

California State Archives
State Government Oral History Program

Oral History Interview

with

DAVID BRAININ

Revenue Estimator, California Department of Finance, 1950-1985

April 19 and June 9, 1988
Sacramento, California

By Gabrielle Morris
Regional Oral History Office
University of California, Berkeley

RESTRICTIONS ON THIS INTERVIEW

None.

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PREFACE

On September 25, 1985, Governor George Deukmejian signed into law A.B. 2104 (Chapter 965 of the Statutes of 1985). This legislation established, under the administration of the California State Archives, a State Government Oral History Program "to provide through the use of oral history a continuing documentation of state policy development as reflected in California's legislative and executive history."

The following interview is one of a series of oral histories undertaken for inclusion in the state program. These interviews offer insights into the actual workings of both the legislative and executive processes and policy mechanisms. They also offer an increased understanding of the men and women who create legislation and implement state policy. Further, they provide an overview of issue development in California state government and of how both the legislative and executive branches of government deal with issues and problems facing the state.

Interviewees are chosen primarily on the basis of their contributions to and influence on the policy process of the state of California. They include members of the legislative and executive branches of the state government as well as legislative staff, advocates, members of the media, and other people who played significant roles in specific issue areas of major and continuing importance to California.

By authorizing the California State Archives to work cooperatively with oral history units at California colleges and universities to conduct interviews, this program is structured to take advantage of the resources and expertise in oral history available through California's several institutionally based programs.

Participating as cooperating institutions in the State Government Oral History Program are:

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History Department
California State University, Fullerton

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The Bancroft Library
University of California, Berkeley

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University of California, Los Angeles

The establishment of the California State Archives State Government Oral History Program marks one of the most significant commitments made by any state toward the preservation and documentation of its governmental history. It supplements the often fragmentary historical written record by adding an organized primary source, enriching the historical information available on given topics and allowing for more thorough historical analysis. As such, the program, through the preservation and publication of interviews such as the one which follows, will be of lasting value to current and future generations of scholars, citizens, and leaders.

John F. Burns
State Archivist

July 27, 1988

This interview is printed on acid-free paper.

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INTERVIEW HISTORY

Interviewer/Editor:

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Interview Time and Place:

April 19, 1988, Session of one hour.

June 9, 1988, Session of two-and-a-half hours.

Both sessions took place at Mr. Brainin's home in Sacramento, California.

Editing:

Morris checked the verbatim manuscript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spelling, and verified proper names. The interviewer also prepared the introductory materials.

On March 6, 1989, Mr. Brainin was forwarded a copy of the edited transcript for his approval. He returned the manuscript on October 27, 1989 with several careful revisions to clarify the complexities of state tax legislation.

Papers:

Mr. Brainin indicated that he had retained no private papers concerning state government.

Tapes and Interview Records:

The original tape recordings of the interview are in The Bancroft Library, Microfilm Division, at the University of California at Berkeley, along with records relating to the interview. Master tapes are preserved at the California State Archives in Sacramento.

BIOGRAPHICAL SUMMARY

David Brainin was born in New York on March 30, 1920, the son of Sam and Eva Brainin. He attended New York City schools, and, from 1944 to mid-1946, served in the U.S. Army. In 1950 he received a B.A. in economics from the University of California at Los Angeles.

During his student days, he worked briefly for the California Department of Employment. Upon graduation from UCLA, he joined the Department of Finance as an economic researcher, retiring in 1985 as a respected senior forecaster of state tax revenues.

Mr. Brainin was for a time in 1986 legislative representative for the California Tax Reform Association. He is the father of four children. He and his present wife, Shirley, live in suburban Sacramento.

[Session 1, April 19, 1988]

[Begin Tape 1, Side A]

BRAININ: [When I] started work, the Department [of Finance] was not in the new wing of the state capitol.

MORRIS: It had already moved out?

BRAININ: No. We were in 1020 N Street. The Department of Finance had been in the capitol in the old building earlier. I'm talking about the new building.

MORRIS: The annex?

BRAININ: Yes. They were once in the capitol. You should talk to [Chief Financial Economist W.R.] Ralph Currie. Did you talk with him?

MORRIS: I did get hold of him. He was headed down to Santa Cruz; so it'll be a while before I meet him.

BRAININ: He started working for the Department of Finance in 1936.

MORRIS: That's what he said.

BRAININ: Yes. So he can give you all [the history], because he started at the top. From the very beginning of his employment, he was in decision making. He used to write most of the stuff that's in the budget. He was real good. In fact, after I was working there for a while, one guy called me "professor." All I have is a bachelor's degree, and I'm not too bright; my grades weren't that good. I asked him once, "Why do you call me 'professor'?" He answered, "Anybody works for Ralph Currie has got to be a genius."

MORRIS: Has to be really bright?

BRAININ: Yes, and for the first five years I was saying to myself, "I'm faking these people, but when are they going to find it out?"

MORRIS: Well, you must've . . .

BRAININ: And they never did; they never did.

MORRIS: You must've been doing something right.

BRAININ: Well, Ralph will say he's never known anybody with so many ideas that would pop out, bang-bang-bang-bang-bang.

MORRIS: Oh, that's great.

BRAININ: So that's where I come from: I come up with ideas.

MORRIS: Did Ralph recruit you?

BRAININ: Yes. Well, I had a job with the Department of Employment, and I flunked an examination. But I had already taken another exam for a lower level which is the entry level. I interviewed with [Chief, Division of Research and Statistics Ronald B.] Ron Welch for the Board of Equalization. I don't know if you want to talk to him. He would be very good also.

MORRIS: He's on my list; he's on my list.

BRAININ: So I went to Ron . . .

MORRIS: In fact, I'm going to see him this afternoon.

BRAININ: . . . because there was an opening with Ron.

MORRIS: At the Board of Equalization?

BRAININ: Board of Equalization. And he was going to hire me, except he said he's got somebody else coming whom he just can't turn down because his qualifications are so high, who I think was teaching statistics at SC [University of Southern California]. So he said, "I've got to hire this guy," and then he suggested I see Ralph. And anyway, it was my luck.

MORRIS: Good, well, that was a period when they were looking for bright, young men.

BRAININ: This is August 1950. Well, I wasn't so young. I was thirty.

MORRIS: Yes, had you been in the service in World War II?

BRAININ: Well, it happened, yes, I've been in the army. But what happened is, as I said, my grades weren't that great. I went to night school . . .

MORRIS: Here, in Sacramento?

BRAININ: No, in New York City, in Brooklyn College. Got married, came out to California, got drafted . . .

MORRIS: Oh, dear.

BRAININ: . . . and went to UCLA [University of California at Los Angeles]. First I went to the Los Angeles City College and got my A.A. [associate of arts degree], then I went to UCLA and got a bachelor's in economics in January. In the meantime . . .

MORRIS: January when?

BRAININ: 1950. Meantime, I had worked for the state in 1948 between my A.A. and entering UCLA. After I got out of L.A. City College, Los Angeles, I wanted to go to law school. People were telling me, "Don't go to law school until you get a bachelor's behind you," which was dumb. I've taken all kinds of bad advice. It was supposedly good advice, but bad. I could've gotten into law school with two years of college in those days. And I was admitted to Hastings [College of the Law].

MORRIS: Instead of doing the B.A., you could've gone straight to law school?

BRAININ: Yes.

MORRIS: Do you regret that now?

BRAININ: Well, I always wanted to go to law school, but when I got out, when I retired, I took a course at Sacramento City College in programming. And I found I did not like to meet deadlines, like homework or study. I'm retired now, do what I want to do when I want to do it.

MORRIS: Were the courses you did take at UCLA statistics and econ.?

BRAININ: Yes, I was an econ. major.

MORRIS: Heavy on statistics?

BRAININ: I had a couple of courses from Armand Alchian, a very good guy at UCLA. I just took two courses in statistics. I'm not a statistician.

MORRIS: That's fine; that's fine.

BRAININ: I'm not an economist. I'm just a guy that got by.

MORRIS: That's interesting. Was there anything special about the Department of Finance that interested you, or was it just that it was, you know, they needed . . .

BRAININ: I'd take any job I could've gotten.

MORRIS: Yes.

- BRAININ: What happened is that I went to work in the Department of Employment between schools. I got out of L.A. City College in January, and I was going to go to law school, start in September. I came up to Sacramento where I had family, where I still have family, and got myself a job as an intermediate account clerk, temporary job at the Department of Employment. There I met a couple of good guys who were in charge, one ran the statistics section and the other the research section. One was George Roche; I don't know if he's still alive. But George would be another good guy to get a hold of.
- MORRIS: And he was head of the statistics unit?
- BRAININ: In the Department of Employment, the research unit.
- MORRIS: Yes.
- BRAININ: He's a Ph.D.; he's one of these bright guys.
- MORRIS: I would think statistics is one of the basics for the Department of Employment.
- BRAININ: Well, this was only in research. You know, Department of Employment has to be one of the biggest, dumbest of the state. You know, it was run like in kindergarten. They'd ring a bell--this is time to go to work. And they'd ring a bell--this is when I worked there in 1948--they'd ring a bell when it's coffee time. And they'd ring a bell here, and they'd ring a bell there, ring-a-ding-ding. I'm a clerk, and all I'm doing is I'm checking computations on a calculator. Others did the computations for their studies, unemployment, employment, et cetera. They had a clerk check the computations and put a red dot next to every number so that they can see that number had been checked. Sometimes when I finished my work I would ask my boss, "What do I do?" When there was no immediate work available I'd say, "What am I supposed to do when there's nothing to do?" He'd answer, "You're supposed to read the Unemployment Insurance Act." I said, "That's kind of dumb, you know." "Well, that's what you've got to do." So I said, "OK." So I did it once. Finally, I said, "I'm not going to do that." And then I go down, look over the building, go to the library in the building and look around. They ran

out of state money in May and it seemed they were going to lay off all the temporary people. They laid them all off but me. Obviously, I had to be good.

MORRIS: Yes, absolutely.

BRAININ: And they put me in the side that was funded by the feds [federal government].

MORRIS: Right, this is still 1948?

BRAININ: Yes, they ran out of state money, but then their half was funded by the feds, the unemployment insurance part and the statistics, the number of unemployed, et cetera. Anyway, I went to work for a woman. She was really great. Her name is Margo Wakefield Lenhart. She was in charge of agricultural statistics, and she thought I was great also. She knew everything about agriculture, everything.

MORRIS: Is she still there?

BRAININ: I don't think so. I went to work with her, and I was checking all the data that came in from the counties on agricultural output. You know, how many potatoes per acre in Kern County, et cetera.

MORRIS: For the Department of Employment?

BRAININ: Yes, because the Department of Employment was trying to anticipate the labor requirements for agriculture, so that they can say, "We're going to need so many people," let's say, to pick cotton, whenever the cotton crop comes around, which in those days was around December.

MORRIS: Does this relate to the bracero program?

BRAININ: Well, that was part of it. But it was really primarily to provide the farmers with labor at the time they needed it. So if they know that they're going to pick strawberries, let's say, at this time of the year, whatever, they're going to have to see that the pickers will be there. And so they notify the local offices how many pickers will be needed and when.

MORRIS: So they should start hiring?

BRAININ: Yes, or get them moving out to the needed areas. They would go up and down the coast picking apples at a certain time in Washington

and picking cotton in California and picking potatoes, et cetera. The Department of Employment was putting out this report what their needs were or going to be and what they were. And I was going over all these reports and editing them. Here I am, from Brooklyn, New York. I didn't know a cow from left field.

But she seemed to think I was doing very good because I can spot errors. I would go to Margo and say, "Margo, this guy's reporting that there's ten times as many potatoes per acre as anyplace else. Now, is it true for this county?" I think she could tell you what the crop yield was by acre on almost every product county by county. She was really good. She went to Mills [College]. Anyway, that's all background.

So when I came from school, I went right back to Employment, got myself a good job, big pay. I flunked the exam. A junior research technician job.

MORRIS: What a blow.

BRAININ: So, yes, because everybody was telling me that I wouldn't have any trouble.

MORRIS: This was for a professional category?

BRAININ: Yes, this was at the junior level instead of at the trainee level. They asked me questions--I'm supposed to read the newspaper. You know, asked me what I remember, questions: Who was the father of the highway system?

MORRIS: [Senator] Randolph Collier.

BRAININ: Collier-Burns Act.¹ You know, what was the Collier-Burns Act? They asked irrelevant questions like that. It was multiple choice. I didn't know Collier-Burns from Adam. I never read the paper then, except perhaps the sports section. I was working eight hours a day and taking eleven units at night. So I flunked the exam. In the meantime, I'd taken the exam for a lower level just for insurance, and I passed that. So anyway, George tried to get me a promotion in his department while I was still a clerk fresh out of junior college. In

1. A.B. 46, First Ex. Sess., Cal. Stat., ch. 11.

those days, I couldn't get the promotion because I did not have four years of college. Nowadays, you can be a professional if you work four years; it's year for year experience. I think the Department of Finance is going down the tubes quite a bit in the analytical ability. That's what upward mobility does.

MORRIS: But that's a Personnel Board ruling.

BRAININ: The Personnel Board used an administrative trainee exam to hire management entrees.

The cream of the crop was always picked up by Finance and the Personnel Board because they had access. But Finance got the best; we got first crack at the best. Finance in those days, and perhaps today, is very powerful. Whatever Finance wanted, Finance got. The person you should see is [former Division of Budgets Chief E.W.] Ed Beach. Have you got Ed on your list?

MORRIS: We did talk to him.

BRAININ: Good. The whole management structure of Finance was changed because of Ed Beach. They've got this whole thing with PBMs because of Ed Beach.

MORRIS: What's a PBM?

BRAININ: The program budget managers. There's a person in charge of education, and there's another in charge of all the health and welfare programs, et cetera.

MORRIS: I thought program budgeting turned out to be a disaster.

BRAININ: No, this is not program budgeting, it's program budget managers. They're the ones in charge of each program. Now, what happened is when Ed was the assistant director, he had, I think, a very bad heart attack. He used to have migraines and he was very ill. So to take the pressure off him, they restructured the department and called what used to be assistant chief budget analysts, they called them all program budget managers. They became the decision makers. But they took the pressure off Ed; they were responsible for their programs.

- MORRIS: He could deal with the big overall issues, and they could deal with their program areas?
- BRAININ: Yes.
[Discussions deleted]
- BRAININ: So anyway, I come to work for Finance in 1950. I started out estimating the gas tax, the bank and corporation tax, the diesel [fuel] tax and all other motor vehicle taxes and fees except the vehicle license fee. I did that for several years, and I'm just a grunt. But Currie was very good. One time I went to see him, show him my work, and I gave him my estimate. He looked at it, says he doesn't like it. He said, "Do it this way," and told me another way. I went back and did it, and I came up with the same numbers. He said, "Now, do it this other way." He gave me a third way to do it. He had all kinds of ways to do it; he had done it all. It's something I was able to pick up, and my staff used to say to me, "I don't know how you do this." They would lay an estimate in front of me, and I'd just pick out the flaw, if there was one. I'd just look at it and go to that one part, one thing in there that was wrong. And I'd say, "Tell me about that." You know, and it was just something. I don't know how I did it.
- MORRIS: So you would come up with the same numbers using . . .
- BRAININ: Three different methods. I came up with the same number. He finally said, "Well, I guess that's the number you want."
- MORRIS: Could you sort of run through what it is that you do to make this kind of an estimate, say?
- BRAININ: An estimate, what, for the gas tax?
- MORRIS: Yes.
- BRAININ: Oh, this had to be the diesel tax. To estimate the gas tax was very simple in those days. First you have to estimate the number of vehicles that are registered.
- MORRIS: Over the previous . . .
- BRAININ: Well, for the period they're going to estimate.
- MORRIS: Right, so you're doing your budget for next year?

- BRAININ: In other words, you see or you know. . . . Yes, for the current year and the year thereafter. In budgeting, you're out there sixteen, eighteen, nineteen months. You make an estimate, let's say in October or November for the fiscal year you're in, as well as the subsequent fiscal year.
- MORRIS: So in, say, October of 1987, you're dealing with 1987/1988?
- BRAININ: And 1988/1989.
- MORRIS: So you're picking up where you are and then projecting.
- BRAININ: Yes, so what you've got for 1987/1988, of course, is something about 1987/1988. You have the number of vehicles and consumption per vehicle to date. It used to be a very simple estimate. You know the trend in gas consumption per vehicle--let's say it's six hundred gallons. You know the number of vehicles, or you estimate the number of vehicles. You then multiply vehicles by consumption per vehicle to get to the gallons.
- MORRIS: You talk to the DMV [Department of Motor Vehicles]?
- BRAININ: Yes, we always talk to the DMV.
- MORRIS: And you talk to the gas companies?
- BRAININ: No, because we got gallonage data from the Board of Equalization.
- MORRIS: Oh, that gets the gas tax, yes.
- BRAININ: Right. They collect the tax. And you just multiply one times the other, and that's your answer. Then you got to convert it into fiscal years. It is a relatively simple tax to estimate. There are difficult taxes like the income tax or the corporation tax which I used to do. In fact, I did every tax except the insurance tax and the VLF [Vehicle License Fee]. But I supervised every tax we estimated.
- MORRIS: The VLF?
- BRAININ: Vehicle licensing. That's the tax you pay when you register your car.
- MORRIS: Yes, when you pay your registration. That's the piece that used to be deductible.
- BRAININ: It still is deductible.
- MORRIS: I thought so.
- BRAININ: It's treated like a property tax.

