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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 400—Individual Income Tax**

**EMERGENCY RULE**

**12 CSR 10-400.200 Special Needs Adoption Tax Credit**

*PURPOSE: Section 135.327, RSMo, provides an income tax credit up to ten thousand dollars (\$10,000) for qualified expenses incurred in the adoption of a special needs child. This rule explains when the tax credit is available and how the individual may claim the credit.*

*EMERGENCY STATEMENT: This regulation establishes a deadline of April 15 for filing Special Needs Adoption Tax Credits. This deadline allows the Department of Revenue sufficient time to determine the amount claimed in each pool, prorate the applicable refunds, and process the refunds by the end of the fiscal year. This allows people claiming the credit to receive the benefits of the credit in the current fiscal year. In addition, taxpayers need to know the amount of credit received so they can file the appropriate claim by July 1 of the following fiscal year. This filing deadline must take effect by April 15, 2005. Therefore, the compelling governmental interest of both the department and affected taxpayers can be met only through the adoption of this emergency rule. The director has followed procedures calculated to assure fairness to all interested persons and parties and has complied with protections extended by the *Missouri* and *United**

*States Constitutions. These procedures include distribution of the proposed regulation to tax preparers and professionals for comment prior to filing this emergency rule. The director has limited the scope of the emergency rule to the circumstances creating the emergency. Emergency rule filed January 7, 2005, effective January 17, 2005 and expires July 15, 2005.*

(1) In general, an individual may qualify for a credit for nonrecurring expenses incurred in the legal adoption of a special needs child. The credit may be used to reduce individual income tax. The classification of a child as a "special needs child" is determined by the Children's Division of the Department of Social Services (Children's Division).

(2) Definitions of Terms.

(A) Special needs child—As certified by the Children's Division, a child-placing agency licensed by this state, or a court of competent jurisdiction. This does not include any child who has attained the age of eighteen (18); unless it has been determined the child has a medical condition or handicap that would limit the child's ability to live independently of the adoptive parents.

(B) Resident special needs child—A special needs child who was a resident of this state, or who was a ward of a resident of this state, at the time the adoption was initiated.

(C) Nonresident special needs child—A special needs child who was neither a resident of this state nor a ward of a resident of this state at the time the adoption was initiated.

(D) Qualified expenses—Reasonable and necessary nonrecurring adoption expenses including attorney fees, court costs, and other directly related expenses not taken as a deduction or credit under any similar provision of federal, state, or local law.

(E) Fiscal year—July 1 to June 30.

(F) Filing period—The filing period for claiming a credit begins on July 1 of the fiscal year and ends on April 15 of the fiscal year. If April 15 ends on a Saturday, Sunday, or a holiday, the filing period shall end on the first business day following April 15.

(3) Basic Application.

(A) An individual residing in this state who proceeds in good faith to adopt a special needs child may be eligible for an adoption tax credit. The tax credit is limited to the lesser of ten thousand dollars (\$10,000) or the actual amount of qualified expenses incurred in the adoption of each special needs child. The tax credit is available for a total of five (5) years. The five (5)-year period begins when the tax credit is first taken or the adoption is finalized, whichever occurs first, and the years for claiming the tax credit run consecutively.

(B) The lesser of one-half (1/2) of the actual amount of qualified expenses incurred or five thousand dollars (\$5,000) may be used to reduce the income tax on the adoptive parent's individual income tax return for the tax year in which the special needs child is placed in the home. The remaining tax credit may be used to reduce the income tax in the tax year the adoption is finalized.

(C) The adoption tax credit used may not exceed the income tax for the tax year. The portion of the tax credit which exceeds the income tax shall not be refunded but may be carried forward and used against the taxpayer's income tax for the subsequent four (4) tax years from the year the child is placed in the home.

(D) The owner of an adoption tax credit may assign, transfer or sell the credit. To claim the credit, the buyer must provide a statement signed by the seller that includes the names, addresses, and Social Security numbers of the buyer and seller, the date the credit was sold, the amount of tax credit sold, and a copy of the Form MO-ATC completed by the adoptive parents.

(E) The adoption tax credit is subject to the original owner's delinquent income, sales, and use taxes, including interest and penalties.



