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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 15

**Introduced by Assembly Member Fuentes
(Principal coauthor: Assembly Member Smyth)
(Coauthors: Assembly Members ~~DeVore~~, ~~Harkey~~, ~~DeVore~~ and
Nielsen)**

December 1, 2008

An act to amend Sections 218, 17207, and 24347.5 of, and to add Sections 170.5, 195.149, 195.150, and 195.151 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 15, as amended, Fuentes. Disaster relief.

(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result

of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.

This bill would provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the Counties of Los Angeles and Ventura, which were declared by the Governor to be in a state of emergency due to the wildfires that commenced in October 2008 or November 2008.

By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing the Counties of Los Angeles and Ventura for these property tax revenue reductions, this bill would make an appropriation.

(2) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.

This bill would also provide that any dwelling that qualified for the exemption prior to the commencement dates of the wildfires that were the subject of the Governor's proclamations in October 2008 and November 2008, that was damaged or destroyed by the wildfires in the Counties of Los Angeles and Ventura, and that has not changed ownership since the commencement date of those wildfires, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to wildfires.

The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.

This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act. By requiring local tax officials to implement new exemption criteria, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.

This bill would extend these provisions to losses sustained in the Counties of Los Angeles and Ventura as a result of the wildfires that commenced in October 2008 or November 2008. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

(4) Existing law requires the auditor of a county which was the subject of the Governor's proclamation of a state of emergency to certify to the Director of Finance an estimate of the total reduction in property tax revenues resulting from the reassessment by the county assessor of those properties that are eligible as a result of disasters, and requires the director to verify the county auditor's estimate and certify that amount to the Controller for allocation to the county.

This bill would require, for any fire disaster occurring after January 1, 2010, the Department of Finance not to certify a county auditor's estimate of the total reduction in property tax resulting from the reassessment by the county assessor of eligible properties as a result of those disasters unless the county demonstrates compliance with specified requirements at the time the fire disaster occurred.

(5) This bill would become operative only if both AB 666 and SB 505 of the 2009–10 Regular Session of the Legislature are enacted in 2009, and the operative date would depend on the enactment date of those bills.

~~(4)~~

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 170.5 is added to the Revenue and*
2 *Taxation Code, to read:*

3 170.5. *For any fire disaster occurring after January 1, 2010,*
4 *the Department of Finance shall not certify a county auditor's*
5 *estimate of the total amount of the reduction in property tax*
6 *revenues resulting from the reassessment by the county assessor*
7 *pursuant to paragraph (1) of subdivision (a) of Section 170 of*
8 *those properties that are eligible properties as a result of those*
9 *disasters, unless the county demonstrates compliance with all of*
10 *the following requirements at the time the fire disaster occurred:*

11 *(a) The county had at least one of the following for each state*
12 *responsibility area within its jurisdiction:*

13 *(1) Its own structural fire protection services.*

14 *(2) A contract providing structural fire protection services by*
15 *the Department of Forestry and Fire Protection that requires all*
16 *state costs to provide structural fire protection be included in the*
17 *contract, including, but not limited to, salaries and wages, benefits,*
18 *retirement, distributed administrative costs, workers'*
19 *compensation, equipment, and costs associated with entering into*
20 *the contract.*

21 *(3) Structural fire protection services from another county, city,*
22 *special district, or political subdivision of the state, or another*
23 *entity organized solely to provide fire protection services that is*
24 *monitored and funded by a county or other public entity.*

25 *(b) The county was in compliance with Chapter 6.8 (commencing*
26 *with Section 51175) of Part 1 of Division 1 of Title 5 of the*
27 *Government Code.*

28 *(c) If a county had land designated as a very high fire hazard*
29 *severity zone of state responsibility area within its jurisdiction,*
30 *the county had a fire risk reduction public education program that*
31 *included, but was not limited to, recommendations for*
32 *ignition-resistant landscaping, creating and maintaining defensible*
33 *space around homes and other structures, and ignition-resistant*
34 *construction principles.*

35 *SECTION 1.*

36 *SEC. 2. Section 195.149 is added to the Revenue and Taxation*
37 *Code, to read:*

1 195.149. (a) By October 30, 2009, the auditors of the Counties
2 of Los Angeles and Ventura, which were the subject of the
3 Governor's disaster proclamations of October 13, 2008, and
4 November 15, 2008, shall certify to the Director of Finance an
5 estimate of the total amount of the reduction in property tax
6 revenues on both the regular secured roll and the supplemental
7 roll for the 2008–09 fiscal year resulting from the reassessment
8 by the county assessor pursuant to paragraph (1) of subdivision
9 (a) of Section 170 of those properties that are eligible properties
10 as a result of those disasters, except that the amount certified shall
11 not include any estimated property tax revenue reductions to school
12 districts, other than basic state aid school districts, and county
13 offices of education.

