MINNESOTA STATE EMBLEMS REDESIGN COMMISSION

Minority Report

Senator Steve Drazkowski District 20, Mazeppa, Commissioner, ex officio

Representative Bjorn Olson District 22A, Fairmont, Commissioner, ex officio

Aaron Wittnebel, Commissioner for the Ojibwe Community

December 29, 2023

Introduction

In 2023, the Minnesota Legislature passed a provision in the State Government Finance Omnibus Bill, Chapter 62, which created a commission to redesign the state's official seal and flag. The members were appointed, and the commission chose a final seal design on December 12 and a final flag design on December 19, 2023. The Report was finalized on December 27, and we expect it to be certified by January 1, 2024. If the legislature takes no action to change the emblems or the effective date, they will go into effect as the official flag and seal on May 11, 2024.

We three members of the commission, would like to point out defects in the process and outcome of the commission's work that led us to reject the flag and seal proposed by the commission or portions thereof as indicated.

This is in no way to disparage the extraordinary efforts of the staff of the Minnesota Historical Society (MNHS) or other members of the commission personally. We believe they were handed a challenging task without the proper resources, including time. We believe that the legislature delegated tasks and responsibilities to them that they should have taken upon themselves. Nor does this report mean to disparage the designers of the 2128 Flag submissions and 399 Seal Submissions received by the commission. Many of these showed great creativity, thought, and effort, for which we are grateful.

A tight timeline

The law went into effect on July 1, 2023. The appointment of the members was to be made no later than August 1. Secretary of State Steve Simon was a named member of the Commission and chose not to send a designee. The Arts Board and Explore Minnesota sent designees. The Historical Society was tasked with staffing the committee and had a designated representative, the Executive Director, which gave them quite a lot of influence over the process. The legislature made appointments during the summer months before the deadline; Senator Mary Kunesh and Rep. Mike Freiberg were the authors of the bill to create the commission and redesign the flag and seal. Rep. Bjorn Olson and Senator Steve Drazkowski were appointed by the minority leaders of their respective bodies. The legislators served as ex officio members who could not vote or make motions but frequently spoke during meetings.

Member	Appointment made by	Effective Date of Appointment
Michael Haralson	Governor Walz	August 2, 2023[1]
Shelley Buck *	Governor Walz	August 2, 2023
Anita Gaul	Governor Walz	August 2, 2023
Luis Fitch	MN Council on Latino Affairs	August 2, 2023
Dr. Kate Beane*	Capitol Area Architectural and Planning Board Chair (Lt. Governor Peggy Flannagan)	August 28, 2023[2]
Robert Larsen	MN Indian Affairs Council (Dakota member)	No date is mentioned regarding his appointment His application date on the Secretary of State's website is September 6, 2023.[3]

[1] All the Governor's Appointments for the Commission were announced on the same day, July 28, 2023. effective August 2, 2023.
https://mn.gov/governor/appointments/boardscommissions/boardsnews.jsp#/detail/appId/1/id/586053

[2] Secretary of State's Website. Accessed December 22, 2023.
https://commissionsandappointments.sos.state.mn.us/Agency/328/Member/Details/36811

[3] Secretary of State's website. Accessed December 22, 2023.
https://commissionsandappointments.sos.state.mn.us/Agency/328/Member/Details/37684

Aaron Wittnebel	MN Indian Affairs Council (Dakota member)	July 19, 2023[4]
Kim Jackson	MN Council on Asian and Pacific Island Affairs	August 1, 2023
Denise Mazone	Council for Minnesotans of African Heritage	August 1, 2023

*It is worth noting that Shelley Buck and Dr. Kate Beane were also applicants for the position of Dakota representative from MIAC according to the Secretary of State's Website. Instead, they were chosen, respectively, by the Governor as one of his 3 "public" representatives and by the Lt. Governor in her capacity as Chair of the Capitol Area Architectural and Planning Board. Dr. Beane is a commissioner on the Capitol Board.

As seen from this table, a couple of the appointees were appointed after the deadline.

Defects in the Commission Law

The language creating the commission and how the result was supposed to be enacted is contained in Sections 5 and 118 of Chapter 62, Article 2 of Laws 2023. As passed into law, the provisions were contained in HF 1830, the State Government Finance Omnibus Bill of 2023.

In Chapter 62, Section 118, the members were specified as representing various offices and agencies. There was also legislative representation and public member representation. In effect, this gave an outsized role to the Walz-Flannagan administration in determining who the commissioners would be. Making the legislators ex-officio members gave them a much smaller role. If you count Secretary Simon as part of the Executive Branch, despite his obvious tie to the state seal, the whole Commission looks directed from the Executive branch.

As much as we appreciate the work of MNHS in making this Commission function, the Legislative Coordinating Commission would have been a better place to situate this commission or at least provide MNHS with the technical resources they needed. The LCC is experienced in making commission work

[4] Secretary of State's Website. Accessed December 22, 2023. https://commissionsandappointments.sos.state.mn.us/Agency/328/Member/Details/3315

open to the public. The meetings would have been advertised through the joint legislative schedules and promoted through the legislature's YouTube channels. Instead, MNHS had to build a standalone website with an obscure address and ask the public to log in to Zoom or unlisted YouTube links, which, judging from some of the complaints received, only sometimes worked, or were confusing for some to navigate.