MORRIS: I couldn't find it, but I figured . . .

BRAININ: No, it's deductible; same as the property tax. But the other part is that then everybody usually takes everything. In other words, a lot of people take their full DMV payment even though the registration fee portion of it is not deductible. Anyway.

So the taxes--and we'll get to that in a minute--tax outlook. If the methodology is sound, good estimates depend on good economic assumptions. And that's why the president's [Ronald Reagan] estimates were usually on the high side because he always had his rose-colored glasses on when they were estimating the economic outlook. They're always talking about a 4 percent GNP [Gross National Product] when everybody else's saying 2 or 3 percent or something like that. They make many estimates based on a very good economy, higher corporate profits and anticipated higher income. Therefore, there should be higher taxes attributable to those thing, and it doesn't come in.

Now, we never did that much, but we've been accused. And [Assembly Speaker] Jesse Unruh was a great accuser. Too bad he died because I've always meant to tell him what really happened in the May Revise [of expected state revenue receipts] that upset him so much.

Is this still on?

MORRIS: Yes, this is still on.

BRAININ: Oh, OK.

MORRIS: I'm just turning it off.

BRAININ: No, don't turn it off; don't turn anything off.

MORRIS: I'd rather hear it straight off the piece of paper there.

BRAININ: Straight off. I think--and I may be wrong--but I think the first "cookie jar" comment, what happened. OK, let's go back earlier. OK, let's go back to when I first got involved in policy. Well, first I guess I did some work in 1956 or 1957 when we started running out of money. But I didn't do the policy; Currie did. But we put something together by raising the booze [distilled spirits] tax.

MORRIS: Yes, this is when [Governor Edmund G.] Pat Brown, [Sr.] started having trouble?

BRAININ: This was before Pat Brown. This would be [Governor Goodwin] Goodie Knight.

MORRIS: Oh, that's right. Yes, I got my years turned around.

BRAININ: OK, all right. Ralph Currie gets a heart attack in October of 1958. Then Pat Brown gets elected. (No cause and effect.) He was in Los Angeles for a meeting. Had a heart attack, I think, in a hotel room. And that puts [Chief Financial Economist Richard] Dick Lazansky in charge, who was my supervisor, and I'm under him. Small staff, very small staff. When I came to work there, there was Lazansky, Currie and a person by the name of John Payton, John Gillis Payton, a very bright guy, as the only staff people.

MORRIS: In the revenue estimating?

BRAININ: In the revenue estimating and the economic assumptions, that's all we were. We did it all. We worked very hard, very long hours. We didn't have fancy calculators that I can remember. Worked every day, one February--that's when we used to have a budget year; the budget didn't have to come out until March--every day including all the holidays, Lincoln's birthday, Washington's birthday, Saturday, Sundays.

MORRIS: Ronald Reagan would've loved you.

BRAININ: This was before Reagan. We used to do our own charts. If you want to see our budgets, I got my kid's name in it, into one of the state budgets. Yes, we used to have a little fun then. But we used to draw all kinds of charts; we even Zipatoned the charts. We didn't do the drawing; we had a young lady do the drawing. But we'd have to Zipatone it. We did it ourselves, and we didn't have computers that can run out a problem in half a minute. I remember taking two hours to run one curvilinear equation.

MORRIS: Right, you were using the old tabulating machines?

- BRAININ: We used the Marchant calculators. And it took two hours, that's if you got it right. If you got it wrong, you had to go back and do it again.
- MORRIS: So what happened, while we're talking about Mr. Currie?
- BRAININ: OK, so what happens, he gets a heart attack. He stops work. Pat Brown gets elected. [Director of Finance] Bert Levit becomes his director of Finance, a Republican but a personal friend.
- MORRIS: He'd done the budget for Pat when Pat was attorney general.
- BRAININ: He was, well, that could be. But he was also in insurance. He was an attorney with a large insurance corporation. He was very good. He came in and organized the department. He wanted certain things done his way. One of the things I remember was that every analyst had an employee number, and when you wrote something, that number went on the paper. You knew who did what. We all knew that the state needed money. So I get after Lazansky finally, saying, "We haven't heard anything from the front office."
- MORRIS: That being the governor?
- BRAININ: Yes, no, that would be under . . .
- MORRIS: Would that be Levit?
- BRAININ: Levit. "What'd he do about a tax program?" So finally . . .
- MORRIS: This is like January, February?
- BRAININ: This is like January, February. I finally, I guess, I . . .
- MORRIS: There was no holdover?
- BRAININ: . . . pushed Lazansky into. . . . No, there was none, none of it was a holdover. There might've been somebody coming in early, but I don't think so. You know, like they do now; somebody's elected, they come in.
- MORRIS: Right, you've got a big transition operation.
- BRAININ: I don't think they had it then. Finally, Lazansky goes up to the front office and says, "What about a tax program?" They told him, "We're waiting for you to tell us."
- MORRIS: Really?

- BRAININ: Yes, so they said, "Hey, we expect you to tell us instead of, 'Here's what kind of a tax program we want,' or 'Here's what we have in mind, and we'd like you to put it together.' We want you to tell us." So Lazansky and I sat down, and we put together an eight-point tax program. I can tell you about it right now if you'd like to hear it.
- MORRIS: Sure.
- BRAININ: Well, we recommended increasing the income tax, corporation tax, imposing a cigarette tax for the first time--three cents we asked for. We asked for 2 percent severance tax. How many have I got there?
- MORRIS: One, two, three, four, five.
- BRAININ: I've got to come up with three more. I don't know if we did anything with sales tax. See, I don't know.
- MORRIS: Inheritance?
- BRAININ: OK. Yes, we increased it's rates slightly. We also accelerated the insurance tax and increased horse race fees; that's the eight.
- MORRIS: How did you come up with . . .
- BRAININ: OK, how did we come up with it? We sat down and said, "Where are we deficient?" For example, we didn't have a cigarette tax in the state. Most of the states had a cigarette tax; we wanted a cigarette tax because it's being taxed all over the place. The corporation tax was very low.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

- BRAININ: The federal Internal Revenue Code was completely overhauled in 1954, that so-called Federal Tax Reform Act of 1954.¹ It started accelerated depreciation, and accelerated depreciation was a big giveaway from my point of view.
- MORRIS: For the businesses?
- BRAININ: Giveaway, yes, business got a big tax break. They wanted us to conform. I did a study in 1955 or 1956 on depreciation and pointed

1. Internal Revenue Code of 1954, 68A Stat. 3; 68 Stat. 1003; 68 Stat. 1040; 68 Stat. 1087; 68 Stat. 1130.

out that conformity would mean so much of a revenue loss, and that a half-a-percent increase in the corporation tax would offset the revenue loss. Well, nobody then wanted to increase the tax; they just wanted the revenue pickup. In fact, one of the stories I always tell when they talk about "conformity is important, because you don't want to keep two sets of books." Have you ever heard that expression?

MORRIS: I have heard "two sets of books" but not usually in this connection.

BRAININ: We don't want to keep two sets, they say. In state government they always had two sets of books. But businesses argue that "Simplicity is one set of books." However, they must keep a set of books for the state and another for the feds.

I was at a PUC [Public Utilities Commission] hearing about 1956 where the utilities--and I remember somebody from Arthur Anderson [and Company, Accountants]--were begging the Public Utility Commission to allow them to keep two sets of books. They said it's not difficult at all, and those were the days with a lot of expansion. But they wanted one set of books for tax purposes. They wanted accelerated depreciation so they can pay lower taxes. But they wanted another set of books without accelerated depreciation for rate-making purposes so they could have higher rates. And all utilities, I think, but the telephone industry, the telephone company, AT&T [American Telephone and Telegraph Company] in those days or Bell, whatever it was, Pac Bell [Pacific Bell Company] . . .

MORRIS: PT&T [Pacific Telephone and Telegraph Company]?

BRAININ: PT&T, they didn't ask for it, but the . . .

MORRIS: PG&E [Pacific Gas and Electric Company], Southern California Edison?

BRAININ: . . . PG&E, all of them; they wanted it. They wanted two sets of books. And they said it's very simple to do. Of course [it is], if you can make a million dollars or ten million dollars in taxes and it costs you only half-a-million bucks to hire two more of five more or ten more accountants.

In the 1959 tax program we included accelerated depreciation, but we added a half percent to the rate to pay for it. We also started inventory relief. There was a lot of stuff in inventory relief, but we included a rate adjustment for that.

MORRIS: Inventory relief?

BRAININ: Inventory relief means we started a partial exemption of inventories from the property tax. We started out with 15 percent, I believe it was, either that bill or the very next year. But we increased rates to cover it, because we had to reimburse local government for their revenue loss. However, the cost of inventory relief was more than the money we raised.

MORRIS: So that trade-off didn't work as planned?

BRAININ: No, we were never trying to make money. We were just trying to break even.

MORRIS: But it sounds like at that point, the need was for increased revenue?

BRAININ: Yes, but on top of that we also picked up, we also raised the rate a half percent or a percent for the increased need. We increased the corporate, the income tax rates for increased need, and here it's important about Ralph Currie being . . .

MORRIS: Out sick?

BRAININ: It's because I recommended withholding at that time.

MORRIS: That far back?

BRAININ: That far back, in 1959, I recommended withholding. Part of the original package that we laid on Ralph Currie included a provision for withholding income taxes.

MORRIS: And what did Currie think of that?

BRAININ: Well, Currie didn't know what to say.

MORRIS: He was home, and nobody called him?

BRAININ: He was home recuperating. No, we went to his house, Dick and I. We went, but let me say this. Ralph Currie is a Scotsman. Ralph Currie was very tight. He looked upon the state's money as his money. And that's important because there were a lot of meetings Ralph wouldn't go to because he didn't see a direct connection with

his job. Now, a lot of people go to every conference they can. Ralph would go primarily to conferences in which he saw an immediate use. One of them he set up with the National Association of Tax Administrators. It's a revenue estimating conference--he was one of the people who started it--where they would discuss the economy; they also would discuss Christmas sales or Easter sales [which] were very important to the sales tax. It would be held in October, just before the revenue estimates were put together. And he'd go to that, but he wouldn't go to a meeting in June put out by the National Tax Administrators because he couldn't see any immediate impact on revenue estimating. This is my interpretation of Ralph, that he couldn't see a direct benefit. Well, what he missed--and he had the proceedings in the office--was a debate on the pros and cons of withholding held in about 1954. And the debate was between the Commissioner of Revenue from Vermont and [John J.] Jack Campbell, the [executive officer] of the Franchise Tax Board. Martin Huff's predecessor. Campbell was opposed to withholding.

MORRIS: Did he have some personal reason for being opposed or was it just philosophical?

BRAININ: Well, I don't know why he was opposed. I just guess he would think it's a slap at his administration to think that you can pick up a lot of revenue from withholding. He was saying, "I'm getting it all now." So what do you think Ralph Currie says to Dick and me? "Talk to Jack Campbell. Ask him what he thinks about withholding." What do you think Jack Campbell said?

MORRIS: Campbell said, "No."

BRAININ: Yes, that's right; Campbell said, "No. All you're going to get is a couple million dollars from interest on the earlier money." So Ralph says, "Well, drop the withholding." Now, I say that if we hadn't talked to Campbell, or if I had pushed hard on Currie or Lazansky or somebody and said, "We got to have withholding"--push-push-push--we could have had it. If we had had withholding, I say Ronald Reagan would not be president of the United States, because that

was the issue that Ronald Reagan used to beat Brown. "Taxes must hurt," was Reagan's cry. Brown needed additional revenue and kept on asking for withholding in 1965 or 1964. Jesse Unruh got mad at Pat Brown, I understand, for some other reason. I don't know if it was this cookie jar incident, but one of the things that got Unruh mad at Brown was because Finance killed his tax program. So Unruh gave Brown no support. And maybe . . .

MORRIS: Brown was mad at Unruh because Unruh . . .

BRAININ: Unruh was mad at Brown because Unruh had a tax program. Assembly Bill 2270, [then Assemblyman Nicholas C.] Nick Petris and Unruh were the co-authors--and it was going to be heard, I guess, May 13, 1965.¹ Now, here's what happened--are you familiar with the May Revise?

MORRIS: Yes, I've heard about it. That's where you update the budget estimates.

BRAININ: The May Revise is more important than the budget estimate.

MORRIS: Really?

BRAININ: Yes, because the May Revise is the update, as you put it, that is put out just before the budget comes out of the fiscal committees and is really the basis for what the legislature and the governor do, as far as the budget is concerned. The budget estimates which are in the big, fat book is what . . .

MORRIS: Six months old by then?

BRAININ: Yes, well, it is, easily. And on top of that, the budget is enacted on the basis of the May Revise, which is not only revenues, it's also expenditures.

MORRIS: Oh, it's expenditure revisions, too?

BRAININ: As well as revenue revisions. And usually the May Revise covers the same years as the budget, i.e., the current year and the next year. OK, now a little background. It takes several weeks to put together the May Revise. Currie wanted to do the May Revise, or the

1. A.B. 2270, 1965 Reg. Sess. (1965).

administration wanted to do the May Revise, in the first week of May, May 8, something like that.

I prevailed on Ralph to put it over an extra week because we needed revenue data for April. We should have the April data at least to make the estimate, otherwise we're missing on the whole month of revenue receipts. OK, so Ralph said, "OK, let's make it May 12." Now, this decision was made sometime in April. We decided it will be May 12. The reason it is important is because on the thirteenth, Unruh's bill was to be heard.

I don't know how it came about, but this year, we projected revenues one extra year. Instead of just through the budget year, we went the year beyond the budget year [in our revenue projections]. We never did that before. And Hale Champion, who was director of Finance then, wrote a press release which said that the May Revise indicates that there was no need for additional revenue. This was a shot at Unruh's bill, that we wouldn't need a tax bill. And it said that the governor said new figures indicate a minimum change in the state [revenues] of more than fifty million [dollars] over the next two years, without respect to any proposed changes in tax rates or structure. OK, so what happens is Unruh gets all upset about this and the way--and this is written by Hale Champion who was the director and used to be a newspaper guy--and what happens is that Unruh thinks that this was just reaching in the cookie jar to get money to kill his bill. And so from that point on . . .

MORRIS: To kill Unruh's bill?

BRAININ: Yes, from that point on, Unruh had it in for the Department of Finance. He tried to finish that thing. A few years before I retired, two years before I retired, Unruh had formed in the controller's office a unit to review the state's revenue estimates to see that the state wasn't cheating. Meaning cheating the state, i.e., the governor adjusting the estimates to suit his political purposes. It was a unit in the controller's office.

MORRIS: Set up by [State Controller Kenneth] Ken Cory at Unruh's request?

BRAININ: Before Ken Cory. This was 1967, 1968, 1969. I think it was [State Controller Houston] Hugh Flournoy.

MORRIS: Flournoy had been in the legislature, but he was a Republican.

BRAININ: I know, but anyway, it was in the controller's office.

In fact, I even applied for the job just for the fun of it. I even told him how to do it. I said, "You know, you want to hire economists. The accuracy of the estimate is related to the economic forecast." What they did was they made a mistake and hired accountants. And I said, "That's a mistake. What you want to do is hire economists. You want to be able to look at the," as I said earlier, "look at the economic assumptions to find if the revenue estimates are up or down. If the economic assumptions are on the high side, the estimates will be on the high side." They hired CPAs [certified public accountants] or they hired accountants. And accountants, I think, think along a narrow spectrum.

MORRIS: They have a narrow vision.

BRAININ: They have a tunnel vision. You can't do that and be a revenue estimator. So anyway, for three years these people put out a report, and they said nothing. All the estimates were reasonable within, who knows what, the ranges. What was it, six, seven years ago when Jesse Unruh caused the Commission on State Finance to be formed? You know about them? There is a commission . . .

MORRIS: Right, and [former State Senator] Albert Rodda was the first executive. It was shortly after he lost his seat in the legislature. I always thought there was a connection there.

BRAININ: I don't think so.

MORRIS: Because Rodda had been chairman of Senate Finance.

BRAININ: Maybe.

MORRIS: I see.

BRAININ: What happened is Jesse Unruh still had it in for the Department of Finance, and he authored a bill to form the Commission on State Finance, made up of seven people with the treasurer usually being the chair. It was two members from the senate, the minority and

majority fiscal members of each house, the director of Finance, the state controller, and the treasurer. He used the argument in committee that revenue estimates go through a sieve in the governor's office.

I used to testify before the committee, and in those days I only testified in one committee. It was Assembly Rev[enue] and Tax[ation] Committee. But I sat and listened to all the committee hearings on that bill. When he came down to my committee, he said he'd been in the legislature twenty-five years, and he used the word "sieve": it goes right through the governor's office.

Then I said, "Well, I've been with the Department of Finance for thirty years as a revenue estimator and I can categorically state that not once has a governor's office changed the revenue estimates." However, one time the economic assumptions were changed and it just so happened they did it properly and appropriately, in my opinion.

Each year the Department of Finance sponsors an economic outlook conference. It's not in the papers; just a small number of people are invited to it. You might say a dozen economists from the state of California, and sometimes an economist from outside the state. They'd hire somebody and bring them in, pay his fare, and perhaps per diem. The participants would sit down for a day and a half and discuss the economic outlook for both the nation and the state. In those days, they used to fill out a form that we provided.

MORRIS: Each of the people coming to this meeting?

BRAININ: Each of the people who come. And ask them what their estimates are for various things: GNP [gross national product], income, prices, profits, and other components of the economy. Well, this was the year--this might've been 1969--this was the year when the monetarists first reared their ugly head, or their beautiful head, as the case may be. And the group was divided: half were monetarists and half were fiscalists. And half the estimates were higher than the other. And there was nothing in between.

- MORRIS: No consensus?
- BRAININ: No consensus. It so happened that the Department of Finance economist was a monetarist. His name is [Chief Financial Economist] Ralph Laws. As he was a monetarist he said, "The economic assumptions we'll use are those of the monetarists." (The lower ones.) You got Ralph Laws on there?
- MORRIS: New name to me. I thought Ralph Currie was the chief economist until . . .
- BRAININ: Ralph Currie was the chief of the financial research section. Ralph Currie might've been gone by then. Ralph left, I think, a year or so after Reagan came in. You can ask him (Currie). Then Lazansky took over, and it might've been Lazansky who was in charge. But the economist was Ralph Laws. Ralph came back after Lazansky left because the normal progression would've been me. When Currie left, Lazansky got the job. When Lazansky left, I should've got the job. Maybe I wasn't qualified, but I'm a Democrat. In my opinion the Ronald Reagan people looked upon all Democrats as the enemy. If you're a Democrat, you're suspect. It may be because while Ronald Reagan was running for governor against Pat Brown, somebody was feeding him stuff about the upcoming budget. That was supposed to be confidential, and he knew about it. And maybe he felt that Demos [Democrats] did the same thing that the Republicans did.
- MORRIS: If his side did it, the other guys probably did it, too?
- BRAININ: Maybe they did; I don't know. But I was a professional, I thought, and I got paid to do a job. And I did the job, and I did not blow the whistle. I never told anybody anything. The budget is always confidential.
- MORRIS: Until the governor makes his budget speech?
- BRAININ: Until the budget is released.
- MORRIS: Were you aware in 1966 that somebody was feeding Reagan information during the campaign?
- BRAININ: Yes, yes, we all knew that. But, I didn't know who it was.

- MORRIS: Because of what you heard in Reagan's speeches?
- BRAININ: No, because of what I read in the paper and what I know that's going on in the department. I'd say, "Somebody's telling Reagan those things."
- MORRIS: Interesting.
- BRAININ: Yes, but I don't know who it was. Might have my suspicions.
- MORRIS: While we're on that subject, I've been told that somebody in the Department of Finance worked very closely with Paul Gann and was providing him information, you know, ten years later when he was working on his initiative.¹
- BRAININ: That could be. That could be; I don't know. I worked with Lew[is] Uhler and Craig Stubblebine.
- MORRIS: On Prop. 1?²
- BRAININ: Yes, on Prop. 1, right there, but I was ordered to by Ralph Laws. I guess he thought it was kind of, would be interesting or cute to put a liberal in with those guys.
- MORRIS: Is this on Governor Reagan's tax task force, that led up to Prop. 1?³
- BRAININ: Yes. I remember I used to go down to some office in OB1 [Office Building 1] and help them, estimate the future revenues numbers and what effect their proposals would have on revenues, et cetera. Also with their forecast of the economy, of income, to determine state revenues. So I would do those things.
- Estimating, like here, [Looking at 1986-1987 budget document] we have estimates of personal income out in 1989. Interesting to see how they compare with the actuals. I've always felt long-range estimates weren't worth anything. Here are the people whose names--they don't even have my name down here as technical assistance. How's that? See what I got.
- MORRIS: Well, this was supposed to be a nongovernmental body, wasn't it?

1. Proposition 13 (June 1978).
 2. Proposition 1 (November 1973).
 3. Governor's Tax Reduction Task Force.

- BRAININ: Yes, but here are Lew Uhler and [Charles] Chuck Hobbs and Craig Stubblebine. These were the guns, I guess. Armand Alchian, now they got him. He was my stat. instructor at UCLA.
- MORRIS: Really?
- BRAININ: Very bright guy, but he was with the Rand Corporation by then. I never did see him at [task force meetings]; I never did see him, at all.
- MORRIS: Had you suggested it?
- BRAININ: No, I didn't suggest his name. I'll talk about a tax reform study group that I did suggest. Governor [George] Deukmejian's last tax reform thing I wrote, you might say, what became the governor's proclamation [Tax Reform Advisory Commission]. I even talked to [Director of Finance] Jesse Huff about putting a woman on the commission from the League of Women Voters, as well as somebody from labor. They did include a woman. She was an economics professor from Long Beach State [California State University, Long Beach]. She wasn't very good; she just wasn't good at all.
- MORRIS: Because you thought there ought to be a woman?
- BRAININ: I thought the commission should be balanced: management, labor, the public, men and women. There was an earlier task force that had somebody from the League of Women Voters. I think her name was Mrs. [] Paul. It was the Advisory Commission on Tax Reform chaired by Hugh Flournoy. It had representatives from government, business, academia, and the public. That was in 1968-69.

Anyway, what happened the one time when our economic assumptions were changed by the administration was, I think, around 1969. As I mentioned earlier, the economic estimates of the monetarists and the fiscalists were far apart. We had two extremes. Our economist used the lower extreme. Well, we spelled out the economic forecast we would use to [James S.] Jim Dwight, the chief deputy director. This was standard procedure. Usually they said, "Go ahead."

Now, I will say that--and I won't name names because you'll be talking to one or two of them--there might be some not so subtle

pressure on us--"us" meaning the economist and the revenue estimators--by the director of Finance. He might say, "Well, I hope you're not going to give us too much money." Or, if they're short of revenue and they don't want to raise taxes, he might say something like, "Well, I hope we're going to get more money," something like that.

I think one time, and it was not my doing, one of the revenue estimators was told to reduce his revenue estimate by a couple of hundred million dollars. And it was not done by a director of Finance or the governor's office. It was done by the person who was running that unit at that time.

MORRIS: In the governor's stead?

BRAININ: Perhaps, I can't say who it was. I guess the administration didn't want too much money at that time.

MORRIS: But that's making another assumption, an assumption that this is what the governor wants or that there'd been some unofficial conversation?

BRAININ: That may be. I once got upset with [Assistant Director, Department of Finance] Roy Bell because of a very simple thing. Maybe one of the reasons I never got to be the chief--I was the assistant chief--is that I once climbed all over Roy (Bell) because after the estimates were done, we received word from the Franchise Tax Board that we were going to get \$5 million more in corporation tax.

MORRIS: That hadn't showed up in your estimate?

BRAININ: Correct. I wanted to raise the estimates by \$5 million. Now, that would've been easily done, except in those days one-fourteenth of the corporation tax was used to fund inventory relief. One half percent of the corporate tax increase in 1968 was used to fund inventory relief. That was S.B. 556, Deukmejian's bill.¹ Half a percent was one-fourteenth of the 7 percent tax rate. So they put aside one-fourteenth of the bank and corporation tax in a fund. So if we raised the bank and corporation tax estimate by \$5 million, we'd

1. S.B. 556, 1967, Cal. Stat., ch. 963.

have to take one-fourteenth of that, \$357,142. and put that in the fund. But the inventory relief fund had already been posted.

MORRIS: It was already funded, in other words?

BRAININ: In other words, no, it was already budgeted. They had already computed the fund statement that would take one-fourteenth of the bank and corporation tax for the inventory relief fund in the budget. They'd have to change that.

MORRIS: And figure out how to spend all that more money?

BRAININ: No, Roy was OK with the \$5 million. He just didn't want it to go into the bank and corporation tax because that would mean changing that fund statement. He said, "Take the \$5 million and pick it up in the sales tax." So the revenues will be there, but it would show up in the sales tax. Well, I was estimating the sales tax in those days, and that meant a whole day's work for me to redo all of the sales tax worksheets--which are always done by hand in those days--to show the \$5 million. What I should've done is just say \$5 million was some kind of an adjustment. I got real upset because it was wrong, even though the \$5 million was still going to be there. We're not going to lose the \$5 million. But I felt it belonged in one place and not the other. As I got older, I got more flexible. In those days I was more of a purist.

Anyway, I started to say--I always interrupt myself--I started to say with Jesse Unruh, we came up with \$50 million of additional revenue in the May Revise, and he said the governor had found the money in a cookie jar so that there was no need for Unruh's tax bill. I think that led to a lot of trouble between them.

[End Tape 1, Side B]

[Session 2, June 9, 1988]

[Begin Tape 2, Side A]

BRAININ: How about Lazansky?

MORRIS: I haven't got him up on the list yet. I've suggested that he be interviewed for the project.

BRAININ: Lazansky is a very, very structured person. He's not going to tell you anything. He'll be safe.

MORRIS: It sounds like you're more interesting.

BRAININ: Oh, well, that's for sure, but he knows more. You keep asking "Did I know [Department of Finance Director] Fred Links?" Well, Dick knew Fred Links. Fred Links, after he retired, used to call Dick up like once a week--sometimes it seemed like once a day, but it was maybe once a week, you know--to ask Dick to do computations for him, to run out calculations on investment or how much money it would take to do this and do that.

MORRIS: Oh, for doing consulting after he retired?

BRAININ: Well, I don't know what he was doing.

MORRIS: . . . or just minding his own investments?

BRAININ: Yes, something like that or building something. Or who knows, or wanted to borrow something and wanted to know which was the best deal.

MORRIS: That would be nice to have that kind of advice. I'd like that myself. Well, I was wondering about what kind of difference it made in the department when you reorganized. My notes say that in the early sixties you had an economic development, a planning unit, a tourism unit, and a world trade unit, and a Washington office?

BRAININ: In the Department of Finance?

MORRIS: Yes, did that make any impression on you?

BRAININ: No, well, they started some kind of a Washington office. I think the Washington office now is not a Department of Finance office. They have or had a great deal. I wanted in on it. They had two people from the department go to Washington to stay theoretically for a year. I think one of them stayed a year and a half; another might've stayed two. The way they set it up, even though they went to Washington full time, was that Sacramento was still their headquarters and they were in Washington. That meant that while they were in Washington, they got per diem, which is nontaxable. In addition, they got a very big, fat--and I'm guessing, hearsay, hearsay--Hearsay, OK.

MORRIS:

BRAININ: . . . maybe fifteen hundred dollars a month for rent. One person, I heard, rented a house on ten acres from somebody who was on temporary duty outside of Washington. And he was getting per diem. He was getting his regular salary, and I think he was getting a rental allowance. Occasionally, they brought him back to Sacramento, either to discuss things or to make it more kosher, in that he had to come back to headquarters. While he was back in Sacramento, no per diem because Sacramento was his . . .

MORRIS: Home base?

BRAININ: . . . home base. And for all I know they still have people doing this. Or they, yes. It may be that Nancy Ordway is now doing this. Nancy was the deputy director of Finance for a while, and she may still be the deputy director of Finance. She's now in Washington. I think she's in Washington. No bets. You can check it out.

And they've got this--but it's not a Department of Finance office; it's more like the governor's office or the California office in Washington--and they have a lobbyist. I think his name is David Vienna. You can check that out too because all this is from memory. They try and keep track of what's happening in the congress, as it affects California. So that's a nice deal.

MORRIS: Well, in Pat Brown's time it was somebody named Irving Sprague?

BRAININ: Oh, yes, well Irv Sprague was there. I think there was somebody else who went there for a while. I think Sprague was the deputy director of Finance.

MORRIS: That's what the roster says.

BRAININ: Yes, headquartered in Washington. They recognized that a lot of what happens in Washington is going to affect California. Well, I didn't have anything to do with that.

MORRIS: Did the money coming in from federal programs have any effect on the calculations that you were doing, developing the budget?

BRAININ: Not from appropriations that went for expenditures. We began to get revenue-sharing money in 1973 or '74. The revenue-sharing money had an impact on the budget. In fact, we changed the revenue-sharing allocation to California. Well, we didn't manipulate the program, but what happened was, in the revenue sharing--this started in 1972 under [President Richard M.] Nixon--there was a fight in Congress between the high tax states and the low tax states. Nixon tried to get all the states to impose the income tax. They even gave them a sweetheart deal. They said, "If you impose an income tax, and you let us collect it"--let "us" meaning the federal government--"then we'll give you a benefit." I think the benefit was the feds would do all the tax collecting and I believe a 5 percent bonus to boot.

Let me say, no state took them up on that.

MORRIS: I can believe that.

BRAININ: . . . because they didn't trust the feds. The other thing was that they had two formulas that determined how it would be appropriated to each state. All the revenue-sharing money would go to the state, and the state would allocate the money among the state, the cities, and the counties based on a formula. Well, there were two formulas to determine how much each state would receive. One was for high tax states, meaning income tax states, and one for non-income tax states.

California was an income tax state, and one of the factors in the formula used to determine the amount distributed was, of course,

how much income tax was collected; another was based on total effort. The state controller used to report to Washington how much income tax California received. I think that they reduced the amount of income tax by the amount of renter credits that could be applied against the tax. This reduced the amount of income tax attributable to California and reduced our tax efforts. This resulted in \$4 or \$5 million a year in reduced revenue from the revenue-sharing program. Californians' income taxes were less than we thought, and the tax effort was less than we thought.

To make the very long story short, I went back to Washington and talked to people in the [U.S.] Department of Commerce who were responsible for the determination of the revenues by state. I came up with a solution that increased our allotment.

[Discussions deleted]

BRAININ: An accountant and I worked out this proposal. Then we ran it through Washington and asked if they would buy it. They said, "Yes, we'll buy this," which is the following: refunds are now appropriated. So we did not reduce revenue.

MORRIS: And you increased the expenditures.

BRAININ: Right, theirs and ours. We have what they call the Tax Relief and Refund Account, TR&R. What we did was appropriate the refund to this account, so that we did not reduce the revenue. Now, the thought just occurred to me, now what if we did it in reverse? There is no longer any revenue-sharing, and if we did it in reverse, we reduce the amount of revenue which also then would reduce the amount of expenditure because of the Gann limit.¹

MORRIS: If it works one way it ought to work the other.

BRAININ: You bet.

MORRIS: Who was this accountant?

BRAININ: His name is [Robert] Bob Ichimura.

1. Government spending limit established by passage of Proposition 4 (November 1979), sponsored by Paul Gann.

- MORRIS: And did you have any problem finding somebody to carry that legislation?
- BRAININ: No, we just, I think we did it as part of the--I don't know if we did it as part of the budget process. We just set in the budget, there is this account. I forgot how it happened legislatively, but we did that. So we had this TR&R account, and now I'm thinking: why can't we do the opposite, and I'll go see one of my friendly people.
- MORRIS: That seems perfectly logical.
- BRAININ: Yes, it seems to me that it would reduce the amount of money attributable to taxes, and then it would also reduce appropriations. But reducing expenditures is fine because the appropriation limit won't be reduced because of it.
- MORRIS: Right, right, very ingenious. You gave me this press release last time.
- BRAININ: Yes, my friendly press release from Hale Champion.
- MORRIS: Well, this is May 12, 1965.
- BRAININ: Hale Champion wrote that.
- MORRIS: It says so, "Press release, H. C., number 465." But this is '65, and he's saying, you know . . .
- BRAININ: We don't need a tax increase.
- MORRIS: Right, and we're going to have . . .
- BRAININ: Fifty million dollars.
- MORRIS: "We will build up a total of 141 million [dollars] in surplus in reserves by June 30, 1965." What happened that by the end of '66 there's this great deficit? Reagan comes into office, you know, cut, squeeze, and trim and a big tax bill?
- BRAININ: Well, I don't know. It may be on the expenditure side. Expenses went up. My unit dealt only with the revenues. We were saying there'd be more revenue coming in. I think that report said there'd be like \$50 million more revenue.
- MORRIS: And he was going to accelerate collection of sales taxes.
- BRAININ: Yes, we accelerated, yes, but we didn't get withholding tax. We might've got some sales tax money. With sales taxes, all that's one-

time money. When you accelerate something, it is referred to as one-time money even though it's not really one time. What I mean by that, let's say you get \$100 million by accelerating something. However, the \$100 million is not going to be repeated every year.

MORRIS: No, but your level of revenue goes up in succeeding years.

BRAININ: Goes up, yes. But you'll get the growth on the \$100 million. So if revenue only goes up 10 percent a year, then you might get 10 percent of \$100 million in subsequent years. You'll get more money, but you won't get the big money.

MORRIS: New money?

BRAININ: Yes, the big, new money. Well, you get some new money, but it's small. It's only 10 percent of, say, that \$100 million.

MORRIS: That you figure's going to be the cost of living and increased workload and things like that?

BRAININ: No, it's the revenue growth. If the sales tax grows at 10 percent a year because of population and price and income and who knows what, then you'll get 10 percent of that accelerated money, if you have accelerated the sales tax.

See now these budget summaries I have only go to '61; so it's not going to do us any good. But at the beginning of each budget is a writeup on budget revenue estimates.

MORRIS: Did you write those?

BRAININ: Ralph Currie wrote those. At this time, he was doing both the revenue and the expenditure writeups. He was also writing the governor's budget message. He was very good. He'd write the revenues and expenditures. His staff would sit around a table and go over the text with a fine-toothed comb, nitpicking. In fact, we had a young lady working for us who is now a revenue estimator in Washington, D.C. I remember that she was always pointing out commas and punctuation stuff. This was in addition to other, more substantial remarks. Got on his nerves. Finally, he told her, "I've heard enough of these commas and punctuation comments." The very next minute she gave him another one.

