To provide for the publication by the Secretary of Human Services of physical activity guidelines for Americans.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2013

Mr. HARKIN (for himself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for the publication by the Secretary of Human Services of physical activity guidelines for Americans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Physical Activity Guidelines for Americans Act”.

SEC. 2. PHYSICAL ACTIVITY GUIDELINES FOR AMERICANS.

(a) REPORT.—

(1) IN GENERAL.—At least every 10 years, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall publish
a report entitled “Physical Activity Guidelines for Americans”. Each such report shall contain physical activity information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal health program. Not later than 5 years after the publication of the first such report, and every 10 years thereafter, the Secretary shall publish a report highlighting the best practices and continuing issues in the physical activity arena, which may focus on a particular group, subsection, or other division of the general public or a particular issue relating to the physical activity of Americans.

(2) BASIS OF GUIDELINES.—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared, and shall include guidelines for identified population subgroups, including children, if the preponderance of scientific and medical knowledge indicates those subgroups require different levels of physical activity.

(b) APPROVAL BY SECRETARY.—
(1) REVIEW.—Any Federal agency that proposes to issue any physical activity guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretary for a 60-day review period.

(2) BASIS OF REVIEW.—

(A) IN GENERAL.—During the 60-day review period established in paragraph (1), the Secretary shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the “Physical Activity Guidelines for Americans” or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretary. If after such 60-day review period the Secretary has not notified the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If the Secretary disapproves such guidance, it shall be returned to the agency. If the Secretary finds that such guidance is inconsistent with the “Physical Activity Guidelines for Americans” and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating
such proposal to the public in final form. If after such 60-day period, the Secretary disapproves such guidance as inconsistent with the “Physical Activity Guidelines for Americans” the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed physical activity guidance;

(ii) provide in such notice for a public comment period of 30 days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) REVIEW OF COMMENTS.—After review of comments received during the comment period, the Secretary may approve for dissemination by the proposing agency a final version of such physical activity guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and
substantive comments as determined by the proposing agency.

(C) ANNOUNCEMENT.—Any such final physical activity guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) NOTIFICATION OF DISAPPROVAL.—If after the 30-day period for comment as provided under subparagraph (A)(ii), the Secretary disapproves a proposed physical activity guidance, the Secretary shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) REVIEW OF DISAPPROVAL.—If a proposed physical activity guidance is disapproved by the Secretary under subparagraph (D), the Federal agency proposing such guidance may, within 15 days after receiving notification of such disapproval under subparagraph (D), request the Secretary to review such disapproval. Within 15 days after receiving a request for such a review, the Secretary shall conduct such
review. If, pursuant to such review, the Secretary approves such proposed physical activity guidance, such guidance may be issued by the Federal agency.

(3) DEFINITIONS.—In this subsection:

(A) The term “physical activity guidance for the general population” does not include any rule or regulation issued by a Federal agency.

(B) The term “identified population subgroups” shall include, but not be limited to, groups based on factors such as age, sex, race, or physical disability.

(c) EXISTING AUTHORITY NOT AFFECTED.—This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency; or

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency.