To amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8 (legislative day, SEPTEMBER 5), 1995

Mr. GRASSLEY (for himself and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Administrative Dispute
5 Resolution Act of 1995”.
6 SEC. 2. AMENDMENT TO DEFINITIONS.
7 Section 571 of title 5, United States Code, is amend-
8 ed—
(1) in paragraph (3) by striking out “settle-
ment negotiations,”; and
(2) in paragraph (8)—
(A) in subparagraph (B) by striking out
“decision,” and inserting in lieu thereof “deci-
sion.”; and
(B) by striking out the matter following
subparagraph (B).

SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS.
(a) T ERMINATION OF AVAILABILITY EXEMPTION TO
CONFIDENTIALITY.—Section 574(b) of title 5, United
States Code, is amended—
(1) in paragraph (5) by adding “or” at the end
thereof;
(2) in paragraph (6) by striking out “; or” and
inserting in lieu thereof a period; and
(3) by striking out paragraph (7).
(b) LIMITATION OF CONFIDENTIALITY APPLICATION
TO COMMUNICATION.—Section 574 of title 5, United
States Code, is amended—
(1) in subsection (a) in the matter before para-
graph (1) by striking out “any information concern-
ing”; and
(c) **Alternative Confidentiality Procedures.**—Section 574(d) of title 5, United States Code, is amended—

1. (1) by inserting “(1)” after “(d)”; and
2. (2) by adding at the end thereof the following new paragraph:

“(2) For purposes of the application of section 552(b)(3), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.”.

(d) **Exemption From Disclosure by Statute.**—

Section 574 of title 5, United States Code, is amended by striking out subsection (j) and inserting in lieu thereof the following:

“(j)(1) A record described under paragraph (2) shall be specifically exempted from disclosure under section 552(b)(3).

“(2) Paragraph (1) applies to any record that—

“(A) is—

“(i) generated by an agency in a dispute resolution proceeding; or
“(ii) initially provided to an agency in a dispute resolution proceeding; and
“(B) may not be disclosed under this section.”.

SEC. 4. ADMINISTRATIVE CONFERENCE REPORTING REQUIREMENTS.

On the date occurring 3 years after the date of the enactment of this Act, the Chairman of the Administrative Conference of the United States shall submit a report to Congress concerning implementation of subchapter IV of chapter 5 of title 5, United States Code (as amended by this Act) relating to alternative means of dispute resolution, by Federal agencies, including, to the extent available, information relating to the costs and benefits of using alternative means of dispute resolution.

SEC. 5. AMENDMENTS TO SUPPORT SERVICE PROVISION.

Section 583 of title 5, United States Code, is amended by inserting “State, local, and tribal governments,” after “other Federal agencies,”.

SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.

Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended—

(1) in subsection (d) by striking out the second sentence and inserting in lieu thereof: “The contractor shall certify the claim when required to do so as
provided under subsection (c)(1) or as otherwise re-
quired by law.”; and
(2) in subsection (e) by striking out the first
sentence.

SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.

(a) Competitive Requirements in Defense
Agency Contracts.—Section 2304 of title 10, United
States Code, is amended by adding at the end thereof the
following new subsection:
““(k) For the purpose of applying subsection
(c)(3)(C), the head of an agency may procure expert serv-
ices without regard to sections 8, 9, and 15 of the Small
Business Act (15 U.S.C. 637, 638, and 644).”’.

(b) Competitive Requirements in Federal Con-
tracts.—Section 303(c) of the Federal Property and Ad-
ministrative Services Act of 1949 (41 U.S.C. 253(c)), is
amended by inserting at the end thereof the following new
subsection:
“(i) For the purpose of applying subsection (c)(3)(C),
an agency may procure expert services without regard to
sections 8, 9, and 15 of the Small Business Act (15 U.S.C.
637, 638, and 644).”.”
SEC. 8. PERMANENT AUTHORIZATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS OF TITLE 5, UNITED STATES CODE.

The Administrative Dispute Resolution Act (Public Law 101-552; 104 Stat. 2747; 5 U.S.C. 581 note) is amended by striking out section 11.