

**Minnesota Volunteer Fire Relief Association
Working Group Meeting**

Office of the State Auditor
Tuesday, November 10, 2009
11 a.m. to 1 p.m.

- I. Call to Order**
Chair Auditor Otto.
- II. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft October 20, 2009 Meeting Minutes.
- III. Record Retention Schedule Discussion**
Exhibit B.
- IV. Exchange Traded Fund Investments**
Exhibit C.
- V. Rollovers to 401(k) Retirement Plans**
Exhibit D.
- VI. Survivor Benefit/Designated Beneficiary**
Exhibit E.
- VII. Contribution Calculations/Payment Requirements**
- VIII. Other Business**
- IX. Next Meeting**
Tuesday, December 8, 2009
11 a.m. to 1 p.m.
Office of the State Auditor
- X. Adjournment**

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by November 9, 2009.

Volunteer Fire Relief Association Working Group

Office of the State Auditor

Tuesday, October 20, 2009

11 a.m. to 1 p.m.

Members Present

Wayne Anderson, Coon Rapids Fire Department Inspector (defined contribution plans)
Bruce Duncan, Excelsior Fire Relief Association President (defined benefit lump sum plans)
Jim Hansen, Minnesota Area Relief Association Coalition Representative
Dave Jaeger, Mahnommen Fire Relief Association Treasurer (defined benefit lump sum plans)
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee (defined contribution plans)
Tim Simon, Elk River City Finance Director
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Dave Ganfield, Apple Valley Fire Relief Association Administrator (defined benefit monthly/lump sum combination plans)
Steven Wallner, Watertown City Finance Director

Others Present

Jim Adams, West Metro Fire Relief Association Secretary
Colleen Bollom, Minnesota Firefighter Pension Consultants Representative
Aaron Dahl, Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst
Michael Johnson, Pension Analyst
Mike Miller, Integra Shield Financial Group Representative
Rhonda Pownell, Northfield City Council Member

The following motions were duly made, seconded and approved:

- RESOLVED to approve the October 6, 2009, Working Group Meeting Minutes
- RESOLVED to revisit the Survivor Benefit/Designated Beneficiary topic at the next Working Group meeting after additional information is obtained for the monthly plans
- RESOLVED to adopt the draft language clarifying which plans are covered by Chapter 424A
- RESOLVED to adopt the draft language correcting the exemption of minors codification error
- RESOLVED to adopt the draft language clarifying the minimum liquidity requirements statutory references
- RESOLVED to adopt the draft language that reconciles differences in municipal approval requirement language between Chapter 424A and Chapter 69
- RESOLVED to adopt the draft language correcting ancillary benefit language for defined contribution plans

- RESOLVED to adopt the revised draft language allowing for the correction of erroneous special fund deposits
- RESOLVED to adopt the revised draft language allowing defined contribution plans to allocate investment returns to inactive members if the bylaws permit and as defined by the bylaws
- RESOLVED to adopt the revised draft language that clarifies members with a break in service governed by federal or state law are exempt from the return to service requirements
- RESOLVED to adopt the draft language clarifying vesting requirements for members who return to active service and membership
- RESOLVED to revisit the Authorized Leaves of Absence topic after revisions have been made to the draft language
- RESOLVED to adopt the draft language that would permit the continuation of monthly benefit payments during a resumption period of service

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Review and Approval of Working Group Meeting Minutes

The members reviewed the October 6, 2009, meeting minutes that had been provided in advance. Hansen made a motion to adopt the meeting minutes. Duncan seconded the motion that was adopted unanimously.

III. Survivor Benefit/Designated Beneficiary Discussion

At the last meeting the Working Group decided to review the order of payment for survivor benefits. Currently, a survivor benefit must be paid to the surviving spouse and surviving child or children, or if none, to the designated beneficiary, and if none, to the estate of the deceased active or deferred firefighter. Auditor Otto explained that various issues have arisen regarding survivor benefits, such as the timing of when the surviving spouse is determined, the inability to pay to a trust if there are a surviving spouse or children, and instances when relief association trustees needed to try and locate surviving children. All of these issues could be addressed by changing the order of payment for survivor benefits. An optional change would be to allow survivor benefits to be paid to the designated beneficiary, or if no designation has been made, to the estate. In addition, Martin had made a recommendation at the last meeting to move the order of payment section to the section of statute that specifies how survivor benefits are calculated. This location would make more sense than the current location in the authorized special fund disbursements section.

