

1 **Senate Bill No. 410**

2 (By Senators Prezioso and Beach)

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

6 _____
7
8
9
10 A BILL to amend and reenact §11-21-77 of the Code of West Virginia,
11 1931, as amended, relating to personal income tax; and
12 requiring backup withholding on certain gambling winnings.

13 *Be it enacted by the Legislature of West Virginia:*

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

16 **ARTICLE 21. PERSONAL INCOME TAX.**

17 PART I. GENERAL.

18 **§11-21-77. Extension of withholding to certain lottery winnings.**

19 (a) *Lottery winnings subject to withholding.* -- Proceeds of
20 more than \$5,000 from any lottery prize awarded by the West
21 Virginia State Lottery Commission ~~shall be~~ is subject to
22 withholding. The ~~West Virginia state Lottery~~ commission in making
23 any payment of a lottery prize subject to withholding shall deduct
24 and withhold from ~~such~~ the payment a tax in an amount equal to six

1 and one-half percent of ~~such~~ the payment.

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

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

12 (d) Backup withholding. -- Every person who is required to
13 file Internal Revenue Service form W-2G, and who is subject to
14 backup withholding under federal law, is subject to West Virginia
15 backup withholding. The payor in making any payment of a gambling
16 prize subject to backup withholding shall deduct and withhold from
17 the payment a tax in an amount equal to six and one-half percent of
18 the payment.

(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.)