



PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission
From: Lori Anderson, Communications & Training Officer
Date: July 17, 2014
Re: Possible Interpretation Regarding Loans

During the May meeting, the Commission discussed whether to adopt a new interpretation regarding campaign loans. That discussion will resume at the July 24 meeting and the Commission will consider adopting new Interpretation 14-01, Campaign Loans.

BACKGROUND

In April 2014, the Commission was asked whether a candidate's loans of personal funds to previous campaigns could be reinstated after reports were filed in error showing that the loans had been forgiven. Commissioners raised questions during that discussion touching on additional loan-related topics that staff believed should be addressed in a formal interpretation.

In May 2014, staff asked the Commission to identify possible subjects for an interpretation regarding loans. As part of its review of possible subjects, the Commission responded that a sample loan agreement should be included in the materials offering guidance. Commissioner Degginger also suggested requiring a lender to sign the report that discloses receipt or forgiveness of the loan.

Staff has drafted an interpretation for the Commission's review. The draft:

- Summarizes the relevant statutes and rules;
- Advises campaigns that reports mistakenly identifying loans as contributions for which no payment is expected may be corrected only until the applicable reporting deadline;
- Emphasizes that the law requires written loan agreements for all monetary and in-kind loans, and provides a suggested format;
- Clarifies that establishing the repayment terms is the responsibility of the lender and recipient and that a flexible repayment deadline, such as "when funds are available," is acceptable; and
- Explains the relationship between contribution limits and loans.

Changes to the Commission's filing software are more difficult to implement. Revisions that would implement controls such as Commissioner Degginger's suggestion to have lenders sign a recipient political committee's contribution or expenditure reports will be considered as the staff reviews and updates the software.

REQUESTED ACTION

Staff requests that the Commission adopt new Interpretation 14-01, Campaign Loans, as proposed or as modified after further Commission discussion.

Attachment: Staff memo from May 22, 2014 Commission meeting
Draft Interpretation 14-01, Campaign Loans



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To: Members, Washington State Public Disclosure Commission
From: Lori Anderson, Communications & Training Officer
Date: May 15, 2014
Re: Possible Interpretation Regarding Loans

AGENDA ITEM

The Commission is scheduled to continue its discussion regarding campaign loans at the May 22, 2014 meeting. The Commission will consider whether to develop an interpretation that offers guidance related to campaign loans. If the Commission determines that an interpretation is necessary or desirable to establish more definite parameters surrounding campaign loans, it will be helpful to staff to hear the Commission's opinion as to what those parameters might be.

BACKGROUND

The April 2014 meeting agenda included an advisory matter asking whether a candidate's loans to a campaign that had been forgiven could be reinstated and repaid. Because the question was unique and the answer would potentially impact other campaigns, staff believed it necessary to seek the Commission's opinion.

While discussing the April agenda item, the Commission questioned whether demand for repayment of a loan could be made after the six-year statute of limitations had expired. Commissioners raised additional loan-related issues conveyed to them by candidates and expressed that all candidates should be treated equally.

Authority

Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid. RCW 42.17A.465 and WAC 390-16-226.

Loans are a type of contribution. RCW 42.17A.050(13)(a). As such, they are subject to applicable contribution limits. RCW 42.17A.465. In the case of a candidate, who may donate an unlimited amount of money or in-kind contributions to his/her own campaign, the law limits how much may be repaid by the campaign. Repayment of personal loans made by a candidate is limited to the dollar amount set out in RCW 42.17A.445(3). That dollar amount is adjusted by the Commission in even-numbered years and currently set at \$5,500.

The Commission's Schedule L, found in WAC 390-16-041, is the prescribed format for reporting any loan activity. The Schedule L requires the disclosure of a repayment date and interest amount, but there are no set or suggested terms found in statute or rule.

WAC 390-16-226 clarifies that:

- surplus funds may be used to return a contribution to a candidate only if the contribution was properly reported as a loan and a written loan agreement was executed,
- money lent to a candidate in connection with the campaign is not considered the candidates' personal funds,
- loans are subject to contribution limits,
- loans received from commercial lending institutions are presumed to be guaranteed by the candidate and subject to the candidate's loan repayment limit unless all of the following conditions are present: the loan is not guaranteed by any other person, it is made in the regular course of business, and the loan is made on the same terms ordinarily available to the public. In the event a person other than the candidate guarantees a loan from a commercial lender, the amount may not exceed the guarantor/contributor's applicable limit.

Furthermore, any unpaid reimbursement for out-of-pocket expenditures to a candidate becomes an in-kind loan after three weeks and counts against the candidate's loan repayment limit. WAC 390-16-226(4).

Instructions

The candidate and political committee manuals explain the loan requirements found in statute and rule and instruct campaigns to report loans on the C-3 and Schedule L when received. Until the loan is fully satisfied or forgiven, a summary of the loan activity and outstanding balance must be disclosed at the end of each C-4 reporting period. The PDC instructions inform campaigns that any outstanding debt, including unpaid loans, may be transferred to a future campaign.

The instructions indicate that an unspecified repayment date is acceptable, such as "when campaign funds allow." Staff believes that the majority of campaigns use an unspecified date.

PDC Interpretation 12-01 *In-Kind Loans, Pledges, and Disclosure of Contributions on 21- and 7-Day Pre-election Reports* distinguishes in-kind loans from vendor debt. The interpretation explains that in-kind loans occur when a person pays for goods or services on behalf of the campaign with the expectation of reimbursement and are subject to contribution limits. The interpretation also confirms that in-kind loans must be recorded in writing and executed at the time of the loan.

POSSIBLE SUBJECTS FOR AN INTERPRETATION

The adoption of an interpretation could be used as a process to vet policies or positions that the Commission might later adopt through rule making. Potential subjects where staff believes guidance would be beneficial include:

- **Specifying a format or minimum information required for the loan agreement.** As the Commission heard during the April meeting, some loan agreements may be very informal such as an email between the candidate and the campaign treasurer. Does the Commission wish to specify what minimum information must be included in a candidate's or committee's written loan agreement? Another suggestion made at the April meeting was the possibility of providing a sample loan agreement form that committees could use to satisfy PDC requirements.
- **Establishing more definite repayment terms.** Parameters such as setting a specified repayment deadline, cautioning against charging usurious interest, etc. could be set out in an interpretation.
- **Correcting reporting mistakes.** Last month the Commission heard from a campaign that explained a situation in which loans had been reported as forgiven by mistake. That was a unique occurrence. It is much more common that campaigns contact staff to report that candidate loans were mistakenly reported as personal contributions. These campaigns are typically told that there is no remedy and the candidate may not be repaid since the transaction was not originally reported as a loan. WAC 390-16-226 provides that surplus funds may not be used to return candidate contributions in these situations. The Commission may want to address whether these mistakes may be corrected mid-campaign and under what circumstances, such as within a certain period of time from the original filing provided that a written loan agreement was executed at the time the loan was made.

Should the Commission wish to proceed with developing an interpretation, staff recommends that it be applied only to loan activity undertaken after the date the interpretation is adopted.

