

NC Council of Chapters Quarterly Meeting
Saturday 3 November 2012

Draft A G E N D A

<u>TIME</u>	<u>SUBJECT</u>	<u>RESPONSIBILITY</u>
0830	Welcome	LTC Garman
0832	Invocation	Piedmont NC Chapter
0835	Pledge of Allegiances	MAJ Aimee Corning
0837	Roll Call & Minutes	LTC Leslie Petty
0845	Treasurer's Report	CDR Jack Overman, Treasurer
0855	Public Affairs & Web Operations	Capt Doug Ehrhardt
0920	Membership Report	COL Jeri Graham
0945	Ongoing Actions	LTC Garman
1000	Break	
1015	Federal Retiree Task Force	CAPT Ira Schwarz
1045	Fourth Branch	COL Fred Black
1115	1st Quarterly Meeting	CPT Marie Senzig
1130	Adjourn	

August 18, 2012

MEMORANDUM For: Chapter Presidents and Council Officers

FROM: LTC Robert Garman, USA, Ret, Council President

SUBJECT: Welcome to the Quarterly Council Meeting

Changes are taking place in Washington as the new fiscal year budget is being worked on by both houses of Congress. How these budget actions affect our benefits is yet to be determined. MOAA National is fighting hard to keep DOD from enacting the fees on Health Care as contained in the DOD Budget proposal. However, MOAA thinks that some additional cost will be placed on active and retiree Health care despite our best efforts. The big question is the sequestration effect on the DOD Budget if Congress fails to act before the deadline for it to go into effect. The doctor fix is still hanging around for a real solution. Last but not least is the November election and what changes it will bring for everybody.

We have launched our NC Council Convention at Sea for the period 13 Feb-18 Feb 2013. Vice Admiral Norb Ryan, President of MOAA National, has been asked to attend the Convention and if he cannot attend, to designate someone from the staff to participate. The two previous Conventions at Sea were well attended and enjoyed by all MOAA Members. It is my hope that this cruise will be equally enjoyable as well as informative. The purpose of the Convention is for MOAA Members from across North Carolina to get to know each other and to form lasting friendships as we cruise the Atlantic Ocean.

All chapters are experiencing membership losses, low turnouts at meetings, and a problem in obtaining members to take on the leadership positions. MOAA National is starting a new program to assist Chapters in recruiting new members that includes E-mails to all MOAA National members who do not belong to your chapters as well as the Cover Wrap of the Military Officer magazine. It is hoped that the Presidents Innovations period today will highlight some actions used successfully by some chapters to recruit and/or maintain chapter membership.

While Congress is on their August recess, it is a good time for each of us to make contact with our representatives while they are at home and present the three MOAA issues to them for consideration. Issue #1: Avoid Catastrophic Sequestration Cuts. Issue #2: Resist undermining crucial Military Career Incentives. Issue #3: Support Senate Defense Bill Amendments. MOAA provided fact sheets on each of these subjects in the Legislative Update dated 27 July 2012.

I thank you for all you do for MOAA.



NORTH CAROLINA COUNCIL OF CHAPTERS
MILITARY OFFICERS ASSOCIATION OF AMERICA



Treasurer's Report to the N.C. Council
October 26, 2012

<u>Balance Forward</u>	\$4273.47
<u>Expenditures:</u>	
Check to NC Coalition on Ageing	30.00
Check to Les Petty (Sec expenses)	59.50
Check to WNNC Meeting expenses	153.35
Check to Lost Province Productions re WEB Hosting	600.00
Total Expenditures	\$ 842.85
<u>Subtotal</u>	\$3430.62
<u>Cash in</u>	
No cash in this quarter	
Total cash in	\$00.00
<u>Balance on hand</u>	\$3430.62

Respectfully submitted this date by

CDR William J. "Jack" Overman, Jr. USN (Ret) Treasurer



NORTH CAROLINA COUNCIL OF CHAPTERS
MILITARY OFFICERS ASSOCIATION OF AMERICA



November 3, 2012

To: LTC Robert Garman, USA Ret
 From: CDR W. J. Overman, Jr. USN (Ret)
 Subject: NC Council of Chapters MOAA 2012 Budget

