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Subject: House Passes \$619B Defense Spending, Reform Bill

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## PUBLIC POLICY

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Monday, December 5, 2016

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### TOP NEWS

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#### House Passes \$619B Defense Spending, Reform Bill

The U.S. House of Representatives passed the combined version of the National Defense Authorization Act on Friday, the \$619 billion annual spending and reform package for the armed forces, after agreements with the Senate dropped many of the most controversial provisions.

#### Bill Forthcoming To Help Protect 'Dreamers,' Durbin Says

Sen. Dick Durbin, D-Ill., confirmed Thursday that he is collaborating with Sen. Lindsey Graham, R-S.C., to introduce a bill that could protect young immigrants in the country without legal permission, often referred to as "Dreamers," amid concerns the Trump administration will cancel the Deferred Action for Childhood Arrivals program.

#### Analysis

#### Trump May Yield Pullback On IP, Antitrust Enforcement

U.S. antitrust watchdogs may become less aggressive on mergers and intellectual property issues under the incoming Trump administration as conservative antitrust veterans like Josh Wright and Maureen Ohlhausen look primed to play a key role in shaping enforcement.

#### Commission Lays Out Plan For Trump To Tackle Cyberthreats

A presidential committee tasked with developing a plan to strengthen the nation's cybersecurity urged the incoming administration Friday to take immediate action to safeguard information systems by encouraging the public and private sectors to expand their collaboration in combating cyberthreats and the risks posed by the internet of things.

#### Analysis

#### Contentious Estate Transfer Rules May Remain Under Trump

Despite multiple calls for the IRS to withdraw proposed regulations that value transferred interests for estate tax purposes, as well as Republicans' stated intent to repeal the so-called death tax altogether, experts say the controversial regulations may be here to stay as they also apply to the gift tax, which remains an important revenue tool.

#### EPA Floats Hardrock Mining Financial Responsibility Rule

The U.S. Environmental Protection Agency on Friday proposed a rule that would require owners and operators of hardrock mining facilities to prove they're financially capable of paying for cleanup or reclamation efforts

### LAW FIRMS

Allen & Overy  
Alston & Bird  
Baker & McKenzie  
BakerHostetler  
Barnes & Thornburg  
Chiesa Shahinian  
Cleary Gottlieb  
Clifford Chance  
Covington & Burling  
Cravath Swaine  
DLA Piper  
Davis Polk  
Debevoise & Plimpton  
Dechert  
Dentons  
Dowd Bloch  
Durie Tangri  
Epstein Becker Green  
Finnegan  
Freshfields  
Fried Frank  
Gibson Dunn  
Goulston & Storrs  
Holland & Hart  
Holwell Shuster  
Hunton & Williams  
Jones Day  
Kaye Scholer  
Kirby McInerney  
Kirkland & Ellis  
Kutak Rock  
Latham & Watkins  
Linklaters  
Littler Mendelson

associated with their businesses.

## DOL Asks 5th Circ. For Quick Hearing On Blocked OT Rule

A day after giving notice of its appeal of a preliminary injunction blocking a new overtime pay threshold, the U.S. Department of Labor on Friday asked the Fifth Circuit to expedite the proceedings, saying delaying the Dec. 1 implementation date denied added pay to millions of workers.

### Analysis

## Federal Charters Could Ease Burdens For Fintech Upstarts

Financial technology firms may have a way to avoid regulation by 50 different state regulators after the Office of the Comptroller of the Currency announced plans to begin issuing national banking charters on Friday.

## BANKING & SECURITIES

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## United Reaches \$2.4M SEC Deal In Airline Bribery Scheme

The U.S. Securities and Exchange Commission announced Friday that the parent company of United Airlines Inc. agreed to pay \$2.4 million to settle charges that the airline reinstated a money-losing flight route to curry favor with a former New Jersey official looking for more convenient trips to a vacation house.

## Fed Gov. Says Leverage Ratio Alone Won't Protect Banks

The Federal Reserve's regulatory reform point man on Friday said that an approach to bank regulations favored by allies of the incoming Trump administration could lead big banks to take on riskier assets in search of profits, potentially destabilizing the financial system.

## ENERGY & ENVIRONMENTAL

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## Ill. Legislature OKs \$235M Bailout For Nuclear Plants

Illinois lawmakers closed out their final legislative workday of 2016 on Thursday, passing a \$235 million yearly subsidy for nuclear power company Exelon Corp. and its two unprofitable nuclear plants in the state.