Staff recommends incorporating the in-kind loan guidance offered in PDC Interpretation 12-01 into any new interpretation regarding loans so that campaigns seeking the Commission's guidance regarding loans will find it in one place.

The staff frequently receives questions for which answers can be found in the PDC's instruction manuals. Campaigns would undoubtedly benefit from a brochure that contains these frequently asked questions and answers as well as any other guidance that the Commission develops.

Attachments: RCWs 42.17A.445 and 42.17A.465
WAC 390-16-226
Schedule L
PDC Interpretation 12-01
Representative excerpts from PDC State & Legislative Candidate Manual
showing current instructions pertaining to loans

RCW 42.17A.445

Personal use of contributions — When permitted.

Contributions received and reported in accordance with RCW 42.17A.220 through 42.17A.240 and 42.17A.425 may only be paid to a candidate, or a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record shall be maintained by the candidate or the candidate's authorized committee in accordance with RCW 42.17A.235.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17A.240.

(3) Repayment of loans made by the individual to political committees shall be reported pursuant to RCW 42.17A.240. However, contributions may not be used to reimburse a candidate for loans totaling more than *four thousand seven hundred dollars made by the candidate to the candidate's own authorized committee.

[2010 c 204 § 608; 1995 c 397 § 29; 1993 c 2 § 21 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 280 § 12; 1985 c 367 § 7; 1977 ex.s. c 336 § 6. Formerly RCW 42.17.125.]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17A.125. For current dollar amounts, see chapter 390-05 of the Washington Administrative Code (WAC).

Effective date -- 1989 c 280: See note following RCW 42.17A.005.

Severability -- 1977 ex.s. c 336: See note following RCW 42.17A.205.

RCW 42.17A.465

Restriction on loans.

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

[2010 c 204 § 610; 1995 c 397 § 22; 1993 c 2 § 12 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.720.]

WAC 390-16-226

Loans.

(1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17A.005 and 42.17A.430 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17A RCW *and*, unless the loan meets the exemption provided in RCW 42.17A.465(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17A RCW.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17A.405 and WAC 390-16-310 only if all the following criteria are met:

- (i) The loan is not guaranteed by any other person;
- (ii) The loan is made in the regular course of business; and,
- (iii) The loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17A.445(3) as adjusted by WAC 390-05-400. For purposes of the loan repayment limit, these loans are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

[Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-226, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370(1). WSR 02-03-018, § 390-16-226, filed 1/4/02, effective 2/4/02; WSR 00-22-056, § 390-16-226, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 42.17.370. WSR 93-16-064, § 390-16-226, filed 7/30/93, effective 8/30/93.]

LOANS

See Instructions and Example on reverse

SCHEDULE TO C3 OR C4

L
(1/02)

Candidate or Committee Name

Report Date

1. MONETARY OR IN-KIND LOAN RECEIVED.

Loans are considered contributions and are subject to any applicable limit.

Date Loaned	Lender's Name and Address	P R I	G E N	Amount of Loan	Annual Interest Rate	Repayment Schedule	Date Due
<p>If monetary loan, also include this amount on line 1c, C3 report.</p> <p>If in-kind loan, itemize in Part 1 of Schedule B.</p>							
						<p>If Total Contributed is more than \$100, Show Lender's Occupation and Name, City & State of Employer</p>	

Name and Address of Each Loan Endorser, Co-Signer	P R I	G E N	Amount Liable For (Same as Loan Amount)	Aggregate Total	If Total Contributed is more than \$100, Show Endorser's Occupation and Name, City, & State of Employer

Continued on attached sheet

2. LOAN PAYMENTS.

Candidates may be repaid no more than amount loaned or permitted by WAC 390-05-400, whichever is less. See instruction manual.

Date Paid	Lender's Name and Address	Principal Paid	Interest Paid	Total Payment	Balance Owed
		<p>Total Principal Paid Enter also on lines 5 and 14, C-4 report</p>		<p>Total Payments Enter as an expenditure on Schedule A</p>	

3. LOANS FORGIVEN.

Date	Lender's Name and Address	Original Amount	Principal Repaid	Amount Forgiven	Balance Owed

4. LOANS STILL OWED.

List each loan that has previously been reported and still has a balance due.

Date	Lender's Name and Address	Original Amount	Principal Repaid or Forgiven	Amount Owed
				Subtotal _____
				New Loans Received (and listed in Item 1 above) _____
				Total Loans Owed Include in total on line 19, C-4 report _____

Continued on attached sheet.

PDC Interpretation

APPROVAL DATE: June 28, 2012 NUMBER: 12-01

STATUS: New SUPERSEDES: None

APPROVED BY: The Commission

REFERENCES: [RCW 42.17A](#) [Title 390 WAC](#)
[RCW 42.17.005\(13\)](#) [WAC 390-05-210](#)
[RCW 42.17A.125](#) [WAC 390-05-235](#)
[RCW 42.17A.235](#) [WAC 390-05-245](#)
[RCW 42.17A.240](#) [WAC 390-05-400](#)
[RCW 42.17A.405](#) [WAC 390-16-041](#)
[RCW 42.17A.410](#) [WAC 390-16-042](#)
[RCW 42.17A.420](#) [WAC 390-16-207](#)
[RCW 42.17A.445](#) [WAC 390-16-245](#)
[RCW 42.17A.560](#) [WAC 390-37-300](#)

IN-KIND LOANS, PLEDGES, AND DISCLOSURE OF CONTRIBUTIONS ON 21- AND 7-DAY PRE-ELECTION REPORTS

The Public Disclosure Commission enforces the campaign disclosure provisions and contribution limits found in [RCW 42.17A](#) and [Title 390 WAC](#). This interpretative statement is intended to guide campaigns with respect to in-kind loans, pledges, and disclosure of contributions on the 21- and 7-day pre-election reports.

IN-KIND LOANS

Contribution limits apply to in-kind loans, but not debts. The purpose of this section is to distinguish the difference between an “in-kind loan” and a “debt.”

In-Kind (Non-Monetary) Loans

The term “contribution” is defined broadly and includes not only money, but also the vast majority of items and services donated or loaned to assist a campaign. See [RCW 42.17A.005\(13\)](#). Donated items include but are not limited to items such as campaign office space, computers, and auction items. Donated services include, but are not limited to, printing, campaign consulting and campaign website development. Donated items and services are commonly referred to as in-kind contributions. See also [WAC 390-05-210](#).

The dollar value for in-kind contributions is based on the “fair market value” of each item or service donated to the campaign. See [WAC 390-05-235](#) and [390-16-207](#). In-kind contributions are subject to contribution limits and the pre-election timing provision of [RCW 42.17A.420](#). A candidate whose name appears on both the primary and general election ballots is prohibited from receiving general election in-kind contributions prior to the primary election being held.

An in-kind loan occurs when a person pays for a good or service on behalf of the campaign with the expectation of reimbursement. The contributor may or may not be the person ultimately providing the goods or services. A business owner, for example, may authorize employees to assist a campaign during work hours.