The Group acknowledged that the draft language in Exhibit B was not permissive, so it would require relief associations to change their bylaws. Questions regarding potential conflicts with the survivor supplemental benefit section were also discussed. Zikmund raised concerns about increased costs for monthly and monthly/lump sum combination plans. If a monthly retiree designated a beneficiary that was much younger than the

spouse, the relief association would have to pay benefits for a longer period of time than would be currently required. Zikmund said that he would discuss this issue with several actuaries and report back to the Group. Grant also suggested that the draft language could be revised to allow relief associations to limit the duration of monthly benefit payments. Anderson made a motion to revisit this topic at the next Working Group meeting after additional information is obtained for the monthly plans. Hansen seconded the motion that was adopted unanimously.

IV. “Technical” Changes

Auditor Otto explained that Martin, Grant, and Hennessy Allen drafted language to address the topics that have been identified by the Working Group as being “technical” in nature.

- **Clarification of Plans Covered by Chapter 424A**

The Group reviewed draft language that would clarify which public pension plans are subject to the requirements of Chapter 424A, Volunteer Firefighters’ Retirement. The plans not covered by the chapter are Bloomington Fire, Minneapolis Fire, Virginia Fire, and the voluntary statewide plan. Zikmund made a motion to adopt the draft language. Anderson seconded the motion that was adopted unanimously.

- **Exemption for Minors Correction**

Auditor Otto explained that last year the Working Group made a change that allowed for an exemption to the prohibition on minors participating with a volunteer fire department, for members of a youth, civic, or educational organization or program. There was a mistake when the bill was codified and the exemption was added to the wrong section. The Group reviewed draft language that would correct the error. Jaeger made motion to adopt the draft language. Duncan seconded the motion that was adopted unanimously.

- **Minimum Liquidity Requirements Correction**

Relief associations and other public pension plans are required to keep at least a certain amount of their assets in investments with a maturity of no more than 90 days so that they have enough money to pay benefits as they come due. The statutory reference in the section is out of date. The Group reviewed draft language that would clarify that the minimum liquidity requirements apply to plans investing under the limited list and the expanded list of authorized investment securities. Anderson made a motion to adopt the draft language. Zikmund seconded the motion that was adopted unanimously.

- **Municipal Approval Language**

Auditor Otto explained that state statute defines when relief associations are required to obtain municipal ratification for benefit level changes. There is a section in Chapter 424A that defines these requirements, as well as sections in Chapter 69. The language in the different sections isn’t exactly the same, which has caused confusion. The Group reviewed draft language that would reconcile the differences among the sections and reflect current practice. Zikmund made a motion to adopt the draft language. Jaeger seconded the motion that was adopted unanimously.

- DC Plan Ancillary Benefit Correction

When Chapter 424A was recodified last session the ancillary benefit language for defined contribution plans wasn't drafted as intended. Survivor and disability benefits for active defined contribution plan members should be equal to the vested *and* nonvested amounts of the member's account, rather than the vested *or* nonvested amount. The Group reviewed language that would correct this drafting error. Duncan made a motion to adopt the draft language. Zikmund seconded the motion that was adopted unanimously.

- Allowing Corrections for Deposit Mistakes

Auditor Otto explained that occasionally mistakes are made when money is deposited into the special fund. Once the money is deposited into the special fund the relief association isn't authorized to withdraw or transfer the money to correct the mistaken deposit. An example given was a bank error when entering account numbers, and the bank depositing money in an incorrect account. The Group reviewed draft language that would allow the Office of the State Auditor (OSA) to order the transfer from the special fund to the correct fund. For the transfer to be allowed evidence that the error occurred in good faith would need to be provided and the OSA could require the submission of a written legal opinion concluding the transfer is consistent with federal and state law. Martin explained that the legal opinion is included in the draft language because federal law generally prohibits money from a pension trust fund to be paid back to an employer. Martin suggested changing the draft language to be subdivision 3a instead of 5, with a title of "Correction of Erroneous Special Fund Deposits." Zikmund made a motion to adopt the draft language with Martin's revisions. Simon seconded the motion that was adopted unanimously.

- DC Plan Investment Allocations

Defined contribution plans have clear authority to allocate investment returns to active and deferred members. There isn't clear authority, however, to allocate investment returns to inactive members. The Group reviewed draft language that would allow defined contribution plans, if the bylaws permit, to allocate investment returns to inactive members. Martin suggested a reordering of the draft language so that it's clear the bylaws may define the investment return allocation method. Anderson made a motion to adopt the draft language with Martin's revisions. Roed seconded the motion that was adopted unanimously.

- Return to Service Clarification

The Group reviewed draft language that would clarify members with a break in service governed by federal or state law are exempt from the return to service requirements. Examples of breaks in service governed by federal law include military leaves and FMLA leaves. Martin suggested changing the word "protected" in the draft language to "governed." Hansen made a motion to adopt the draft language with Martin's revision. Roed seconded the motion that was adopted unanimously.