Yes, that's the kind of staff he had. I mean, he might've said, "Hey, I've had enough of these," you know, but if we thought that something was said wrong or could be said better, that didn't stop us from making those comments. We got good training under him. He was very good.

MORRIS: It was better than the legislature, the way they went over the . . .

BRAININ: I don't know what they did. We used to go over it. We spent two, three days.

MORRIS: All the prose.

BRAININ: Yes, also a lot of the numbers, we went over them. As I said, we worked on the charts. We worked on the tables. I mean, if you look at some of these tables here. Even on the expenditure side, we put them together and the writeup. The writeup, there would be a breakdown of--if I can find it--there'd be a breakdown of the expenditures, and we'd have to work on tables that--I'll find one. But we'd have tables. Like each department here, we would break out the stuff here. Like this stuff, see? [Looking at budget.]

MORRIS: Like Mental Hygiene, Corrections?

BRAININ: Well, yes, each one of these areas that's in the budget. Now, even though this is expenditure stuff, our unit did these tables. We reached into the budget. We pulled out the pieces. He wrote the text, and we checked it all out. Even though we had nothing to do with expenditures in those days, just revenues, but we did a lot of work. Now, they don't do that.

MORRIS: Then would you have been involved in the statistics that went into the Reagan request for new tax legislation?

BRAININ: Oh, yes. We did that. [Senate Bill] 556?

MORRIS: Yes.

BRAININ: Yes. As I told you earlier, we prepared the Pat Brown tax program. We did the Reagan tax program. But in the Reagan tax thing, let me say then that Ralph Currie--maybe with Jim Dwight; I don't know where Jim got in. I'll get into Jim Dwight in a minute--we put the tax program together. We also came up with the numbers, the

justification for it. We put out--or Ralph Currie did; I guess you might say "we," but it was under his guidance--we put out all the arguments and the reasons. We showed that California compared to other states was not taxing as much. Whether it was the cigarette tax which was low in those days--three cents a pack--or other tax sources. We increased the income tax and the corporation tax. We initiated the inventory relief program. We raised the corporate tax rates always to offset the revenue loss under inventory relief.

I told you, I think, last time about--you shouldn't smirk--about the Reagan income tax bill substituting the personal exemption credit, which is still in the law, for the personal exemption.

I'm a Democrat and you have to understand that under Reagan--and I assume Deukmejian--if you're a Democrat you're suspect. You're not taken into confidences. They don't trust you.

MORRIS: Really?

BRAININ: Yes. I don't think it's justified because I don't think they understand what a professional is. I always like to think of myself as a professional. That means I would do the best job I could no matter who was in charge, whether a Democrat or a Republican. They're paying me. If I didn't like their money, I'd go somewhere else. But as long as they're paying me, I'm not going to do a crappy job for an administration because I'm with a different party. But they walked in and, I think, believed that everyone who is a Democrat is the enemy, literally the enemy.

MORRIS: Did Mr. Dwight think that, too?

BRAININ: Jim Dwight? I think so. You know it's funny--funny is not, ironic, I guess--because when Reagan came up with his Prop. 1, you know, his Revenue Control and Tax Reduction program . . .

MORRIS: In '73?

BRAININ: In '73. My boss at the time assigned me to work with Lew Uhler and Craig Stubblebine. I think he did that tongue-in-cheek. But, I could say I was the best person for the job.

MORRIS: Yes, is this on this tax reduction?

- BRAININ: Yes, that's it.
- MORRIS: This is the message he submitted to the legislature.
- BRAININ: Yes.
- MORRIS: I looked for names. I worked on that, and I couldn't find it.
- BRAININ: No, you might find it someplace but not there.
- MORRIS: I found a lot of quotes from people saying it was a good thing.
- BRAININ: Yes, I know. You found a lot of quotes, right?
- MORRIS: In the front there's a whole bunch.
- BRAININ: Yes, but who was being quoted? Craig Stubblebine, Robert Niskanen, Milton Friedman, et cetera, all these guys who are doing, who are now the Reagan tax, whatever that committee is for tax limitation--for a constitutional balanced budget. Same people who were working then are working now. Oh, I see all these quotes from the newspapers: Dallas, the *Sacramento Union, Chronicle*. All that good stuff, good people. C. Lowell Harris who was at Columbia. He was a big pusher for the value added tax. Harris was a big value added tax proponent. He's a recognized authority. But he wanted to substitute the value added tax for the corporate tax. Niskanen is there; he went to Ford Motors afterward to become their chief economist.
- MORRIS: Ford Motor?
- BRAININ: Yes. He went to Reagan. I believe he recently left Reagan. All these guys, all these good guys. Anyway, what I'm trying to say is that you go into these budgets in the years you're talking about, you'll find a writeup in the revenue-estimating section that will discuss, as this one does, all the tax programs. There's a detail of the 1959 tax program, and it tells you how much revenue, what the program was, and what we wanted, et cetera.
- MORRIS: That's the finished product?
- BRAININ: Yes. But this finished product is the program that was adopted; how much revenue we thought we would get. Whether or not we got that much is something else, but this is what we thought we would get. In later years, we even provided more detail. Charts or tables that

show you how much money we expected from each tax were shown. In the next budget we might even tell you how much we did collect. If you read the writeup on each tax, you might say--oh, here's the one on the cigarette tax; we never even had one before--so in the writeup in each one, you'll see that we discussed the legislation. Here's what we thought we would get from it.

MORRIS: What I was interested in is, I dug out some stuff on S.B. 566, and it was amended several times.

BRAININ: Yes, many times.

MORRIS: And why was it amended?

BRAININ: Well, it's amended, every bill's amended. Every bill gets amended in the legislature. As it goes along, some people say, "We don't like this," or "We think we should have that." If you go over each amended bill, then you'll see where it was amended because the strikeout language or italics indicates what the amendments were.

MORRIS: Was it a matter of some jockeying by people in the legislature or organizational representatives?

BRAININ: Well, that could be. I just don't remember. That was 1967. That's over twenty years ago.

MORRIS: That's true.

BRAININ: That's a long time.

MORRIS: You know, I was wondering if there were any . . .

BRAININ: You'd have to go over the. . . . I couldn't tell you really--you can talk to [Revenue and Taxation Committee Consultant David] Dave Doerr. Have you got him on your list? If you go back into, if you get copies of the daily journal or copies of the bills, maybe that will give you a clue. But bills are amended all the time and a lot of it because somebody comes up and says, "Oh, I don't think we should do this, or I don't think we should do that. Or maybe we should strengthen it here, or if we're going to trade off, lose something here, we'll pick it up here." So I can't remember everything.

[End Tape 2, Side A]

[Begin Tape 2, Side B]

BRAININ: . . . I don't know if that was in the original bill. We always wanted, for example--Ralph Currie was very strong on this; we never got it-- we always wanted to tax cigars. You know, we never got that. So the original bill included it and then was taken out.

MORRIS: Cigars are sacred?

BRAININ: Yes.

MORRIS: To whom?

BRAININ: To the cigar people.

MORRIS: They're different from the cigarette people and the pipe people?

BRAININ: Yes. Pipes are not taxed either, and neither is chewing tobacco.

MORRIS: I see, that seems favoritism somehow.

BRAININ: Yes, it does. But the argument that the cigar people give is. . . . I mean, the legislature, of course, chooses to accept the argument. Perception is the name of the game in the legislature. You understand that? And that is you can buy cigars through the mail, and a lot of cigars are purchased that way. People buy cigars directly from Tampa, maybe in those days, Havana. So you can circumvent the law by going out of state. Of course, everybody would say change the federal law. They've been trying to change the federal law for twenty years to make it illegal to ship cigars across state lines.

[Interruption]

BRAININ: There was a guy by the name of Marcus Glaser who was perhaps the largest distributor of tobacco products in the state at the time we imposed the cigarette tax in '59. I heard that there were one or two members of the legislature who had once worked for him. There was once a member of the legislature; his name was [Assemblyman Edward M.] Gaffney from San Francisco. I believe he's dead now. He wasn't a member of the legislature when he was working for Glaser. In front of me--I heard this myself--Gaffney went up to Glaser and said, "I need some more cigars." Glaser was a little upset because he thought he had given Gaffney an awful lot of cigars. But I looked up at the committee, and almost everybody was smoking a

cigar. They just passed them out. But they listened to the argument that you're not going to collect much tax because people will go out of state and that will cost a loss of business for the California cigar manufacturer and retailer. They bought that; they buy whatever they want to buy.

MORRIS: What was Mr. Dwight like?

BRAININ: Jim Dwight?

MORRIS: Yes, as a deputy director of the department?

BRAININ: Well, he came in during the [1966-1967] transition. He's very tough. I think he was very bright but very tough, very conservative. You know, Currie I think worked there for maybe one or two years after Reagan came in. Ralph could tell you exactly when he left. I think around '69. Then Lazansky got the job, and shortly after that Lazansky left. The normal progression would've been that I got the job except one: you might say I did something that wasn't too politic and I was a Democrat.

MORRIS: Now, normally your political party doesn't enter into that.

BRAININ: Usually it didn't count. In the past it hadn't. But Lazansky and Currie were both Republicans.

MORRIS: Did the Reagan people check people's voter registrations?

BRAININ: I'm sure they did. I'm sure they did. But Currie was a Republican, and he voted for and he worked for Pat Brown. So I don't think Pat Brown cared. Pat Brown brought in his buddy, Bert Levit, who was a Republican.

MORRIS: Well, that's usual as the director of the department?

BRAININ: The governor was a Democrat, and then he brought his Republican friend in for six months to get the department in shipshape.

MORRIS: Yes, well, Pat Brown had been a Republican.

BRAININ: Had he?

MORRIS: Yes.

BRAININ: I didn't know that.

MORRIS: He was a Republican when he first ran for district attorney of San Francisco. He changed parties by the time he got ready to run for attorney general.

BRAININ: I didn't know that. Anyway, I'm pretty naive. I don't know that much. However, I tried to keep my nose clean with Dwight, which I did. But let me say that Dwight--and I think I gave you a brochure--they came out with a tax program in 1969 I think it was, '68 or '69, that Currie and Lazansky and Dwight. . . . And Dwight had a favorite person; his name was Gary Raff, could be R-A-F-F. I don't know exactly. I think it's R-A-F-F. Nice guy.

MORRIS: In the department?

BRAININ: Yes. I think he was a landscape architect. Don't ask me how that connects except that he was not an economist. He was not somebody who'd be knowledgeable in taxes, but he was, let's say, a friendly person; someone you can bounce things off; you can talk to him; he's bright. Maybe that's more important than anything else. Well, they put together a tax program. I had nothing to do with it. Left me out. Then one Saturday--I can tell you exactly the day; it was the day of the NCAA [National Collegiate Athletic Association] basketball championship. Anyway, there was a basketball game, and I couldn't see it because they called the meeting to discuss this revenue program.

You've got to understand it. All this time I had nothing to do with it. I was not involved. They did not ask me question one about anything. Maybe Currie and Lazansky would discuss some things at lunch time. I don't know why I got involved. I can think that Ralph might've said to Jim, "Why don't you get Dave's thinking on it or something?" because Ralph used to like my thinking, only because he said I was creative. But not that I'm Republican thinking.

I used to accuse Currie and Lazansky both of being very conservative. I used to say, "In your eyes, there are four classes of citizens. First class citizen is a married homeowner. Second class citizen is a single homeowner. Third class citizen is a married renter.

And a fourth class citizen is a single renter." Today I'd say there is a fifth class, the homeless, and a sixth class, the illegal alien. These are things, you know, and I was a single renter in those days. Or I was up until '58, but I said that even after I got married and bought a home. Before then, Currie used to say, "Well, you single guys spend your money on wine, women, and song. You should be saving your money, buying homes as we're doing."

Anyway, so when they had this meeting, and they'd go around the room. . . . Dwight was there and I think, Currie and Lazansky or Lazansky and Currie. Gary might've been next to Jim. [] Les Howe was on my left. Do you know Les Howe? He's a good guy to get to.

MORRIS: No, I don't. New name.

BRAININ: New name?

[Interruption]

BRAININ: Les and [Chief Deputy, State Controller's Office] Kirk West. Do you know Kirk? Do you know who he was? He used to be deputy director of the Department of Finance in the year I'm talking about. Then he went over to work for Hugh Flournoy, and then he went to work for Governor Reagan. I think he was an agency secretary for business and transportation. I think he's now working for the chamber of commerce or California Manufacturers' Association.

But Kirk had just come on as the deputy director. I met him the day before just to say hello. It's interesting to speculate why Les Howe was there, because Les Howe is a lobbyist.

MORRIS: What does Mr. Howe lobby for?

BRAININ: At the moment he lobbies for the California Retailers' Association. In those days, he might've been lobbying for the state chamber. I'm not sure. But he lobbied for the chamber, and there could have been somebody from Cal Tax [California Taxpayers Association]. See I don't know if it was [] Bob Brown or not.

MORRIS: All at this meeting?

BRAININ: No, just Les Howe was at this meeting. Dwight asked each in turn what they thought about this tax program. Of course, the people who worked on it thought it was great. When it was my turn I said, "I've got a lot of problems with it." I wasn't very tactful. Instead of saying, "Gee, a lot of creative ideas in here," or "There's some real good stuff in here, but with one or two adjustments, this can be a real super program." I didn't do that.

MORRIS: But you know the words. You do it very nicely.

BRAININ: I know, now I know the words because I've gotten older. I said, "You know, there's a lot of things wrong with this program. In the first place, you've got nothing in here for the renter. I mean, the renter," --I was not a renter then; I was a homeowner--I said, "The renter makes up almost half the population. They pay taxes. There are poor renters. You have homeowner's relief. How about renters' relief?" I gave them all this that was, shall we say, liberal thinking.

MORRIS: Devil's advocate?

BRAININ: Yes, part of that, and I can see that Dwight did not like what I was doing. Les Howe surprised me. He came around.

I laid out a lot of problems, not just the renter credit. The program emphasis was wrong. We should have a balanced program. You're trying to help all these people. Oh, there was also one other person there, [Professor] George Break. Do you know George?

MORRIS: Yes, from UC [University of California, Berkeley], big tax man.

BRAININ: Yes, George was in that meeting. George agreed with me. Surprising, because George is a conservative type. In fact, I even recommended George to be on the Deukmejian tax commission. There's a whole story about that if you want to know about that.

MORRIS: Yes.

BRAININ: Anyway, to make a long story short, George agreed with me. Les Howe did not disagree with me. He might've said a couple things in my support. And then, in walks Kirk West, the new deputy director of Finance. Dwight was the chief deputy. Then Kirk started to paraphrase everything I said to such an extent that Ralph Currie

turned around to me and said, "Did you brief him?" I said, "Ralph, I just met the man yesterday for the first time." But I don't think that sat well with Dwight, and maybe that was one of the reasons I did not get the chief's job when Lazansky left.

MORRIS: Even though some of his people were saying the same thing?

BRAININ: Yes, or maybe just because I was a Democrat. We aren't going to give this job to the enemy.

MORRIS: Does this kind of a Saturday session tax program include: how is this going to go down with the legislature and who can we deal with? You know, who's going . . .

BRAININ: No, not at this point. At this point, they were coming up with what kind of program are we going to put together.

MORRIS: Yes, isn't part of that what's possible with the legislature?

BRAININ: Whenever we try to put a program through, we try to put up one that we thought the legislature would buy. With the exception of--as I indicated--the severance tax in the 1959 Pat Brown tax program. We just tried to put together a good, balanced program, one we thought would sell. We didn't realize how strong the oil lobby was.

MORRIS: Do you recall anything about how George Deukmejian got to be the principal author?

BRAININ: No, you can ask Ralph Currie, but I imagine he looked around for a friendly Republican who was sitting on a revenue and taxation committee. George used to sit on Senate Rev. and Tax. and even though, I think, [Senator George] Moscone was chairman of that committee, Deukmejian might've been the ranking Republican.

MORRIS: Would it be Currie who looked for somebody to carry the governor's tax program rather than one of the governor's legislative people?

BRAININ: I think the governor's people did that because I can't even think of how we got [Assemblyman Thomas] Tom MacBride to do the Pat Brown program.

MORRIS: Both good Irishmen?

BRAININ: You mean Deukmejian and MacBride?

MORRIS: No, Brown and MacBride.

BRAININ: OK.

MORRIS: Irishmen.

BRAININ: Well, we got Tom MacBride because he was chairman of Assembly Rev. and Tax. Usually, the chairman of the rev. and tax. committees carried the tax bills except you had a different party with Deukmejian.

MORRIS: When they're of the same party?

BRAININ: Yes, generally speaking, they'll try to get the chairmen of the rev. and tax. committees to carry the bills. For example, last year, the conformity bills were carried by [Assemblyman John] Garamendi and [Assemblyman Thomas] Hannigan. Tom Hannigan before that carried conformity bills. But you want to get the chairman of Rev. and Tax. to carry it because then you've got a leg up.

MORRIS: Yes, and the legislative people, by and large, steer clear of it until the budget is presented, and they get to take it apart with the legislative analysts?