The 2013 budget for the NC State Council of Chapters is hereby proposed:

EXPENSES

Council meeting break room and refreshment expenses estimated at \$300 per meeting for four quarterly meetings	\$1200
Salary for Council web master	0
Web hosting cost:	150
Veterans Council Dues (annual):	100
North Carolina Coalition on Ageing:	30
Secretarial expenses including postage:	350
Donation to The 4 th Branch	<u>500</u>
Total expenses for 2013	\$2330

INCOME:

Income at \$1.50 per-person on each chapter's 2012 roll as of December 31, 2012 estimated at 1604 members:	\$2406
Sub-Total: (Positive)	\$76

CHECK BOOK BALANCE:

Balance as of 3 November 2012:	\$3430.62
Plus a positive budget balance of	<u>76.00</u>
Total estimated end of year (2013):	\$3506.62
Final Totals estimated budget for 2012:	\$2330.00

Respectfully; CDR W. J. Overman, Jr. USN (Ret)

NORTH CAROLINA COUNCIL OF CHAPTERS

Statistics as of:
26-Oct-12

	Give me 10 Free	Give me 10 Paid	Give me 10 Life	Chap Life Conv	Outreach Credit	TOTAL
Cape Fear (NC 01)	11	1	0	0	0	12
Coastal Carolina (NC 02)			0	0	0	0
Eastern Carolina (NC03)	2	1	0	0	0	3
Carolina - Metrolina (NC 04)	10	1	0	0	0	11
Sandhills (NC06)	0	1	0	0	0	1
Southeastern (NC 07)	2	0	0	0	0	2
Tarheel Central (NC08)	9	0	0	0	0	9
Triangle (NC 09)	0	0	0	0	0	0
Western (NC 10)	0	1	0	0	0	1
Catawba Valley (NC 11)	0	0	0	0	0	0
Durham-Orange (NC 12)	0	0	0	0	0	0
COL Lloyd A. Osborne (NC 14)	33	0	0	0	0	33
First Flight (NC 17)	1	0	0	0	0	1
Central Carolina (NC 20)	0	0	0	0	0	0
High Country (NC 21)	2	0	0	0	0	2
New River (NC 22)	1	1	0	0	0	2
TOTALS	71	6				77

NCCOC GMT REPORT Comparing Aug to Oct-12

Red=no data either quarter

Green= data both quarters

Yellow= data either quarter

Give	Give	Give	Chap	Outreach	TOTAL
me 10	me 10	me 10	Life	Credit	
Free	Paid	Life	Conv		

Cape Fear (NC 01)	Green
Coastal Carolina (NC 02)	Red
Eastern Carolina (NC03)	Green
Carolina - Metrolina (NC 04)	Green
Sandhills (NC06)	Yellow
Southeastern (NC 07)	Green
Tarheel Central (NC08)	Green
Triangle (NC 09)	Red
Western (NC 10)	Green
Catawba Valley (NC 11)	Red
Durham-Orange (NC 12)	Red
COL Lloyd A. Osborne (NC 14)	Green
First Flight (NC 17)	Green
Central Carolina (NC 20)	Red
High Country (NC 21)	Green
New River (NC 22)	Green

TOTALS	Overall increase from 55 to 77	HURRAY
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Prepared by COL (Ret) Jeri Graham your comments please



North Carolina Council of Chapters

Adapting the Balanced Scorecard.

The journey begins!