## HEALTH & LIFE SCIENCES

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## 3rd Circ. Affirms Tossing Of ALJ's Discrimination Suit

The Third Circuit on Thursday affirmed the dismissal of a case brought by a Social Security Administration administrative law judge against the agency's commissioner over the loss of a higher title, finding no issue with the trial court's acceptance of an argument not used in an initial dismissal bid.

## TRANSPORTATION & INFRASTRUCTURE

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## NJ Judge Denies Special Prosecutor Bid In Christie GWB Case

A New Jersey state judge on Friday rejected a bid by a local political activist to have a special prosecutor appointed to handle his criminal complaint accusing Gov. Chris Christie of official misconduct in connection with politically motivated lane closures at the George Washington Bridge.

## INSURANCE

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## W.Va. Takes ACA Administrative Fix Protest To High Court

Milbank Tweed

Miller Mayer

Morgan Lewis

Morrison & Foerster

O'Melveny & Myers

Paul Weiss

Peckar & Abramson

Price Meese

Proskauer Rose

Ropes & Gray

Schiff Hardin

Shearman & Sterling

Sidley Austin

Simpson Thacher

Skadden

Steptoe & Johnson LLP

Tensegrity Law Group

Thompson & Knight

Weil Gotshal

White & Case

Willkie Farr

## COMPANIES

AOL Inc.

AT&T Inc.

Abbott Laboratories

Accenture plc

Aereo Inc.

American Bar Association

American Civil Liberties Union

American Federation of State,  
County and Municipal Employees

American Trucking Association:  
Inc.

Associated Press

CTIA

Cisco Systems Inc.

Competitive Carriers Association

DISH Network Corporation

Electronic Frontier Foundation

Exelon Corporation

Facebook

Google Inc.

Grant Thornton LLP

ICF International, Inc.

International Business Machine  
Corporation

West Virginia has asked the U.S. Supreme Court to review its challenge of the Obama administration's decision to temporarily not enforce Affordable Care Act insurance standards, saying that the unfavorable decision it got in the D.C. Circuit runs contrary to high court precedent.

## EMPLOYMENT

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### AFSCME Sues To Stop Ill. Gov's Terms For State Workers

The dispute between the American Federation of State, County and Municipal Employees and Illinois Gov. Bruce Rauner took a new turn Thursday as the union sued in state court to block the governor from imposing contract terms on state employees after negotiations were declared at an impasse.

### FMCSA Finalizes Rule On Drug, Alcohol Testing Database

The Federal Motor Carrier Safety Administration on Friday announced a final rule to establish a drug and alcohol clearinghouse for commercial bus and truck drivers, to serve as a central location to find violations of the administration's testing program for the substances.

### Ill. Gov. Blocks \$215M Pension Aid For Chicago Teachers

Chicago's public school system will move into 2017 with a \$215 million budget hole after Illinois Gov. Bruce Rauner vetoed a bill that would have authorized the state to contribute the money to the system's retirement fund, blaming the move on lawmakers' failure at pension reform.

## COMPETITION

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### NJ County Not Obligated To Take Land In Grocery Row: Judge

A New Jersey judge on Thursday refused to force Essex County to accept ownership of a strip of land to help an embattled supermarket development move forward, ruling that a geographic boundary change in the 1950s wasn't predicated on the county taking possession of the narrow parcel.

## PRIVACY & CONSUMER PROTECTION

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### Calif. Atty Lays Into CFPB, Cordray In High Court Appeal

A California lawyer accused of a home loan modification scam has asked the U.S. Supreme Court take up the U.S. Consumer Financial Protection Bureau's wins at the district court and Ninth Circuit, arguing that the suit was just as invalid as the agency director's recess appointment.

## GOVERNMENT CONTRACTS

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### White House Voices Support For Women In Military Draft

Women should be required to register for the military draft, the Obama administration said on Thursday, advocating a change in U.S. defense policy a National Security Council spokesman described as a "logical" extension of recent decisions increasing women's role in the military.

## INTERNATIONAL TRADE

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### WTO Chief Calls For Members To 'Intensify' Work In 2017

World Trade Organization Director-General Roberto Azevedo on Thursday said that the past year has seen productive debate in the organization but

LexisNexis Group

MasterCard Incorporated

Motorola Mobility LLC

National Railroad Passenger Corporation

New York City Bar Association

Panasonic Corporation

PayPal Inc.