Indicators that an item or service provided to a campaign is an in-kind loan and not a debt include:

- A person other than the campaign pays for the item or service and
- before accepting the item or service, the campaign agrees to reimburse the contributor.
- In the case of a commercial entity providing a good or service to the campaign in the course of its normal business, the campaign is given preferential treatment not granted to a majority of the entity’s customers.

For purposes of reporting requirements and contribution limits, an in-kind loan must be recorded in writing and executed at the time of the loan, listing the details of the loan. The campaign must timely and accurately report the in-kind loan on a C-4 report, Schedules B and L, and disclose all required information about the contributor.

In-kind loans are subject to contribution limits and the pre-election limitations of [RCW 42.17A.420](#).¹ A general election in-kind contribution may not be used for the primary election if to do so would cause the contributor to exceed the primary election contribution limit. [WAC 390-17-300](#).

¹ [RCW 42.17A.420\(1\)](#) prohibits a candidate for statewide office from receiving aggregate contributions exceeding \$50,000 and all other candidates and political committees from receiving aggregate contributions exceeding \$5,000 within 21 days of a general election. By law, this prohibition does not apply to contributions made by or accepted from a bona fide political party’s state committee. The prohibition also no longer applies to ballot measure committees, pursuant to the federal court ruling in *Family PAC v. McKenna et al.*, 9th Circuit Court of Appeals Nos. 10-35832 and 10-35893 (Dec. 29, 2011).

The following examples illustrate the difference between an in-kind contribution, an in-kind loan, and debt as well as typical in-kind loan transactions:

Example of a typical in-kind loan:	<i>Anna, a campaign volunteer, buys ten rolls of stamps for the campaign with the prior agreement that she will be reimbursed. When she submits the receipt for reimbursement, however, she tells the treasurer that she's willing to wait until the end of the campaign and would forego reimbursement in the event there's not enough money at the end.</i>
Reporting:	<i>Anna has made an in-kind loan. At the end of the reporting period, Joe reports the amount owed to Anna on the C-4, Schedules B and L. The in-kind loan continues to appear on subsequent reports until paid.</i>

An in-kind loan also occurs when a candidate purchases campaign items or services using personal funds with the expectation of being repaid, and the campaign has not fully repaid the candidate within 21 days of the expenditure. In order to be reimbursed with campaign funds for out-of-pocket expenditures, a candidate must first submit receipts or similar documentation to the campaign. All out-of-pocket campaign expenditures made by a candidate must be documented in order to be reimbursed. Any undocumented out-of-pocket campaign expenditures made by the candidate are not eligible for reimbursement and are considered in-kind contributions. Repayment of in-kind loans made by the candidate, when combined with other loans repaid to the candidate, may not exceed \$5,000. [RCW 42.17A.445](#); [WAC 390-05-400](#) and [390-16-226](#).²

Debt

The term "expenditure" includes a promise to pay for a good or service. [RCW 42.17A.005 \(20\)](#). A debt is incurred when the candidate, campaign treasurer, campaign official, or campaign agent or principal decision maker, places an order for goods or services, or otherwise obligates itself to a vendor who is in the business of selling the goods or services provided to the campaign, and makes those services available to the campaign in its usual course of business.

A contractual liability, even when it is contingent on a future event such as a "win" bonus, is a debt. [WAC 390-16-042](#).

² At the beginning of even-numbered years, the Commission adjusts the candidate loan repayment limit in accordance with [RCW 42.17A.125](#). See [WAC 390-05-400](#).

Campaign debts are not subject to contribution limits. *However*, campaign debts that are forgiven by the vendor become contributions from the vendor and are subject to contribution limits.

Campaign debt must be timely and accurately disclosed on a C-4 report, Schedule B. [RCW 42.17A.240\(8\)](#) and [WAC 390-05-245](#).

Comparative Examples:

<i>Candidate X is an employee of a public relations firm and asks the firm’s graphic artist to design a campaign logo.</i>		
<i>In-kind contribution</i>	<i>In-kind loan</i>	<i>Debt</i>
<i>The firm donates the graphic artist’s time to the campaign. No payment is expected.</i>	<i>The firm agrees to provide the graphic artist’s services to the campaign with the expectation of payment at a later date. Since Candidate X is an employee, the firm agrees to flexible payment terms not ordinarily granted to other customers.</i>	<i>Candidate X asks the firm to extend him credit. He enters into the firm’s standard contract to pay for services and is not treated differently from any other client.</i>
<i>Reporting:</i>		
<i>C-4, Schedule B, reported at the end of the period in which the staff time was donated.</i>	<i>C-4, Schedules B (part 1) & L, reported at the end of the period in which the time was donated and on subsequent Schedules L until reimbursed.</i>	<i>C-4, Schedule B (part 3), reported at the end of the period in which the contract was signed and on subsequent Schedules B until paid.</i>

<i>Candidate Y is permitted by her employer, an insurance broker, to use the office copy machine for her campaign.</i>		
<i>In-kind contribution</i>	<i>In-kind loan</i>	<i>Debt</i>
<i>No reimbursement is expected.</i>	<i>Candidate Y is expected to reimburse for the cost of paper, a per-use copy fee, or both.</i>	<i>N/A – copying/reproduction services is not the customary business of the insurance broker.</i>
<i>See examples above for reporting instructions</i>		

PLEDGES

A pledge is a promise from a contributor to make a future contribution to the campaign. A pledge may be written or verbal and for monetary and/or in-kind contributions. To be considered a pledge for purposes of reporting requirements and contribution limits, the promise must be for a specific amount if a monetary pledge or for specific goods or services if an in-kind pledge and the contributor must intend to pay the pledged amount in its entirety. A pledge is a form of contribution and thus subject to contribution limits. [RCW 42.17A.005\(13\)](#). The pledged amount, when combined with other contributions from a contributor, may not exceed the contribution's limit.

Once received, a pledge valued at \$100 or more must be timely and accurately disclosed on a C-4 report, Schedule B. [RCW 42.17A.240](#); [WAC 390-16-041](#). Once a pledge has been redeemed or is valued at less than \$100 it is no longer disclosed on the C-4 report. As pledges are redeemed, the payments or goods and services received are disclosed as contributions on the appropriate reports.

A candidate subject to contribution limits may not redeem a primary election pledge after the date of the primary *unless* the candidate loses the primary election and has outstanding debts, loans, or orders placed to retire. A candidate who loses the primary election and has outstanding debts or liabilities may redeem a primary election pledge up to 30 days after the primary election is held. A general election pledge must be redeemed on or before the end of the election, or no later than December 31 of the election year. [RCW 42.17A.405](#) and [42.17A.410](#); [WAC 390-16-245](#).

A state official or a person employed by or acting on behalf of a state official may not accept a pledge or payment of a pledge during a session freeze period. [RCW 42.17A.560](#) and [WAC 390-16-245](#).

