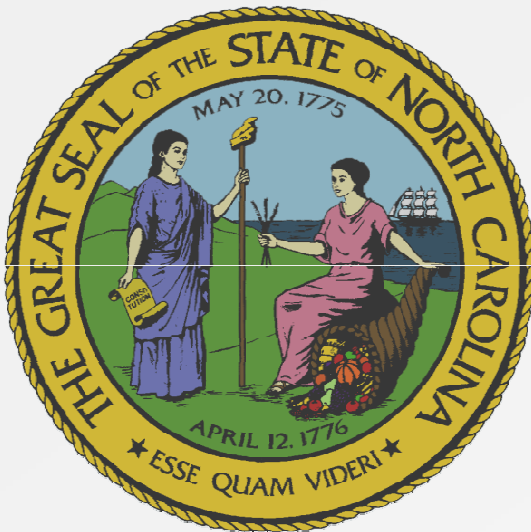




Office of State Budget and Management
Balancing Needs - Improving Government



Regulatory Review

Jonathan Womer

Office of State

Budget and Management

Joint Legislative Regulatory Reform
Committee - November 2011



Agenda

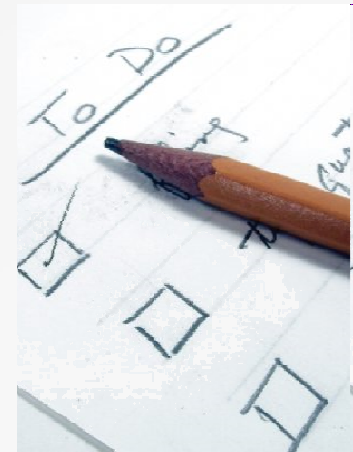
I. Background

II. Governor's Executive Order 70

III. Senate Bill 781

IV. Regulatory Process Concerns

V. Resources





Background

Institute for Policy Integrity, *52 Experiments with Regulatory Review* (2010):

- Grading state level regulatory review processes; North Carolina rated **above average**
- North Carolina criticized for:
 - Not having a standing process for **reviewing existing rules, EO 70 and SB 781 Fixed!**
 - Having too much **delay and burden** in the rulemaking process, and
- North Carolina praised for:
 - **economic analysis** requirements
 - Spending analysis time on big rules, not small – **proportionality, (vast majority of rule changes impose little to no cost)**



Agenda

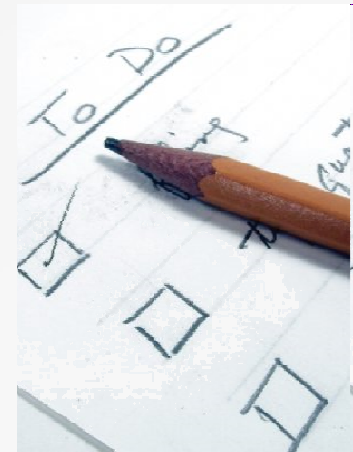
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Governor's Executive Order 70 (Oct 2010)

Review of New Cabinet Rule Changes:

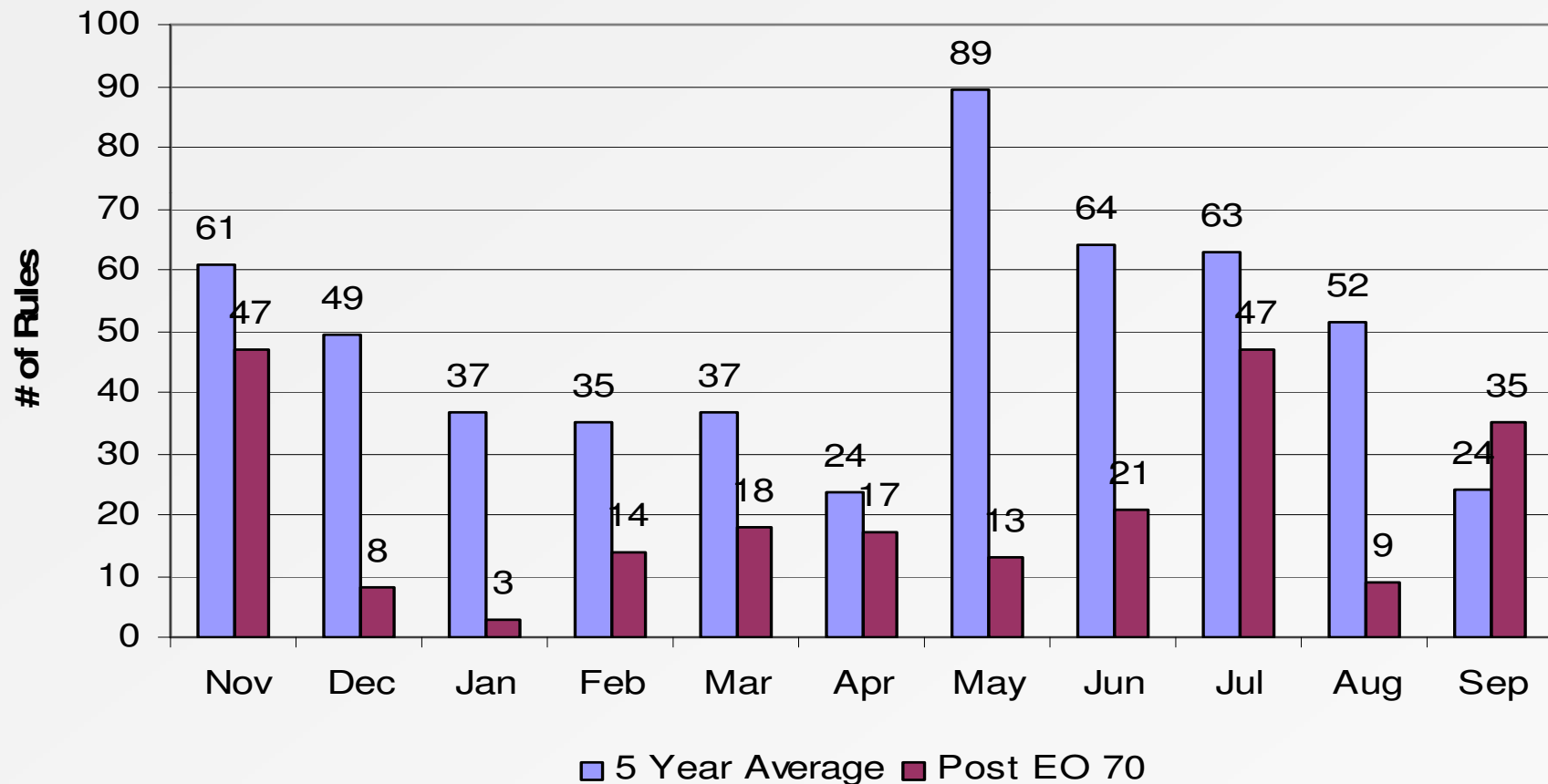
- OSBM shall ensure **ALL** new Cabinet rule changes (Not Council of State or other independent agencies):
 - Should be clearly written, relevant, and up-to-date
 - Be based on **sound** scientific and economic information
 - Are **cost effective** with no undue burden
 - Subjected to **proportional analysis**
 - Are processed in a way so citizens have **better access** to timely and accurate rule info
 - Are completed in a **timely manner**
 - Are coordinated with other agencies
 - **Assess alternatives** to regulation



Governor's Executive Order 70 (Oct 2010)

Monthly Comparison of New Rule Changes Filed by Cabinet Agencies: 5 Year Average vs. Post Executive Order 70

- New rules filed for publication by Cabinet Agencies is **down over 50% since EO 70** compared to the previous 5 year levels





Governor's Executive Order 70 (Oct 2010)