14 (b) For purposes of this section, "basic state aid school district"
15 means any school district that does not receive a state
16 apportionment pursuant to subdivision (h) of Section 42238 of the
17 Education Code, but receives from the state only a basic
18 apportionment pursuant to Section 6 of Article IX of the California
19 Constitution.

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 195.150 is added to the Revenue and Taxation
22 Code, to read:

23 195.150. After the county auditor of the eligible county, as
24 described in Section 195.149, has made the applicable certification
25 to the Director of Finance pursuant to that section, the director
26 shall within 30 days after verification of the county auditor's
27 estimate, certify this amount to the Controller for allocation to the
28 county. Upon receipt of certification from the Director of Finance,
29 the Controller shall make the appropriate allocation to the county
30 within 10 working days.

31 ~~SEC. 3.~~

32 *SEC. 4.* Section 195.151 is added to the Revenue and Taxation
33 Code, to read:

34 195.151. (a) On or before June 30, 2010, an eligible county,
35 as described in Section 195.149, shall compute and remit to the
36 Controller for deposit in the General Fund an amount equal to the
37 amount allocated to it by the Controller pursuant to Section
38 195.150, less the actual amount of its property tax revenue lost on
39 the regular secured and supplemental rolls with respect to those
40 eligible properties described in Section 195.149 as a result of the

1 reassessment of those properties pursuant to paragraph (1) of
2 subdivision (a) of Section 170, excluding any property tax revenue
3 lost by school districts, other than basic state aid school districts,
4 and county offices of education. If the actual amount of property
5 tax revenue lost by an eligible county in the immediately preceding
6 fiscal year, as described and limited in the preceding sentence,
7 exceeds the amount allocated by the Controller to that county
8 pursuant to Section 195.150, the Controller shall allocate the
9 amount of that excess to that eligible county.

10 (b) For purposes of this section, “basic state aid school district”
11 means any school district that does not receive a state
12 apportionment pursuant to subdivision (h) of Section 42238 of the
13 Education Code, but receives from the state only a basic
14 apportionment pursuant to Section 6 of Article IX of the California
15 Constitution.

16 ~~SEC. 4.~~

17 *SEC. 5.* Section 218 of the Revenue and Taxation Code is
18 amended to read:

19 218. (a) The homeowners’ property tax exemption is in the
20 amount of the assessed value of the dwelling specified in this
21 section, as authorized by subdivision (k) of Section 3 of Article
22 XIII of the Constitution. That exemption shall be in the amount
23 of seven thousand dollars (\$7,000) of the full value of the dwelling.

24 (b) The exemption does not extend to property that is rented,
25 vacant, under construction on the lien date, or that is a vacation or
26 secondary home of the owner or owners, nor does it apply to
27 property on which an owner receives the veteran’s exemption.

28 (c) For purposes of this section, all of the following apply:

29 (1) “Owner” includes a person purchasing the dwelling under
30 a contract of sale or who holds shares or membership in a
31 cooperative housing corporation, which holding is a requisite to
32 the exclusive right of occupancy of a dwelling.

33 (2) (A) “Dwelling” means a building, structure, or other shelter
34 constituting a place of abode, whether real property or personal
35 property, and any land on which it may be situated. A two-dwelling
36 unit shall be considered as two separate single-family dwellings.

37 (B) “Dwelling” includes the following:

38 (i) A single-family dwelling occupied by an owner thereof as
39 his or her principal place of residence on the lien date.

1 (ii) A multiple-dwelling unit occupied by an owner thereof on
2 the lien date as his or her principal place of residence.

3 (iii) A condominium occupied by an owner thereof as his or her
4 principal place of residence on the lien date.

5 (iv) Premises occupied by the owner of shares or a membership
6 interest in a cooperative housing corporation, as defined in
7 subdivision (i) of Section 61, as his or her principal place of
8 residence on the lien date. Each exemption allowed pursuant to
9 this subdivision shall be deducted from the total assessed valuation
10 of the cooperative housing corporation. The exemption shall be
11 taken into account in apportioning property taxes among owners
12 of share or membership interests in the cooperative housing
13 corporations so as to benefit those owners who qualify for the
14 exemption.

15 (d) Any dwelling that qualified for an exemption under this
16 section prior to October 20, 1991, that was damaged or destroyed
17 by fire in a disaster, as declared by the Governor, occurring on or
18 after October 20, 1991, and before November 1, 1991, and that
19 has not changed ownership since October 20, 1991, shall not be
20 disqualified as a “dwelling” or be denied an exemption under this
21 section solely on the basis that the dwelling was temporarily
22 damaged or destroyed or was being reconstructed by the owner.