BRAININ: No, this is a tax bill. It's not a budget. But just like the budget--the budget traditionally is introduced by the chairman of [Assembly] Ways and Mean [Committee] and the chairman of the Senate Finance Committee¹ regardless of the party. So you've got [Assemblyman John Vasconcellos] Vasco and [Senator Alfred] Alquist putting in the governor's, Deukmejian's, budget because traditionally the chairmen of the fiscal committees introduce the budget. So you don't get Deukmejian saying, "I don't want Vasconcellos carrying my bill. I want to get [Assemblyman] Dennis Brown or [Assemblyman Dennis P.] Billy Baker or someone like that."

MORRIS: Well, for a while there during the Reagan administration you had [Assemblyman] Willie Brown as chairman of Ways and Means.

BRAININ: Yes, I'm sure he carried the budget bill.

MORRIS: And [Assemblyman] Frank Lanterman as vice chair. In cases like that, would Lanterman have carried the . . .

1. Now known as the Senate Budget and Fiscal Review Committee.

BRAININ: I think the chairman carried the bill. I think his name is on the bill.

MORRIS: Yes, as a matter of courtesy.

BRAININ: I think that's the way it works.

MORRIS: You guys didn't have anything to do with softening things up in the legislature or sounding them out beforehand?

BRAININ: Not beforehand. After the bill's introduced, we didn't even, we didn't lobby anybody. But we just briefed the chairman very well. There's one--are you ready for this?

MORRIS: OK.

BRAININ: This'll kill you. I'd rather not use names. So I won't use names in this particular case. OK, in about 1975 or so, after [Governor Edmund G.] Jerry Brown [Jr.] became governor, I, well, we're talking about an illustration where I got involved. After [Assemblyman] Bill Lockyer carried a bill to do away with or to really eliminate the [oil] depletion allowance¹--which was a very big political thing that he got through the legislature--I came up with an idea to increase the interest on delinquent taxes, which used to be a flat 6 percent. In those days, about 1974, inflation was moving in. Six percent, particularly for the inheritance tax was very low. You couldn't go to the bank and borrow money at 6 percent. But you could borrow money from the state at 6 percent. So I said, "Let's make it 12 percent. We need the money. We don't want the interest." And if the current interest rate, let's pretend was 9 percent that you go out and borrow money at, then let's get 12 [percent] on delinquent accounts. Let them borrow money from a bank and pay us. It's better than we being the banker. So I suggested to my boss to go to 12 percent. And he said, "Let's try 9." I said to him, "You were brought up as a budget analyst. Budget analysts learn the art of compromise." The agency comes in with a budget request and they want so much money. You say, "We'll compromise." I said, "The revenue side is different. There's no reason to compromise. Let's

1. A.B. 177, 1975 Reg. Sess., Cal. Stat., ch. 75.

ask for 12 percent. We can always go down to 9. But let's come in with 12.

MORRIS: Go for the most for the state.

BRAININ: Go for the most, and then if, you know, we can't get 12, we can always go do to 9. But I'll tell you a secret. If we ask for 9, we're not going to get 12. So he said OK. We got Bill Lockyer to carry the bill.¹ Lockyer tells me he thinks he's going to have another political fight on his hands on this one. The Republicans will vote no, and the Democrats will vote yes. However there was one Democrat on the Assembly Rev. and Tax. Committee that he thought he'd have to convince. He told me, "Go see this guy. He's got a problem with the bill, and we'll need his vote. Do what you can to make him happy." So I go see him. I asked him, "What's the problem?" He says, "Well, you want to go from 6 to 12 percent." He says, "I always go delinquent on the income tax. I never pay my income tax on time. I don't pay my income tax until the end of the year, and it's due in April. And I don't want to have to pay 12 percent."

MORRIS: A very personal reason.

BRAININ: Very statesman-like reason, right? So I said, "OK, why don't we just say, for the income tax alone, it's 6 percent unless you're delinquent a year and then it goes to 12?" He said, "OK." OK? So that's how the bill came out. We wouldn't have to pay 12 percent on our payments less than one year [delinquent]. We collect 12 [percent]; we pay 12. If we owe you money, then you're going to get 12 percent. Fair is fair. So we said, "OK, we'll also provide that if a refund is due with interest, then we won't pay 12 percent unless it's delinquent over a year." He said, "OK."

We got the bill, but the funny part was, the humorous part, is this bill passed overwhelmingly bipartisan. It was not a partisan thing. In fact, a Republican got up on the floor and said, "This is a great bill." He said, "You know, we shouldn't let the delinquent

1. A.B. 2036, 1975 Reg. Sess., Cal. Stat., ch. 661.

taxpayer get away with borrowing from the state." So we never needed this guy's vote.

MORRIS:

Amazing.

BRAININ:

Anyway, I mean that's how members vote, from their own self-interest. So that's one of the. . . . I used to, we used to go talk to member. I remember one time going up to a member with Kirk West on a bill. Kirk thought--and this is when Kirk was brand new--Kirk thought he needed this guy's vote or something. And we're talking. I finally said to him, "If you do this, we'll do this." I forgot what it was, but I said, "We'll change the bill from here to here."

MORRIS:

This is talking to the legislator?

BRAININ:

To the member in his office. "We'll go from here to here if you'll buy the bill, provided, of course, that Mr. West goes along with it." Kirk was amazed that you can get things done just like that. Kirk said, "That's fine." And we walked out of the meeting. Kirk just didn't realize how it worked in those days because he was brand new.

MORRIS:

How important is it for the leadership, the speaker and the [senate president pro tempore] pro tem, to understand what it is you're trying to do and to do this negotiating with them first?

BRAININ:

We don't. Yes, we never did that. We should. We never talked to Willie or whoever the speaker was. We never talked to them. Perhaps the author of the bill talked to the leadership, but staff never did. At least at my level. I talked to the chairman of the committee sometimes.

MORRIS:

Did it make a difference how the tax legislation was handled, whether it was, say, [Assemblyman Robert] Monagan who was a Republican with a Republican governor, and then when Willie Brown and later some of the other folks, [Assemblyman] Leo [McCarthy], became speaker?

BRAININ:

Well, the tax programs usually were proposed when we're broke. The program we, the staff, came up with was based on what we felt was good legislation and fair. I don't recall Dwight or anyone saying, "Well, I don't like this because this favors this group more than that

group." In my office, for example, Currie was the boss. Currie was a Republican, and Lazansky's a Republican. And I'm the gadfly, and I'm around there saying, "You guys got to help the poor. You guys got to do things for the poor. You know, think of the winter. Think of the poor people. What do they get out of this program?"

MORRIS: Well, not only that, but you know, the billion dollar revenues that were projected for [Senate Bill] 556 turned into a lot more money.

BRAININ: Well, of course, it came to 10 billion or 12 billion or 15 billion [dollars] and is still generating funds.

MORRIS: Yes, you know, was that a surprise?

BRAININ: When I say it brought in 12 billion [dollars] or more, it didn't bring in much more than we thought in the first year. But of course it's an ongoing thing. Every year you get a billion dollars plus. So it wasn't just a one-time thing. There was one surprise in 556. That's because we shifted from the personal and dependent exemptions to credits for each. A credit, let's say, was worth twenty-five dollars, whether you're in the highest bracket, a 10 percent bracket, or the lowest bracket. But a thousand dollar exemption, in the 10 percent bracket, is worth one hundred bucks. If you're in the first 1 percent bracket, a thousand dollar exemption's only worth ten dollars.

You might say I convinced Ralph that a credit is the way to go. There were a few other states that had credits. I think Wisconsin was one, and it's absolutely fair. A child is a child is a child. Why should a child of a wealthy person get sixty dollars on a 600 exemption if he's in the 10 percent bracket and six bucks if he's in the 1 percent bracket? What we didn't realize--none of us, certainly not me--was that credits made the tax structure very progressive. It increased the progressivity of the income tax because, as your income went up, your personal exemption wasn't worth more, which would offset some of the progressive tax rates. Twenty-five dollars was twenty-five dollars, or the eight dollars was eight dollars, period. So we got more money that way, which helped the governor, you might say. I guess it kept the wolf from the door for

an extra year or so before he had to go to withholding. You know, if it wasn't so progressive, perhaps he'd have to come in sooner with withholding. He bought withholding because it wasn't a tax increase. It's just a method of collecting the existing tax, but he had no alternative at that time.

MORRIS: But then two years later, he returned some excess tax revenue to taxpayers.

[End Tape 2, Side B]

[Begin Tape 3, Side A]

BRAININ: I think it was 82 million [dollars]. It was something around '69 or '70. Then 1971 is when he did pass the withholding tax.¹ Then in '72 they had the first of the Senate Bill 90² bills.

MORRIS: I may be obtuse . . .

BRAININ: I'm sure you're not.

MORRIS: But what I don't understand is that, you know, that there's this big to-do about we have to have this big, new tax bill because we're in the hole. We're broke and we've got this terrible deficit. Then with the same tax program five years later, the state's rolling in money.

BRAININ: Well, you've got to understand something.

MORRIS: First we get withholding, and then we got too much money?

BRAININ: No, but you've got to look on the other side. I don't have it here, but what they did with the money they got from S.B. 90 was give it back to the people in the form of tax relief. They raised revenues in '72; they raised a lot of revenue, but they didn't necessarily raise the revenue to fund state government. They raised revenue to increase the homeowners' exemption. They raised revenue to put in a renter credit. They raised revenue to increase the percent of inventory tax relief. That's why they raised revenue. I don't have it in front of me because I didn't save all the other books. If you go to the original Senate Bill 90 after withholding came in, you'll find that the reason

1. A.B.1, 1971 First Ex. Sess., Cal. Stat., ch. 1.

2. Property Tax Relief Act of 1972. Cal. Stat., ch. 1406.

they raised taxes was to provide tax relief for homeowners, for business, and some for renters. So they gave it all back.

MORRIS: And there was some money for schools, too. A new program.

BRAININ: Yes, well, OK, there might've been some to pay for that. But they didn't do it because the state was going broke. They had enough money to pay for the continuing government, the existing government. But they wanted to sweeten the homeowners' exemption. They wanted to do other things, sweeten the inventory relief.

MORRIS: But then by '73--continuing the same puzzle that I have--by '73 you've got Reagan saying we need to . . .

BRAININ: That's something else. His political thing about putting a limit on revenue receipts.

MORRIS: Well, and in his message to the legislature, he says, "We should return money to the taxpayer." Then when Jerry Brown comes in . . .

BRAININ: Right, when he's returning monies to the taxpayer, he's returning the money he raised in S.B. 90.

MORRIS: In order to return it?

BRAININ: Yes, he raised the sales tax in S.B. 90. He put in withholding to balance his budget, so he'd have enough money to run the government. Just what's happening right now with Deukmejian, except Deukmejian says he'll cut the hell out of government, he'll cut a billion dollars out of it. He doesn't care. He won't raise taxes because it's evil. I can't understand that.

MORRIS: Well, it's consistent.

BRAININ: Well, he says it's consistency, and there was a phrase that has something to do with consistency.

MORRIS: "A pretty consistency is the hobgoblin of little minds," I think it is.

BRAININ: Well, see I just think that--my own off-the-cuff evaluation of day before yesterday's election--a lot of tax increases were turned down, but they weren't turned down because they were tax increases as much as they were turned down because of how the money was going to be used. Like even Reagan, even Reagan. . . . Deukmejian and

Reagan are interchangeable in my mind. Even Deukmejian's bond issue for highways,¹ which I can't understand from a Republican. He's willing to pay twice as much money to build highways just so nobody can point the finger and say, "You're a tax raiser."

MORRIS: It's all right if it's bonds?

BRAININ: It's OK if it's bonds. And we have to pay interest on the bonds. So we'll get half the amount of, or a fraction. You know, we won't get dollar for dollar because we've got to pay interest, but that's OK because he's not raising taxes. It seems to me that he believes it's OK to raise taxes by a vote of the people, but not by him. So he's not against tax increases, just how they get enacted.

MORRIS: Through an initiative?

BRAININ: No, local sales tax bills he signs. He lets a bill talk about inconsistencies. Some sales tax bills say the local government can raise the sales tax with a majority vote. Some sales tax bills take a two-thirds vote. Don't ask me why. It used to be that he was a strong believer in the two-thirds vote. It's all this Prop. 13 mentality.² I can't figure out what he does. But it's OK to raise the sales tax. It's OK to pay more taxes as long as he doesn't have to impose the tax. So we're not so concerned that the taxpayer is paying more. We're concerned that they don't point the finger at us as being the big taxpayer.

MORRIS: So it's a political maneuver?

BRAININ: Yes, but anyway . . .

MORRIS: What about a limit on spending in this 1973 . . .

BRAININ: This was an income limit.

MORRIS: This was the Reagan message to the legislature. Nobody seems to have paid any attention to the . . .

BRAININ: There was a vote of the people. They turned it down.

MORRIS: Right, but that was later on. It went to the legislature first.

1. Proposition 74 (June 1988).
2. (June 1979).

- BRAININ: No, I think it was a vote of the people. The legislature didn't enact it. He put it on the ballot by initiative, called it Prop. 1.
[Interruption]
- MORRIS: Did you guys in your department get involved in things like how to respond to the *Serrano-Priest* decision?¹
- BRAININ: Yes, but not so much. That was more on the expenditure side. The education people did that.
- MORRIS: Was that something that you could see coming? That you knew they'd been . . .
- BRAININ: No, I couldn't see it, but then again, see, I've got tunnel vision. I'm talking about revenues, state revenue. We weren't really interested in property taxes either until [L.A. County Assessor Philip] Phil Watson. You know, we made a mistake, the department, I guess, you know, opposing Watson's initiative.²
- MORRIS: Really, why did the department decide to oppose him?
- BRAININ: Well, I think in those days--and you can. . . . Have you talked to [Chief Deputy Legislative Analyst] John Vickerman?
- MORRIS: Not yet.
- BRAININ: You ask him that question. But I think in those days we were not too bright, and we thought that there shouldn't be any restrictions on government revenues. After all, we're all government people, bureaucrats, and we thought the government spends its money wisely. This was before, you understand, this was before the rapid growth in assessed values that happened in Los Angeles. This was in what, '68, something like that? '66, '68, or '64 and '68?
- MORRIS: Yes, well, he made two tries.³
- BRAININ: Two of them. That's '64 and '68 or something like that. He, you know, he wanted a 2 percent limit on property taxes. I think that if he had gotten his in, then there wouldn't have been a Howard Jarvis.
- MORRIS: Did the legislative analyst's office oppose those too?

1. *Serrano v. Priest*, 253 Cal. Reporter 1, (1971).
 2. Proposition 9, the Watson initiative, was defeated November 5, 1968.
 3. The second Watson initiative was Proposition 14, which was defeated in November 1972.

- BRAININ: Yes, I think so. John did, and I think in this case [Assemblyman Robert] Bob Moretti, who was the speaker in those days, took--really went around the state talking against it. You know, he's the only one who really went out there. I think he was against both the second Watson initiative and Prop. 1.
- MORRIS: Was this part of a plan to get to be more visible so he could run a governor's campaign?
- BRAININ: Moretti, so he could run for governor? That's what some people were saying. I don't know his reasoning, but I know he did it.
- MORRIS: You didn't work with him that often?
- BRAININ: No, no. I worked with Ralph Currie and Lazansky. Currie wasn't around then; I worked with whoever was in charge. Dwight and Lazansky.
- MORRIS: What about the legislative analyst's office? Is that a close ally or somebody you keep tabs on?
- BRAININ: Oh, yes. We and the legislative analysts. . . . We don't keep tabs on them. They keep tabs on us. But we work very closely together. We talk to each other, and you might say generally our outlook may be the same even though we come from different places. They work for the legislature, and we work for the governor. But we may have the same thoughts about the role of government. You can talk to John Vickerman who's been around a long time. You might want to wait until he retires, which may be in a couple of years.
- MORRIS: Well, you know, it's interesting. The legislative analyst's staff is . . .
- BRAININ: Have you talked to [Legislative Analyst A.] Alan Post?
- MORRIS: Yes.
- BRAININ: You talked to Alan?
- MORRIS: Yes, Alan Post is one of the first people I talked to when we started working on state government.
- BRAININ: Yes, so you know everything there is to know.
- MORRIS: Yes, and I didn't ask him, but I'm going to ask you. How did you guys--you know, the Department of Finance is professional public administrators and the legislative analyst's office are professional

government staff--how did you guys feel when the legislature started expanding its own staff? You know, with the Unruh as speaker, the committee staff and the consultants and office of research and things like that.

BRAININ: Yes, well, let me say, on the assembly side. . . . Well, I didn't feel one way or the other about it. Personally, in fact, I was given an opportunity to get in on the ground floor for what was going to be the Senate Office of Research.

MORRIS: Oh, tell about that.

BRAININ: Well, what happened is [Harold] Hal Winkler--do you know Hal Winkler?

MORRIS: I know the name.

BRAININ: Get him. He'll be back in time. Hal Winkler--let me say who Hal Winkler is, and you'll like this--Hal Winkler is a PhD. I think he taught in Berkeley.

MORRIS: Maybe that's where I know the name.

BRAININ: Maybe you know him. Hal Winkler used to be the consultant to [Senator] George Miller. That's George Miller Jr.'s father, who was chairman of Senate Finance, who was a damn good guy. Hal Winkler used George Miller's power.

MORRIS: He could go anywhere and say, "George Miller says."

BRAININ: He could go anywhere, didn't have to say, "George Miller wants this." He said, "I want this." Hal Winkler, brain, very good friend of Vickerman, he decided--and this is when most of the research is started--he wanted a . . .

MORRIS: Is this under [Senate president pro Tem James] Jim Mills, or is this earlier?