Unless the recipient is a ballot measure committee, a pledge may not be made or redeemed within twenty-one days of an election if the amount of the pledge or redemption exceeds the maximum amount provided in [RCW 42.17A.420](#).³ However, when payment of a pledge is made and the monetary or in-kind contribution is in possession of the recipient twenty-two or more days before the election, the contribution may be accepted. [WAC 390-16-245](#).

³ See footnote one. Also see [RCW 42.17A.405](#) and [42.17A.410](#) and [WAC 390-05-400](#) for candidate contribution limits.

DISCLOSURE OF CONTRIBUTIONS ON 21- AND 7-DAY PRE-ELECTION C-4 REPORTS

A campaign is required to file a Campaign Summary Receipts & Expenditures Report (PDC Form C-4) at regular intervals including 21 and 7 days before an election in which the campaign participates. The 21- and 7-day pre-election C-4 reports disclose all campaign contribution and expenditure activities made as of the end of one business day before the date of the report, including in-kind contributions, orders-placed, debts, pledges, and loans. [RCW 42.17A.235](#).

Monetary contributions must be deposited within five business days of receipt. A contribution received by a candidate or political committee that is returned to the contributor within five business days of receipt is not a contribution and need not be disclosed. [RCW 42.17A.005\(13\)\(b\)\(iii\)](#).

The C-4 report, [WAC 390-16-041](#), provides for the disclosure of deposits. The C-4 report does not require disclosure of contributions received but not yet deposited.

The Commission interprets [RCW 42.17A.235](#) to require campaigns to disclose on the 21- and 7-day pre-election reports contributions *that have been deposited* as of the end of one business day before each report is due.

archives account under RCW 43.07.380, or the legislative international trade account under RCW 44.04.270, as specified by the candidate or political committee.

- Deposited into a separate Surplus Funds Account and then used to pay non-reimbursed public office related expenses or for any of the six purposes outlined above. See Surplus Funds Accounts on page 58.

Disbursement of surplus funds is reported as an expenditure on Schedule A to the C-4 report.

According to WAC 390-16-221, these disposal options also apply to the disposal of items purchased by the campaign. When campaign assets are disposed of, attach an explanation to the C-4 report. (For example, if a left-over computer was donated to the county party central committee, the explanation would include the date, the name of the recipient, the item's description and its fair market value.)

Ending a Campaign Before the Election is Held

Occasionally, a candidate will register a campaign with the PDC, accept contributions, and decide to end the campaign before the election is held. Follow these steps to dispose of remaining campaign funds when the campaign ends prematurely:

- Determine what contributions remain in the campaign account using the “first in, first out” method (i.e., starting with the most recent contributions received, determine which contributions remain unspent in the campaign account).
- Immediately return any unspent general election contributions if the campaign ends before the primary election date.
- Primary election contributions can be
 - returned to the contributor before the primary election date or
 - held in the campaign account until after the primary is held at which time they become surplus funds. Authorized uses of surplus funds can be found in the previous section.

A candidate who ends a campaign in order to start a campaign for a different office may not automatically transfer remaining campaign funds to the new campaign. See “Using Contributions for a Different Office” on page 8.

Candidate Loan Repayments [RCW 42.17A.445]

Candidates may donate an unlimited amount of monetary and in-kind contributions to their own campaigns (except during the 21 days before the general election). However, in order for a candidate's contribution to be eligible for repayment by the campaign, it must be recorded in a written loan agreement, designated for either the primary or general election and be properly reported as a loan on a Schedule L and on a C-3 report (or Part 1 of Schedule B to the C-4, if in-kind).

State law puts a lid on the amount a candidate may be repaid for personal loans made to his or her campaign: \$5,500 for the primary and \$5,500 for the general election. A candidate who loans his or her campaign committee an aggregate amount of \$5,500 or less per election may be repaid in full by the committee up to the amount loaned.

However, if a candidate loans his or her campaign over \$5,500 for the primary or over \$5,500 for the general, he or she may only be repaid a maximum of \$5,500 per election. Once an aggregate of \$5,500 per election has been repaid to the candidate for one or more loans made to the committee, no additional loan repayments may be made to the candidate for that election.

If a candidate makes documented out-of-pocket campaign expenditures and expects repayments (that is, he or she is not making an in-kind contribution), the campaign committee must repay the candidate within 21 days of the date the expenditure is made or the candidate will have made a loan to his or her committee. Repayment of this loan, when combined with the repayment of other loans, may not exceed an aggregate of \$5,500 per election. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions and are not eligible for repayment.

If a candidate uses a personal credit card to make a campaign purchase, the campaign must pay the candidate the full amount of the purchase within 21 days of the purchase or a loan or in-kind contribution to the campaign will have occurred.

Use of Public Agency Facilities [RCW 42.17A.555]

Elected and appointed officials as well as public employees are prohibited from using or authorizing the use of any facilities of a public office or agency, directly or indirectly, to assist a candidate's election campaign or to promote or oppose a ballot proposition. Public agency facilities include, but are not limited to, office stationery, postage, equipment, employees (during working hours), vehicles, office space, office publications and client lists.

The above restriction does not apply to:

- action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as any required notice of the meeting includes the title and number of the ballot proposition, and members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;
- a statement by an elected official in support of or in opposition to any ballot proposition at any open press conference or in response to a specific inquiry;
- activities that are part of the normal and regular conduct of the office or agency. "Normal and regular" has been interpreted to mean those activities that are specifically authorized by law and are customary for the agency.

Anonymous Contributions [RCW 42.17A.220(4)]

Occasionally, campaigns receive funds from truly anonymous sources; that is, no one involved in the campaign knows who donated the money. Up to a point, the law allows campaigns to keep these anonymous contributions. Specifically, candidates may receive as much as \$300 or one percent of the total contributions received in a calendar year, whichever is greater.

If the limit is reached, the campaign may not use or spend any additional anonymous funds received. These excess dollars must be returned to the donors if they can be identified or forfeited to the state's general fund. If the contributors cannot be identified, immediately send a check to PDC payable to the State Treasurer in the amount of the overage, along with an explanation of the circumstances surrounding receipt of excess anonymous funds.

Campaigns may not legally use the anonymous contribution provision to avoid identifying contributors. Only contributors who give a total of \$25 or less in the aggregate need not be identified on contribution reports. A private list identifying these donors and how much they've given to date must be kept by the campaign.

Contributions received in connection with a qualifying low-cost fund raiser are NOT considered anonymous donations and are not subject to the \$300 or 1% limit. See Qualifying Low Cost Fund Raisers on page 36.

Contributions From Out-of-State Committees [RCW 42.17A.250]

An out-of-state political committee, *including committees registered with the Federal Elections Commission*, not registered with PDC (that is, a PAC located in a state other than Washington organized for the purpose of supporting or opposing candidates or ballot propositions) that contributes to or spends more than \$50 on behalf of any Washington state, local or judicial candidate, ballot measure or political committee must file either a C-5 report no later than the 10th day of the month following any month in which the contribution or expenditure was made or register as an in-state committee and file contribution and expenditure reports within two weeks of spending. Whether the out-of-state committee files the C-5 or registers as an in-state committee depends on whether it satisfies the criteria set out in WAC 390-16-049.

