

ASSEMBLY BILL

No. 50

Introduced by Assembly Member Nava

December 1, 2008

An act to amend Sections 218, 17207, and 24347.5 of, and to add Sections 195.146, 195.147, and 195.148 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 50, as introduced, Nava. Disaster relief: Santa Barbara County.

(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 County of Santa Barbara, which was declared by the Governor to be in a state of emergency due to the wildfires that commenced in November 2008.

By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing the County of Santa Barbara 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 November 13, 2008, that was damaged or destroyed by the wildfires in the County of Santa Barbara, as declared by the Governor in November 2008, and that has not changed ownership since November 13, 2008, 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 County of Santa Barbara as a result of the wildfires that commenced in 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) 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 195.146 is added to the Revenue and
2 Taxation Code, to read:

3 195.146. (a) By October 30, 2009, the auditor of the County
4 of Santa Barbara, which was the subject of the Governor's
5 proclamation of a state of emergency for wildfires that commenced
6 on November 13, 2008, shall certify to the Director of Finance an
7 estimate of the total amount of the reduction in property tax
8 revenues on both the regular secured roll and the supplemental
9 roll for the 2008–09 fiscal year resulting from the reassessment
10 by the county assessor pursuant to paragraph (1) of subdivision
11 (a) of Section 170 of those properties that are eligible properties
12 as a result of those disasters, except that the amount certified shall
13 not include any estimated property tax revenue reductions to school
14 districts, other than basic state aid school districts, and county
15 offices of education.

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

22 SEC. 2. Section 195.147 is added to the Revenue and Taxation
23 Code, to read:

24 195.147. After the county auditor of the eligible county, as
25 described in Section 195.146, has made the applicable certification
26 to the Director of Finance pursuant to that section, the director
27 shall within 30 days after verification of the county auditor's
28 estimate, certify this amount to the Controller for allocation to the
29 county. Upon receipt of certification from the Director of Finance,
30 the Controller shall make the appropriate allocation to the county
31 within 10 working days.

SEC. 3. Section 195.148 is added to the Revenue and Taxation Code, to read:

195.148. (a) On or before June 30, 2010, an eligible county, as described in Section 195.146, shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to Section 195.147, less the actual amount of its property tax revenue lost on the regular secured and supplemental rolls with respect to those eligible properties described in Section 195.146 as a result of the reassessment of those properties pursuant to paragraph (1) of subdivision (a) of Section 170, excluding any property tax revenue lost by school districts, other than basic state aid school districts, and county offices of education. If the actual amount of property tax revenue lost by an eligible county in the immediately preceding fiscal year, as described and limited in the preceding sentence, exceeds the amount allocated by the Controller to that county pursuant to Section 195.147, the Controller shall allocate the amount of that excess to that eligible county.

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

SEC. 4. Section 218 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

5 (B) "Dwelling" includes the following:

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

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

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

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

22 (d) Any dwelling that qualified for an exemption under this
23 section prior to October 20, 1991, that was damaged or destroyed
24 by fire in a disaster, as declared by the Governor, occurring on or
25 after October 20, 1991, and before November 1, 1991, and that
26 has not changed ownership since October 20, 1991, shall not be
27 disqualified as a "dwelling" or be denied an exemption under this
28 section solely on the basis that the dwelling was temporarily
29 damaged or destroyed or was being reconstructed by the owner.

30 (e) Any dwelling that qualified for an exemption under this
31 section prior to October 15, 2003, that was damaged or destroyed
32 by fire or earthquake in a disaster, as declared by the Governor,
33 during October, November, or December 2003, and that has not
34 changed ownership since October 15, 2003, shall not be
35 disqualified as a "dwelling" or be denied an exemption under this
36 section solely on the basis that the dwelling was temporarily
37 damaged or destroyed or was being reconstructed by the owner.

38 (f) Any dwelling that qualified for an exemption under this
39 section prior to June 3, 2004, that was damaged or destroyed by
40 flood in a disaster, as declared by the Governor, during June 2004,

1 and that has not changed ownership since June 3, 2004, shall not
2 be disqualified as a “dwelling” or be denied an exemption under
3 this section solely on the basis that the dwelling was temporarily
4 damaged or destroyed or was being reconstructed by the owner.

5 (g) Any dwelling that qualified for an exemption under this
6 section prior to August 11, 2004, that was damaged or destroyed
7 by the wildfires and any other related casualty that occurred in
8 Shasta County in a disaster, as declared by the Governor, during
9 August 2004, and that has not changed ownership since August
10 11, 2004, shall not be disqualified as a “dwelling” or be denied an
11 exemption under this section solely on the basis that the dwelling
12 was temporarily damaged or destroyed or was being reconstructed
13 by the owner.

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

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

38 (j) Any dwelling that qualified for an exemption under this
39 section prior to July 9, 2006, that was damaged or destroyed by
40 the wildfires and any other related casualty that occurred in the

1 County of San Bernardino, as declared by the Governor in July
2 2006, and that has not changed ownership since July 9, 2006, shall
3 not be disqualified as a “dwelling” or be denied an exemption
4 under this section solely on the basis that the dwelling was
5 temporarily damaged or destroyed or was being reconstructed by
6 the owner, or was temporarily uninhabited as a result of restricted
7 access to the property due to the wildfires.