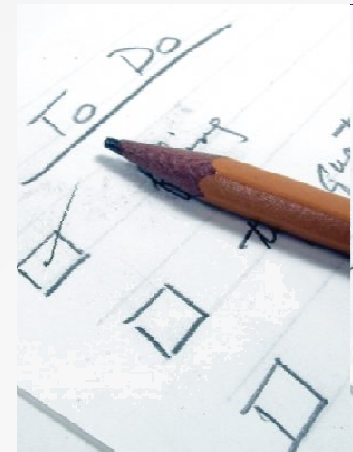
Review of Existing Rules:

- April 2011 Report
 - **1327 public comments** and 250 were rule related
 - OSBM recommended 224 for further action by agencies
 - Agencies and OSBM recommended **1064 rule repeals**
 - 57% repealed or in process
 - Agencies recommended 896 rule changes
 - OSBM recommended **378** of the 896
- January 2012 – Agencies provide status to OSBM on implementing recommendations
- April 2012 – OSBM report on existing and new recommendations



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Senate Bill 781

Significant Changes for All Agencies:

- Threshold for rules with Substantial Economic Impact moved from \$3 million financial impact to **\$500 thousand**
- Agencies required to follow regulatory principles (but **no(?) enforcement mechanism**)
- Heightened restrictions on environmental regulations
- Codifies EO 70 annual review of existing rules and the idea of principles
- Further restrictions on guidance documents



Senate Bill 781

Executive Order 70 vs. Senate Bill 781

Reforms	EO 70 (Cabinet)	SB 781 (all APA agencies)
Ensures regulatory principles are followed	OSBM	Agency?
Consistent process for economic review	YES	NO
Proportionality – level of analysis scaled to size	YES	NO
Review of existing rules	YES	YES
Heightened restrictions on environmental rules	NO	YES



Agenda

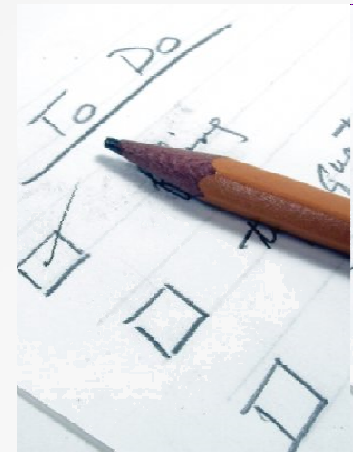
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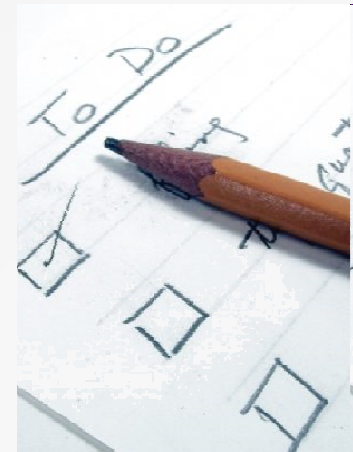
Regulatory Process Concerns

1. Length of APA rulemaking process
(**regulatory and de-regulatory**)
 - About a year if no legislative review
 - About two years with legislative review
2. **Different review processes** for EO70 and S781
3. Statewide enforcement and process **ambiguity**
 - Study of Virginia found **less than 20%** of agencies complied when no enforcement process



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Resources

- Public Comments for Executive Order 70
 - <http://www.governor.state.nc.us/forms/setGovernmentStraight.aspx>
- OSBM Rule Analysis website
 - http://www.osbm.state.nc.us/ncosbm/economic_analysis/regulatory_analysis.shtm
- OSBM Memos on Executive Order 70
 - http://www.osbm.state.nc.us/files/pdf_files/memo20110202_RulesEO_RegulatoryReview.pdf
 - http://www.osbm.state.nc.us/files/pdf_files/memo20101001_ExecutiveOrder70_RuleMaking.pdf
- OSBM April Regulatory Report
 - http://www.osbm.state.nc.us/files/pdf_files/EO70Report_RMIP_2011.pdf
- Office of Administrative Hearings Rules Division
 - <http://www.ncoah.com/rules/>
- *52 Experiments with Regulatory Review*, Institute for Policy Integrity (2010)
 - <http://policyintegrity.org/publications/detail/52-experiments-with-regulatory-review/>