23 (e) Any dwelling that qualified for an exemption under this
24 section prior to October 15, 2003, that was damaged or destroyed
25 by fire or earthquake in a disaster, as declared by the Governor,
26 during October, November, or December 2003, and that has not
27 changed ownership since October 15, 2003, shall not be
28 disqualified as a “dwelling” or be denied an exemption under this
29 section solely on the basis that the dwelling was temporarily
30 damaged or destroyed or was being reconstructed by the owner.

31 (f) Any dwelling that qualified for an exemption under this
32 section prior to June 3, 2004, that was damaged or destroyed by
33 flood in a disaster, as declared by the Governor, during June 2004,
34 and that has not changed ownership since June 3, 2004, shall not
35 be disqualified as a “dwelling” or be denied an exemption under
36 this section solely on the basis that the dwelling was temporarily
37 damaged or destroyed or was being reconstructed by the owner.

38 (g) Any dwelling that qualified for an exemption under this
39 section prior to August 11, 2004, that was damaged or destroyed
40 by the wildfires and any other related casualty that occurred in

1 Shasta County in a disaster, as declared by the Governor, during
2 August 2004, and that has not changed ownership since August
3 11, 2004, shall not be disqualified as a “dwelling” or be denied an
4 exemption under this section solely on the basis that the dwelling
5 was temporarily damaged or destroyed or was being reconstructed
6 by the owner.

7 (h) Any dwelling that qualified for an exemption under this
8 section prior to December 28, 2004, that was damaged or destroyed
9 by severe rainstorms, floods, mudslides, or the accumulation of
10 debris in a disaster, as declared by the Governor, during December
11 2004, January 2005, February 2005, March 2005, or June 2005,
12 and that has not changed ownership since December 28, 2004,
13 shall not be disqualified as a “dwelling” or be denied an exemption
14 under this section solely on the basis that the dwelling was
15 temporarily damaged or destroyed or was being reconstructed by
16 the owner, or was temporarily uninhabited as a result of restricted
17 access to the property due to floods, mudslides, the accumulation
18 of debris, or washed-out or damaged roads.

19 (i) Any dwelling that qualified for an exemption under this
20 section prior to December 19, 2005, that was damaged or destroyed
21 by severe rainstorms, floods, mudslides, or the accumulation of
22 debris in a disaster, as declared by the Governor in January 2006,
23 April 2006, May 2006, or June 2006, and that has not changed
24 ownership since December 19, 2005, shall not be disqualified as
25 a “dwelling” or be denied an exemption under this section solely
26 on the basis that the dwelling was temporarily damaged or
27 destroyed or was being reconstructed by the owner, or was
28 temporarily uninhabited as a result of restricted access to the
29 property due to floods, mudslides, the accumulation of debris, or
30 washed-out or damaged roads.

31 (j) Any dwelling that qualified for an exemption under this
32 section prior to July 9, 2006, that was damaged or destroyed by
33 the wildfires and any other related casualty that occurred in the
34 County of San Bernardino, as declared by the Governor in July
35 2006, and that has not changed ownership since July 9, 2006, shall
36 not be disqualified as a “dwelling” or be denied an exemption
37 under this section solely on the basis that the dwelling was
38 temporarily damaged or destroyed or was being reconstructed by
39 the owner, or was temporarily uninhabited as a result of restricted
40 access to the property due to the wildfires.

1 (k) Any dwelling that qualified for an exemption under this
2 section prior to the commencement dates of the wildfires listed in
3 the Governor's proclamations of 2006 that was damaged or
4 destroyed by the wildfires and any other related casualty that
5 occurred in the Counties of Riverside and Ventura, and that has
6 not changed ownership since the commencement dates of these
7 disasters as listed in the Governor's proclamations of 2006 shall
8 not be disqualified as a "dwelling" or be denied an exemption
9 under this section solely on the basis that the dwelling was
10 temporarily damaged or destroyed or was being reconstructed by
11 the owner, or was temporarily uninhabited as a result of restricted
12 access to the property due to the wildfires.

13 (l) Any dwelling that qualified for an exemption under this
14 section prior to January 11, 2007, that was damaged or destroyed
15 by severe freezing conditions, commencing January 11, 2007, and
16 any other related casualty that occurred in the Counties of El
17 Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey,
18 Riverside, San Bernardino, San Diego, San Luis Obispo, Santa
19 Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba as a
20 result of a disaster as declared by the Governor, and that has not
21 changed ownership since January 11, 2007, shall not be disqualified
22 as a "dwelling" or be denied an exemption under this section solely
23 on the basis that the dwelling was temporarily damaged or
24 destroyed or was being reconstructed by the owner, or was
25 temporarily uninhabited as a result of restricted access to the
26 property due to severe freezing conditions.