8 (k) Any dwelling that qualified for an exemption under this
9 section prior to the commencement dates of the wildfires listed in
10 the Governor’s proclamations of 2006 that was damaged or
11 destroyed by the wildfires and any other related casualty that
12 occurred in the Counties of Riverside and Ventura, and that has
13 not changed ownership since the commencement dates of these
14 disasters as listed in the Governor’s proclamations of 2006 shall
15 not be disqualified as a “dwelling” or be denied an exemption
16 under this section solely on the basis that the dwelling was
17 temporarily damaged or destroyed or was being reconstructed by
18 the owner, or was temporarily uninhabited as a result of restricted
19 access to the property due to the wildfires.

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

34 (m) Any dwelling that qualified for an exemption under this
35 section prior to June 24, 2007, 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 El Dorado, as declared by the
38 Governor in June 2007, and that has not changed ownership since
39 June 24, 2007, shall not be disqualified as a “dwelling” or be denied
40 an exemption under this section solely on the basis that the

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

4 (n) Any dwelling that qualified for an exemption under this
5 section prior to July 4, 2007, that was damaged or destroyed by
6 the Zaca Fire and any other related casualty that occurred as a
7 result of this disaster in the Counties of Santa Barbara and Ventura,
8 as declared by the Governor in August 2007, and that has not
9 changed ownership since July 4, 2007, may not be denied an
10 exemption solely on the basis that the dwelling was temporarily
11 damaged or destroyed or was being reconstructed by the owner,
12 or was temporarily uninhabited as a result of restricted access to
13 the property due to the Zaca Fire.

14 (o) Any dwelling that qualified for an exemption under this
15 section prior to July 6, 2007, 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 Inyo, as declared by the Governor
18 in July 2007, and that has not changed ownership since July 6,
19 2007, may not be denied an exemption solely on the basis that the
20 dwelling was temporarily damaged or destroyed or was being
21 reconstructed by the owner, or was temporarily uninhabited as a
22 result of restricted access to the property due to the wildfires.

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

36 (q) Any dwelling that qualified for an exemption under this
37 section prior to October 20, 2007, that was damaged or destroyed
38 by the extremely strong and damaging winds and any other related
39 casualty that occurred as a result of this disaster in the County of
40 Riverside, as declared by the Governor in November 2007, and

1 that has not changed ownership since October 20, 2007, shall not
2 be disqualified as a “dwelling” or be denied an exemption under
3 this section 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 extremely strong and damaging winds.

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

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

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

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

(v) Any dwelling that qualified for an exemption under this section prior to November 13, 2008, that was damaged or destroyed by the wildfires and any other related casualty that occurred as a result of this disaster in the County of Santa Barbara, as declared by the Governor in November 2008, and that has not changed ownership since November 13, 2008, shall not be disqualified as a “dwelling” or be denied an exemption under this section 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 the wildfires.

~~(v)~~

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

SEC. 5. Section 17207 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (27) Any loss sustained in the Counties of Alameda, Alpine,
35 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
36 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
37 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
38 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
39 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
40 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of

1 the severe rainstorms, related flooding and slides, and any other
2 related casualties, that occurred in December 2005, January 2006,
3 March 2006, or April 2006.

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

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

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

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

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

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

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

26 (35) Any loss sustained in the County of Riverside as a result
27 of extremely strong and damaging winds that occurred in October
28 2007.

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

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

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

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

1 (40) Any loss sustained in the County of Santa Barbara as a
2 result of wildfires that commenced in November 2008.

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

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

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

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

29 (e) Losses allowable under this section may not be taken into
30 account in computing a net operating loss deduction under Section
31 172 of the Internal Revenue Code.

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

34 (g) For losses described in paragraphs (15) to ~~(39)~~ (40),
35 inclusive, of subdivision (a), the election under Section 165(i) of
36 the Internal Revenue Code may be made on a return or amended
37 return filed on or before the due date of the return (determined
38 with regard to extension) for the taxable year in which the disaster
39 occurred.

1 SEC. 6. Section 24347.5 of the Revenue and Taxation Code
2 is amended to read:

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

7 (1) Forest fire or any other related casualty occurring in 1985
8 in California.

9 (2) Storm, flooding, or any other related casualty occurring in
10 1986 in California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (34) Any loss sustained in the Counties of Los Angeles, Orange,
38 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
39 as a result of wildfires that occurred during the 2007 calendar year

1 that were the subject of the Governor's disaster proclamations of
2 September 15, 2007, and October 21, 2007.

3 (35) Any loss sustained in the County of Riverside as a result
4 of extremely strong and damaging winds that occurred in October
5 2007.

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

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

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

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

18 (40) *Any loss sustained in the County of Santa Barbara as a*
19 *result of wildfires that commenced in November 2008.*

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 ~~(39)~~ (40),
14 inclusive, of subdivision (a), the election under Section 165(i) of
15 the Internal Revenue Code may be made on a return or amended
16 return filed on or before the due date of the return (determined
17 with regard to extension) for the taxable year in which the disaster
18 occurred.

19 SEC. 7. 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 4 of this act, are required
22 by Section 25 of Article XIII of the California Constitution.

23 SEC. 8. The Legislature finds and declares that this act fulfills
24 a statewide public purpose because of all of the following:

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

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

36 SEC. 9. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made
39 pursuant to Part 7 (commencing with Section 17500) of Division
40 4 of Title 2 of the Government Code.

1 SEC. 10. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the Constitution and shall go into
4 immediate effect. The facts constituting the necessity are:
5 In order to timely provide essential relief to those persons and
6 jurisdictions who have suffered damage or loss as a result of the
7 wildfires that occurred within the County of Santa Barbara,
8 commencing in November 2008, that were the subject of the
9 Governor's proclamation of a state of emergency, it is necessary
10 that this act take effect immediately.