November 2-3, 2012

Greensboro, NC



Recommended Reading:

- * Search “Balanced Scorecard”

- * *Balanced Scorecard*

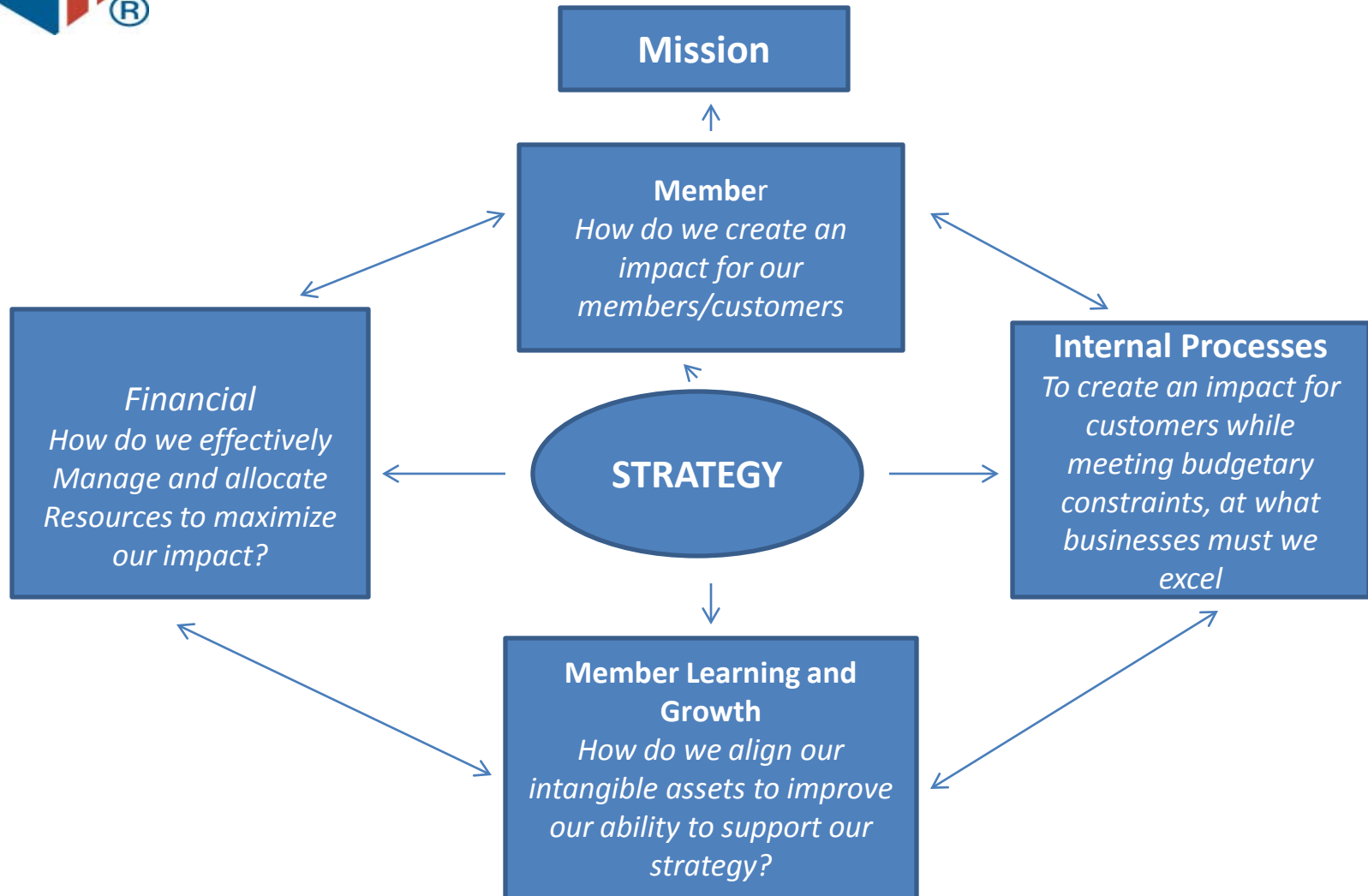
 - Step by Step*

 - for Government and Nonprofit Agencies*

- * **Balanced Scorecard Institute in Cary, NC (a potential to obtain consultant pro bono)**



The Balanced Scorecard Basics



Group Work Begins



– *Our work for today.....*

- *Define our NCCOC Mission*
- *Define a Chapter level Mission*
- *Define our Strategy (NCCOC and Chapter level)*
- *Identify BSC Development Team*



CHRONOLOGY OF LITIGATION & LEGISLATION

STRUGGLE FOR LAWFUL TAX TREATMENT
N. C. RESIDENT FEDERAL RETIREES
AND
STATE AND LOCAL GOVERNMENT RETIREES

MARCH 28, 1989 U. S. Supreme Court ruled unconstitutional federal retiree discrimination by states that tax federal but not state retirees.