Public Knowledge

Reed Elsevier

SYSCO Corporation

Saks Incorporated

Stop & Shop Supermarket Co.

T-Mobile USA Inc.

Time Warner Inc.

Twitter Inc.

U.S. Chamber of Commerce

U.S. Foods Inc.

United Continental Holdings Inc

Verizon Communications

Volkswagen

Washington Legal Foundation

Wells Fargo & Co.

## GOVERNMENT AGENCIES

Bureau of Labor Statistics

Columbia Metropolitan Airport

Consumer Financial Protection Bureau

Defense Advanced Research Projects Agency

Drug Enforcement Administration

Executive Office of the President

Federal Communications Commission

Federal Deposit Insurance Corp

Federal Emergency Management Agency

Federal Energy Regulatory Commission

Federal Motor Carrier Safety Administration

Federal Reserve System

Federal Trade Commission

Food and Drug Administration

Illinois Supreme Court

Internal Revenue Service

International Monetary Fund

that members will be looking for concrete results from next year's ministerial conference.

## Hong Kong, Swiss Regulators Ink Cross-Border Funds Pact

Hong Kong and Swiss securities watchdogs said Friday they have signed a cooperation agreement that will expand cross-border offerings of fund products for asset managers in both countries.

## TAX

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### IRS Proposes Adjusting Rules For Foreign Acquisitions

The Internal Revenue Service on Friday said that it will unroll new regulations covering transactions involving at least one foreign corporation in which a subsidiary uses its parent company's stock to acquire another company, saying that some taxpayers are using these transactions to avoid incurring U. S. tax.

### IRS Partnership Liability Rule Still Unclear, Firm Says

Baker & McKenzie LLP urged the IRS Thursday to take another look at its temporary partnership liabilities regulation, arguing that efforts to clarify the treatment are still coming up short and that the agency should go back to the drawing board rather than impose the rule on ill-prepared practitioners.

## IMMIGRATION

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### DHS Urged To Keep Privately Run Immigrant Detention

The U.S. Department of Homeland Security should continue to utilize privately owned, for-profit facilities to detain immigrants, a subcommittee tasked with studying the matter recommended to DHS Secretary Jeh Johnson in a report on Thursday.

## TELECOMMUNICATIONS

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### AT&T Seeks Flexibility In FCC's Real-Time Text Plan

AT&T on Thursday pressed the Federal Communications Commission to hold off on requiring specific features in updated technology for communications by phone for the disabled, telling the agency that it's too early to impose technical requirements on new "real-time text" technology.

### FCC Seeks Feedback On Plan For National Lifeline Verifier

The Federal Communications Commission on Thursday asked for comments on a proposal for implementing a national verifier for participation in the Lifeline low-income subsidy program after March reforms, asking for feedback between Dec. 5 and Dec. 30 on how the Universal Service Administrative Co. should take over the customer eligibility process.

### FCC Must Revisit Emergency Alerting Changes, Group Says

A wireless association asked the Federal Communications Commission on Thursday to revisit its updates to modernize wireless emergency alerting, saying the agency shouldn't require the inclusion of hyperlinks and phone numbers before testing is finished and must clarify what it means by "clickable links" and the devices that must support them.

### FCC Bucks Republicans To Press Phone Cos. On Zero-Rating

Chairman Tom Wheeler's Federal Communications Commission pressed

International Trade Commission  
NAFTA

National Security Council

Nevada Attorney General's Office

New Jersey Attorney General's Office

New Jersey Department of Transportation

Office of the Comptroller of the Currency

Port Authority of New York & New Jersey

Securities and Exchange Commission

Selective Service System

Social Security Administration

Texas Attorney General's Office

U.S. Agency for International Development

U.S. Attorney's Office

U.S. Department of Agriculture

U.S. Department of Defense

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Transportation

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. House of Representatives

U.S. Patent and Trademark Office

U.S. Senate

U.S. Supreme Court

Unified Patent Court

United Nations

United States Geological Survey

World Bank Group

AT&T with concerns about free data and raised new questions about Verizon's program Thursday while Republican commissioners fired back Friday that he is ignoring calls from Congress to end complex and controversial action.

## Q&A

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### 5 Insights From Airbus Group's Joshua Walker

Technology so quickly outpaces regulation, and it's imperative governments at every level find that sweet spot where the public is reasonably protected but innovation isn't stifled. If the U.S. doesn't get this balance right, other governments will, says Joshua Walker, general counsel and project executive for A3 by Airbus Group.

