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2D SESSION

# H. R. 5537

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2016

Received; read twice and referred to the Committee on Foreign Relations

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## AN ACT

To promote internet access in developing countries and update foreign policy toward the internet, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Digital Global Access  
3 Policy Act of 2016” or the “Digital GAP Act”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to encourage the efforts  
6 of developing countries to improve mobile and fixed access  
7 to the Internet in order to spur economic growth and job  
8 creation, improve health, education, and financial services,  
9 reduce poverty and gender inequality, mitigate disasters,  
10 promote democracy and good governance, strengthen cy-  
11 bersecurity, and update the Department of State’s struc-  
12 ture to address cyberspace policy.

13 **SEC. 3. FINDINGS.**

14 Congress finds the following:

15 (1) Since 2005, the number of Internet users  
16 has more than tripled from 1 billion to 3.2 billion.

17 (2) 4.2 billion people, 60 percent of the world’s  
18 population, remain offline and the growth rate of  
19 Internet access is slowing. An estimated 75 percent  
20 of the offline population lives in just 20 countries  
21 and is largely rural, female, elderly, illiterate, and  
22 low-income.

23 (3) Studies suggest that across the developing  
24 world, women are nearly 50 percent less likely to ac-  
25 cess the Internet than men living within the same  
26 communities, and that this digital gender divide car-

1       ries with it a great economic cost. According to a  
2       study, “Women and the Web”, bringing an addi-  
3       tional 600 million women online would contribute  
4       \$13 billion–\$18 billion to annual GDP across 144  
5       developing countries.

6               (4) Without increased Internet access, the de-  
7       veloping world risks falling behind.

8               (5) Internet access in developing countries is  
9       hampered by a lack of infrastructure and a poor reg-  
10      ulatory environment for investment.

11              (6) Build-once policies and approaches are poli-  
12      cies or practices that minimize the number and scale  
13      of excavation and construction activities when in-  
14      stalling telecommunications infrastructure in rights-  
15      of-way, thereby lowering the installation costs for  
16      high-speed Internet networks and serve as a develop-  
17      ment best practice.

18   **SEC. 4. STATEMENT OF POLICY.**

19       Congress declares that it is the policy of the United  
20      States to partner, consult, and coordinate with the govern-  
21      ments of foreign countries, international organizations, re-  
22      gional economic communities, businesses, civil society, and  
23      other stakeholders in a concerted effort to—

24              (1) promote first-time Internet access to mobile  
25      or broadband Internet for at least 1.5 billion people

1 in developing countries by 2020 in both urban and  
2 rural areas;

3 (2) promote Internet deployment and related  
4 coordination, capacity building, and build-once poli-  
5 cies and approaches in developing countries, includ-  
6 ing actions to encourage—

7 (A) a build-once approach by standardizing  
8 the inclusion of broadband conduit pipes which  
9 house fiber optic communications cable that  
10 support broadband or wireless facilities for  
11 broadband service as part of rights-of-way  
12 projects, including sewers, power transmission  
13 facilities, rail, pipelines, bridges, tunnels, and  
14 roads, that are funded, co-funded, or partially  
15 financed by the United States or any inter-  
16 national organization that includes the United  
17 States as a member, in consultation with tele-  
18 communications providers, unless a cost-benefit  
19 analysis determines that the cost of such ap-  
20 proach outweighs the benefits;

21 (B) national and local government agencies  
22 of developing countries and donor governments  
23 and organizations to coordinate road building,  
24 pipe laying, and major infrastructure with the  
25 private sector so that, for example, fiber optic

1 cable could be laid below roads at the time such  
2 roads are built; and

3 (C) international organizations to increase  
4 their financial support, including grants and  
5 loans, and technical assistance to expand infor-  
6 mation and communications access and Internet  
7 connectivity;

8 (3) promote policy changes that encourage first-  
9 time affordable access to the Internet in developing  
10 countries, including actions to encourage—

11 (A) integration of universal and gender-eq-  
12 uitable Internet access goals, to be informed by  
13 the collection of related gender disaggregated  
14 data, and Internet tools into national develop-  
15 ment plans and United States Government  
16 country-level strategies;