The PDC has defined these commonly performed campaign services to include:

- Office staffing;
- Doorbelling or leaflet drops;
- Mail handling (folding, stuffing, sorting and postal preparation); processing emails to and from the campaigns;
- Political or fundraising event staffing;
- Telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);
- Construction and placement of yard signs, hand-held signs or in-door signs;
- Acting as a driver for the candidate or campaign staff;
- Scheduling campaign appointments and events;
- Transporting voters to polling places on election day;
- Preparing campaign disclosure reports and otherwise helping to ensure compliance with state election or public disclosure laws*;
- Campaign consulting and management services, polling and survey design, public relations and advertising (including online advertising), or fundraising performed by any individual, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; and
- Creating, designing, posting to and maintaining a candidate's or political committee's website or online forum, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service;
- All similar activities as determined by the Commission. [WAC 390-17-405]

[*Attorneys or accountants, whether they are being paid by their employers or are on their own time, may provide their professional services 1) to a candidate in order to assist the candidate in complying with state election or PDC laws, or 2) to a bona fide political party or caucus political committee for any purpose. However, these professionals may not provide similar services to any other type of political committee without a contribution ensuing, unless the committee pays the fair market value of the services rendered.]

Contributions by the Candidate

The personal funds of a candidate contributed to his or her own campaign are not subject to any overall contribution limit, but may not exceed the respective \$5,000 or \$50,000 restriction imposed during the 21 days preceding the general election and discussed on page 7. Nevertheless, even though there is no limit on the amount a candidate may give his or her own campaign, there is a restriction on how much the candidate may be reimbursed by the campaign. See Candidate Loan Repayments on page 10.

Contributions to a candidate from his or her spouse are subject to the per election limit on contributions from individuals.

By administrative rule [WAC 390-17-305], the personal funds of a candidate are as follows:

- assets that the candidate has legal access to, or control over, and legal title to at the time he or she becomes a candidate;
- income from employment;
- dividends and proceeds from stocks and other investments;
- income from trusts, if the trusts were established before candidacy;
- income from trusts established from bequests, even if these trusts were established after candidacy;
- customarily received personal gifts;
- proceeds from lotteries and similar games of chance; and
- his or her portion of assets owned jointly with a spouse (and, if the candidate's financial interest is not specified, his or her share is considered to be one half of the value of the asset).

Gifts and loans received by the candidate that are in any way connected to his or her campaign, even remotely, are considered contributions from the original donor and are subject to limit.

The one exception is a written loan agreement entered into by the candidate with a commercial lending institution that is made in the ordinary course of business on the same terms regularly available to the general public, and that is not guaranteed or co-signed by anyone else. If a candidate's committee repays a commercial loan made to the candidate, that repayment may not exceed \$5,500 per election. A commercial loan to a candidate's committee is presumed to be guaranteed by the candidate and repayment by the committee may also not exceed \$5,500 per election. See Candidate Loan Repayments on page 10.

shares a contribution limit with that entity. For example, a corporation and its PAC share one limit, as do a union and its PAC.

Further, if a PAC receives all of its funds from one source (whether that source is an individual, an entity, a political committee or any group of persons) and this source exercises exclusive control over how the PAC funds are spent, the source shares a contribution limit with the PAC. [RCW 42.17A.455(1)]

Contributions From Minors. Contributions by unemancipated children, under eighteen years of age, are considered contributions by their parents and are attributed proportionately to each parent. In the case of a single custodial parent, the total amount of the contribution is attributed to the parent; otherwise, 50% of the contribution is attributed to each parent.

Contributions from emancipated children, under eighteen years of age, are considered contributions from the child if the decision to contribute is made knowingly and voluntarily by the child, the contribution is from a source owned and controlled exclusively by the child, and the contribution does not result from a gift intended to give the child the wherewithal to contribute.

Contributions of Uncertain Origin

Do not deposit any contribution, or accept any in-kind contribution, if you know or suspect it has been made in a fictitious name, or by one person through an agent, relative, political committee, or any other person so as to conceal the true source or to exceed the contribution limits. Return such a contribution within ten calendar days to the source, if known, or endorse the check and make it payable to the State Treasurer. Send the check to PDC, along with an explanation, for deposit in the state's general fund.

Loans

All loans, regardless of the source, received by the candidate or his/her campaign:

- must be by written agreement;
- are reported in Part 1 of Schedule L and, if monetary, on the C-3 report, or if in-kind, in Part 1 of Schedule B; and
- are subject to contribution limits as well as the restriction in place during the 21 days before the general election when all contributions from one source (including loans) may not exceed \$50,000 to a candidate for statewide office or \$5,500 to a legislative candidate, unless the contributor is the state committee of a bona fide political party.

There are also special circumstances that apply to certain types of loans.

Candidate Loans. Candidates may choose to make loans to their own campaigns from their own personal funds. The definition of "personal funds" is discussed in Contributions by the Candidate on page 25. The law says that the maximum amount the campaign may repay the candidate for all loans he or she makes to the campaign is \$5,500 for the primary election and \$5,500 for the general election. A candidate's primary election loan must be spent on the primary and a general election loan may only be used for general election expenses. *Repayment of a candidate's in-kind loans count against the \$5,500 repayment limit. See page 10 for more information.*

Commercial Loans. Loans to a candidate or candidate's committee from commercial lending institutions made in the regular course of business on the same terms ordinarily available to the public are considered loans to the candidate and are reported on the C-3 and Schedule L as coming from the candidate (not the lending institution). Persons who guarantee or co-sign such loans have made a contribution in the full amount of the loan. Repayment of commercial loans to a candidate or candidate's committee may not exceed \$5,500 per election.

Non-Commercial Loans. A loan from an individual, political committee, corporation, union or other entity that is received by the candidate or the campaign is a contribution to the campaign from the lender, and when combined with other contributions from that contributor, may not exceed the limit allowed by law. Persons who co-sign a loan have made a contribution in the full amount of the loan.

Regardless of the type of loan, the amount contributed by lenders and co-signers is reduced as their loans are repaid. Repayments are reported in Part 2 of the Schedule L and on the C-4 report. Information on reporting loan repayments is provided on page 52. See page 10 for information about in-kind loans.

Loan Disclosure

The following information must be reported for each loan received:

- the date the loan was received;
- the lender's name and address (and, if the loan is more than \$100, report the lender's occupation as well as name, city and state of the employer);
- if the loan is from the candidate or a contributor who has a per-election limit, show whether the loan is for the primary or the general election;
- the amount of the loan;
- the rate of interest charged (if any);
- the terms for repayment;
- the date by which the loan is to be repaid in full; and
- the names of any endorser, co-signer or loan guarantor.

Entering Monetary Loans in the ORCA Software

The screenshot shows the ORCA software interface. On the left, a menu is open with 'Loans' selected, showing sub-options for 'Cash Loan' and 'In-Kind Loan'. The main window displays a loan entry form for 'JACK A JONES'. The form includes fields for Lender Name, Loan Amount (\$5,000.00), Date Received (07/10/2012), Election (Primary), Interest Rate, Due Date (12/31/2012), and Check No. (optional). The Repayment Schedule is set to 'As funds become available'. There is a checkbox for 'Carry Forward Loans' and a 'Memo (optional)' field. A table for 'Payments' is visible on the right, and the 'Loan Balance' is shown as \$5,000.00.