Defects in the Process of Public Engagement and Transparency

Public Comments

Authorizing legislation for flag and seal redesign (Laws of Minnesota, 2023, Chapter 62, Article 2, Section 118, Subd. 4) states: "The commission must also solicit public feedback and suggestions to inform its work."

The Commission Report has a section on Public Comments. They cited the steps taken to fulfill the direction to solicit public input adequately. We must qualify some of these points as follows:

(1) Outreach to formal media in the state by press release, Engagement by the commission staff, and chair with interviews upon request.

The MNHS communications team used familiar channels to promote the flag submission and comment process to their other statewide activities. However, given the shrinking number of media outlets in greater Minnesota, it's likely that coverage was better in the Twin Cities metro. Having remote, out-of-state media contact the commission is interesting but not what the legislature envisioned for public input for the commission's work.

The media mentions, which numbered about 1000 according to the report, are impressive; however, one thing must be noted—the commission did not bother to review the content. They were only interested in promotion. Some media outlets also solicited opinions from the public, such as in this *Star Tribune* article published on December 10, 2023.[5] The story detailed the display of the six flag finalists at the Mall of America and contained critiques of the flags by random individuals. When the story was brought to their attention by Senator Drazkowski at the December 12 meeting, the

[5] https://www.startribune.com/minnesota-state-flag-finalists-mall-of-america-display/600325833/

Commission was dismissive of it, and Senator Mary Kunesh remarked that the comments were from out-of-state tourists. The story contained the name and town of everyone quoted, and all were from Minnesota. This was typical of the attitude the commission displayed toward critical comments by the public.

(2) **An official State Emblems Redesign Commission** website. Meeting notices and agendas were posted on the SERC website. All meetings were open to the public. A Zoom link was provided and publicized on the SERC website, as was the time and location of hybrid meetings. All meetings, as were the notes summarizing actions taken at each meeting, were recorded and made available online for public viewing.

As stated earlier, the stand-alone website with an opaque web address was difficult for those not "in the know" to find, even if you went to the Minnesota Historical Society website. Even legislative staffers who were fielding questions about the Commission that was created by law couldn't find it. This also led to public confusion about online polls vs. the official comment process. For example, FairVote.org conducted an online poll based on rank-choice voting. Some members of the public thought it was an official vote, judging from comments received by legislators. We believe that having the broadcasting and media support from the legislature and its joint agency, the LCC, would have made a substantial difference in eliminating the confusion. (See the "Defects in the Construction of the Commission" section above on the issues regarding the Zoom meetings).. There was a strong marketing communications approach to the SERC Commission process, which may work for MNHS and Explore Minnesota's agency missions when what was needed for this Commission was more of a public transparency approach.

(3) The Minnesota Historical Society Communications team distributed a weekly newsletter to those who subscribed to the newsletter distribution list.

Getting on the list required scrolling down to the bottom of the long front page on the SERC site. Most of the people on this list were likely reporters and a dedicated group who followed the commission closely because they had submitted a design, were flag hobbyists, or

for some other reason. In other words, this was a highly self-selected group. This is an important fact to remember because only individuals who read this email newsletter would be notified in time to get on the list for the small amount of time set aside for public testimony.

(4) **The six finalist flag designs were printed as full-size fabric flags and hung for display at the Mall of America in Bloomington, Minnesota, on the weekend of December 9-10, 2023, for mall shoppers to view and comment on. A set of the six finalist flag designs was also displayed at the Becker Historical Museum for public review and comment.**

Making the flags available for public display was an excellent idea, but why only two locations? Early in the meetings of the Commission, there was some discussion about outreach to Greater Minnesota, including sending final versions of the flag to each congressional district to solicit input around the state.

According to Commissioner Wittnebel:

"The flags were displayed in Becker due to me finding out from a reporter about the Mall of America display. It was not approved by the Commission, yet it was paid for out of the Commission's. budget to let Explore Minnesota put them on display. The original, tentative plan was to order the final flag so that one could be on public display in each Congressional District for feedback and comment. Upon being confronted, staff sent me a set, which turned out to be a spare for the MOA display to put up somewhere in the 7th Congressional District, which took place at the Becker County Museum. I found out afterward that they were a spare set and that no others had been ordered or would be displayed in other districts."

As discussed earlier and as was the normal practice, the response by the commission to the ensuing public feedback was to ignore it.

(5) A public submission form for seal and flag designs was launched by the Minnesota Historical Society on October 2, 2023. This resulted in 2,128 flag and 399 seal design submissions by the October 30, 2023 deadline.

This is less than 30 days to inform the public of the seal and flag competition and have designers submit their designs. Although there was preliminary promotional activity before the competition opened around the formation of the commission, the website submission promotional process fit into this shorter period and favored people who were already following it.