APRIL 10, 1989 N. C. Attorney General opinion issued stating taxation unconstitutional but that GS 105-267 applies, and that demand for refund must be made within 30 days of payment in order to recover. This opinion disregarded Department of Revenue guidance to all taxpayers in individual tax instructions “Refunds can be obtained within three (3) years.”

APRIL 14, 1989 Federal retirees (class A) file class action suit *Swanson v. Powers* in Federal District Court, Eastern District of North Carolina and demand refunds from State Government, which are denied.

AUGUST 12, 1989 N. C. Legislature, without apparent involvement, opposition, or provision of legal opinion by N. C. Attorney General, removes from state and local government retirees, and those vested in the retirement program, retroactively their exemption from N. C income tax existent since about 1941.

FEBRUARY 20, 1990 Federal Court suit is amended to include active duty and reserve military personnel (class B) required to pay taxes to N.C., whereas National Guard is allowed a \$1500 exemption.

FEBRUARY 26, 1990 State and local government retirees and those vested in the retirement program file *Bailey v. State of North Carolina* suit in N.C. Superior Court challenging state action which retroactively removed their tax exemption.

MARCH 16, 1990 Federal retirees (class A plaintiffs), and active military (class B), file suit in N.C. Superior Court.

AUGUST 15, 1990 U.S. District Court Eastern District N.C., Judge Malcolm J. Howard issues order which: (1) Denied Monetary Relief, (2) Found State Remedy Inadequate, (3) Held Secretary of Revenue Powers Personally Liable. Liability of Secretary Powers is appealed.

AUGUST 17, 1990 N.C. Superior Court Judge Samuel T. Currin grants class certification in federal retiree and active military suit. State appeals.

OCTOBER 3, 1990 N.C. Superior Court Judge Samuel T. Currin orders refunds to federal class as follows: class A, tax years 1985-1988; class B, tax years 1986-1989. State appeals.

OCTOBER 16, 1990 N.C. Superior Court Judge I. Beverly Lake, Jr. grants class certification in state retiree suit. State appeals.

NOVEMBER 2, 1990 N.C. Superior Court Judge I. Beverly Lake, Jr. rules legislature violated State Constitution – Art. 1, Sec.16, by retroactively taxing state retirees, orders refund of 1989 taxes, and enjoins state from taxing 1990 and future benefits. State appeals.

DECEMBER 31, 1990 N.C. Superior Court Judge I. Beverly Lake, Jr., stayed decision pending appeal; ordered no use of GS 105-267 (30 day rule).

MARCH 8, 1991 N.C. Superior Court Judge Narley L. Cashwell orders: (1) no jeopardy to federal retirees by using tax credit for 1988 taxes paid on federal retirement income, and (2) federal retirees are entitled to the same benefits as state retirees (re.1989 and beyond taxes). State appeals.

MAY 7, 1991 N.C. Supreme Court hears arguments in federal retiree and military active duty and reserve (Swanson) suit.

MAY 8, 1991 N.C. Supreme Court hears arguments in state and local government and vested employees (Bailey) suit.

JUNE 20, 1991 U.S. Supreme Court decides *James B. Beam Distilling Co. v. Georgia*, No. 89-680. Retroactive relief must be granted as to unconstitutionally collected taxes. (Copy forwarded to N.C. Supreme Court).

JUNE 25, 1991 U.S. Fourth Circuit Court of Appeals reverses U.S. District Court on personal liability of Secretary of Revenue Powers.