(F) No credit shall be allowed for that portion of the qualified expenses paid from any funds received under any federal, state or local program.

(G) The credit shall be reduced by an amount equal to the state's cost of providing care, treatment, maintenance and services when:

1. There is no intent to return the child to the adoptive home and the special needs child is placed in foster care or a residential treatment facility, which is licensed by the Division of Family Services, the Division of Youth Services, or the Department of Mental Health; or

2. A juvenile court temporarily or finally relieves the adoptive parents of custody of the special needs child.

(H) Only one (1) ten thousand dollar (\$10,000) credit is available for each special needs child that is adopted.

(I) The cumulative amount of tax credits that may be issued for qualified expenses in any one (1) fiscal year cannot exceed \$4,000,000 of which \$2,000,000 may only be issued for the adoption of resident special needs children. The remaining \$2,000,000 is available first for credits claimed during the first ninety (90) days of the fiscal year for the adoption of nonresident special needs children. If less than \$2,000,000 is claimed during the ninety (90)-day period for nonresident special needs children, the remainder is available for credits claimed for the adoption of resident special needs children. If the remaining credit is not used for the adoption of resident special needs children, it is available for the adoption of nonresident special needs children.

(J) If the total credits claimed exceed the amount available in either category, the credits will be apportioned pro rata among all of the taxpayers in each category who have filed a valid claim within the filing period.

(K) All claims filed after the filing period and received before the beginning of the next filing period will be accepted in the order that they are filed until the amount available for that category is depleted. If no funds are available for that category, the claim will be denied, and may be refiled during the filing period for the following fiscal year.

(L) In the first year in which the credit is claimed, any taxpayer claiming this tax credit must attach to the individual income tax return a completed Missouri Department of Revenue Form ATC. This form can be accessed from the Department of Revenue's website at <http://www.dor.mo.gov/tax/personal/individual/forms/2004>, under tax credit forms.

#### (4) Examples.

(A) A special needs child is placed in the home and the adoption is finalized in 2002. The taxpayer incurred \$15,000 in qualified expenses. The taxpayer has income tax of \$6,000 for the tax year. The individual may use \$6,000 in 2002 and has \$4,000 to carry forward to 2003.

(B) A special needs child is placed in the home in 2002. The adoption is finalized in 2003. The individual incurred \$15,000 in qualified expenses. The individual has income tax of \$6,000 for 2002. Because the credit is limited to 50% of the total credit in the year that the child is placed in the home, the individual may only use \$5,000 in 2002 and has \$5,000 to carry forward to 2003.

(C) A special needs child is placed in the home in 2002. The adoption is finalized in 2004. The individual incurred \$15,000 in qualified expenses. The individual has income tax of \$6,000 for 2002, and may use \$5,000 of credit in that year (50% of the total credit of \$10,000). Because the adoption was not finalized until 2004, the individual has no credit available for 2003, and has \$5,000 available for 2004.

(D) A special needs child is placed in the home in 2002. The adoption is finalized in 2004. The individual incurred \$15,000 in qualified expenses. The individual has income tax of \$3,000 for 2002 and for 2003. The individual may use \$3,000 of the \$5,000 available credit in 2002, \$2,000 of the credit in 2003, and has another \$5,000 available for 2004.

(E) A special needs child is placed in the home in 2002. The adoption is finalized in 2004. The individual incurred a total of \$8,000 in qualified expenses. The individual has income tax of \$3,000 for 2002 and for 2003. The individual may use \$3,000 of the \$4,000 available credit in 2002, \$1,000 of the credit in 2003, and has another \$4,000 available for 2004.

(F) An individual incurred a total of \$10,000 in qualified expenses related to the adoption of a resident special needs child. The individual incurred income tax of \$3,000 in 2004 and filed a 2004 return on April 30, 2005, after the filing period for the adoption tax credit. At the end of the filing period, the aggregate amount of resident adoption tax credit that was claimed was \$1,998,000, and no other resident adoption tax credit claims were filed prior to the individual's return. The individual's credit is limited to the remaining \$2,000 of available credit for the fiscal year ending June 30, 2005, and \$1,000 of the individual's credit will be denied.