V. Return to Service Changes

- **Clarification of Vesting Requirements**

The Group reviewed draft language that was updated based on feedback from the last meeting that would clarify vesting requirements for members who return to active service and membership. The draft language contains two paragraphs now, one for members who return after being paid a benefit and one for members who return without having been paid a benefit. Zikmund made a motion to adopt the draft language. Jaeger seconded the motion that was adopted unanimously.

- **Authorized Leaves of Absence**

Draft language was provided that was updated based on feedback from the last meeting that would exempt firefighters with an approved leave of absence not to exceed one year from the return to service requirements. The language would also exempt firefighters with a break in service other than an approved leave of absence from the requirements so long as the break didn't exceed one year and the firefighter hadn't been paid a benefit. The Group discussed how firefighters with a break in service should be referred to, as the Group agreed that "former firefighter" wasn't a good term. Anderson also suggested changing the subdivision heading to make it clear the requirements apply to members with breaks in service and leaves of absence. Anderson made a motion to revisit the topic after the draft language has been updated to revise the terms and subdivision heading. Jaeger seconded the motion that was adopted unanimously.

- **Continuation of Monthly Pension Payments**

Auditor Otto explained that the draft language would permit monthly retirees who return to active service and membership to continue collecting their monthly benefit and, if the applicable requirements are met, to be eligible for a second benefit for the resumption period of service. Auditor Otto also explained that the return to service requirements that the Group is discussing only apply to firefighters who return to active service with the fire department and return to active membership in the relief association. If a monthly retiree only returns to active service with the fire department the monthly benefit payments would still be required to cease during the firefighter's resumption period of service. Members of the Group expressed concern that monthly plan members could retire at age 50, begin collecting a service pension, and resume active service and membership again after just a 60-day break in service. The Group was concerned that this could be a disincentive for firefighters to serve beyond the minimum retirement age. Anderson made a motion to adopt the draft language with the intent that it be revisited again when all of the monthly and monthly/lump sum Working Group members are in attendance. Duncan seconded the motion that was adopted unanimously.

VI. Other Business

There was no other business.

Volunteer Fire Relief Association Working Group

October 20, 2009

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VII. Next Meeting

Tuesday, November 10, 2009

11 a.m. to 1 p.m.

Office of the State Auditor

VIII. Adjournment

The meeting was adjourned at 1:00.

Exhibit B

Issue:

Relief association trustees have expressed a desire for guidance regarding the retention of relief association records. Relief associations are defined by statute to be “governmental entities that receive and manage public money to provide retirement benefits.” (Minn. Stat. § 424A.001, subd. 4.) The records created and retained by relief associations relating to the operation of the pension fund could be seen as “government records” subject to the requirements of Minn. Stat. § 138.17. To the extent they are “government records,” they can only be destroyed as provided in a duly adopted and approved record retention schedule or upon the specific approval of the Records Disposition Panel. Many cities and towns use general record retention schedules that have been approved by the Records Disposition Panel. A similar general schedule could be created for relief associations.

The Working Group can work to create a general record retention schedule and provide it to the Records Disposition Panel for review. If the schedule is approved it will be posted on the OSA website with notices in the Pension Newsletter and E-Update.

Types of Records:

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| <ol style="list-style-type: none">1. Administration:<ol style="list-style-type: none">a. Articles of Incorporationb. Bylawsc. Attorney Opinions and Correspondenced. Publications, Meeting Noticese. Correspondencef. Grant Information and Documentsg. Meeting Minutesh. Policies and Procedures2. Contracts and Agreements3. Elections:<ol style="list-style-type: none">a. Ballots and Returnsb. Publications4. Financial:<ol style="list-style-type: none">a. Ledgers and Journalsb. Fixed Asset Recordsc. Equipment Inventoriesd. Audit Reportse. Bank Statementsf. Budget Reportsg. Checks and Check Registersh. Receipts and Receipt Booksi. Treasurer’s Reportsj. Annual State Reporting Formsk. Investment Reports and Documents | <ol style="list-style-type: none">5. Human Resources:<ol style="list-style-type: none">a. Employment Notices and Recordsb. Benefit Enrollment Forms (e.g., VFBA Insurance)c. Membership Application Formsd. Beneficiary Informatione. Letters of Resignation/Terminationf. Service Credit Informationg. Break in Service Informationh. Disability Claim Documentationi. FMLA Documentsj. Grievance and Disciplinary Action Filesk. Personnel Filesl. Training Materials and Records6. Insurance:<ol style="list-style-type: none">a. Certificates of Insuranceb. Dishonesty/Surety Bonds7. Payroll:<ol style="list-style-type: none">a. Tax Withholding Recordsb. Payroll Checksc. Time Sheetsd. Tax Forms |
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Other Types: _____

Exhibit C

Topic:

Whether the list of authorized investment securities should be expanded to allow relief associations and other local public pension plans to invest in exchange traded funds that invest in “other investments.”

