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Defendants.

[illegible]

From Wake County

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MOTION FOR EXTENSION OF TIME

TO FILE AND SERVE DEFENDANT-APPELLANT'S

NEW BRIEF

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Defendant-Appellant the State of North Carolina moves the Court pursuant to Rule 27(c) of the North Carolina Rules of Appellate Procedure for an extension of time in which to file its New Brief in this matter. In support of this motion, Defendant-Appellant shows:

1. This Court's Order allowing the State's petition for discretionary review was docketed on 8 March 2013.

2. Pursuant to Rule 15(g)(2) of the North Carolina Rules of Appellate Procedure, the State's New Brief is due on or before 8 April 2013. The time to file the State's New Brief has not yet expired.

3. Defendant-Appellant's counsel recently received notice from the United States Supreme Court requesting the State to file a response to the petition for a writ of certiorari in *Sandhill Amusements, Inc. v. State of North Carolina* (Docket No. 12-973). That petition seeks review of this Court's decision entered on 14 December 2012 upholding the constitutionality of N.C.G.S. § 14-306.4, which bans the operation of electronic machines that conduct sweepstakes through the use of an entertaining display. Additionally, counsel has pre-existing medical and personal leave scheduled over the next several weeks. As a result, counsel requires additional time to prepare and file the State's brief in this case. Defendant-Appellant has not previously requested an extension in this matter.

4. Counsel for the Plaintiff-Appellees, as well as counsel for the Defendant-Appellee State Board of Education, have both granted permission to indicate in this Motion that they do not oppose the requested extension.

WHEREFORE, Defendant-Appellant moves the Court to enter an order extending the time for filing the Defendant-Appellant's New Brief by thirty (30) days, through and including 8 May 2013.

Respectfully submitted, this the 22<sup>nd</sup> day of March, 2013.

ROY COOPER  
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **MOTION FOR EXTENSION OF TIME TO FILE AND SERVE DEFENDANT-APPELLANT'S NEW BRIEF** upon all other parties to this cause by:

- ☐ Hand delivering a copy hereof to each said party or to the attorney thereof;
- ☐ Transmitting a copy hereof to each said party via facsimile transmittal; or
- ☒ Depositing a copy hereof, first class postage pre-paid in the United States mail, properly addressed to:

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This the 22<sup>nd</sup> day of March, 2013.

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