27 (m) Any dwelling that qualified for an exemption under this
28 section prior to June 24, 2007, that was damaged or destroyed by
29 the wildfires and any other related casualty that occurred as a result
30 of this disaster in the County of El Dorado, as declared by the
31 Governor in June 2007, and that has not changed ownership since
32 June 24, 2007, shall not be disqualified as a "dwelling" or be denied
33 an exemption under this section solely on the basis that the
34 dwelling was temporarily damaged or destroyed or was being
35 reconstructed by the owner, or was temporarily uninhabited as a
36 result of restricted access to the property due to the wildfires.

37 (n) Any dwelling that qualified for an exemption under this
38 section prior to July 4, 2007, that was damaged or destroyed by
39 the Zaca Fire and any other related casualty that occurred as a
40 result of this disaster in the Counties of Santa Barbara and Ventura,

1 as declared by the Governor in August 2007, and that has not
2 changed ownership since July 4, 2007, may not be denied an
3 exemption solely on the basis that the dwelling was temporarily
4 damaged or destroyed or was being reconstructed by the owner,
5 or was temporarily uninhabited as a result of restricted access to
6 the property due to the Zaca Fire.

7 (o) Any dwelling that qualified for an exemption under this
8 section prior to July 6, 2007, that was damaged or destroyed by
9 the wildfires and any other related casualty that occurred as a result
10 of this disaster in the County of Inyo, as declared by the Governor
11 in July 2007, and that has not changed ownership since July 6,
12 2007, may not be denied an exemption solely on the basis that the
13 dwelling was temporarily damaged or destroyed or was being
14 reconstructed by the owner, or was temporarily uninhabited as a
15 result of restricted access to the property due to the wildfires.

16 (p) Any dwelling that qualified for an exemption under this
17 section prior to the commencement dates of the wildfires listed in
18 the Governor's disaster proclamations of September 15, 2007, and
19 October 21, 2007, that was damaged or destroyed by the wildfires
20 and any other related casualty that occurred in the Counties of Los
21 Angeles, Orange, Riverside, San Bernardino, San Diego, Santa
22 Barbara, and Ventura, and that has not changed ownership since
23 the commencement dates of these disasters as listed in the
24 proclamations shall not be disqualified as a "dwelling" or be denied
25 an exemption under this section solely on the basis that the
26 dwelling was temporarily damaged or destroyed or was being
27 reconstructed by the owner, or was temporarily uninhabited as a
28 result of restricted access to the property due to the wildfires.

29 (q) Any dwelling that qualified for an exemption under this
30 section prior to October 20, 2007, that was damaged or destroyed
31 by the extremely strong and damaging winds and any other related
32 casualty that occurred as a result of this disaster in the County of
33 Riverside, as declared by the Governor in November 2007, and
34 that has not changed ownership since October 20, 2007, shall not
35 be disqualified as a "dwelling" or be denied an exemption under
36 this section solely on the basis that the dwelling was temporarily
37 damaged or destroyed or was being reconstructed by the owner,
38 or was temporarily uninhabited as a result of restricted access to
39 the property due to the extremely strong and damaging winds.

1 (r) Any dwelling that qualified for an exemption under this
2 section prior to the commencement dates of the wildfires listed in
3 the Governor's disaster proclamations of May, June, or July 2008,
4 that was damaged or destroyed by the wildfires and any other
5 related casualty that occurred in the Counties of Butte, Kern,
6 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
7 Shasta, and Trinity and that has not changed ownership since the
8 commencement dates of these disasters as listed in the
9 proclamations shall not be disqualified as a "dwelling" or be denied
10 an exemption under this section solely on the basis that the
11 dwelling was temporarily damaged or destroyed or was being
12 reconstructed by the owner, or was temporarily uninhabited as a
13 result of restricted access to the property due to the wildfires.

14 (s) Any dwelling that qualified for an exemption under this
15 section prior to July 1, 2008, that was damaged or destroyed by
16 the wildfires and any other related casualty that occurred as a result
17 of this disaster in the County of Santa Barbara, as declared by the
18 Governor in July 2008, and that has not changed ownership since
19 July 1, 2008, may not be denied an exemption solely on the basis
20 that the dwelling was temporarily damaged or destroyed or was
21 being reconstructed by the owner, or was temporarily uninhabited
22 as a result of restricted access to the property due to the wildfires.

23 (t) Any dwelling that qualified for an exemption under this
24 section prior to July 12, 2008, that was damaged or destroyed by
25 severe rainstorms, floods, landslides, or the accumulation of debris
26 in a disaster, as declared by the Governor, in July 2008, and that
27 has not changed ownership since July 12, 2008, shall not be
28 disqualified as a "dwelling" or be denied an exemption under this
29 section solely on the basis that the dwelling was temporarily
30 damaged or destroyed or was being reconstructed by the owner,
31 or was temporarily uninhabited as a result of restricted access to
32 the property due to floods, landslides, the accumulation of debris,
33 or washed-out or damaged roads.