Once the loan is entered, the final step is to deposit it. The C-3 report resulting from the deposit will include a loan report (Schedule L).

The screenshot shows a 'LOANS' report titled 'SCHEDULE TO C3 OR C4' with a large 'L' icon. The report is for 'JACK JONES (JONES FOR SENATE COMMITTEE)' and is dated '07/10/2012'. It details a monetary loan received on 07/10/2012 for \$5,000.00 from JACK JONES JR at 123 Miller Way, Anyplace WA 98000-0000. The loan has a 0.0% interest rate and is repaid 'As funds become available' by 12/31/2012. The lender's occupation is listed as 'TEACHER' at 'Anyplace School District, Anyplace WA'. The report also includes a section for 'Amount Liab For (Same as Loan Amount)' and an 'Aggregate Total'.

See page 52 for instructions on entering loan payments in the ORCA software.

Fund Raising Events

Money raised in connection with a fund raising event must be deposited into your campaign account and reported on a C-3 report. However, the amount donated by each contributor purchasing a ticket may be reduced by the pro-rated cost of consumables provided. Consumables include food, beverages, preparation, catering or entertainment furnished at the event. See page 62 for more information about deducting the cost of consumables.

IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS				SCHEDULE TO C4		B (11/93)	
Candidate or Committee Name (Do not abbreviate. Use full name.) JACK JONES (JONES FOR SENATE COMMITTEE)						Report Date 06/01/2012 07/16/2012	
1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)							
Date Received	Contributor's Name and Address	Description of Contribution	Fair Market Value	Aggregate Total	P R I	G E N	If total over \$100, Employer Name, City, State & Occup
06/12/2012	AAA PRINT SHOP 30 Main Street Anyplace WA 98000	discounted printing (letterhead & envelopes)	\$112.40	\$112.40	X		
06/30/2012	JACK JONES JR 123 Miller Way Anyplace WA 98000-0000	candidate mileage reimbursement - 127 miles	\$64.77	\$5,064.77	X		TEACHER Anyplace School District Anyplace WA
06/30/2012	GRASSLAND COUNTY INDEPENDENT PARTY P O Box 1080 Anyplace WA 98000	postage/bulk mail permit for 10,000 postcards	\$1,800.00	\$1,800.00	X		

In-Kind Loans

When a candidate spends personal funds on the campaign, wants to be reimbursed, and is still waiting to be repaid 21 days after the out-of-pocket expenditure was made, the candidate's expenditure becomes an in-kind loan. An in-kind loan counts against the candidate's loan repayment limit. Entering an in-kind loan in the ORCA software is similar to entering a monetary loan except that a description of the purchase is included.

Entering In-Kind Loans in the ORCA Software

See page 52 for instructions on entering loan payments in the ORCA software.

Pledges [Schedule B, Part 2 (C-4)]

A pledge is a promise of a future monetary or in-kind contribution. Pledges of \$100 or more are reportable in Part 2 of Schedule B. A pledge may be written or oral and for cash or in-kind contributions. Pledges are built into a contributor's aggregate contribution total. Pledges must be made for a specific amount, with every intention of the giver to pay the stated amount in its entirety, and that amount, when combined with other contributions from that contributor, may not exceed the contributor's limit.

All primary election pledges must be redeemed on or before the day of the primary election, unless the pledge recipient lost the primary election and has debt to retire. Candidates who lose the primary election and have debt can redeem a primary election pledge up to 30 days after the primary election.

A pledge made with respect to the general election may not be made or redeemed after December 31 of that election year. As is discussed on page 6, **pledges and the payment of any pledges are subject to the legislative session freeze restriction and the "last minute," 21-day pre-general election restriction.**

Entering a Debt in the ORCA Software

The screenshot shows the ORCA software interface. On the left, a menu is open under 'Transactions', with 'Debt' selected. A sub-menu is visible with 'Vendor Debt' and 'Credit Card Debt' options. On the right, the 'Debt Activity' screen is displayed for 'SUCCESS AGENCY'. It shows a table with columns for 'Name / Type', 'Amount', and 'Balance'. The first row shows '- SUCCESS AGENCY' with an amount of \$3,000.00 and a balance of \$3,000.00. Below the table, there are fields for 'Total Obligated' (\$3,000.00), 'Balance' (\$3,000.00), and 'Date' (07/01/2012). The 'Description' field contains 'victory bonus'.

If a portion of a debt is owed to a subcontractor, click the in the debt screen to enter the subcontractor's portion. The original debt would then be reduced by the amount owed to the subcontractor.

Satisfying or Forgiving a Debt in the ORCA Software

Return to the screen where the debt was entered and click the and the following menu appears:

The screenshot shows a dropdown menu with the following options: 'Sub Obligation', 'Debt Payment' (which is highlighted), 'Debt Adjustment', and 'Debt Forgiven'.

Choose the correct option and complete the fields. The Debt Activity screen is the only place where debt payments are entered – do not enter them as monetary expenditures. Until paid or forgiven, debts will appear on the C-4 report, Schedule B, section 3.

IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS		SCHEDULE TO C4		B (11/93)	
Candidate or Committee Name (Do not abbreviate. Use full name.)				Report Date	
JACK JONES JR (JONES FOR SENATE COMMITTEE)				06/01/2012 07/16/2012	
3. ORDERS PLACED, DEBTS, OBLIGATIONS. (Give estimate if actual amount not known. Exclude loans. Report loans on Schedule L.)					
Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code	OR	Description of Obligation
06/30/2012	NORTHWEST FUND RAISING ASSOC 520 E JAMES ST SEATTLE WA, 98101	\$2,000.00			June fund raising
07/01/2012	SUCCESS AGENCY Tower Bldg. Spokane WA, 99111	\$3,000.00			victory bonus

Loans [Schedule L, Parts 2, 3 & 4 (C-4)]

Each time a loan is received, Part 1 of Schedule L is completed and the schedule is attached to the C-3 showing the loan's deposit.

The Schedule L is also filed with each C-4 report as long as any campaign loans remain outstanding or there is any loan repayment or forgiveness activity to report. Loan payments are disclosed in Part 2 of the Schedule L. Any loan forgiveness that occurred during the C-4 reporting period is disclosed in Part 3 of the Schedule L. An outstanding loan balance is shown in Part 4 of the Schedule L.

After the Election

Post-Election Reports

When filing the final report, indicate this fact in the space provided near the top of the C-4 report.

Candidates Who Lose the Primary Election

The C-4 report filed on September 10 is the final report if the campaign is done – meaning there are no outstanding debts, loans or other obligations, surplus funds have been disposed of and the campaign has been dissolved.

