Senate Bill No. 410

(By Senators Prezioso and Beach)

[Introduced January 24, 2012; referred to
the Committee on the Judiciary; and then to
the Committee on Finance.]

A BILL to amend and reenact §11-21-77 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and requiring backup withholding on certain gambling winnings.

Be it enacted by the Legislature of West Virginia:

That §11-21-77 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

§11-21-77. Extension of withholding to certain lottery winnings.

(a) *Lottery winnings subject to withholding.* — Proceeds of more than $5,000 from any lottery prize awarded by the

West Virginia State Lottery Commission ~~shall be~~ is subject to withholding. The ~~West Virginia state Lottery~~ commission in making any payment of a lottery prize subject to withholding shall deduct and withhold from ~~such~~ the payment a tax in an amount equal to six and one-half percent of ~~such~~ the payment.

(b) *Statement by recipient.* — Every person who is to receive payment of ~~winning~~ winnings which are subject to withholding shall furnish the person making ~~such~~ the payment a statement made under the penalties of perjury, containing the name, address and taxpayer identification number of the person receiving the payment and each person entitled to any portion of ~~such~~ the payment.

(c) *Coordination with other sections.* — For the purposes of determining liability for payment of taxes and filing of returns, payments of winnings which are subject to withholding shall be treated as if they were wages paid by an employer to an employee.

(d) *Backup withholding.* — Every person who is required to file Internal Revenue Service form W-2G, and who is subject to backup withholding under federal law, is subject to West Virginia backup withholding. The payor in making

<u>any payment of a gambling prize subject to backup withholding shall deduct and withhold from the payment a tax in an amount equal to six and one-half percent of the payment.</u>

(NOTE: The purpose of this bill is to make West Virginia law consistent with federal law on withholding of personal income tax on gambling winnings.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)