JUNE 28, 1991 U.S. Supreme Court remands *Bass v. State of South Carolina* (South Carolina federal retiree suit) and *Harper v. Virginia Department of Revenue* (Virginia federal retiree suit), in light of decision in *Beam Distilling*, for reconsideration of refunds to federal retirees.

AUGUST 14, 1991 N.C. Supreme Court, in a four to three decision, overturns lower court ruling; holding that *Davis* is to be applied prospectively only, and taking judicial notice of state financial difficulties.

SEPTEMBER 17, 1991 Federal retirees (class A) and active military (class B), file petition for rehearing before N.C. Supreme Court, claiming the majority erred in its application of *Beam Distilling* and other decisions, and in ordering dismissal of claims not yet litigated.

DECEMBER 6, 1991 N.C. Supreme Court grants rehearing and simultaneously issues decision upholding previous reversal of lower court in Swanson suit.

DECEMBER 6, 1991 N.C. Supreme Court, in a 6 to 1 decision, rules that Bailey suit is not valid since state retirees did not comply with letter of G.S. 105-267.

MARCH 4, 1992 Petition for a Writ of Certiorari (Appeal) submitted to the Supreme Court of the United States in both the Swanson and Bailey suits.

MAY 18, 1992 U.S. Supreme Court agrees to hear the Virginia Federal Retiree suit (Harper) and holds N.C. suit (Swanson) for later consideration. The Court then declines to hear the Bailey suit, thus allowing the N.C. Supreme Court ruling to stand.

JULY 17, 1992 1. Amicus Curiae Brief submitted to U.S. Supreme Court on behalf of Federal Retirees in the States of Kansas, Arkansas, North Carolina, Montana, South Carolina, New York, Utah, Alabama and Arizona in support of Harper (Virginia) suit. 2. Amicus submitted on behalf of Military Coalition. 3. Amicus submitted by attorneys for Jim Beam asserting that even when the Supreme Court has ruled, states refuse to make refunds.

OCTOBER 2, 1992 A group of 75 State and local government retirees file a second suit in N.C. Superior Court (BAILEY II) claiming, among other things, that the State breached an implied contract when in August 1989 they unilaterally removed their State income tax exemption. The intent in the new suit is to comply fully with all aspects of GS 105-267, thus allowing the State no retreat from the legal issues.

DECEMBER 2, 1992 U.S. Supreme Court hears arguments in *Harper v. Virginia Department of Revenue*.

JUNE 18, 1993 U.S. Supreme Court issues decision in *Harper v. Virginia Department of Taxation*, No. 91-794. Writing for the majority in a 7 – 2 decision, Justice Thomas says that states must provide retroactive relief where no pre-deprivation procedure is afforded.

JUNE 28, 1993 U.S. Supreme Court vacates the N.C. Supreme Court decision in the Swanson suit and “remands for further consideration in light of Harper.”

MARCH 4, 1994 N.C. Supreme Court, in a 5 – 2 decision, decides that Federal Retirees are not entitled to refunds because they failed to comply with GS 105-267.

OCTOBER 10, 1994 N.C. Superior Court Judge Jack A. Thompson orders Bailey II (State Retiree Suit) certified as a Class Action.

DECEMBER 6, 1994 U.S. Supreme Court decides in Georgia federal retiree case (*Reich v. Georgia*) in favor of retirees. Case is reversed and remanded back to the State of Georgia.

DECEMBER 12, 1994 U.S. Supreme Court “DENIED” Plaintiffs’ petition for Writ of Certiorari, thus letting the N.C. Supreme Court decision stand in the federal retiree suit (Swanson).

MARCH 6, 1995 Federal Fourth Circuit Court of Appeals affirms District Court ruling that the N.C. Supreme Court could ignore Judge Howard’s ruling.

MAY 23, 1995 *Patton v. North Carolina* suit filed on behalf of federal retirees covering tax years 1989 and forward. Suit was put on “hold”, pending decision in the State retiree case (Bailey).