(G) The individual incurred a total of \$10,000 of qualified adoption expenses and income tax of \$3,000 for 2004. The individual filed a 2004 return within the filing period to claim the credit. The total claims for the adoption expenses for nonresident special needs children filed within the filing period equaled \$4,000,000. The individual will be approved for a credit of \$1,500 for 2004, 50% of the credit claimed (\$2,000,000 divided by \$4,000,000), and will have \$8,500 of credit available for 2005.

(H) A special needs child is placed in the home and the adoption is finalized in 2004. The individual incurred \$15,000 in qualified expenses and had income tax of \$6,000 for the tax year. The individual filed a 2004 return after the end of the filing period, and the cumulative amount of tax credits available for the fiscal year had been reached. The individual's claim for \$6,000 in 2004 will be denied, and the individual has \$10,000 to carry forward to 2005.

(I) A car dealer accepts an adoption tax credit as payment for a car. The car dealer may use the adoption tax credit to offset any income tax, subject to the applicable restrictions. No portion of the credit is refundable, but can be carried over for the remaining life of the credit.

(J) In the year the adoption is finalized and after the tax credit had been sold, a juvenile court temporarily relieved the parents of custody, at a total cost to the state of \$8,000. The credit of \$10,000 will be reduced by the amount of the state's cost in providing care, and the transferee of the credit has \$2,000 available.

(K) A special needs child is placed in the home and the adoption is finalized in 1999. The individual incurred \$15,000 in qualified expenses. The individual has income tax of \$6,000 each tax year. The individual did not claim an adoption tax credit on the individual's 1999 through 2003 returns. The individual may not claim a credit for 2004. However, the individual may file amended returns for any tax year for which the statute of limitations remains open and claim the adoption tax credit.

(L) An individual adopts a special needs child in a foreign country and the adoption was finalized in the foreign country in 1999. The individual incurred \$14,000 in qualified expenses and owed no income tax in 1999, 2000, or 2001, and owed income tax of \$4,000 for 2002. The individual claimed \$4,000 adoption tax credit on the tax return for 2002. The unused \$6,000 of qualified expenses is available to be carried over to 2003, but no further.

*AUTHORITY: section 143.961, RSMo 2000. Emergency rule filed Jan. 7, 2005, effective Jan. 17, 2005, expires July 15, 2005. A proposed rule covering this same material is published in this issue of the Missouri Register.*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2004.

## EXECUTIVE ORDER 05-05

WHEREAS, the people of the state of Missouri are entitled to be served by an efficient, competent, responsive and effective state government; and

WHEREAS, the organization of Missouri's state government has not been completely reexamined from top-to-bottom in over three decades; and

WHEREAS, technological advancements and innovation in the last three decades have provided tools that can significantly enhance state government's efficiency and effectiveness for all Missourians if those tools are carefully examined and properly utilized; and

WHEREAS, structural changes and consolidation within state government may provide for cost savings, increased efficiency and better service for the citizens of Missouri.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the powers in me vested by the Constitution and Laws of the State of Missouri, do hereby create and establish the 2005 Missouri State Government Review Commission.

I hereby charge the 2005 Missouri State Government Review Commission with the task of reviewing every Executive Department within our state government to identify opportunities to restructure, retool, reduce, consolidate, or eliminate state government functions in accordance with what will result in the best and most cost-effective service for Missouri citizens.

The Commission shall evaluate the current structure and functions of Missouri state government and report on the following items:

1. Whether the current structure of each Executive Department lends itself to the provision of effective service to the citizens of Missouri;
2. What each Executive Department could do better to more efficiently and effectively fulfill its mission;
3. What tools are available today that would allow the Executive Departments to realize cost savings, increased efficiencies and better service for the citizens of Missouri; and
4. Whether there are any opportunities to consolidate functions and reduce duplicative tasks on an inter-departmental basis.

The Commission shall include in its report, recommendations for how inefficiencies should be addressed, costs cut, services improved, functions consolidated and duplicity reduced. The Commission shall also make suggestions for the elimination of outdated or burdensome regulations that impede the ability of the Executive Departments to be as efficient and effective as possible.