BRAININ: No, this is before. This is . . .

MORRIS: Under [Senate president pro Tem] Hugh Burns?

BRAININ: I don't remember. I think it was around 1970 or '71.

MORRIS: I'm just trying to . . .

BRAININ: Yes, I know, but I don't remember. But he wanted to create a think tank. He wanted the Senate Office of Research to be a think tank,

and he had somebody there who was a big gun in education [] Ron Cox. In 1969 Hal Winkler chaired the [Senator Howard] Way-[Robert] Monagan tax study group. It was, I think, the best tax study that came out of California.¹ That's not saying much because there haven't been too many good ones. Hal Winkler chaired it. I was on it. Vickerman was on it. Ron Cox was on it. Also everyone who was very knowledgeable in their field were members. We wrote position papers. We even had a two-day off-site meeting at the Lair of the Bear [University of California Sierra recreational facility].

MORRIS: Oh, wonderful.

BRAININ: You know where the Lair of the Bear is. I don't need to tell you that. With the members of the Rev. and Taxation Committees of both houses so that we can explain to them what's happening with taxes and what goes on with exemptions, deductions, et cetera. [Assemblyman William] Bill Bagley was the chairman of Assembly Rev. and Tax. then. And you know, one could see the results of that meeting because afterward many of the questions that the members asked were based on our report.

MORRIS: You really'd gotten their brains working?

BRAININ: Yes. We got that group to recognize that exemptions beget exemptions, and they're not always good, and things like that. We came up with suggested solutions.

MORRIS: So this is theory of tax programs as opposed to how we plug this whole issue?

BRAININ: [Inaudible]. Yes, this was a tax study and how to change. We took up *Serrano* and educational finance. We discussed eliminating local special districts. We have so many little special districts, and every special district has its own board. And every fire district has its own chief and its own board. Let's combine them into major districts or into the county, and we can get rid of all this overlay of government

1. "Preliminary Report of the Legislative-Executive Tax Study Group," November 14, 1969.

- which is costing so much money. No one paid any attention to that proposal because they didn't want to give up what they had.
- MORRIS: Well, you've got all those people in those elected spots who like being in those elected spots.
- BRAININ: That's right, and they like all the goodies.
- MORRIS: Were you theorizing that it would be possible to cut back on the number of governmental committees?
- BRAININ: We recommended, yes, we did that. This was in '69.
- MORRIS: Did you think that was a realistic proposal?
- BRAININ: We thought it was a good one. Whether it was doable is something else. We recognized the fact that the ins wouldn't want to give it up. We were thinking in terms of "grandfathering" everybody in. Grandmother these days.
- MORRIS: Thank you, grandperson.
- BRAININ: My wife is a women's libber. But anyway, we said, "Grandfather in. Twenty years from then we'd be where we wanted to be.
- MORRIS: Yes, sort of a reverse sunset thing, that you can't do any new ones, and when these ones serve their term, they go out of existence.
- BRAININ: That's right. When their term goes out, the district gets eliminated and is absorbed into a super district or county. Let's take a fire department. Where now there are five local fire departments or districts, we'd make one district out of them. Suppose there's now five board people in each district. So there'd be twenty-five board people, right?
- MORRIS: A council of five fire chiefs?
- BRAININ: Yes, something like that. But as they retire, they are not replaced. You can work something out if you want to bite the bullet.
- MORRIS: And how did the Rev. and Tax. Committee guys like these proposals?
- BRAININ: Well, they were receptive to some of these things. Of course, they're politicians on their own. But I can't say that we got rid of a lot of layers of government. But we recognized a problem, and we came up with suggestions.

- MORRIS: Did anybody introduce any legislation?
- BRAININ: No, not that I can recall.
- MORRIS: You know, the proliferation of governmental units is one of those things that comes up quite regularly.
- BRAININ: I know, well, get a hold of the Way-Monagan report if you can. It was named after Senator Way, who was the president pro tem, and Bob Monagan, who was the speaker.
- MORRIS: Yes, how did the two of them come up with the idea of this tax study?
- BRAININ: Hal Winkler did.
- MORRIS: He sold Way and Monagan on it?
- BRAININ: Yes, he came up with it, Hal Winkler. He chaired it, and as I said, he offered me a job on the ground floor in the Senate Office of Research. But I'm a very, you know, not very brave, I guess. I don't like to leave what I liked, to go into something I didn't know.
- MORRIS: But you could have?
- BRAININ: I wish I had later on. Lazansky went in. Lazansky got upset with the Department of Finance, or they got upset with him. But there was some reason he quit. I don't believe he would ever leave them. But he did, and he went to work at the Senate Office of Research for a while, doing nothing.
- MORRIS: Doing nothing?
- BRAININ: Yes, he never did anything significant. They had nothing, really, to do. Martin Helke--do you know Martin? Martin Helke's now the chief consultant to the Senate Committee on Revenue and Taxation. He went to work for the Senate Office of Research. He did more because he wanted to. He got involved, worked with Dave Doerr on tax programs, got after members and told them, "I'm here to help you."
- MORRIS: Well, you wonder if also it isn't a good sort of training ground for people who can then become legislative aides or chairman of this or that?

- BRAININ: It could be, but I think the Assembly Office of Research is a place for people to put relatives.
- MORRIS: Really?
- BRAININ: Yes. They do a lot of work; some of it is good.
- MORRIS: Assembly office of Research does more substantive stuff than Senate Office of Research?
- BRAININ: Well, they're about, I don't know how many times bigger than the senate staff. They do much more work. Now they're also doing bill analyses. They do bill analyses for all the members. They have--it's been such a long time since I've been there--but they used to have people with certain responsibilities, certain areas of responsibility of research, whether it's taxation, or health and welfare, or prisons or whatever. They'd have people.
- MORRIS: Nowadays the committees also have consultants.
- BRAININ: Yes, but committees have always had consultants, they always had people there to do something. The committee consultant may be primarily the consultant to the chairperson, not the committee. If somebody was a member. . . . Let's say you're a member of the assembly and you got an idea for a bill. You might go to the Assembly Office of Research and say, "Hey, I'd like you to work this out. Research it, and tell me the problems. Draft me a bill. Is it a good idea? a bad idea?" things like that. I think some Assembly Office of Research people were relatives or friends of members.
- MORRIS: Really, is that frowned upon?
- BRAININ: A little nepotism. Well, it's done.
[Interruption]
- BRAININ: OK, anyway, what do you want to know?
- MORRIS: Well, is there some more on Reagan's Proposition 1?
- BRAININ: I can't remember. All I can remember is that I was involved with Uhler and Hoggs. I was just in the technical side as opposed to the policy. They did policy. I was there to help them get numbers together.

- MORRIS: Well, how about whatever went on between the governor's people and Moretti's people as to why it ended up on the ballot rather than . . .
- BRAININ: No, but I did have a memo, and I wish I had it here. Good memo.
- MORRIS: That you wrote?
- BRAININ: No, that [Department of Finance Director] Verne Orr [Jr.] wrote. Do you know Verne?
- MORRIS: I do.
- BRAININ: I think he wrote it to one of the governor's people, one of the secretaries. His name, [], sounded like Scotland. You can talk to [Kenneth] Ken Hall. Do you know Ken Hall?
- MORRIS: He's here in Sacramento.
- BRAININ: Yes, he's a lobbyist. He was the deputy director under Verne Orr. He worked with Moretti on legislation. I think it was on S.B. 90. Verne wrote a letter to the governor that showed an awful lot of courage. He thought Prop. 1 was a bad idea and suggested it should be dropped because he thought it would lose in the polls. Now, here's the director of Finance telling the governor that your idea's not so good. I used to have a copy of that memo. I don't know if I took it with me or not. I don't think so, because I would have looked for it when you came by the first time.
- MORRIS: Well, knowing that it exists, some earnest soul can probably find it down at the Hoover Institution.
- BRAININ: Well, there was one.
- MORRIS: Unless it was a private letter passed . . .
- BRAININ: No, I don't think so, because I had a copy. But Verne Orr didn't like Prop. 1 for some reason. Verne Orr just thought it would not work or would not pass.
- MORRIS: Well, Verne Orr was also one of the people who said we need withholding.
- BRAININ: Yes, well, Verne Orr, the thing about. . . . Well, [then Director of Finance] Caspar Weinberger. . . . Did I ever tell you about Caspar Weinberger?

MORRIS: No, I was hoping you'd get around to him.

BRAININ: I've got to tell you something about Caspar Weinberger. Caspar Weinberger's a great advocate, and I'd want him to be my lawyer. But in my opinion he'd say anything necessary to get his point across. Reagan was against withholding. Therefore, Weinberger was against withholding, and any reason that Weinberger could come up with that would seem to make a case stronger against withholding, Weinberger would do. There was one case in point, and I can't give you the details except that it had to do with the direction of interest rates, whether they were going up or down. Let's pretend they were on their way up, and because they were on the way up, it was going to cost more money to run government. The person who was our chief economist had just done a forecast on interest rates predicting rising rates--I'm just using an illustration because it could've been the other way around--he had just come out with the forecast: interest rates are going up. Well, Weinberger loved to testify before the legislature. He had been a member of the legislature. He was the chairman of Ways and Means.

MORRIS: He liked to get back in it?

BRAININ: He liked to get back in it. He testified before the legislature more than any director of Finance I've ever known. I think he got up there just because he liked to. Well, after a while the legislature picked up on this, and they used to lead him down the garden path. They'd just take him. It was really sad in a way. But you know, they'd let him talk and talk, and finally they'd nail him. But one time . . .

MORRIS: He was supposed to have a photographic memory for budget matters.

BRAININ: Well, this is not budget matters. This is on anything he's talking about. One time, for example, on this argument against withholding, he said, "I know, or I was just told the interest rates are going down." Now, the economist standing next to me, he almost dropped his teeth.

MORRIS: The boss hadn't seen that report yet?

- BRAININ: I don't know. But declining was a good argument against withholding.
- MORRIS: I see.
- BRAININ: Whatever it took. Reagan did not like withholding. Weinberger did not like withholding. And the legislature didn't matter. I mean, anything that he can say to make his point, that was Weinberger.
- MORRIS: Do you remember discussion about Weinberger being turned down as director of Finance in '67 because he was too liberal?
- BRAININ: No. I don't know what you mean.
- MORRIS: With the powers-that-be next to the governor-elect?
- BRAININ: I don't know.
- MORRIS: Because one theory I've heard is that, you know, having been passed over for department of Finance director the first time . . .
- BRAININ: The first guy they got was so bad. I think his name is [Department of Finance Director] Gordon [Paul] Smith. He was so bad he only lasted six months.
- MORRIS: Yes, and then they did come around to Weinberger.
- BRAININ: Then they went to Weinberger, and after Weinberger, they got Verne Orr who was great. I liked Verne Orr very much. He was one of the best directors of Finance we ever had.
- MORRIS: Even though he was a Republican?
- BRAININ: Yes, that doesn't matter. He was good. He was really good.
- MORRIS: Why?
- BRAININ: Well, he's bright. He was fair. It seemed to me that positions he took were reasonable. He just wasn't way out. But there's also another thing that you might say. It's somewhat personal--but not about this--Verne Orr was director of DMV [Department of Motor Vehicles] before he became . . .
- MORRIS: Right.
- BRAININ: And at that time, there was . . .

[End Tape 3, Side A]

[Begin Tape 3, Side B]

BRAININ: Margaret Boatwright, do you know Margaret?

MORRIS: No.

BRAININ: She works for the Board of Equalization. She worked for me. There was a bill to change the VLF, vehicle license fee. It was to implement staggered registration. We did a study on its fiscal effect. We said, "You'll pick up about \$64 million." Margaret and Martin Helmke did the actual work, did it on a Marchant calculator, or whatever equipment we had in those days. Then one day while I'm talking to Verne about something, he tells me that the auditor general, Harvey Rose, is going to come by and see him tomorrow. "I wonder what he wants to see me about?" I said, "Don't ask me, but I'll tell you that one of his staff came by a few months ago and borrowed some of our worksheets on the VLF staggered registration." So he says, "Well, why don't you be here when he shows up?" So I said, "OK."

MORRIS: Just happen to be there?

BRAININ: No, I just happened to be there during this time when he says, "You come tomorrow at 3:00" or whatever the time is. So I was there. Rose comes in with this staff person; I won't name him. Rose said he was meeting with Verne as a courtesy. They had done a study on our estimates of VLF staggered registration and were going to put out this report the next day. "We always like to give you an advance warning of what's going to happen. So we'll tell you that tomorrow we're going to come up and say that there's not going to be any 64 million revenue gain. There'll be a \$7 million revenue loss."

MORRIS: This is the auditor general speaking?

BRAININ: Auditor general, himself, telling it to Verne. and Verne looks at me, and I look at him. I said, "Look, let me tell you something. There's no way in the world that staggered registration's going to be a revenue loss. It's impossible for it to result in a loss of revenue. And the reason is if you bought a car in September, a new car, then they used to prorate the first year's fees from September to December. Instead of paying a full year's fees at the 85 percent bracket, you only

pay 33 percent of 85 percent. And then in the next year, you'd pay the fees at the 70 percent rate. So the only people who'd pay the full year fee at 85 percent would be . . .

MORRIS: If you buy it in January?

BRAININ: Right.

MORRIS: Oh, that's interesting.

BRAININ: OK. So I say to him. "There's no way, and then with staggered registration, everybody pays fees for one year."

MORRIS: From day one.

BRAININ: So I said, "There's no way you could lose money." Rose said, "Hey, my man did it on a computer." I said, "I don't care what you did it on. It's wrong." He says, "Well, we're going to come out with this tomorrow." So Verne, you know, who had worked for the DMV-- and I forget the name of the guy at the DMA; his name might've been [Director Robert C.] Cozens of somebody, was a real good guy in DMV at the time--anyway, to make that very long story short, Verne says, "I want you guys to go over your estimates again." We did, this time with a computer, and I think instead of a \$64 million gain, we came up with a \$67 million gain. So we said, "No, it cannot be a loss." We and DMV staff got together. You know, we're trying to figure out . . .

MORRIS: How they could get these other figures.

BRAININ: Yes. We found out how they could get it. The auditor's staff weren't too smart. The law was going to go into effect in July. The law says you've got five weeks notice to make your payment. Well, they estimated that the first money from the bill would be received in August. We said, if the law goes into effect in July, the DMV is sending out the potential--is what they call it--in May and June, a month or so ahead of time. And they just did not count in that fiscal year two months of revenue. They started with August. Later, the Ways and Means Committee met to discuss the revenue effects of staggered registration. We had a meeting later on with Rose who

said of his analyst, "This is my guy." I said, "I'm glad you got him because I wouldn't want him on a bet."

MORRIS: You said this in a Ways and Means Committee meeting?

BRAININ: No, I said it to Harvey Rose in a subsequent meeting with Verne. But anyway, at the Ways and Means meeting, the Director of DMV led Harvey Rose right down the garden path. He let him do his spiel about how it's not revenue gain of some sixty-some odd million bucks but is revenue loss. So they let this guy go on and on. finally Cozens said, "Our staff reviewed your worksheets, and we found out that you just didn't understand the program. You let out two months of revenue, and when you put in those two months of revenue, you've got your sixty-some odd million dollars."

MORRIS: Wow.

BRAININ: Just cut him right out. Verne stuck by his staff. You want to know why I like Verne. Verne took a position on Prop. 1 in 1973. Verne was not like some directors who would agree with everything a governor did or asked for without question.

MORRIS: Was Jim Dwight still around?

BRAININ: Yes, Jim was the deputy director. Jim never got to be the director.

MORRIS: Well, I've wondered about that.

BRAININ: Don't ask me why. But Jim did one thing in my area that happened to turn out to be very good. I used this in testimony in committee one day when they took up Jesse Unruh's Commission on State Finances. When Unruh said, "The revenue estimates go through a sieve in the governor's office." The governor's office changed the revenue estimates. He said that referred to his twenty-five years in the legislature. I said, "I've been there for thirty years, and in my thirty years, I can categorically state that not once did the governor's office ever change the revenue estimates."

However, I will say that one time the economic assumptions were modified by Jim Dwight, and he happened to be right. I think I told you about this, about the monetarists and the fiscalists. The Department of Finance sponsors an economic forecasting meeting of

private economists. It's never advertised. We had two groups--one forecasting high, one low GNP. Our economist was a monetarist, so he went for the low forecast. When we came in and laid the numbers of Dwight, Dwight, I guess, politically thought we can't have such low revenue estimates as resulted from the lower economic assumptions. So he said, "You're going to make another set of revenue estimates based upon the high forecast for the 1970-71 budget. Up above here where you see the revenue numbers in the writeup [referring to revenue writeup in budget].

MORRIS: Yes.

BRAININ: This one time we had two numbers: one based on the high outlook; one based on the low. We used the average of the two as the final estimate. Actual revenues were closer to the average than to the low estimate.

MORRIS: To the low number?

BRAININ: Yes. So Jim made a good decision. He did, of course, overrule the staff in that. But it was a good decision. Jim was very tough, I think, you know, hard-nosed. I think when he went to work in Washington at Social Security Administration he ran things his own way or tried to. He went to Washington in the first year of the Nixon administration when Weinberger was [secretary of] Health and Welfare.

MORRIS: OK, so then he wasn't around when Verne Orr was director of Finance?

BRAININ: Well, I think he was for a while. I'm not sure. But he might've left when he didn't get the job. I don't know.