If the campaign does not or cannot file a final report on September 10, continue to file C-4 reports until all debts and other obligations are satisfied. These reports are filed on the 10th of each month (covering the previous calendar month, or the period since the last report) whenever expenditures made total \$200 or more since the last C-4 report was filed. A final C-4 report is filed when all obligations are settled.

Donors may make primary election contributions to legislative and state executive office candidates up to 30 days after the date of the primary if the state office candidate loses in the primary and does not have enough money to pay primary debts. These contributions count against the contributor's overall primary limit.

(Therefore, be aware that if you lose in the primary, you will only have an additional 30 days to solicit contributions to satisfy primary debt. Contributions received in excess of the sum needed to satisfy outstanding primary debts must be returned to the original contributors.)

If the candidate has debts or loans outstanding after the 30 day post primary timeframe (but insufficient campaign funds to cover these obligations), there are only three options available for raising money.

- 1) The candidate may contribute personal funds to his or her campaign and use these funds to pay off the debts and loans. (These contributions are also reported on C-3 reports.)
- 2) The candidate could receive contributions from a bona fide political party or caucus political committee so long as the contributions are made by December 31 of that election year. These contributions count against the contributor's overall limit. (The contributions are also reported on C-3 reports.)
- 3) The candidate decides to seek another public office and files a C-1 registration statement with PDC to that effect. A final C-4 report for the campaign just concluded is filed. A beginning C-4 report for the new campaign is also filed, showing the debt being carried forward to this new campaign. It is conceivable that there could be a cash surplus that is also carried forward; but, it is more likely that all cash remaining from the earlier campaign has been used to reduce the amount of the debt left from that campaign. (In order to use this debt payment method, the person must be a legitimate candidate in the new election, and not simply re-registering as a candidate in order to collect money to pay off the old debts or loans. All contributions received count against the contributor's limit (if any) for the new campaign, even if they are spent on debts or loans from the previous campaign.)

If there is a surplus after the election, you may

- 1) dispose of the surplus in one or more of the other ways allowed by law (see page 9) and file a final C-4 report for the campaign;
- 2) move the money into a Surplus Funds Account and file a final C-4 report for the campaign;
- 3) let the funds lie dormant in the campaign account, but before receiving any contributions for a new campaign or making any expenditures for a new campaign, file a final report for the old campaign, file a new C-1 registration for the new campaign, and file a C-4 for the new campaign showing the surplus being carried forward. (See page 59 for an explanation of how to carry forward funds to the new campaign.)

Candidates in the General Election

The C-4 report filed on January 12, 2015 is the final report if the campaign is concluded, there are no outstanding debts, loans or other obligations, surplus funds have been disposed of and the campaign has been dissolved.

If the campaign does not or cannot file a final report the first January after the general election, continue to file C-4 reports until all debts and other obligations are satisfied. These reports are filed on the 10th of each month (covering the previous calendar month, or the period since the last report) whenever expenditures made total \$200 or more since the last C-4 report was filed. If you have a campaign surplus, but make no new expenditures, no C-4 reports are required until campaign financial activity resumes. See Start-up of New Campaign section on page 59.

If the candidate has debts or loans outstanding after the election (but insufficient campaign funds after the election to cover these obligations), there are three options.

- 1) Through December 31 of the election year, contributors who have not given the maximum amount allowed may make contributions, so long as any post-election contributions when combined with those given earlier in the campaign do not exceed their limit. For most contributors that limit is \$950 for the general election. For the state committee of a bona fide political party and a caucus political committee, the limit is \$.95 times the number of registered voters in the jurisdiction. Party county central committees and the legislative district committee in the candidate's jurisdiction share a combined limit of \$.50 times the number of registered voters. (These contributions are also reported on a C-3.)
- 2) The candidate may contribute personal funds to his or her campaign and use these funds to pay off the debts and loans. (These contributions are also reported on a C-3 report.)
- 3) The candidate decides to seek another public office and files a C-1 registration statement with PDC to that effect. A final C-4 report for the campaign just concluded is filed. A beginning C-4 report for the new campaign is also filed, showing the debt being carried forward to this new campaign. It is conceivable that there could be a cash surplus that is also carried forward; but, it is more likely that all cash remaining from the earlier campaign has been used to reduce the amount of the debt left from that campaign. (In order to use this debt payment method, the person must be a legitimate candidate in the new election, and not simply re-registering as a candidate in order to collect money to pay off the old debts or loans. All contributions received count against the contributor's limit (if any) for the new campaign, even if they are spent on debts or loans from the previous campaign.)

Because of the way the law is worded, after December 31 of the election year, no one (except as discussed above) may give a candidate in that election money or anything else of value to pay off remaining campaign debts/loans. Nor may anyone else directly pay the persons who are owed the money, since those payments constitute in-kind contributions (and contributions have to be made on or before December 31). Nor may the person to whom the debt or loan is owed forgive the obligation, unless the person did so on or before December 31 (and the amount forgiven, when combined with other contributions from that contributor, does not exceed \$950 for state legislative candidates and \$1,900 for state executive office candidates).

If there is a surplus after the election, you may

- 1) move the money into a Surplus Funds Account and file an final C-4 report for the campaign;
- 2) dispose of the surplus in one or more of the other ways allowed by law (see page 9) and file a final C-4 report for the campaign;
- 3) let the funds lie dormant in the campaign account (or invest them as discussed below), but before receiving any contributions for a new campaign or making any expenditures for a new campaign, file a final report for the old campaign, file a new C-1 registration for the new campaign, and file a C-4 for the new campaign showing the surplus being carried forward.

DRAFT NEW PDC Interpretation For Discussion – July 2014

APPROVAL DATE:	XXXX	NUMBER:	14-01
STATUS:	New	SUPERSEDES:	None
		APPROVED BY:	The Commission
REFERENCES:	RCW 42.17A.005	WAC 390-05-400	
	RCW 42.17A.240	WAC 390-16-039	
	RCW 42.17A.405	WAC 390-16-226	
	RCW 42.17A.445	WAC 390-17-305	
	RCW 42.17A.465	PDC Interpretation 12-01	

CAMPAIGN LOANS

The Public Disclosure Commission enforces the campaign disclosure provisions and contribution limits found in [RCW 42.17A](#) and [Title 390 WAC](#), including certain laws and rules concerning campaign-related loans made to candidates and political committees under its jurisdiction. The interpretation is intended to provide guidance by informing the public, candidates, and political committees of the Commission's interpretation of the record-keeping and reporting requirements for the receipt, repayment, and forgiveness of campaign-related loans, and the relationship between loans and applicable contribution limits.

I. INTERPRETATION

Receipt of a Loan –

1. A loan is a contribution and thus subject to applicable contribution limits.
2. A loan made by a person other than a commercial lender is considered to be a contribution from the lender.
3. A commercial loan to a candidate's authorized committee or a committee controlled by a candidate is presumed to be guaranteed by the candidate, absent clear, cogent and convincing evidence proving otherwise. A commercial loan guaranteed by the candidate is a loan of the candidate's personal funds.