17 (B) reforms of competition laws and spec-  
18 trum allocation processes that may impede the  
19 ability of companies to provide Internet serv-  
20 ices; and

21 (C) efforts to improve procurement proc-  
22 esses to help attract and incentivize investment  
23 in Internet infrastructure;

24 (4) promote the removal of tax and regulatory  
25 barriers to Internet access;

1           (5) promote the use of the Internet to increase  
2       economic growth and trade, including—

3           (A) policies and strategies to remove re-  
4       strictions to e-commerce, cross-border informa-  
5       tion flows, and competitive marketplaces; and

6           (B) entrepreneurship and distance learning  
7       enabled by access to technology;

8           (6) promote the use of the Internet to bolster  
9       democracy, government accountability, transparency,  
10      and human rights, including—

11          (A) policies, initiatives, and investments,  
12      including the development of national Internet  
13      plans, that are consistent with United States  
14      human rights goals, including freedom of ex-  
15      pression, religion, and association;

16          (B) policies and initiatives aimed at pro-  
17      moting the multistakeholder model of Internet  
18      governance; and

19          (C) policies and support programs, re-  
20      search, and technologies that safeguard human  
21      rights and fundamental freedoms online, and  
22      enable political organizing and activism, free  
23      speech, and religious expression that are in  
24      compliance with international human rights  
25      standards;

1           (7) promote Internet access and inclusion into  
2       Internet policymaking for women, people with dis-  
3       abilities, minorities, low-income and marginalized  
4       groups, and underserved populations; and

5           (8) promote cybersecurity and data protection,  
6       including international use of the National Institute  
7       of Standards and Technology (NIST) Framework  
8       for Improving Critical Infrastructure Cybersecurity  
9       that are industry-led, globally recognized cybersecu-  
10      rity standards and best practices.

11 **SEC. 5. DEPARTMENT OF STATE ORGANIZATION.**

12       (a) SENSE OF CONGRESS.—It is the sense of Con-  
13      gress that the Secretary of State should redesignate an  
14      existing Assistant Secretary position to be the Assistant  
15      Secretary for Cyberspace to lead the Department of  
16      State’s diplomatic cyberspace policy generally, including  
17      for cybersecurity, Internet access, Internet freedom, and  
18      to promote an open, secure, and reliable information and  
19      communications technology infrastructure.

20       (b) ACTIVITIES.—In recognition of the added value  
21      of technical knowledge and expertise in the policymaking  
22      and diplomatic channels, the Secretary of State should—

23           (1) update existing training programs relevant  
24      to policy discussions; and

1           (2) promote the recruitment of candidates with  
2           technical expertise into the Civil Service and the  
3           Foreign Service.

4           (c) OFFSET.—To offset any costs incurred by the De-  
5           partment of State to carry out the designation of an As-  
6           sistant Secretary for Cyberspace in accordance with sub-  
7           section (a), the Secretary of State shall eliminate such po-  
8           sitions within the Department of State, unless otherwise  
9           authorized or required by law, as the Secretary determines  
10          to be necessary to fully offset such costs.

11          (d) RULE OF CONSTRUCTION.—The redesignation of  
12          the Assistant Secretary position described in subsection  
13          (a) may not be construed as increasing the number of As-  
14          sistant Secretary positions at the Department of State  
15          above the current level of 24 as authorized in section  
16          1(c)(1) of the State Department Basic Authorities Act of  
17          1956 (22 U.S.C. 2651a(c)(1)).

18   **SEC. 6. USAID.**

19          It is the sense of Congress that the Administrator  
20          of the United States Agency for International Develop-  
21          ment should—

22                (1) integrate efforts to expand Internet access,  
23                develop appropriate technologies, and enhance digital  
24                literacy into the education, development, and eco-



1        nomic growth programs of the agency, where appro-  
2        priate;

3            (2) expand the utilization of information and  
4        communications technologies in humanitarian aid  
5        and disaster relief responses and United States oper-  
6        ations involving stabilization and security to improve  
7        donor coordination, reduce duplication and waste,  
8        capture and share lessons learned, and augment dis-  
9        aster preparedness and risk mitigation strategies;  
10       and

11           (3) establish and promote guidelines for the  
12        protection of personal information of individuals  
13        served by humanitarian, disaster, and development  
14        programs directly through the United States Gov-  
15        ernment, through contracts funded by the United  
16        States Government and by international organiza-  
17        tions.

