> "This bill implements a major recommendation of the Motor Vehicle Study Commission as contained on pages 133-162 ["Drinking and Driving"] of its September 1975 Report...."

The sponsors of the bill were Senators Maressa and Vreeland, both of whom were members of the Motor Vehicle Study Commission. See also "Statement to Senate, No. 1423 (1976)," p. 2, item 9 (May 24, 1976), prepared by the Senate Law, Public Safety and Defense Committee.

3. By its own terms, L. 1977, c. 29, §6(a) has no bearing upon a motorist whose sole ground of suspension is an offense having an applicable suspension period limited to six months. Likewise, it has no bearing upon a motorist subject to a series of suspensions, each of which is based on an offense having an applicable suspension period limited to six months. See, for example, N.J.S.A. 39:4-50(b) (first offense), N.J.S.A. 39:4-50.4, or the two in combination. In each case, the mandated six-month suspension would be completely served before the cited provision could be operative. As a result, these motorists are entitled to restoration without regard to §6(a) after serving the full six-month suspension or the appropriate multiple thereof.

Of course, to be eligible for restoration under §6(a), a motorist must also satisfy all other statutory requirements relevant to his or her situation. See, e.g., N.J.S.A. 39:6-31, N.J.S.A. 39:6-40, N.J.S.A. 39:3-10a.

May, 20, 1977

EDWARD G. HOFGESANG, *Director*
Division of Budget and Accounting
Department of the Treasury
State House
Trenton, New Jersey 08625

FORMAL OPINION 1977—No. 12.

Dear Director Hofgesang:

The adoption of Article VIII, Sec. 1. para. 7, of the State Constitution has precipitated the inquiry as to whether N.J.S.A. 54A:9-25.1 may be given effect consistently with the constitutional provision. Article VIII, Sec. 1, para. 7, approved at the general election held on November 2, 1976 effects a constitutional dedication of the proceeds of the Gross Income Tax:

> "No tax shall be levied on personal incomes of individuals, estates and trusts of this State unless the entire net receipts therefrom shall be received into the treasury, placed in a perpetual fund and be annually appropriated, pursuant to formulas established from time to time by the Legislature, to the several counties, municipalities and school districts of this State exclusively for the purpose of reducing or offsetting property taxes."

N.J.S.A. 54A:9-25.1, enacted as part of the Gross Income Tax Act (N.J.S.A. 54A: 9-1 *et seq.;* L. 1976, c. 47) approved by the Governor on July 8, 1976 provides:

> "There is hereby established within the General Treasury a special fund to be known as the 'Gubernatorial General Elections Fund.' Where a taxpayer has indicated on a return filed pursuant to this act that one dollar of his taxes is to be reserved for such fund, the Treasurer shall credit such fund from the taxes collected under the provisions of this act. The fund shall be available for appropriation pursuant to section 5 of P.L. 1974, c. 26 (C. 19:44A-30), provided however that establishment of the 'Gubernatorial General Elections Fund' shall in no way affect the operation of said section."

The question to be resolved is whether the constitutional provision, which was clearly adopted to regulate the expenditure of the revenue realized under the Gross Income Tax Act, should be regarded as superseding the specific provision set forth within that Act at N.J.S.A. 54A:9-25.1.

The statute and constitutional amendment were initiated at the same session of the Legislature as part of a single comprehensive program of revenue reform. Assembly Concurrent Resolution 140, proposing the amendment to the people, was introduced on the same day (February 19, 1976) as Assembly Bill No. 1513, which ultimately became the Gross Income Tax Act. N.J. Legislative Index, Vol. LXIII, pp. A39, A67. The course of legislative approval of the two measures was substantially contemporaneous. Final passage of the Gross Income Tax Act occurred in the Assembly on July 7 and in the Senate on July 8, and final approval of ACR 140 occurred in the Assembly on June 10 and in the Senate on July 8. *Id.*

It is an established canon of statutory construction that contemporaneous enactments of the Legislature are to be read consistently and harmoniously whenever possible. *Smith v. Hazlet Twp.*, 63 N.J. 523 (1973); *Dept. of Labor and Industry v. Cruz,* 45 N.J. 372 (1965). By a parity of reasoning, the same principle should also apply in the interpretation of a constitutional amendment proposed to the people contemporaneously with a statute in *pari materia.* Moreover, in specific regard to the construction of constitutional provisions, the courts have held that the contemporaneous legislative understanding of constitutional terms susceptible of different meanings is entitled to great weight in establishing the precise definition of those terms. *Lloyd v. Vermeulen,* 22 N.J. 200, 210 (1956); *In re Hudson County,* 106 N.J.L. 62 (E. & A. 1929). The usual situation in which this principle is applied is the case of a statute enacted subsequent to formal adoption of the constitutional provision. The principle would appear even more immediately applicable in the present situation of constitutional and statutory provisions approved contemporaneously by the Legislature and directed to the same subject matter.

In the application of these principles to the question of deduction of a portion of income tax revenue for use in public financing of gubernatorial election activities as set out in N.J.S.A. 54A:9-25.1, several points must be strictly noted and carefully considered. The first is that the constitutional dedication of the proceeds of the Gross Income Tax pertains by its terms only to the "entire net receipts" of the tax. There is manifestly no constitutional impediment to the prior deduction of the costs of collection of the tax in the computation of constitutionally dedicated "entire net receipts." Secondly, the action which, according to the terms of N.J.S.A. 54A:9-25.1, would effect the prior deduction of a portion of gross tax revenue to the Gubernatorial General Elections Fund is a specific election by the taxpayer to "reserve" one dollar of his total tax liability for that use. Finally, in the legislative process of total

revenue reform, the Legislature as a whole evidently regarded the provisions of N.J.S.A. 54A:9-25.1 as entirely consistent with the proposed constitutional amendment.

The specific question to be resolved under applicable principles of law in light of these considerations is whether the taxpayer's election, which is specifically provided for in the body of the tax statute, may be considered, like the prior deduction of collection costs, a permissible deduction from the gross tax revenue in the determination of the "entire net receipts" dedicated by the Art. VIII, Sec. 1, para. 7. In these circumstances, it is sound to conclude that such a deduction is consistent both with the Legislature's expression of law and the popular approval of the constitutional amendment. The taxpayer's election is specifically provided for in the tax statute approved contemporaneously with the constitutional amendment as part of a comprehensive integrated legislative program of tax reform. The meaning of "entire net receipts" constitutionally dedicated to property tax relief is not apparent on its face, and the presumed legislative intent should be discerned from the entire process of legislative tax reform. Since that process provided for a dedication of the "entire net receipts" of the Gross Income Tax and at the same time for a voluntary reservation by the taxpayer of a minimal portion of his tax liability for public financing of gubernatorial elections, it is logical to assume an implicit legislative purpose to allow for this reservation of tax liability as a permissible prior deduction in the computation of constitutionally dedicated "entire net receipts." For these reasons, you are advised that the transfer and expenditure of amounts reserved by taxpayers in the Gubernatorial General Elections Fund under N.J.S.A. 54A:9-25.1 is consistent with Art. VIII, Sec. 1, para. 7 of the State Constitution.

Very truly yours,
WILLIAM F. HYLAND
Attorney General

By: PETER D. PIZZUTO
Deputy Attorney General

June 8, 1977

JOHN A. WADDINGTON, *Director*
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey 08625

FORMAL OPINION 1977—No. 13.

Dear Director Waddington:

The Division of Motor Vehicles has requested an opinion as to those circumstances in which a one-year revocation of driving privileges for refusing to submit to a breath chemical test shall be imposed under L. 1977, c. 29. Specifically, the inquiry is whether a one-year revocation shall be imposed only in the event of a previous