34 (u) Any dwelling that qualified for an exemption under this
35 section prior to May 22, 2008, that was damaged or destroyed by
36 the wildfires and any other related casualty that occurred as a result
37 of this disaster in the County of Humboldt, as declared by the
38 Governor in August 2008, and that has not changed ownership
39 since May 22, 2008, may not be denied an exemption solely on
40 the basis that the dwelling was temporarily damaged or destroyed

1 or was being reconstructed by the owner, or was temporarily
2 uninhabited as a result of restricted access to the property due to
3 the wildfires.

4 (v) Any dwelling that qualified for an exemption under this
5 section prior to the commencement dates of the wildfires that were
6 the subject of the Governor's disaster proclamations of October
7 13, 2008, and November 15, 2008, that was damaged or destroyed
8 by the wildfires and any other related casualty that occurred in the
9 Counties of Los Angeles and Ventura and that has not changed
10 ownership since the commencement dates of these wildfires, shall
11 not be disqualified as a "dwelling" or be denied an exemption
12 under this section solely on the basis that the dwelling was
13 temporarily damaged or destroyed or was being reconstructed by
14 the owner, or was temporarily uninhabited as a result of restricted
15 access to the property due to the wildfires.

16 (w) The exemption provided for in subdivision (k) of Section
17 3 of Article XIII of the Constitution shall first be applied to the
18 building, structure, or other shelter and the excess, if any, shall be
19 applied to any land on which it may be located.

20 ~~SEC. 5:~~

21 *SEC. 6.* Section 17207 of the Revenue and Taxation Code is
22 amended to read:

23 17207. (a) An excess disaster loss, as defined in subdivision
24 (c), shall be carried to other taxable years as provided in
25 subdivision (b), with respect to losses resulting from any of the
26 following disasters:

27 (1) Forest fire or any other related casualty occurring in 1985
28 in California.

29 (2) Storm, flooding, or any other related casualty occurring in
30 1986 in California.

31 (3) Any loss sustained during 1987 as a result of a forest fire or
32 any other related casualty.

33 (4) Earthquake, aftershock, or any other related casualty
34 occurring in 1987 in California.

35 (5) Earthquake, aftershock, or any other related casualty
36 occurring in 1989 in California.

37 (6) Any loss sustained during 1990 as a result of fire or any
38 other related casualty in California.

39 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
40 of 1991, or any other related casualty.

1 (8) Any loss sustained as a result of storm, flooding, or any
2 other related casualty occurring in February 1992 in California.

3 (9) Earthquake, aftershock, or any other related casualty
4 occurring in April 1992 in the County of Humboldt.

5 (10) Riots, arson, or any other related casualty occurring in
6 April or May 1992 in California.

7 (11) Any loss sustained as a result of the earthquakes that
8 occurred in the County of San Bernardino in June and July of 1992,
9 or any other related casualty.

10 (12) Any loss sustained as a result of the Fountain Fire that
11 occurred in the County of Shasta, or as a result of either of the
12 fires in the Counties of Calaveras and Trinity that occurred in
13 August 1992, or any other related casualty.

14 (13) Any loss sustained as a result of storm, flooding, or any
15 other related casualty that occurred in the Counties of Alpine,
16 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
17 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
18 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
19 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
20 Fillmore in January 1993.

21 (14) Any loss sustained as a result of a fire that occurred in the
22 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
23 Diego, and Ventura, during October or November of 1993, or any
24 other related casualty.

25 (15) Any loss sustained as a result of the earthquake, aftershocks,
26 or any other related casualty that occurred in the Counties of Los
27 Angeles, Orange, and Ventura on or after January 17, 1994.

28 (16) Any loss sustained as a result of a fire that occurred in the
29 County of San Luis Obispo during August of 1994, or any other
30 related casualty.

31 (17) Any loss sustained as a result of the storms or flooding
32 occurring in 1995, or any other related casualty, sustained in any
33 county of this state subject to a disaster declaration with respect
34 to the storms and flooding.

35 (18) Any loss sustained as a result of the storms or flooding
36 occurring in December 1996 or January 1997, or any related
37 casualty, sustained in any county of this state subject to a disaster
38 declaration with respect to the storms or flooding.

39 (19) Any loss sustained as a result of the storms or flooding
40 occurring in February 1998, or any related casualty, sustained in

1 any county of this state subject to a disaster declaration with respect
2 to the storms or flooding.

3 (20) Any loss sustained as a result of a freeze occurring in the
4 winter of 1998–99, or any related casualty, sustained in any county
5 of this state subject to a disaster declaration with respect to the
6 freeze.