Current Law:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

Subd. 7. Expanded list of authorized investment securities.

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(j) Exchange traded funds. The covered pension plan may invest funds in exchange traded funds, subject to the maximums, the requirements, and the limitations set forth in paragraphs (c) to (i), as applicable.

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Paragraphs (c) to (i) of this subdivision authorize investment in government obligations, corporate obligations, other obligations, corporate stocks, developed market foreign stocks, commingled or mutual funds, and real estate investment trusts. “Other investments,” which include securities such as international bonds, emerging market stocks, and venture capital, are authorized under paragraph (k).

Exhibit D

Topic:

Whether rollovers to 401(k) retirement plans should be authorized.

Current Law:

424A.015 GENERALLY APPLICABLE VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION PENSION PLAN REGULATION.

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Subd. 4. **Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, and that provides a single payment service pension, at the written request of the applicable retiring member or, following the death of the active member, at the written request of the deceased member's surviving spouse, may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension or the death or survivor benefit attributable to the member, whichever applies, to the requesting person's individual retirement account under section 408(a) of the Internal Revenue Code, as amended.

356.635 INTERNAL REVENUE CODE COMPLIANCE.

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Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

- (1) an individual retirement account under section 408(a) of the federal Internal Revenue Code;
- (2) an individual retirement annuity plan under section 408(b) of the federal Internal Revenue Code;
- (3) an annuity plan under section 403(a) of the federal Internal Revenue Code;
- (4) a qualified trust plan under section 401(a) of the federal Internal Revenue Code that accepts the distributee's eligible rollover distribution;
- (5) an annuity contract under section 403(b) of the federal Internal Revenue Code;
- (6) an eligible deferred compensation plan under section 457(b) of the federal Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan; or
- (7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an individual account or annuity treated as an inherited individual retirement account under section 402(c)(11) of the federal Internal Revenue Code.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal

Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a) or 403(a) of the federal Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

Exhibit E

Issue:

Relief association trustees and members have expressed a desire to change the payment order for survivor benefits for a variety of reasons (payout to a trust, at time of death vs. at time of separation issues, relief associations having to find any possible surviving children of the former member, and others).

Current Law:

Currently, survivor benefits must be paid to the surviving spouse and surviving children. If there is no surviving spouse and there are no surviving children, the benefit is paid to the designated beneficiary. If there are no survivors and there is no designated beneficiary, the benefit is paid to the estate of the deceased active or deferred firefighter. Survivor benefits are only allowed to be paid to the estate if the firefighter who passed away was an active or a deferred relief association member. In cases where the deceased firefighter was a retiree receiving monthly benefit payments, survivor benefits can only be paid if a beneficiary is designated.

Option:

The Optional Changes below would allow monthly and monthly/lump sum plans to limit the duration of monthly survivor benefit payments so that the total does not exceed the actuarially determined value of the firefighter's service pension.

Considerations:

Could add a requirement that the firefighter's spouse sign a waiver if someone other than the spouse is designated as the beneficiary

Optional Changes:

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

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Subd. 3. Authorized disbursements from the special fund.

(a) Disbursements from the special fund may not be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;

(2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid under law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits if authorized and paid under law and specified in amount in the bylaws governing the relief association ~~to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased~~

~~members of the relief association, and if no survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid under law and specified in amount in the bylaws governing the relief association;~~

(4) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the Minnesota Area Relief Association Coalition in order to entitle relief association members to membership in and the benefits of these associations or organizations;

(5) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

(6) for the payment of administrative expenses of the relief association as authorized under section 69.80.

~~(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump sum volunteer fire relief association, or for a combination lump sum and monthly benefit volunteer fire relief association where a lump sum service pension has been elected by or a lump sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.~~

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424A.02 DEFINED BENEFIT RELIEF ASSOCIATIONS; SERVICE PENSIONS.

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Subd. 9. Limitation on ancillary benefits.

A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide for a lump-sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire

department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

(3) If a survivor benefit is payable, the benefit must be paid to the designated beneficiary, or if no designation has been made, to the estate of the deceased active or deferred firefighter.

(4) For purposes of this section, the duration of survivor benefit payments to the designated beneficiary of a firefighter that elected a monthly benefit service pension or where a monthly benefit is payable, may be limited by the relief association bylaws so that the total survivor benefit disbursement does not exceed the actuarially determined value of the firefighter's service pension.

(5) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.

**424A.016 DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS'
RELIEF ASSOCIATION SPECIFIC REGULATION.**

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Subd. 7. Limitation on ancillary benefits.

(a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested or nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

(c) If a survivor benefit is payable, the benefit must be paid to the designated beneficiary, or if no designation has been made, to the estate of the deceased active or deferred firefighter.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a designated beneficiary may be a trust created under chapter 501B.

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