MAY 31, 1995 North Carolina Superior Court Judge Jack A. Thompson rules in favor of State retirees in the Bailey case. In his ruling, he declared the 12 August 1989 legislation that withdrew the tax exemption from State retirees, “a nullity, void and unenforceable”.

AUGUST 3, 1996 Legislature ratifies House Bill 30; “An Act To Refund To Federal Retirees The Unconstitutional Taxes They Paid On Their Pensions For Tax Years 1985 Through 1988”.

SEPTEMBER 12, 1996 N.C. Supreme Court hears oral argument in *Bailey v. North Carolina* (State retiree case). Disability retiree case (Fulkenberry) argument heard on same day.

APRIL 11, 1997 N.C. Supreme Court rules for Disabled Retirees in Faulkenbury, affirming the Trial Court decision and remanding to the Superior Court for further proceedings.

AUGUST 28, 1997 N.C. General Assembly passes bill “Relief For Federal Retirees” (vote: Senate 46-0; House 109-1) granting and extending the period for carry-over of unused credits, and allowing credits to the heirs of deceased retirees who died prior to receipt of all credits to which the deceased would have been due.

MAY 8, 1998 N.C. Supreme Court (Justice I. Beverly Lake, Jr. writing for the majority) in this 7 – 0 opinion upholds lower court ruling that contractual rights of State retirees was violated by the repeal of the tax exemption.

In addition, the Court holds that the purpose of GS 105-267 is met after the “first” Protest and certainly when the suit was filed, and therefore requiring every taxpayer to Protest is “...elevating form over substance....” Justices Webb and Frye did not concur in this portion of the decision.

MAY 18, 1998 The N.C. Supreme Court issues a clarification of its May 8 opinion, stating that any state or local government employee having five years of creditable government service as of August 12, 1989 is exempt from payment of State income tax on retirement benefits, regardless of when he retires.

JUNE 10, 1998 Federal, State and local government retirees successfully conclude a protracted negotiation resulting in the settlement of all existing public employee/retiree litigation in the Bailey, Emory and Patton cases. Judge Jack A. Thompson signs a Consent Order granting tentative approval of Settlement.

The Settlement provides a N.C. State income tax exemption to all federal, N.C. State or N.C. local government employees having five years creditable service on 12 August 1989, and sets up a Common Fund (under the control of the Court) of \$799 Million to pay refunds for tax years 1989 – 1997.

OCTOBER 9, 1998 N.C. Superior Court Judge Jack A. Thompson enters the Order Approving Class Action Settlement, giving final approval to the tentative Settlement reached 10 June 1998. In late 1998 and early 1999, Judge Thompson supplemented the Order Approving Class Action Settlement with various orders specifying the Federal, State and local governmental retirement plans included in the Settlement.

NOVEMBER 25, 1998 N.C. Superior Court Judge Jack A. Thompson approves a Plan of Settlement Administration that sets a budget and details the duties of Plaintiffs' Counsel, the Court-appointed Referee, the Independent Accountant, and the Settlement Administration Organization.

MARCH 26, 1999 N.C. Superior Court Judge Jack A. Thompson enters an order directing Class Counsel to make an initial distribution to Class Members of one-half of the expected total refund amount. This order permitted Class Members to receive a partial refund prior to the filing of all claims.

APRIL 23, 1999 N.C. Superior Court Judge Jack A. Thompson confirms that the effective date of the Settlement was 1 July 1998 and that interest on the first payment by Defendants ran from that date. The Defendants appealed the resulting order, asserting that interest began to accrue no earlier than 9 October 1999, the date of the Order Approving Class Action Settlement. The N.C. Supreme Court resolved the appeal on 7 April 2000 by affirming Judge Thompson's order.

SEPTEMBER 10, 1999 N.C. Superior Court Judge Jack A. Thompson confirms that government employees who left government service but who never retired under an included governmental retirement plan were not Class Members for purposes of participating in the Settlement Fund. The Defendants appealed the related order. The N.C. Supreme Court resolved the appeal on 16 June 2000 by affirming Judge Thompson's order.