7 (21) Any loss sustained as a result of an earthquake occurring
8 in September 2000, that was included in the Governor’s
9 proclamation of a state of emergency for the County of Napa.

10 (22) Any loss sustained as a result of the Middle River levee
11 break in San Joaquin County occurring in June 2004.

12 (23) Any losses sustained as a result of the fires that occurred
13 in the Counties of Los Angeles, Riverside, San Bernardino, San
14 Diego, and Ventura in October and November 2003, or as a result
15 of floods, mudflows, and debris flows, directly related to fires.

16 (24) Any losses sustained in the Counties of Santa Barbara and
17 San Luis Obispo as a result of the San Simeon earthquake,
18 aftershocks, and any other related casualties.

19 (25) Any losses sustained as a result of the wildfires that
20 occurred in Shasta County, commencing August 11, 2004, and
21 any other related casualty.

22 (26) Any loss sustained in the Counties of Kern, Los Angeles,
23 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
24 and Ventura as a result of the severe rainstorms, related flooding
25 and slides, and any other related casualties, that occurred in
26 December 2004, January 2005, February 2005, March 2005, or
27 June 2005.

28 (27) Any loss sustained in the Counties of Alameda, Alpine,
29 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
30 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
31 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
32 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
33 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
34 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
35 the severe rainstorms, related flooding and slides, and any other
36 related casualties, that occurred in December 2005, January 2006,
37 March 2006, or April 2006.

38 (28) Any loss sustained in the County of San Bernardino as a
39 result of the wildfires that occurred in July 2006.

1 (29) Any loss sustained in the Counties of Riverside and Ventura
2 as a result of wildfires that occurred during the 2006 calendar year.

3 (30) Any loss sustained in the Counties of El Dorado, Fresno,
4 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
5 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
6 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
7 of the Governor's proclamations of a state of emergency for the
8 severe freezing conditions that occurred in January 2007.

9 (31) Any loss sustained in the County of El Dorado as a result
10 of wildfires that occurred in June 2007.

11 (32) Any loss sustained in the Counties of Santa Barbara and
12 Ventura as a result of the Zaca Fire that occurred during the 2007
13 calendar year.

14 (33) Any loss sustained in the County of Inyo as a result of
15 wildfires that commenced in July 2007.

16 (34) Any loss sustained in the Counties of Los Angeles, Orange,
17 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
18 as a result of wildfires that occurred during the 2007 calendar year
19 that were the subject of the Governor's disaster proclamations of
20 September 15, 2007, and October 21, 2007.

21 (35) Any loss sustained in the County of Riverside as a result
22 of extremely strong and damaging winds that occurred in October
23 2007.

24 (36) Any loss sustained in the Counties of Butte, Kern,
25 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
26 Shasta, and Trinity as a result of wildfires that occurred in May or
27 June 2008 that were the subject of the Governor's proclamations
28 of a state of emergency.

29 (37) Any loss sustained in the County of Santa Barbara as a
30 result of wildfires that occurred in July 2008.

31 (38) Any loss sustained in the County of Inyo as a result of the
32 severe rainstorms, related flooding and landslides, and any other
33 related casualties, that occurred in July 2008.

34 (39) Any loss sustained in the County of Humboldt as a result
35 of wildfires that commenced in May 2008.

36 (40) Any loss sustained in the Counties of Los Angeles and
37 Ventura as a result of wildfires that commenced in October 2008
38 or November 2008 that were the subject of the Governor's
39 proclamations of a state of emergency.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to (40), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

~~SEC. 6.~~

SEC. 7. Section 24347.5 of the Revenue and Taxation Code is amended to read:

1 24347.5. (a) An excess disaster loss, as defined in subdivision
2 (c), shall be carried to other taxable years as provided in
3 subdivision (b), with respect to losses resulting from any of the
4 following disasters:

5 (1) Forest fire or any other related casualty occurring in 1985
6 in California.

7 (2) Storm, flooding, or any other related casualty occurring in
8 1986 in California.

9 (3) Any loss sustained during 1987 as a result of a forest fire or
10 any other related casualty.

11 (4) Earthquake, aftershock, or any other related casualty
12 occurring in October 1987 in California.

13 (5) Earthquake, aftershock, or any other related casualty
14 occurring in October 1989 in California.

15 (6) Any loss sustained during 1990 as a result of fire or any
16 other related casualty in California.

17 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
18 of 1991, or any other related casualty.

19 (8) Any loss sustained as a result of storm, flooding, or any
20 other related casualty occurring in February 1992 in California.

21 (9) Earthquake, aftershock, or any other related casualty
22 occurring in April 1992 in the County of Humboldt.