18   **SEC. 7. PEACE CORPS.**

19        Section 3 of the Peace Corps Act (22 U.S.C. 2502)  
20       is amended by—

21            (1) redesignating subsection (h) as subsection  
22        (e); and

23            (2) by adding at the end the following new sub-  
24        sections:

1       “(f) It is the sense of Congress that access to tech-  
2 nology can transform agriculture, community economic de-  
3 velopment, education, environment, health, and youth de-  
4 velopment which are the sectors in which Peace Corps cur-  
5 rently develops positions for Volunteers.

6       “(g) In giving attention to the programs, projects,  
7 training, and other activities referred to in subsection (f),  
8 the Peace Corps should develop positions for Volunteers  
9 that are focused on leveraging technology for development,  
10 education, and social and economic mobility.”.

11 **SEC. 8. LEVERAGING INTERNATIONAL SUPPORT.**

12       In pursuing the policy described in section 4, the  
13 President should direct United States representatives to  
14 appropriate international bodies to use the influence of the  
15 United States, consistent with the broad development  
16 goals of the United States, to advocate that each such  
17 body—

18               (1) commit to increase efforts to promote gen-  
19 der-equitable Internet access, in partnership with  
20 stakeholders and consistent with host countries’ ab-  
21 sorptive capacity;

22               (2) enhance coordination with stakeholders in  
23 increasing affordable and gender-equitable access to  
24 the Internet;

1           (3) integrate gender-equitable affordable Inter-  
2       net access into existing economic and business as-  
3       sessments, evaluations, and indexes such as the Mil-  
4       lennium Challenge Corporation constraints analysis,  
5       the Doing Business Report, International Monetary  
6       Fund Article IV assessments and country reports,  
7       the Open Data Barometer, and the Affordability  
8       Drivers Index;

9           (4) standardize inclusion of broadband con-  
10      duit—fiber optic cables that support broadband or  
11      wireless facilities for broadband service—as part of  
12      highway or highway-comparable construction  
13      projects in developing countries, in consultation with  
14      telecommunications providers, unless such inclusion  
15      would create an undue burden, is not necessary  
16      based on the availability of existing broadband infra-  
17      structure, or a cost-benefit analysis determines that  
18      the cost outweighs the benefits;

19          (5) provide technical assistance to the regu-  
20      latory authorities in developing countries to remove  
21      unnecessary barriers to investment in otherwise com-  
22      mercially viable projects and strengthen weak regu-  
23      lations or develop new ones to support market  
24      growth and development;

1           (6) utilize clear, accountable, and metric-based  
2           targets, including targets with gender-disaggregated  
3           metrics, to measure the effectiveness of efforts to  
4           promote Internet access; and

5           (7) promote and protect human rights online,  
6           such as the freedoms of speech, assembly, associa-  
7           tion, religion, and belief, through resolutions, public  
8           statements, projects, and initiatives, and advocating  
9           that other member states of such bodies are held ac-  
10          countable when major violations are uncovered.

11 **SEC. 9. PARTNERSHIP FRAMEWORK.**

12          Not later than 180 days after the date of the enact-  
13          ment of this Act, the President shall transmit to the Com-  
14          mittee on Foreign Affairs of the House of Representatives  
15          and the Committee on Foreign Relations of the Senate  
16          plans to promote partnerships by United States develop-  
17          ment agencies, including the United States Agency for  
18          International Development and the Millennium Challenge  
19          Corporation, as well as international agencies funded by  
20          the United States Government for partnership with stake-  
21          holders, that contain the following elements:

22                (1) Methods for stakeholders to partner with  
23                such agencies in order to provide Internet access or  
24                Internet infrastructure in developing countries.