MORRIS: Yes, well, I could check the staff lists and see. What about when Jerry Brown took over? Did his approach to government make a difference to how you guys worked?

BRAININ: No. Many people don't like bureaucrats. But one of the things about bureaucrats is they provide continuity in government. We provide continuity. We make our revenue estimates the same way. We make our economic forecasts the same way. We were never told

by anybody to change the numbers. There might've been some directors of Finance who might say, "You know, if we've got money coming out of our ears," et cetera.

MORRIS: Bury it?

BRAININ: No. They might say, "Gee, I'm not, I hope you're not going to give us high estimates," which does exert some pressure to keep either the economic forecast down or exerts pressure so you don't look under the rock to get every last penny there is. I like to think what we want is the best estimate. I used to say we want them right on the nose. In fact, I once was interviewed, I think, for a magazine on government where I said something like, "We don't Mickey Mouse the numbers." But there is subtle pressure in the sense of, like, "I hope you're not going to give us too much revenue," which whether we like it or not has some influence.

MORRIS: Were there any of those kinds of pressures available or visible in Jerry Brown's administration?

BRAININ: I think there was one time in Jerry Brown's administration when one analyst was told to reduce the revenue estimate by \$200 million by my boss.

MORRIS: That's a fairly sizable amount of revenue.

BRAININ: Yes, it's a lot of money. The analyst did it, he wasn't very happy about it. Instead of saying, "I can't do it. These are numbers I'm going to give you. If you want to make a change after I turn them over to you, that's your business; but these are my estimates." But he didn't do that. Good soldier. Yes, I'm telling you there are, there was one time I got really upset with an acting supervisor, unnamed. My staffperson came up to me and said, "This person, he wants me to downplay the estimate." I said, "Don't you do it." I said, "You put in the estimate that you think is right." I went up to him, and I said, "Don't you ever tell the staff to change a number."

MORRIS: "If you want it done, you do it yourself?"

BRAININ: Well, I didn't even say that. I just, I was burning mad, and I said, "We give you the best numbers we've got." There are some people

who think their job is to provide the front office with what they think the front office wants. Sometimes they don't even know what the front office wants, but they may just think the front office wants something. So they exert pressure on staff.

MORRIS: Were Jerry Brown's directors of Finance . . .

BRAININ: Well, Roy Bell was Jerry Brown's director of Finance for four years. I think a big mistake--personal opinion--big mistake that Jerry Brown made was not to appoint Roy to director of Finance from day one. I think what he did was say, "Roy's my acting director."

MORRIS: Yes, for six or eight months, a really long time.

BRAININ: Or a year. And as the acting director, Roy was on probation, so he'd better do what Jerry Brown wanted or what he thought Jerry Brown wanted, which wasn't like Verne Orr. Verne Orr never would've said, "Tell me what you want, and I'll do it," which is the impression I got of Roy.

Now, Roy was a staff analyst who was working for Finance when I came to Finance. Roy's area of expertise was education as an analyst and then he worked his way up to be the director of Finance. Before that he used to run the shop. System director, you know. I think it was a mistake on Jerry Brown's part to make him acting and not let him be independent. But I got the impression that what Jerry Brown wanted, Roy would do. Where Verne Orr, I would think, would say, "If I don't think it's right, I'll tell you." And that's the difference between these two. If Roy ever did it, I never got that impression. I don't say he didn't do it. I just didn't get the feel.

MORRIS: Well, Jerry took a long time making a lot of appointments. I wondered if it was that he never could come up with the right idea.

BRAININ: It may be, or the right appointments.

MORRIS: What he wanted for . . .

BRAININ: We didn't even know what he wanted.

MORRIS: There was a guy named [Director of Finance Richard T.] Silberman for a while.

- BRAININ: Oh, yes. Dick Silberman was there for a while. He was there after Roy.
- MORRIS: Between Roy. Roy was there acting and then Roy ended up . . .
- BRAININ: I think Roy was there for four years solid. Then Silberman came in. Silberman started Jack-in-the-Box [Family Restaurants]. He was smart, but he was impressed with himself, too, with his own smartness. He used to like to question the economist to show how much he knew about the economies.
- MORRIS: He didn't pay his dues in some other department before he got to Finance?
- BRAININ: No, but he paid his dues, I guess, in the business world and also as a big fund raiser.
- MORRIS: Yes. And [Director of Finance] Mary Ann Graves?
- BRAININ: Oh, she was terrible. Mary Ann, God, she was terrible. What do you want to know about Mary Ann?
- MORRIS: Well, could you be more specific? She didn't have a handle on what the Department of Finance was about?
- BRAININ: Well, I think she panicked a lot. She demoted my supervisor in what he said might have been an affirmative action ploy. In order to get an hispanic into top management. He was a really good guy. I liked him. Everyone thought he was a very hard-nosed boss. They thought he and I would never hit it off because I'm loose and he was strict. We got along real well. In fact, one day while at a Department of Finance golf tournament, we get the word that Mary Ann just summarily, not fired, but reduced in grade two people. You know, [Assistant Director of Finance Clifford L.] Cliff Allenby, who is now the governor's Health and Welfare secretary--Governor Deukmejian that is--and my boss [Program Budget Manager] Carl Rogers. They were both just reduced.
- MORRIS: During the golf tournament?
- BRAININ: Well, I mean, that's when we heard of it. I don't know why she canned them. She just got upset with them, or something. That was when there were fiscal problems; we were running deficits after Jerry

Brown gave away the money after Prop. 13--there's yesterday's article by [*Sacramento Bee* columnist] Dan Walters--they called him Jerry Jarvis or something. He wrapped himself in the mantle of Prop. 13 after it won and he couldn't do too much to give away all the money. We were broke. He gave away the money, and Ken Cory was having problems. We were running deficits two years in a row. Mary Ann was panicking about--that's my word, panicking; maybe she didn't panic, but she was very much concerned about revenue. Every day she'd call up [Executive Officer of Franchise Tax Board Gerald] Gerry Goldberg, because they had canned [former Franchise Tax Board Executive Officer Martin] Huff by that time. You got the whole story from Martin. They called Jerry, and she wanted to know how the revenue was coming in. Every day she wanted to know how the money's coming in. Then she'd turn around and she'd want me to tell her why this is happening.

MORRIS: Why the money isn't coming in the way she expects?

BRAININ: Or the way we estimated it. Carl Rogers used to send me every time. Every day I'd go see Mary Ann because he didn't want to have anything to do with her, I guess. And I guess because I got along OK with Mary Ann. One day she asked me how much longer I'm going to work. I never pursued the question. I never said, "Why do you ask that?" I don't know whether or not she was thinking of promoting me or firing me. I had no idea. "But how much longer are you going to be here?" Why'd she do that? Was she going to give me a promotion so I can stay, or not give me one if I'm going to leave soon? Or was she going to can me if she thought I was going to be here a very long time? I think I said a couple years or something like that. I was in my early sixties then.

MORRIS: But you were a tenured civil servant weren't you?

BRAININ: Yes, but she can reduce me. I was a CEA [career executive assistant]. Those other two were CEA. So she can reduce me down to my permanent [civil service classification]. I never had any problems with Mary Ann.

[Interruption]

BRAININ: Anyway, so Mary Ann would hear from Gerry Goldberg. I called people I knew in FTB [Franchise Tax Board]. They'd tell me about the revenue, and they'd give me a little more information, more than just the numbers. They'd give me things like how much average refund or who knows what. Then every day I'd go talk to Mary Ann. Well, to show you what Mary Ann was like. . . . She's the only director of Finance ever did this, to show you how much she was concerned. Oh, it was something.

One time I was with my supervisor when we told her what the revenue estimates were. And she said, "Would you be willing to put your job on the line based on those estimates?"

MORRIS: That they were right?

BRAININ: Yes, well, it's, yes whatever.

MORRIS: Whatever? You know, that's a pretty powerful question, too. What did she mean?

BRAININ: So I said yes. I guess, what she meant was if the numbers are wrong, you're going to get fired. And I said, "Sure." What was I going to say? No?

MORRIS: You've got to trust the Franchise Tax Board?

BRAININ: No, it's not the Franchise Tax Board. These are our revenue estimates. I'm talking about estimates at the beginning of the budget, brand new numbers. Not May Revise. I can't remember [what the numbers were]. When I said, "Sure," my boss, Carl Rogers, said, "Don't say that. That's not a question you should answer." I said, "Hey, it's OK with me." I mean, they're good estimates. They may not be right, but then again, there are no estimates that are right, but are the estimates good? Meaning that the proper procedure's followed, whether the economic assumptions used were reasonable at the time they were made. You know, they can . . .

MORRIS: Were the caveats listed?

BRAININ: Well, which of the economic assumptions and other factors that we used.

- MORRIS: And she had experience in state government?
- BRAININ: I think she was the superintendent of state banks before she came to Finance. That wasn't much. But I think Jerry Brown made a mistake. I know he made a mistake in hiring her, but he wanted to get a woman in, you know. Like [Supreme Court Justice] Rose Bird, which I did not think was a mistake. But Mary Ann, she knew nothing about the problem, and I think it was too big for her. Director of Finance's got a lot of responsibility. She couldn't handle it.
- MORRIS: Did Deukmejian overcorrect in the other direction?
- BRAININ: You mean in who he put in?
- MORRIS: Yes.
- BRAININ: You mean with [Director of Finance] Jesse Huff?
- MORRIS: Yes.
- BRAININ: Well, Jesse is a nice, young fellow who worked for the senate minority staff, and he had some experience budgeting, but only as reviewing the budget. He seems to be doing all right. I can't. . . . He's just young, but it's so easy be to Deukmejian's. . . . Jesse is bright. To be Deukmejian's director of Finance, you say, "We're not going to spend any money. We're just going to provide the bare necessities plus any pressure we get. If they don't give us our budget, if they give us more money, we'll just blue pencil it out the way we want. We've got absolute control."
- MORRIS: Well, other governors had similar control if they wanted to exercise it, didn't they?
- BRAININ: Yes, well, a lot of them did, but some other governors said, "If you have programs you need, we'll find the money for it." But Deukmejian won't do that. He won't raise a nickel. Although he's raised many taxes, he says he hasn't. And I helped him do it. He's raised a billion dollars, I'd say easily, in what would be described as a general tax increase. He says, "I won't raise taxes, not a general tax increase." So what does Deukmejian mean by a general tax increase? You have to ask him, but I can give you a couple of clues.

One, it's got to be across the board. It's got to affect a lot of people. And maybe it's got to be General Fund. Maybe, but I don't know if it has to be General Fund as much as it doesn't affect a small number of people, such as correcting an inequity in the law. But we're raising the taxes on, say, ten million people, fifteen million people. Would you call that a general tax increase?

MORRIS: Yes, I would.

BRAININ: We did that. We did that. It was with the Vehicle License Fee. We did it in Deukmejian's first year. DMV came up with a scheme of raising, trying to raise some revenue in the VLF by tying the fee to retail sales or by tying it to Kelly blue book [automobile value rating publication]. They came up to us, and we said, "That's too complicated. You can't go into every car that's got a different blue book value. And particularly if you really want to do the Kelly blue book, it's based on mileage, accessories, and who knows what." So what we'll do, we recommended, is we'll change. . . . In the old days the VLF was based on the manufacturer's retail price. Not the sticker price, the manufacturer's price. So the fact that there were options on it or no options didn't count. If the sticker price, the suggested retail price, is so much before options, that's what the VLF was. If you put on an air conditioner, radio, et cetera, you didn't pay VLF on it. You just paid on the manufacturer's suggested retail price for the car. We suggested that we put the VLF on the total price, on the bottom line.

MORRIS: After all the options?

BRAININ: After all the options. You know, some of the equipment that's built in is something extra, not standard equipment. You paid VLF on it if it was standard equipment, but you wouldn't if you added to it as an option. Then we also said--and here's where the money comes in --"Let's hold the drop in the tax rate one year. Eighty-five percent at 2 percent of the value instead of dropping to 70 the next year, it stays at 85, and then it goes down to 70 a year later, at which time it would've been 55."

[End Tape 3, Side B]

[Begin Tape 4, Side A]

BRAININ: And I got stuck with it. I'm always paying more tax, because instead of paying 70 percent, I was paying 85. Instead of paying 55, I was paying 70. That's an ongoing tax increase, and I think it's a couple hundred million [dollars] a year. So when the man says, "I haven't raised taxes," he thinks taxes mean a tax rate increase. But he doesn't understand that if you pay more money than you would've paid had the law not been changed, that's a tax increase. Furthermore, it also included an increase in the tax base.

MORRIS: Yes, well, as you said, it's a matter of perception.

BRAININ: Well, he doesn't see or want to see.

MORRIS: Or semantics.

BRAININ: He doesn't think anything's a tax increase unless it's an across-the-board rate increase.

MORRIS: Were you assigned to this or invited to be on his tax commission, or did you have a choice?

BRAININ: The tax commission?

MORRIS: Yes, is this where you participated . . .

BRAININ: Oh, well, the tax commission . . .

MORRIS: . . . in this VLF pursuit?

BRAININ: Oh, no, that's before that. That's not part of the tax commission. That was before the tax commission. That was . . .

MORRIS: What tax commission?

BRAININ: The tax commission is--what do we call it? It'll come to me. OK, let me tell you. Tax expenditures, are you familiar with tax expenditures?

MORRIS: Only as they're described in the . . .

BRAININ: No. OK, back in 1971, Bill Bagley in A.B. 360¹ passed a bill--how do you like that, my memory?

MORRIS: I'm impressed. I really am.

1. Assembly Bill 360, 1971, Cal. Stat., ch. 1762.

BRAININ: Passed a bill that says that the Department of Finance will come up with biennial reports on tax expenditures. The tax expenditure was defined as exemptions, deductions, exclusions, preferential rates, and credits. I'll give you a copy of the report; I must have one around. It's in the budget, but I'll give you one of the early ones. OK, so every other year we prepared a report on tax expenditures which means the bills enacted by the legislature and governor which reduced revenues through tax expenditures.

MORRIS: Yes, OK. I wouldn't expect that from the phrase "tax expenditures."

BRAININ: That's what they call it, and what they're trying to say, this is similar to a budget expenditure except it's done through the tax system.

MORRIS: It's tax money you don't get?

BRAININ: It's tax money you don't get. And it's also an expenditure that is never reviewed to see if it's still appropriate. Is this a proper use of state funds? OK?

MORRIS: OK.

BRAININ: You got all that? So we start putting out these reports every other year, then after a while, we put them out every year. Deukmejian comes into office. Someone from the analyst's office--and it's either John Vickerman or someone else that works for him--dumps on the governor because of his tax expenditure report, in which I thought they were eminently unfair. How do you like that? I thought that it was unfair.

We'd estimate the cost of an exemption. Now let's take the sales tax exemption for candy. Sales tax on candy is exempted from tax. When the candy exemption bill was enacted we priced out what the exemption was worth. Then in subsequent years we built on that number and just increased it by the average increase in total taxable sales. So if taxable sales went up, let's say, 5 percent, we said all the sales tax expenditures went up 5 percent. There's no way in the world we could ever go into each and every one of these exemptions and test them every year, or any year, to find out how much it really costs in lost revenue. For things like income tax, like deductions that

are reported, the Franchise Tax Board will give us the amount reported.

So we put out a report, and let's assume tax expenditures were going to go up by 7 percent. In that particular year, when Deukmejian came into office, he is holding the line on expenditures because he hasn't got any General Fund money; I don't know what the numbers are exactly, but let's pretend his budget had a 2 percent increase in expenditures. So what happens? The legislative analyst comes up with their report and says, "Governor Deukmejian raises tax expenditures more than budget expenditures." Now, I thought that was below the belt.

I thought it was unfair because Deukmejian's got nothing to do with tax expenditures. They're going to go on and on unless he And also in that year we did recommend closing up some of them, like the solar energy credit Deukmejian never liked. So they're saying, "Hey, the governor's allowing these exemptions to go on at a higher rate than the other ones." I thought, as I say, that was unfair because he had no control over the exemptions which were already in the law and had been in the law since 1933, some of them.

MORRIS: But they must be very tempting. If you do a study about what exemptions mean in terms of the revenue that you could've brought in, the legislature must look at that every year and think, "How can we plug some of these holes?"

BRAININ: No, no.

MORRIS: Really?

BRAININ: No, that was the premise that the original bill was enacted under. If the legislature sees all these bad things and sees how much it costs, they'll close them up. They didn't understand the power of the special interest groups. But that's what they thought.

MORRIS: Well, every time there's a new tax reform article or measure, one of the things that is always said is, "Close the loopholes on those guys, and I won't have to pay so many taxes."

BRAININ: Sure, but when it comes to close loopholes on those guys, those are the ones who made the contributions. Anyway, so what happens is I thought that was pretty low; as I say, I didn't like that. The law said we had to put a tax expenditure report in the budget every other year. So I wrote a letter to the director of Finance. That was [Michael] Mike Franchetti--was he the first director of Finance [appointed by Governor Deukmejian]?--and it said, "Because of the political hay or the fact that they've politicized the tax expenditure report last year, I don't think we should do one this year. The law doesn't require one, and I don't think we should do one because". . . . Actually, I didn't want to do it, but also because I thought of what they would do with it. And because we didn't have to do it, why should we do it? Why should I have to do this work? I hated it by this time. I was doing every tax expenditure report from year one. I used to write them. So what comes back from Franchetti was, "OK, no tax expenditure report, but what we're going to do is have a tax study commission. I want you to write it up." I drafted the proclamation to create the Tax Reform Advisory Committee, we called it TRAC. I talked to Jesse Huff this time. I guess Jesse had come in by then. I suggested not only a woman, but someone from the League of Women Voters, because there was someone from the league on the Flournoy Commission. I suggested somebody from labor. I tried to get a balanced commission.