23 (10) Riots, arson, or any other related casualty occurring in
24 April or May 1992 in California.

25 (11) Any loss sustained as a result of the earthquakes or any
26 other related casualty that occurred in the County of San
27 Bernardino in June and July of 1992.

28 (12) Any loss sustained as a result of the Fountain Fire that
29 occurred in the County of Shasta, or as a result of either of the
30 fires in the Counties of Calaveras and Trinity that occurred in
31 August 1992, or any other related casualty.

32 (13) Any loss sustained as a result of storm, flooding, or any
33 other related casualty that occurred in the Counties of Alpine,
34 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
35 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
36 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
37 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
38 Fillmore in January 1993.

39 (14) Any loss sustained as a result of a fire that occurred in the
40 Counties of Los Angeles, Orange, Riverside, San Bernardino, San

1 Diego, and Ventura, during October or November of 1993, or any
2 other related casualty.

3 (15) Any loss sustained as a result of the earthquake, aftershocks,
4 or any other related casualty that occurred in the Counties of Los
5 Angeles, Orange, and Ventura on or after January 17, 1994.

6 (16) Any loss sustained as a result of a fire that occurred in the
7 County of San Luis Obispo during August of 1994, or any other
8 related casualty.

9 (17) Any loss sustained as a result of the storms or flooding
10 occurring in 1995, or any other related casualty, sustained in any
11 county of this state subject to a disaster declaration with respect
12 to the storms and flooding.

13 (18) Any loss sustained as a result of the storms or flooding
14 occurring in December 1996 or January 1997, or any related
15 casualty, sustained in any county of this state subject to a disaster
16 declaration with respect to the storms or flooding.

17 (19) Any loss sustained as a result of the storms or flooding
18 occurring in February 1998, or any related casualty, sustained in
19 any county of this state subject to a disaster declaration with respect
20 to the storms or flooding.

21 (20) Any loss sustained as a result of a freeze occurring in the
22 winter of 1998–99, or any related casualty, sustained in any county
23 of this state subject to a disaster declaration with respect to the
24 freeze.

25 (21) Any loss sustained as a result of an earthquake occurring
26 in September 2000, that was included in the Governor's
27 proclamation of a state of emergency for the County of Napa.

28 (22) Any loss sustained as a result of the Middle River levee
29 break in San Joaquin County occurring in June 2004.

30 (23) Any losses sustained as a result of the fires that occurred
31 in the Counties of Los Angeles, Riverside, San Bernardino, San
32 Diego, and Ventura in October and November 2003, or as a result
33 of floods, mudflows, and debris flows, directly related to fires.

34 (24) Any losses sustained in the Counties of Santa Barbara and
35 San Luis Obispo as a result of the San Simeon earthquake,
36 aftershocks, and any other related casualties.

37 (25) Any losses sustained as a result of the wildfires that
38 occurred in Shasta County, commencing August 11, 2004, and
39 any other related casualty.

1 (26) Any loss sustained in the Counties of Kern, Los Angeles,
2 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
3 and Ventura as a result of the severe rainstorms, related flooding
4 and slides, and any other related casualties, that occurred in
5 December 2004, January 2005, February 2005, March 2005, or
6 June 2005.

7 (27) Any loss sustained in the Counties of Alameda, Alpine,
8 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
9 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
10 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
11 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
12 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
13 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
14 the severe rainstorms, related flooding and slides, and any other
15 related casualties, that occurred in December 2005, January 2006,
16 March 2006, or April 2006.

17 (28) Any loss sustained in the County of San Bernardino as a
18 result of the wildfires that occurred in July 2006.

19 (29) Any loss sustained in the Counties of Riverside and Ventura
20 as a result of wildfires that occurred during the 2006 calendar year.

21 (30) Any loss sustained in the Counties of El Dorado, Fresno,
22 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
23 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
24 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
25 of the Governor's proclamations of a state of emergency for the
26 severe freezing conditions that occurred in January 2007.

27 (31) Any loss sustained in the County of El Dorado as a result
28 of wildfires that occurred in June 2007.

29 (32) Any loss sustained in the Counties of Santa Barbara and
30 Ventura as a result of the Zaca Fire that occurred during the 2007
31 calendar year.

32 (33) Any loss sustained in the County of Inyo as a result of
33 wildfires that commenced in July 2007.

34 (34) Any loss sustained in the Counties of Los Angeles, Orange,
35 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
36 as a result of wildfires that occurred during the 2007 calendar year
37 that were the subject of the Governor's disaster proclamations of
38 September 15, 2007, and October 21, 2007.

1 (35) Any loss sustained in the County of Riverside as a result
2 of extremely strong and damaging winds that occurred in October
3 2007.