1           (2) Methods of outreach to stakeholders to ex-  
2       plore partnership opportunities for expanding Inter-  
3       net access or Internet infrastructure, including co-  
4       ordination with the private sector, when financing  
5       roads and telecommunications infrastructure.

6           (3) Methods for early consultation with stake-  
7       holders concerning projects in telecommunications  
8       and road construction to provide Internet access or  
9       Internet infrastructure.

10 **SEC. 10. REPORTING REQUIREMENT ON IMPLEMENTATION**  
11 **EFFORTS.**

12       Not later than 180 days after the date of the enact-  
13       ment of this Act, the President shall transmit to the Com-  
14       mittee on Foreign Affairs of the House of Representatives  
15       and the Committee on Foreign Relations of the Senate  
16       a report on efforts to implement the policy specified in  
17       section 4 and a discussion of the plans and existing efforts  
18       by the United States Government in developing countries  
19       to accomplish the following:

20           (1) Develop a technical and regulatory road  
21       map for promoting Internet access in developing  
22       countries and a path to implementing such road  
23       map.

24           (2) Identify the regulatory barriers that may  
25       unduly impede Internet access, including regulation

1 of wireline broadband deployment or the infrastruc-  
2 ture to augment wireless broadband deployment.

3 (3) Strengthen and support development of reg-  
4 ulations that incentivize market growth and sector  
5 development.

6 (4) Encourage further public and private in-  
7 vestment in Internet infrastructure, including  
8 broadband networks and services.

9 (5) Increase gender-equitable Internet access  
10 and otherwise encourage or support Internet deploy-  
11 ment, competition, and adoption.

12 (6) Improve the affordability of Internet access.

13 (7) Promote technology and cybersecurity ca-  
14 pacity building efforts and consult technical experts  
15 for advice regarding options to accelerate the ad-  
16 vancement of Internet deployment, adoption, and  
17 usage.

18 (8) Promote Internet freedom globally and in-  
19 clude civil society and the private sector in the for-  
20 mulation of policies, projects, and advocacy efforts  
21 to protect human rights online.

22 (9) Promote and strengthen the multistake-  
23 holder model of Internet governance and actively  
24 participate in multistakeholder international fora,  
25 such as the Internet Governance Forum.

1 **SEC. 11. CYBERSPACE STRATEGY.**

2       The President should include in the next White  
3 House Cyberspace Strategy information relating to the  
4 following:

5           (1) Methods to promote Internet access in de-  
6 veloping countries.

7           (2) Methods to globally promote cybersecurity  
8 policy consistent with the National Institute of  
9 Standards and Technology (NIST) Framework for  
10 Improving Critical Infrastructure Cybersecurity.

11          (3) Methods to promote global Internet freedom  
12 principles, such as the freedoms of expression, as-  
13 sembly, association, and religion, while combating ef-  
14 forts to impose restrictions on such freedoms.

15 **SEC. 12. DEFINITION.**

16       In this Act—

17           (1) BUILD ONCE POLICIES AND APPROACHES.—

18       The term “build once policies and approaches”  
19 means policies or practices that minimize the num-  
20 ber and scale of excavation and construction activi-  
21 ties when installing telecommunications infrastruc-  
22 ture in rights-of-way.

23           (2) CYBERSPACE.—The term “cyberspace”  
24 means the interdependent network of information  
25 technology infrastructures, and includes the Inter-  
26 net, telecommunications networks, computer sys-

1       tems, and embedded processors and controllers in  
2       critical industries, and includes the virtual environ-  
3       ment of information and interactions between peo-  
4       ple.

5               (3) STAKEHOLDERS.—The term “stakeholders”  
6       means the private sector, the public sector, coopera-  
7       tives, civil society, the technical community that de-  
8       velops Internet technologies, standards, implementa-  
9       tion, operations, and applications, and other groups  
10      that are working to increase Internet access or are  
11      impacted by the lack of Internet access in their com-  
12      munities.

Passed the House of Representatives September 7,  
2016.

Attest:

KAREN L. HAAS,  
*Clerk.*