lincoln Credit* is not the only case where this Court has ruled that a bill's title is merely an introduction to the legislation contained therein and that it does not form part of the bill itself. See, e.g., *Akin*, 934 S.W.2d at 302.

This Court's decisions properly hold that a bill's title is not part of the bill. A bill's legislative title does not become part of the Revised Statutes when the governor signs the bill. The title is prefatory language to aid legislators and citizens when reviewing a bill's content. Indeed, this Court often recognizes the importance of a bill's original and final titles when it looks to them in the three recognized procedural challenges to legislation.

Even if the title were part of the bill, nothing in the plain text of §§ 21 and 23 of Article III creates a new cause of action for "substantive" changes to the bill's title. And this Court seems to have interpreted Article III, § 21 to encourage the General Assembly to revise a bill's title to reflect its true objectives and purpose. See *Westin Crown Plaza Hotel*, 664 S.W.2d at 6 (reasoning that "it may be appropriate for the legislature to change the title of a bill as it proceeds through the legislature to more accurately reflect the real scope of the subject matter in the bill"). Creating a new cause of action for substantive title changes would discourage the legislature from amending a bill's title to better reflect its actual contents and objectives.

Calzone is not without remedies here. He has already raised original-purpose and single-subject violations against S.B. 665. And he could have asserted a traditional clear-title claim under Article III, § 23, but he did not. Cir. Ct. Judgment, LF 190 (“both in his written submissions and in his oral argument at the hearing, [Calzone] has made clear that he is asserting a different claim altogether”). Moreover, it would be difficult to imagine a “successful” claim for a substantive title change like the one Calzone raised in Count III of his Petition without a court also finding an independent violation of the original-purpose, single-subject, or clear-title rules. The Missouri Constitution and this Court’s jurisprudence provide numerous mechanisms to challenge the General Assembly’s enactment of laws. Those mechanisms do not include the challenge asserted in Count III of Calzone’s Petition. The Circuit Court properly dismissed that claim, and this Court should affirm.

IV. If this Court finds that S.B. 665 violated any of the Constitution’s procedural requirements, then it should sever the unconstitutional provisions. (Responding to each of Appellant’s Points Relied On).

As discussed in this brief, Calzone has not established that S.B. 665 clearly and undoubtedly violates the Missouri Constitution’s procedural limitations on legislation. Nevertheless, if this Court reverses the Circuit Court’s judgment and Calzone prevails on any of his constitutional claims, this Court should sever any portion of S.B. 665 that violated the constitutional limitation.

As a threshold matter, this Court need not consider the “Severance” argument in Calzone’s brief, because he does not raise it separately in a Point Relied On or as an

allegation of reversible error, in contravention of Rule 84.04(d). Respondents address the issue of severance here for preservation purposes and to promote the strong public policy that at least some provisions in S.B. 665 should survive if Calzone should succeed on any of his claims.

The Circuit Court below did not engage in a severability analysis because the Court upheld the constitutionality of S.B. 665. It is unclear whether Calzone contends that every statute violates the original-subject and single-subjection rules, other than the original AgriMissouri statute, or if he argues something narrower. And in the final pages of his brief beginning with the heading “Severance,” Calzone does not assist the Court by identifying the statutes that should be severed. App. Br. at 42-43. To the contrary, Calzone argues that “the judicially created doctrine of severance” should not apply to this action at all. App. Br. at 42. However, this Court has employed a severability analysis in the few cases where it determined that a bill violated Article III, §§ 21 or 23. *See, e.g., Hammerschmidt*, 877 S.W.2d at 103-04. This Court should do the same if it reverses the Circuit Court and concludes that S.B. 665 violates Article III, §§ 21 or 23.

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment of the Circuit Court of Cole County.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically pursuant to Rule 103 through Missouri Case Net, on this 17th day of December, 2018. In addition, the undersigned certifies that a copy of the same was served via e-mail and U.S. Mail, postage prepaid, to Appellant:

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CERTIFICATION OF COMPLIANCE

The undersigned hereby certifies that the foregoing brief complies with the limitations contained in Rule 84.06(b) in that excluding the cover, certificates of service and compliance, and signature blocks, the brief contains 7,286 words.

/s/ Peter T. Reed