4 (36) Any loss sustained in the Counties of Butte, Kern,
5 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
6 Shasta, and Trinity as a result of wildfires that occurred in May or
7 June 2008 that were the subject of the Governor's proclamations
8 of a state of emergency.

9 (37) Any loss sustained in the County of Santa Barbara as a
10 result of wildfires that occurred in July 2008.

11 (38) Any loss sustained in the County of Inyo as a result of the
12 severe rainstorms, related flooding and landslides, and any other
13 related casualties, that occurred in July 2008.

14 (39) Any loss sustained in the County of Humboldt as a result
15 of wildfires that commenced in May 2008.

16 (40) Any loss sustained in the Counties of Los Angeles and
17 Ventura as a result of wildfires that commenced in October 2008
18 or November 2008 that were the subject of the Governor's
19 proclamations of a state of emergency.

20 (b) (1) In the case of any loss allowed under Section 165 of the
21 Internal Revenue Code, relating to losses, any excess disaster loss
22 shall be carried forward to each of the five taxable years following
23 the taxable year for which the loss is claimed. However, if there
24 is any excess disaster loss remaining after the five-year period,
25 then the applicable percentage, as set forth in paragraph (1) of
26 subdivision (b) of Section 24416, of that excess disaster loss shall
27 be carried forward to each of the next 10 taxable years.

28 (2) The entire amount of any excess disaster loss as defined in
29 subdivision (c) shall be carried to the earliest of the taxable years
30 to which, by reason of subdivision (b), the loss may be carried.
31 The portion of the loss which shall be carried to each of the other
32 taxable years shall be the excess, if any, of the amount of excess
33 disaster loss over the sum of the net income for each of the prior
34 taxable years to which that excess disaster loss is carried.

35 (c) "Excess disaster loss" means a disaster loss computed
36 pursuant to Section 165 of the Internal Revenue Code, which
37 exceeds the net income of the year of loss or, if the election under
38 Section 165(i) of the Internal Revenue Code is made, the net
39 income of the year preceding the loss.

1 (d) The provisions of this section and Section 165(i) of the
2 Internal Revenue Code shall be applicable to any of the losses
3 listed in subdivision (a) sustained in any county or city in this state
4 which was proclaimed by the Governor to be in a state of disaster.

5 (e) Any corporation subject to the provisions of Section 25101
6 or 25101.15 that has disaster losses pursuant to this section, shall
7 determine the excess disaster loss to be carried to other taxable
8 years under the principles specified in Section 25108 relating to
9 net operating losses.

10 (f) Losses allowable under this section may not be taken into
11 account in computing a net operating loss deduction under Section
12 172 of the Internal Revenue Code.

13 (g) For losses described in paragraphs (15) to (40), inclusive,
14 of subdivision (a), the election under Section 165(i) of the Internal
15 Revenue Code may be made on a return or amended return filed
16 on or before the due date of the return (determined with regard to
17 extension) for the taxable year in which the disaster occurred.

18 ~~SEC. 7.~~

19 *SEC. 8.* It is the intent of the Legislature to provide in the
20 annual Budget Act those additional reimbursements to local
21 governments that, as a result of Section 45 of this act, are required
22 by Section 25 of Article XIII of the California Constitution.

23 ~~SEC. 8.~~

24 *SEC. 9.* The Legislature finds and declares that this act fulfills
25 a statewide public purpose because of all of the following:

26 (a) The Governor of California has officially proclaimed a state
27 of emergency declaring that the wildfires that occurred within the
28 Counties of Los Angeles and Ventura, commencing in October
29 2008 or November 2008, constitute conditions of extreme peril to
30 public health and safety to persons and property within that county,
31 thus qualifying affected persons for various forms of governmental
32 assistance and relief.

33 (b) This act is consistent with, and supplements, the proclaimed
34 disaster assistance and relief by providing necessary fiscal
35 assistance and tax relief to affected jurisdictions and persons to
36 allow them to maintain essential basic services and repair damage
37 to, and restore, their homes and businesses.

38 ~~SEC. 9.~~

39 *SEC. 10.* If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 *SEC. 11. This act shall become operative only if both Assembly*
5 *Bill 666 and Senate Bill 505 of the 2009–10 Regular Session of*
6 *the Legislature are enacted in 2009, in which case this act shall*
7 *become operative on the later of the effective date of this act or*
8 *the date on which both Assembly Bill 666 and Senate Bill 505 are*
9 *enacted.*

10 ~~SEC. 10.~~

11 *SEC. 12.* This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 In order to timely provide essential relief to those persons and
16 jurisdictions that have suffered damage or loss as a result of the
17 wildfires that occurred within the Counties of Los Angeles and
18 Ventura, commencing in October 2008 or November 2008, that
19 were the subject of the Governor's proclamations of a state of
20 emergency, it is necessary that this act take effect immediately.