LEGISLATION PRESENTED FOR BOARD POSITION
March 29, 2005

Item No.	Bill Number	Author	Pg	Staff Recom	Comments
1	**AB 18**	LaMalfa	1	N	Disaster Loss Deduction/Excess Loss Carryover/Shasta County Wildfires
2	**AB 164**	Nava	2	N	Disaster Loss Deduction/Excess Loss Carryover/Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara & Ventura County Severe Rainstorms, Related Flooding, Slides, & Other Events
3	**AB 168**	Ridley-Thomas	3	N	California Tax Expenditure Accountability Act/Tax Expenditures Report
4	**AB 249**	DeVore	4	OUA	Allow Taxpayers With Capital Gains To Use Form 540 2EZ

(1) AB 18 (LaMalfa) As Amended March 3, 2005
SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/Shasta County Wildfires

<u>DIGEST</u> This bill would add the wildfires that occurred in Shasta County in August 2004 to the current list of specified disasters under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL). Thus, this bill would allow special treatment of losses sustained as a result of the Shasta County wildfires.

Nonbusiness disaster losses not reimbursed by insurance are deductible under state and federal tax law to the extent each loss exceeds $100. Total nonbusiness disaster losses are deductible only to the extent that the total loss amount for the year exceeds 10% of adjusted gross income. Special disaster treatment allows an impacted taxpayer to carry forward 100% of the excess disaster loss for up to fifteen taxable years.

On August 23, 2004, the Shasta County wildfires were proclaimed to be a disaster by Governor Schwarzenegger; President Bush did not declare these fires to be a federal disaster. As a non-presidential declared disaster, a taxpayer could claim the disaster loss beginning with the 2004 taxable year.

This bill is an urgency measure and would be effective and operative immediately upon enactment.

<u>COMMENTS</u> None

<u>REVENUE IMPACT</u>

Estimated Revenue Impact of AB 18 Taxable Years Beginning On or After January 1, 2005 Fiscal Year Impact		
2005-06	**2006-07**	**2007-08**
Insignificant	Insignificant	Insignificant

Insignificant = Loss of less than $150,000

Staff Recommendation: Staff is neutral.

Status: Assembly Appropriations Committee

(2) AB 164 (Nava) As Amended March 8, 2005
<u>SUBJECT</u>: Disaster Loss Deduction/Excess Loss Carryover/Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, & Ventura County Severe Rainstorms, Related Flooding, Slides, & Other Events

<u>DIGEST</u> This bill would add the severe rainstorms, flooding, debris flows, and mudslides that occurred in Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties in December 2004 and January 2005 to the current list of specified disasters under the PITL and the CTL. Thus, this bill would allow special treatment of losses sustained as a result of those disasters.

Nonbusiness disaster losses not reimbursed by insurance are deductible under state and federal tax law to the extent each loss exceeds $100. Total nonbusiness disaster losses are deductible only to the extent that the total loss amount for the year exceeds 10% of adjusted gross income. Special disaster treatment allows an impacted taxpayer to carry forward 100% of the excess disaster loss for up to fifteen taxable years.

Due to President Bush's disaster declaration for Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties, this bill would allow a taxpayer to elect to claim the loss either in the year the loss occurred or in the year preceding the loss.

This bill is an urgency statute and would be effective and operative immediately upon enactment. Due to the President's declaration, taxpayers could begin claiming the loss by amending their 2003 tax return.

<u>COMMENTS</u> None

<u>REVENUE IMPACT</u>

Estimated Revenue Impact of AB 164 Assumed Immediate Enactment Date Fiscal Year Impact		
2005-06	**2006-07**	**2007-08**
Insignificant	Insignificant	Insignificant

Insignificant = Loss of less than $150,000

Staff Recommendation: Staff is neutral.

Status: Assembly Revenue and Taxation Committee

(3) AB 168 (Ridley-Thomas) As Amended March 10, 2005
SUBJECT: California Tax Expenditure Accountability Act/Tax Expenditures Report

DIGEST This bill would require Franchise Tax Board (FTB) and Board of Equalization (BOE) to provide reports on tax expenditures to the Legislative Analyst's Office (LAO), Department of Finance (DOF), and the Legislature. The reports would be based on static revenue analysis and would address tax expenditures administered by each department. The reports would be required from each department annually beginning on or before November 15, 2006.

This bill also would require DOF to provide a report on tax expenditures to LAO and the Legislature. The report would be based on a dynamic revenue analysis and include a comparison of the reports submitted by FTB and BOE. The report would be required annually beginning on or before February 1, 2007.

This bill would require LAO to review the tax expenditure reports provided by FTB, BOE, and DOF and make recommendations to the legislature regarding which tax expenditures should be modified or repealed.

This bill would be effective January 1, 2006.

COMMENTS None

REVENUE IMPACT This bill would not impact the state's income tax revenue.

Staff Recommendation: Staff is neutral.

Status: Assembly Appropriations Committee

(4) AB 249 (DeVore) As Amended February 8, 2005
<u>SUBJECT</u>: Allow Taxpayers With Capital Gains To Use Form 540 2EZ

<u>DIGEST</u> For purposes of the Form 540 2EZ, this bill would amend the term "total income" to include capital gains along with the existing taxable wages, dividends, interest, and pension income. As a result, this bill would permit taxpayers who have capital gain income and meet the other existing filing requirements to use Form 540 2EZ.

Capital gains or losses are the gains or losses from the sale or exchange of capital assets. The gain or loss is characterized as either short-term or long-term depending on how long the asset was held by the taxpayer.

This bill would be effective and operative January 1, 2006.

<u>COMMENTS</u> This bill would increase the number of taxpayers who could use Form 540 2EZ and report capital gains or losses by approximately175,000 taxpayers.

This bill does not address whether the modified Form 540 2EZ would be required to permit reporting of capital gain or loss adjustments because of differences between federal and California laws for basis or capital losses. It appears capital gain adjustments would be required for taxpayers using the Form 540 2EZ. Taxpayers would be required to complete and attach a schedule explaining the adjustments. Taxpayers also would be asked to attach their federal Schedule D and federal Form 1040. In addition, taxpayers who report capital gains or losses might be subject to AMT and would also need to complete and attach a California Schedule P. Use of schedules and attachments is inconsistent with the purpose of the Form 540 2EZ.

The changes that would be made to the Form 540 2EZ by this bill would cause the Form 540 2EZ to resemble Form 540A in appearance, functionality, and complexity. Consequently, the simplicity of the form may be defeated.

While permitting a greater number of taxpayers to utilize the Form 540 2EZ, this bill would complicate the Form 540 2EZ for the approximately 1.7 million taxpayers for whom it was created and utilize it.

The general policy in favor of conformity of California tax laws with federal tax laws allows the California tax returns to be based on the federal tax returns. If the Form 540 2EZ is required to include reporting of capital gains and losses, taxpayers would now have a reportable income item on the Form 540 2EZ that cannot be reported on the federal Form 1040EZ.

Allowing additional taxpayers to use the Form 540 2EZ would run counter to FTB's strategic plan by expanding a paper filing option when the department's long-term strategic goal is to encourage taxpayers to e-file.

<u>REVENUE IMPACT</u> This bill would not impact the state's income tax revenue.

Staff Recommendation: Oppose unless amended to become a study bill.

Status: Assembly Appropriations Committee