4. To be eligible for repayment, monetary and in-kind loans must be:
 - a. recorded in a written loan agreement executed when the loan is made and
 - b. timely and accurately reported as a loan by the recipient.

In the event a recipient mistakenly reports a loan as a contribution for which repayment is not expected and the report is filed on or before the reporting deadline, the report may be corrected through the deadline. Once the deadline for reporting the loan has passed, corrections to convert a contribution to a loan will not be allowed. Reporting deadlines are explained in the Commission's Key Reporting Dates.

Terms –

5. The lender and recipient are responsible for negotiating mutually agreeable, lawful loan terms. The terms may be renegotiated during the life of the loan upon the mutual consent of the parties.
6. The due date may be a date certain or a flexible date, such as “when funds are available.”
7. All terms agreed to, including changes negotiated during the life of the loan, must be set out in the written loan agreement or a written amendment to the agreement.

Loan Agreement –

8. In-kind loans: A receipt for out-of-pocket expenditures may be used for the loan agreement, provided it contains the date the expenditure was made, the amount to be repaid, and is signed by the campaign treasurer and person expecting repayment.
9. Monetary loans: A written loan agreement is required for all monetary loans. The loan agreement must be executed by the lender and the treasurer of record. The Commission recommends the following format:

LOAN AGREEMENT

I, *[name of lender]*, hereby loan the sum of \$ _____ to *[name of campaign]*.

[Name of campaign] agrees to repay *[name of lender]* the principal amount of \$ _____ together with *[simple or compound]* interest at the rate of ____%.

[Describe payment intervals, if part of the repayment terms.] Payments in the amount of \$ _____ are due *[describe payment intervals (example: on the 15th day of each month beginning on June 15, 2XXX and continuing thereafter on the 15th day of each month until paid in full.)]*

OR

[Describe repayment due date when payment intervals are not part of the terms.] *[Name of campaign]* agrees to repay the principal amount and interest, in full, on or before *[due date]*.

Signature of Lender
Date signed: _____

Signature of Campaign Treasurer
Date signed: _____

10. The committee must keep executed loan agreements with its financial records and provide them with the books of account when responding to a inspection request during the periods of public inspection.

Loan Repayment –

11. A committee must timely and accurately report loan payments it makes to the lender.
12. In the event a lender forgives any portion of a loan, the committee must timely and accurately report the forgiveness on the C-4, Schedule L.
13. In the event a third person makes a payment to the lender for the purpose of repaying any portion of a campaign loan, the payment is an in-kind contribution to the committee, and subject to applicable contribution limits. The committee must timely and accurately report the loan payment/in-kind contribution.
14. A candidate or single-year campaign may carry unpaid loans forward to the next campaign. When an unpaid loan is carried forward, the committee ending its campaign must disclose the ending loan balance on its final C-4 report. The new campaign committee must disclose the forwarded loan balance on the initial C-4 report filed by new campaign. Subsequent transactions affecting the loan are reported by the new campaign.

Limits –

15. A candidate may not be repaid more than is allowed by [RCW 42.17A.445\(3\)](#) as adjusted by [WAC 390-05-400](#).
16. When a loan is repaid to a lender other than a candidate, the lender's contribution limit is restored by the amount repaid.
17. A political committee, other than a candidate's authorized committee, may make loans to other political committees, subject to applicable contribution limits. [RCW 42.17A.430](#) prohibits a candidate from lending active or surplus campaign funds to another candidate or political committee.

Mini Reporting Committees –

18. Candidates and political committees who select the mini reporting option are subject to loan-related laws and rules, as well as these guidelines, except that they are not required to file reports disclosing loan activity. The self-imposed limits of the mini reporting option apply to loans.

II. Authority

Definitions –

(13)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration; . . .

(20)"Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. "Expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

[RCW 42.17A.005.](#)

Disclosure –

Each report required under RCW [42.17A.235](#) (1) and (2) must be certified as correct by the treasurer and the candidate and shall disclose the following

(3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, including the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument; . . .

(8) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

[RCW 42.17A.240.](#)

(1) A continuing political committee which is not organized to support or oppose a particular candidate or ballot proposition shall report total contributions and expenditures based on a calendar year, or upon the basis of a fiscal year if the commission expressly authorizes this method. The report filed by such a continuing political committee covering January (or the first

month thereafter for which a report would be required by RCW [42.17A.225](#) and [42.17A.235](#)) shall contain in summary the following items remaining at the end of the year: . . .

(c) Unpaid loans and outstanding obligations;

(2) Each candidate, each political committee and each continuing political committee organized to support or oppose a particular candidate or ballot proposition shall report total contributions and expenditures for the period beginning at the time the person becomes a candidate or when the committee is organized, whichever is earlier, and ending when the candidacy or committee is terminated.

[WAC 390-16-039](#).

Application of Limits –

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed four thousand dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

[RCW 42.17A.405](#).

(1) The personal funds of a candidate include:

- (a) Assets which the candidate has legal access to or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;
- (b) Income from employment;
- (c) Dividends and proceeds from stocks and other investments;
- (d) Income from trusts, if established before candidacy;
- (e) Income from trusts established from bequests, even if established after candidacy;
- (f) Personal gifts, if customarily received; and
- (g) Proceeds from lotteries and similar games of chance.

(2) A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse or domestic partner. If the candidate's financial interest is not specified, then the candidate's share is deemed to be half the value of the asset.

(3) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. Such funds are considered a contribution under chapter [42.17A RCW](#) unless the loan meets the exemption provided in [RCW 42.17A.465\(3\)](#).

[WAC 390-17-305](#).

See, also, [PDC Interpretation 12-01 In-Kind Loans, Pledges, and Disclosure of Contributions on 21- and 7-Day Pre-election Reports](#) for an explanation of the difference between “in-kind loan” and a “debt.”

Repayment –

Contributions received and reported in accordance with [RCW 42.17A.220](#) through [42.17A.240](#) and [42.17A.425](#) may only be paid to a candidate, or a treasurer or other individual or expended for such individual's personal use under the following circumstances: . . .

(3) Repayment of loans made by the individual to political committees shall be reported pursuant to [RCW 42.17A.240](#). However, contributions may not be used to reimburse a candidate for loans totaling more than \$5,500 made by the candidate to the candidate's own authorized committee.

[RCW 42.17A.445](#) and [WAC 390-05-400](#).¹

Restrictions –

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

¹ At the beginning of even-numbered years, the Commission adjusts the candidate loan repayment limit in accordance with [RCW 42.17A.125](#). See [WAC 390-05-400](#) for the current repayment limit.

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

RCW 42.17A.465.

(1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17A.005 and 42.17A.430 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17A RCW *and*, unless the loan meets the exemption provided in RCW 42.17A.465(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17A RCW.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17A.405 and WAC 390-16-310 only if all the following criteria are met:

- (i) The loan is not guaranteed by any other person;
- (ii) The loan is made in the regular course of business; and,
- (iii) The loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17A.445(3) as adjusted by WAC 390-05-400. For purposes of the loan repayment limit, these loans are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid.

Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

[WAC 390-16-226.](#)