The Commission shall consist of twenty (20) individuals appointed by the Governor. The Governor shall designate two (2) of the members to act as Co-Chairs of the Commission. All members of the Commission shall serve at the pleasure of the Governor.

Members of the Commission shall receive no compensation for their service to the people of Missouri, but may seek reimbursement of their reasonable and necessary expenses incurred as members of the Commission, in accordance with the rules and regulations of the Office of Administration.

The Commission is assigned for administrative purposes to the Office of Administration. The Commissioner of the Office of Administration or his designee shall be available to assist the Commission as necessary, and shall provide the Commission with any staff assistance the Commission may require from time to time. All Departments in the Executive Branch of Missouri state government are directed to cooperate with the Commission, and shall provide such assistance to the Commission as it shall request.

The Board of Curators of the University of Missouri shall act as fiscal agent for the Commission. Through the Board of Curators of the University of Missouri, and consistent with procedures established by them, the Commission may accept gifts and donations of resources, which shall be devoted, solely to the purposes of the Commission, and expended only with Commission approval. Through the Board of Curators of the University of Missouri, the Commission is authorized to enter into contracts with public or private entities for the purpose of receiving federal and private funds which may be spent for the Commission's purposes as outlined herein.

The 2005 Missouri State Government Review Commission shall meet at the call of its Chairs, and the Chairs shall call a meeting as soon as possible. The Commission shall produce a plan outlining the steps it intends to take to implement its charge outlined herein and submit that to me within 60 days of its first meeting. The Commission shall issue its report and recommendations as soon as practicable, but in no case later than one year from the creation of the Commission unless otherwise agreed to by me.





IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 24<sup>th</sup> day of January, 2005.

Matt Blunt  
Governor

ATTEST:

Robin Carnahan  
Secretary of State

**EXECUTIVE ORDER  
05-06**

WHEREAS, the Missouri Department of Corrections currently allows the use of video games by inmates in state correctional facilities; and

WHEREAS, according to a survey conducted by the American Correctional Association, only two other states besides Missouri allow the use of video games in correctional facilities; and

WHEREAS, video games should be considered a luxury that inmates should not be allowed to enjoy; and

WHEREAS, violence in video games is a threat to the security of both the inmates and the staff of correctional facilities; and

WHEREAS, it is not possible for corrections personnel to monitor every individual scene in every video game to make sure that there is no violence involved in the construction of video games.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby order the Director of the Missouri Department of Corrections to ban immediately the use by inmates of video games in all state correctional facilities.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 24<sup>th</sup> day of January, 2005.

**Matt Blunt  
Governor**

**ATTEST:**

**Robin Carnahan  
Secretary of State**

**EXECUTIVE ORDER**

**05-07**

WHEREAS, the State of Missouri recognizes the critical importance of technology to its government, industry, and economy; and

WHEREAS, the Office of Information Technology was established by Executive Order 03-26 to develop strategies and policies to improve existing information technology investments and create a plan to establish an infrastructure which supports innovative government management solutions; and

WHEREAS, Executive Order 03-26 provided that for administrative purposes, the Office of Information Technology shall be located within the Office of Administration; and

WHEREAS, the Office of Administration's Division of Information Services was created pursuant to Chapter 37, RSMo, and is the central point for coordinating the data processing policies of the executive branch, promoting economy and efficiency in the use of data processing and telecommunications for the transaction of State business; and

WHEREAS, it appears to be in the best interest of the State of Missouri to consolidate the Office of Information Technology and the Division of Information Services to avoid duplication of activities and administrative costs, thereby achieving economy and efficiency across State government; and

WHEREAS, it is appropriate for this consolidated office to be assigned to the Office of Administration.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including Article IV, Section 12, Missouri Constitution, Chapter 26, RSMo, and the Omnibus State Reorganization Act of 1974, hereby assign the Office of Information Technology to the Office of Administration's Division of Information Services in its entirety with all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Office of Information Technology. Further, the head of the consolidated office shall have the title of Chief Information Officer and Director of the Division of Information Services.



**ATTEST:**

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 26<sup>th</sup> day of January, 2005.

**Matt Blunt**  
Governor

**Robin Carnahan**  
Secretary of State