## EXPERT ANALYSIS

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### In Congress: The End Game

Republican leaders appear determined to wrap up a week early to allow more time at the start of the 115th Congress in January 2017 for consideration of resolutions of disapproval of "midnight" regulations issued by the outgoing Obama administration under the Congressional Review Act, say Richard Hertling and Kaitlyn McClure of Covington & Burling LLP.

### Hitting Pause On FLSA White Collar Changes

The eleventh-hour preliminary injunction from the Eastern District of Texas against expanded coverage under the Fair Labor Standards Act is a blow to the U.S. Department of Labor, which had estimated expanded overtime coverage to more than four million additional employees, says Kathleen Anderson of Barnes & Thornburg LLP.

### The Trump Infrastructure Plan And Its Legal Implications

The incoming Trump administration's \$1 trillion infrastructure plan would rely mostly on private investment, with infrastructure tax credits envisioned as bringing the needed financing to the table. But many questions remain unanswered, including who will decide on the selection and timing of projects, what laws will apply, and how private investors will be paid back, says Steve Sorrett of Kutak Rock LLP.

### Inbound M&A Activity Adrift Post-Election

Many speculate that President-elect Donald Trump's protectionist policies could ignite trade wars in which nations such as Mexico and China subsequently enact retaliatory tariffs against the U.S. This would cause prices to climb and could discourage foreign direct investment in the U.S., say Jeff Haidet and Catherine Dallas of Dentons.

### Energy Policy In The Trump Era: Part 2

President-elect Donald Trump has pledged to drastically change the federal government's role and policies in relation to energy, the environment and climate change. In the second of a two-part series, Christopher Carr and Robert Fleishman of Morrison & Foerster LLP examine the impact of the new administration's attitudes towards the Clean Power Plan, the Paris Agreement and other energy and environmental regulations and policies.

### Innovate Bigly? — Patent Reform Under @realDonaldTrump

Many commentators have stated that President-elect Donald Trump has yet



to take a clear stance regarding patents and intellectual property. However, his Twitter account holds many hints as to his possible intellectual property priorities, say attorneys from Finnegan Henderson Farabow Garrett & Dunner LLP.

## LEGAL INDUSTRY

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### 3 Ways To Advance Your In-House Career

Law firm life isn't always for everyone and an in-house or general counsel role at a company may seem like the perfect way to escape billable hours and office politics, but having a real career as an in-house lawyer takes more than being an excellent, business-minded attorney.

### Innovative Corporate Counsel: Stanton Dodge

For wrapping up landmark copyright litigation after four years and a stop at the Ninth Circuit while continuing to help his company expand its scope of business, Dish Network general counsel Stanton Dodge is a 2016 Law360 Innovative Corporate Counsel.

### GC Cheat Sheet: The Hottest Corporate News Of The Week

General counsel paychecks keep ballooning, a new warrant rule allows for broader law enforcement access to electronic data, and the FTC wants more foreign markets data in premerger filings. Those stories top the corporate legal news you may have missed this past week.

### Linklaters, Fried Frank Are Latest To Divulge Bonuses

Linklaters LLP and Fried Frank Harris Shriver & Jacobson LLP have announced they will offer their associates year-end bonuses that match or exceed the market rate established by Cravath Swaine & Moore LLP earlier this week, according to internal memos published online Friday.

### Dentons Tacks On 3 Gadens Offices In Downsized Tie-Up

Dentons on Friday announced that it has finalized its combination with offices of Australia's Gadens, adding on approximately 200 Pacific Rim lawyers, a significantly smaller number than the 500 who had originally considered joining the global giant.

### Data Security Not Top Concern For Firm Leaders, Report Finds

The danger of data breaches and other technological security issues in the legal industry seems to be implicit given the rising demand for data-driven work and high-profile firm document leaks, but information security is not top of mind among firm leaders, according to a report issued on Wednesday.

### Legal Sector Woes Continue With 500 Jobs Lost In November

The legal services sector continued a recent stretch of less-than-stellar employment numbers, losing 500 jobs in November and marking the industry's lowest overall total since June, the U.S. Bureau of Labor Statistics announced Friday in its monthly jobs report.

### In Case You Missed It: Hottest Firms and Stories On Law360

For those who missed out, here's a look back at the law firms, stories and expert analyses that generated the most buzz on Law360 last week.

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