MORRIS: A good mix, yes.

BRAININ: And I suggested George Break. He was also on the Flournoy Commission. I didn't realize how conservative he was, but he's very good. They got a woman, but in my opinion she wasn't too good. She was an economist from long Beach State. The chairman was Dean Butler, who was an attorney. The first thing he said--I think it was the first meeting--is, "Let's get rid of subchapter S [federal tax code section] because I'm in a subchapter S investment. There was a CPA from Long Beach, Victor McCarty, who said, "Let's conform to the federal government because after spending many hours on the

federal tax, I have to do nonproductive work on the state tax." State tax returns were nonproductive. Most of their meetings were in Long Beach in the chairman's law office. I attended every meeting I could. At the very beginning I talked to my boss, who agreed that our unit would not be actively involved in the administration or anything to do with this tax study group. We got somebody . . .

MORRIS: You wouldn't do the housekeeping?

BRAININ: No. We got somebody else to do it from the Department of Finance. He arranged for the meetings, saw that the reports are printed, get out the minutes, et cetera. I didn't want any part of it, and she agreed with me.

MORRIS: That takes a lot of time.

BRAININ: Well, this person got the assignment. The commission members decided that they did not have to hire a professional to oversee the work of the commission or use consultants for tax studies. They thought they knew all that had to be known on the subject. Eventually, they put out a report. It wasn't a very good report. Nothing ever came out of it. I don't think they even came up with one piece of legislation based on that study. I'm sure you can get a copy of the report.

MORRIS: Did you expect that there would be, or did you think . . .

BRAININ: I hoped there would be. When I wrote the draft for the proclamation, I wrote things just for the Republicans, such as "help the business climate," et cetera. If you read the governor's proclamation, it was based pretty much on what I wrote, paraphrased here and there--you wouldn't think that it's loaded. But these guys, they all had their own axes to grind. They all wanted something. "I want to get rid of subchapter S." "I want conformity." And this other woman, I think her whole idea of tax reform was on the basis of what other states did.

MORRIS: Yes, how important is that?

BRAININ: I think policy is important, regardless of whether other states do it or not. Good tax policy is food tax policy.

- MORRIS: And if it's good tax policy, it's good in Michigan and California?
- BRAININ: It doesn't matter. It doesn't make any difference. Well, Michigan has a value added tax. It might depend on the basic economic makeup of the state. But if the sales tax is regressive, then it's regressive. I like to see things like they did in Massachusetts. I keep saying this all the time and get nowhere. I'd like to exempt clothing under a certain dollar amount from the sales tax. Poor people have to buy clothing, and why should they have to pay sales tax?
- MORRIS: Yes, their kids need shoes.
- BRAININ: Right. I was in Massachusetts once. I think \$175 of clothing is exempt from sales tax. You could buy a dress or a suit.
- MORRIS: Is that something you carry around with you when you go to the department store? You say, "I don't have to pay sales tax?"
- BRAININ: No, the department store knows not to charge you.
- MORRIS: A bill with less than \$175?
- BRAININ: I think that's the way the law has it. I'm not sure. But somebody might go in and say, "I want to buy a jacket for \$100 and a suit and a pair of pants for \$100." They're buying separately. Do they pay tax? I don't know.
- MORRIS: It sounds like there is no such thing as the perfect tax system.
- BRAININ: Well, there isn't, but a lot of countries have done good tax studies. Canada has done a lot of work on it. There isn't. The only way you can have a good tax system is if you don't let anybody at it. In other words, keep the special interests out, but that's unrealistic. So we get what we pay for.
- MORRIS: Just administered by automatons and legislated by computers?
- BRAININ: Yes, that's right. Yes, something like that. Then again, you can't have a perfect tax system because somebody says, "Proportional is perfect." The other one says, "Progressive is perfect." Everybody pays 10 percent of their salary as tax, or better to pay more if you earn more and you pay less. Which is right? There's no perfect tax system. But I think that what we're looking for is a fair tax system. So people can think that they're paying their fair share. That they're

not paying tax while somebody else is getting away with it. That's pretty bad. If everybody else is cheating and getting away with it, then others are going to cheat. I don't like to cheat, but why should I pay my share when this guy's paying less? There's so much evasion going on in the tax system, you can't believe it.

MORRIS: Is that evident in the Department of Finance level or is that from FTB . . . ?

BRAININ: It's evident. Yes, well, you get it from everybody, but I get it from the fact that my wife tells me she's got a hairdresser. Two different fees: one if you pay cash and one if you write by check.

MORRIS: Because the check has to go through the bank. It's a record.

BRAININ: He may not report his cash receipts. But that's the kind of stuff that goes on. People come in, and they'll do work around the house, and they want to get paid in cash because they don't want to report it. That's cheating. You can be self-employed.

MORRIS: It seems to be international.

BRAININ: Sure, it's international. Self-employed people get away with more than everybody else. You know, if they're in a store and what they get in cash, they can put half of it in their pocket. One for me; one for the government. Who's to know? Unless somebody does a big audit on what they bought and what they sold, it's, you know. . . . But they don't know if they have sales or don't have sales. They'd have fire sales or who knows what kind of sales. Reporting less income is the easy way to evade taxes.

MORRIS: Is there enough data on this?

BRAININ: Out there? Sure, I mean, the Franchise Tax Board will tell you there's billions of dollars in what they call the underground economy, billions. That doesn't include all the money that's coming in from drugs. Big bucks, but other than drugs, there's still a lot of evasion. I wouldn't be a bit surprised if every other--I just say every other without any experience--people who're in business for themselves who have a cash business, are not skimming something.

MORRIS: Has this come up as a legislative matter or concern?

BRAININ: It's come up in the Franchise Tax Board. Gerry Goldberg has talked about this. You know, but how do you get it? There've been things, and they're trying to close things up. Illegal activities, if you get somebody on illegal activity, you disallow all the deductions he ever was allowed. Now if you catch a guy in an illegal activity, you take away his house or take away. . . . Just the other day I read . . .

MORRIS: A boat?

BRAININ: Yes, but I read that they took away a whole string of houses he had on his block, because he bought them with drug money. So they took away all his property. It may be easier to do where there's big, big money. But with little money, it's impossible to get them. In the corner drugstore, or the small grocery or any small store where there's cash coming in, it's unlikely that someone's going to report all their cash receipts. The temptation is too great.

MORRIS: Are there any marvelous adventures you had with the state government that we haven't talked about?

BRAININ: Well, I can tell you my last marvelous adventure which happened last year, and this is current. See, this is happening today, and that's why I bring it up. Had to do with the conformity bill. Last year in conference committee, I'd already given up being a lobbyist. I filled out all kinds of papers saying I'm no longer a lobbyist. I got tired of it.

MORRIS: Who did you lobby for?

BRAININ: I used to lobby for the California Tax Reform Association which is the group that Martin Huff is associated with. The so-called good guys. You know, I'm up there beating my gums, losing all the time, saying, "We don't need these tax expenditures." I told you one about the umbilical cord. Did I tell you that one?

MORRIS: No.

BRAININ: I'll give you a tax expenditure: fishing boats. Fishing boats are exempt from the sales tax. Anything that becomes part of a fishing boat is exempt from taxation. In fact, I testified this year on it. I said, "You know, fishing boats are treated better than homeowners.

If a homeowner buys a door to put in his house, he'd have to pay sales tax on it. If a fishing boat operator were to buy a door for his boat, no sales tax because the law says anything that becomes a component part of a vessel is exempt from taxation."

I guess it was the last year I was around--fishing boats used helicopters to search for schools of fish and then radio to their location. So there was a bill introduced by Assemblyman [Gerald] Felando--you might've read about him recently in the paper because somebody in L.A. tried to unseat him, another Republican, and he didn't. Felando introduced a bill to say that--are you ready for this? --a helicopter is a component part of a fishing boat. Therefore the purchase of a helicopter by a fishing boat would be exempt from sales tax. And this bill, if you want to believe it, passed through the legislature.

I got up there and said, "What kind of a bill is this? You got an umbilical cord if anything that's attached to exemption becomes exempt--food is exempt; is the cabinet that holds the food going to be exempt?" However, the legislature passed it; governor vetoed it. I'll tell you one thing about the governor. Up to now, he's been very good in vetoing tax giveaways. Not that he's vetoed them all, but he's done a lot.

But last year, I got up before the conference committee when they're discussing the conformity bill.¹ I've got thirty-five years of experience at estimating revenue, and I told them about that. But they all knew me because I used to testify before their committees. Not all of them, but most of them knew me. I got up before the committee, and I said, "I'm speaking now as an individual." That, of course, turns them off because I am not representing a group. I said, "But let me point out that as a revenue estimator, you can look upon these revenue estimates attributable to conformity as you would a new budget estimate. You don't have any experience on what you're going to get from this bill. And, given the normal estimating error,

1. S.B. 150, 1985 Reg. Sess., Cal. Stat., ch. 111.

you can be off on these revenues plus or minus a billion dollars." I said, "Now, that's just the normal estimating error."

I also said, "There is no such thing as a revenue neutral bill. It's going to either generate money or not generate money. If you want a revenue neutral bill, you don't do anything. The only way you can get revenue neutrality is not to do anything."

MORRIS: Leave it the way it is?

BRAININ: "But otherwise," I said, "you're going to get either more or less, and it could be a billion dollars more or less. What I suggest is that a trigger be put in this bill now so if you get too much money you reduce the revenues across the board." I said, "Otherwise,"--and I got [Senator John] Garamendi upset about this--I said, "everybody back here"--indicating the people in the audience, they're all lobbyists--"everybody back here will come in and get it."

MORRIS: Because if you've got the revenue, it'll get spent?

BRAININ: Yes, and the lobbyists'll come in for it. "And, if you fall short, given the makeup of this legislature, you'll never get it through a tax increase. What's going to happen is that programs will suffer. I think you should have a trigger device in the bill for either across-the-board increases or decreases." They got a billion dollars less than expected and they haven't got any way to get it back.

MORRIS: What's been in the papers is that there has been less revenue than expected because the public didn't sell as much stock as they were supposed to after the [1987 stock market] meltdown. Now, where did that come from?

BRAININ: Let me tell you. I don't. . . . Well, that came from the following: What's been in the papers, I think, to paraphrase what you said, is that the revenue shortfalls are attributable to capital gains. What they mean, I think, is twofold. A big part of the revenue, see. . . . The so-called conformity bill was made up of revenue gainers and losers.

MORRIS: The conformity bill is the result of a conference committee on the senate and the assembly's actions of the budget?

BRAININ: Right, and it's a result of the federal Tax Reform Act of 1986.¹ They put things in there like subchapter S. They got NOL's, net operating loss deduction retroactively, that business gets as a deduction for past losses and California never gave that in the past. There's a lot of changes. If you do your own income tax, and if you itemize, you know you couldn't take the sales tax as an exemption this year. If you have interest payments, all of the interest you're paying is not fully deductible when it used to be. So they changed the law to give money away and to get money back. One of the biggest places they get money back was from capital gains. They disallowed or they discontinued what they call, what I call, special treatment on long-term capital gains. You pay tax on all your capital gains, not on part of your capital gains. Now, at the same time, you had this October 19 crash on the market. I happened to be, I guess, the minority. I think a lot of people got out of the market at a profit.

MORRIS: Before?

BRAININ: No, afterward. The market had been going up since 1982. The market had gone up from seven hundred, eight hundred something to twenty-seven hundred. There's a lot of profits in there, and a lot of people were selling before they . . .

MORRIS: Lost it all.

BRAININ: Yes. Now, what they're trying to say is, this is the reason for the billion dollars because we estimated there'd be a very large amount of revenue attributable to the conformity of capital gains which means we'll pay tax on all the profits instead of part of them. In California it was different. California was out of conformity with the federal government anyway. If you held assets for less than a year, you paid tax on all the profit. If you held it between one year and five, you paid tax on 65 percent of your gain. It wasn't until after five years that you paid tax on 50 percent of it. However, the tax rates for both the personal and corporate income taxes were reduced and that was the most likely cause of the revenue loss.

1. Tax Reform Act of 1986. 1986. 100 Stat. 2085.

[End Tape 4, Side A]

[Begin Tape 4, Side B]

BRAININ: In the sales tax law, candy is defined as a food. So because food is exempt, candy is exempt. At the time the candy bill was introduced, we were hard up for money. You couldn't come in with an exemption unless you came in with offsetting revenue. They said, "OK, we'll change the law and declare that hot food is no longer a food." Before that time, you didn't pay sales tax on pizza and on candy. Now, when you buy pizza, you pay sales tax on it; you don't pay sales tax on candy unless you buy it when you go to a movie or any place you pay admission to get in. I don't know why.

Bagley, he's been around for a long time. I don't know whether or not he used to be PUC [Public Utilities Commission]. I don't know what he is now. He was interesting.

MORRIS: He's moved around from place to place.

BRAININ: He was a lobbyist.

MORRIS: He is now a regent of UC [University of California].

BRAININ: He's from Marin county. He'd be interesting if he'd talk to you.

MORRIS: Yes. In terms of watching him on the budget committee?

BRAININ: Well, he was on Rev. and Tax. Committee. [Assemblyman] John Vasconcellos will talk to you. John's been chairman of Ways and Means for a long time. John is very straight; you know that. Very busy though.

MORRIS: Yes, but does he have a good head for these questions of what tax legislation does in terms, you know, from your point of view, as opposed to politically what you want to accomplish?

BRAININ: What I want to accomplish or what he wants to accomplish?

MORRIS: Well, from what I've heard you talk about, it's been mostly the technical side.

BRAININ: Well, you want a politician's point of view?

MORRIS: Yes, what kind of tradeoffs you have to make to get it passed.

- BRAININ: Talk to Bill Bagley. Maybe he'll talk to you. There's some guys I know who were real good guys.
- MORRIS: Yes.
- BRAININ: Yes, I like very much. Well, [Senator] Alan Sieroty, for example. You know Alan?
- MORRIS: Yes, I know he's there.
- BRAININ: Now he's in Los Angeles. He gave up the senate, voluntarily, decided to get married, and decided that he can't do both. He introduced bills like raising the cigarette tax for research, et cetera, and they always get killed. He was one of the good guys. Talk to [Assemblyman] Dennis Brown. Do you know Dennis?
- MORRIS: No.
- BRAININ: Well, let me tell you about Dennis. Dennis is the ranking Republican--if you can use that word--is the ranking Republican on Rev. and Tax. In my opinion, he's a Libertarian. He votes no on every bill that'll raise a nickel. He votes yes on every bill that costs money, no matter what. Could be the most blatant exemption in the world that would drive the government into financial ruin overnight. I've seen him do it. Perhaps somebody else'll kill the bill. He'd be an aye vote to repeal the income tax.
- MORRIS: Yes, there's still those around.
- BRAININ: But you get all these guys who carry these; they all carry the bills, you know. Senator [William] Bill Campbell carries bills for his friends, gives away all kinds of tax money. I try and stay in touch with the good guys. You can try--I don't know who to try. Do you want good guys or bad guys? You want both, or bad guys?
- MORRIS: Well, to take the heat off you, how about looking backwards over the time when you've been in Finance? You know, who's been the best ...
- BRAININ: I like Alan Sieroty. I told you.
- MORRIS: And who's been the worst that you've come across?

BRAININ: Well, the worst means the guys who. . . . You mean put in bad bills? I really can't think. I tell you what you could do, but I don't know the bills. But have you got anybody who does any research for you?

MORRIS: Yes.

BRAININ: OK, in the last few years--I started this; that doesn't mean anything--in the tax expenditure reports, to try and show the legislature or show up the legislature, what we recommended in tax expenditures that should be repealed, what in fact were repealed, and what were enacted, year by year.

MORRIS: And the bills that were introduced?

BRAININ: Well, not the bills. We only dealt with bills that were passed and signed. You can go over the last few years, and you can see the bills. You can check the authors out. You'll find that they're scattered over all the members. You know, no one member has got a hold on being the bad guy.

MORRIS: Good or bad?

BRAININ: Yes, but I mean, Bill Campbell has carried a couple bills for his friends. The "Ma and Pa gold bullion dealer." He wanted to exempt gold bullion from the sales tax and referred to the gold bullion dealers as "Ma and Pa." I laughed. But everybody's got his friends. Perhaps you can go over the history of tax expenditures and see who wrote them. I mean, these are the bills that passed, not the bills that were introduced. To do the bills that were introduced, you could do that. You got a research guy? I tell you how you do it; it's really easy. The Assembly and Senate Rev. and Taxation Committee's Martin Helke and now Ellen Worcester each keep copies of every bill analysis they've done over the last umpteen years, every bill that was going to be heard by their committee, and then you can go look at those. Anyway, I think you got to get going.

MORRIS: I do too. I have to get back to Berkeley.

BRAININ: Yes, you're going to run out in traffic, too.

MORRIS: Well, your traffic is nowhere near as bad.

BRAININ: I know. I know that.

MORRIS: It's just as busy at 12:00 as it is at 4:30. Thank you.

BRAININ: You're welcome.

[End Tape 4, Side B]