

Republican

## **National**

## **Committee**

**Counsel’s Office**

**Resolution to Replace the Administrative Procedure Act of 1946 (APA)**

WHEREAS, The Administrative Procedure Act enacted June 11, 1946 (APA) was the culmination of a process started in 1933 by President Franklin Roosevelt and a Democrat Congress for implementation of the New Deal policies through federal service and regulatory agencies;

WHEREAS, APA was conceived and born in the controversy that it created a fourth branch of government prohibited by the Constitution, therefore the authors of APA designed a supposedly Congressional oversight balance that allowed for expansion of government into citizen’s personal conduct while attempting to prevent a dictatorship or central planning committee;

WHEREAS, APA is the federal statute under which multiple federal regulatory agencies, administrations, committees and services (i) propose and establish rules/regulations/guidelines, (ii) implement these decisions, and (iii) ultimately administer punitive measures for non-compliance;

WHEREAS, The ambiguous Congressional balance was a conceptual failure since it vests in federal agencies the power to exercise all three branches of government while not directly answering to any elected officials and in turn to citizens;

WHEREAS, History demonstrates that the APA did not curtail the proliferation of federal agencies or their reach, but has actually fostered an increase since the enactment of the APA from 51 agencies to 435 in 2015 according to the current Federal Register;

WHEREAS, Attempts to limit the overreach of federal agencies through legislation have proven ineffective, such as a previous law stating only one legislative branch could overturn a federal agency regulation that was ruled unconstitutional in 1983, or the Congressional Review Act (CRA) passed in 1996 that, with only one success since, was rendered even more ineffective by the Supreme Court ruling that CRA decisions are subject to Presidential vetoes;

WHEREAS, A recent 9-0 Supreme Court ruling declared federal agencies have the authority to change/modify/redefine their own precedent-setting interpretations and decisions without proper public notice and comment procedures required in the APA, a decision partially based on the poor manner in which the APA was initially written;

WHEREAS, In the above decision Justice Scalia stated that while an agency is free to interpret its own regulations, ultimately the court will decide if the agency’s interpretation means what the agency says; and

WHEREAS, This judicial process is time consuming, often requiring many years through appeals, and is always cost prohibitive to an individual or small entities seeking relief from the regulatory burdens of poor agency decisions; therefore be it

*RESOLVED*, The Republican National Committee (RNC) encourages Republican state parties and ancillary organizations to organize public awareness campaigns explaining the onerous dangers of federal involvement in private conduct as unelected federal agencies force their central planning upon we the people; and

*RESOLVED*, The RNC encourages the House Judiciary Committee that has been studying proposed changes in APA since 2005 to make a determination to supersede the APA of 1946 with an entirely new APA 2015, one which changes the current federal agency system’s governmental intent.

\**As adopted by the Republican National Committee on May 15, 2015.*