DECEMBER 31, 1999 Last day for Class Members to file a claim with the Settlement Administration Organization. N.C. Superior Court Judge Jack A. Thompson subsequently directed that Class Members who showed good cause for failing to meet the claims deadline could participate in distributions under the Settlement.

MARCH 24, 2000 N.C. Superior Court Judge Jack A. Thompson orders a fee award of 8% of the initial Settlement amount with one-half payable within 20 days of the order and one-half payable when Class Members received their final distribution. The Attorney General appealed this order. The appeal was later dismissed by the N.C. Supreme Court due to the Attorney General's lack of standing to take the appeal in the first place.

JANUARY 22, 2001 N.C. Superior Court Judge Jack A. Thompson orders the final disbursement of refunds to qualified Class Members, resulting in the average qualified Class Member receiving more than 118% of the taxes paid on benefits from included governmental retirement plans. A supplemental fee award is made in light of this extraordinary recovery.

MARCH 2001 The final distribution from the Settlement Fund is made to qualified Class Members. Total refunds to qualified Class Members exceed \$790 million of the \$799 million Settlement. Fees and Settlement administration costs are paid in large measure by earnings on the Settlement Fund.

MAY 9, 2002 N.C. Superior Court Judge Jack A. Thompson directs that the small residuary remaining in the Settlement Fund be transferred to The 4th Branch, a nonprofit organization representing the interests of government retirees.

MAY 17, 2002 N.C. Superior Court Judge Jack A. Thompson enters the Final Order. The Order directed that the case file be closed effective 30 June 2002, bringing to an end more than thirteen years of litigation.

The 4th Branch History & Background

The United States Supreme Court decision, declaring state income tax schemes that tax federal but not state retirees discriminatory, known as *Davis v. Michigan*, issued on March 28, 1989, triggered activity in 24 states throughout this Nation. In North Carolina the lengthy effort to correct tax injustice to government retirees, State, Local Government and Federal (military and civil service), has taken many years. Even the Bailey settlement, which provided equitable treatment for government retirees who had five or more years of creditable service toward retirement as of August 12, 1989, excluded employees who failed to meet that five-year requirement.

Early in the struggle to achieve fair and equitable treatment for all government retirees, it became clear that efforts on behalf of this large group would be severely diminished if they were not pulling together. Opposition would certainly try to "divide & conquer." In mid 1995 leading retiree members got together and formed The 4th Branch. This organization was not intended to diminish in any way the efforts of the numerous government retiree organizations already working toward improving benefits for their constituents. The 4th Branch simply became a Coalition of retirement organizations, with a stated purpose of serving as an information highway. Information about proposed tax legislation and activities affecting retired and active employees of the Federal, State, and Local governments is collected and distributed throughout the State. Information is provided about where elected officials and candidates stand on various issues of interest.

This "Coalition" provided very valuable assistance to the effort to negotiate "a reasonable settlement with the State following the NC Supreme Court decision in the Bailey Case. It further served to monitor and support the lengthy settlement process following the successful negotiation. During each of the frequent Court hearings to review progress of the settlement, many representatives from The 4th Branch attended. This showing of support was a key factor in demonstrating to the court and to the public the way this very large and diverse group was united behind this effort. Following each Court hearing The 4th Branch met over lunch, heard more detailed reports, and held discussions regarding the efforts on behalf of the represented organizations. On many of these occasions, candidates for executive, legislative, or judicial office addressed the assembled group.

The 4th Branch was incorporated in the State of North Carolina on November 28, 2000 and was granted non-profit status by the federal IRS as a 501-c (5) organization. In May of 2002 Superior Court Judge Jack A. Thompson, who oversaw the settlement in the Bailey Case, awarded approximately \$152,000 of residual funds from this case to The 4th Branch - the only organization representing all claimants in the Bailey Settlement.

The 4th Branch coalition continues to monitor and disseminate information of interest to the wellbeing of all North Carolina government employees and retirees.