(6) The continuous solicitation of public feedback and suggestions resulted in over 21 thousand public comments submitted on the SERC website. Commissioners also heard public testimony at their virtual meeting on December 5, 2023.

It was clear from the beginning that the constrained timeline demanded an extraordinary effort by the MNHS staff to create the website and the back end for collecting public comments. Comments made by MNHS Executive Director David Kelliher in the initial virtual meetings show he was concerned about getting a comments collection mechanism working in time.

Once comments began to come in, they were delivered to the individual commissioners as spreadsheets with thousands upon thousands of comments, in batches contemporaneous to the opening and closing of the submissions period, the choosing of the six flag finalists, five seal finalists, and just before the final revisions made to F1953. The comments were not made available for the public to see. There needed to be an attempt at addressing the comments consistently or summarizing the overwhelming number of comments. Commissioners were left to do that on their own, or they could assign staff to that task as government appointees or elected officials. There was no attempt to provide guidance on how to process these comments. A couple of issues were raised through public comments toward the end of the process. Still, these were simple refinements, like whether the Minnesota State shape would be symmetrical or asymmetrical.

The elected officials on the commission did receive public comments or had public comments directed to them. At least in the case of the two members signed on this report, they were responded to directly by legislative staff as direct communications are in the usual way. The commissioners' email addresses were not made public and were only shared through the commission process emails sent by MNHS and in reply all messages. Some commissioners mentioned receiving emails directly from the public, perhaps through their other public roles or the groups they represented.

Public Testimony

Thirty-four people signed up to testify. 2 were from England, and several mentioned they were vexillology group members. Several were there to advocate for their own flag designs. It was an extremely closed process. The only people informed about this opportunity were those who signed up for email updates on the Historical Society's website. One person contacted one of the legislator's offices and complained that as soon as she got the email, she contacted the Historical Society and was told the list was already full. If a legislative committee tried to limit testimony in this way, there would be an outcry and some attempt at making more time available to testifiers.

(7) The Commission also received public comment from experts to guide them in the selection process and decision-making.

Members did hear from the experts at almost every meeting. Entire meetings were set aside to hear from experts, designers, and historians from across the country and even other countries about what a "good" flag should look like. It's important to note the difference between design expert testimony and public testimony. The Commission Law makes this distinction by describing them in separate sentences:

"The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work... "

Attention must also be paid to the use of the words "may" and "must." The Commission may secure voluntary expertise. But the commission "must" solicit public input. We think that the commission reversed the importance of these tasks.

At the 12/2 meeting to select the three flag finalists, the designers were brought in to present their designs. This took up fully half of that critical meeting, the Commission listening to what the designers thought their designs meant. Commissioner Aaron Wittnebel noted that we should have been

hearing from Minnesotans what they think about the flag designs. These weren't the designers' flags anymore; they belonged to the people of Minnesota. We agree.

Two designs popular with the public get short shrift

One of the most popular flag designs from the first round of comments was submission F29, titled by its designer as "starflake." It was clear from the sheer volume of comments that this was the most consistently popular design. Secretary Simon acknowledged this fact by asking for it to be included in the final round of designs (adding a 6th selection to the final round). Another significantly popular design idea that the Commission did not consider was putting the most popular state seal selection, S224, on a dark blue background and using that as the state flag. This outside-the-box suggestion was made by many people in the comments solicited by the Commission on the website, on social media, and Reddit.

The chair of the Commission, Luis Fitch, urged members of the commission to send their design ideas to him, and he would do mockups of design changes to the seals and flags. Senator Drazkowski suggested to him in an email (See Exhibit B), and Chair Fitch responded and reached out to the designer to create some preliminary sketches of flags with the loon seal and with loon seal elements on a flag.

Senator Drazkowski asked Chair Fitch if these would be considered at the next meeting, which would be the first hybrid meeting, and he assured him they would. But no mention was made of these designs at the next meeting. Senator Drazkowski was never given an explanation as to why by Chair Fitch.

If the members had read the comments, they would know this was a popular idea. It may not have made the final round of selections, but it might have been considered. It's simply too bad that a popular "hive mind" type idea couldn't even be brought to the commission because they were too wedded to listening to the experts, at the expense of the public's opinion.

Defects in the Seal construction by the commission

We want to point out the following issues with the seal design. Since the participants in this minority report have different issues, we will label them by the member(s) asserting them.

[Senator Steve Drazkowski and Rep. Bjorn Olson]

- **The removal of the state motto from the seal design** and its replacement with a phrase in the Dakota language meaning ""land of sky tinted water" Mni Sóta Makoce." We oppose this for several reasons. First, the charge to the commission in the law to not single out a particular race or ethnic group in our state symbols is violated. This was noted by Secretary Simon as a legally challengeable issue. Secondly, the phrase is redundant. The name "Minnesota" is derived from that phrase, so it is like having the name "Minnesota" in two languages as if the seal was essentially bilingual. What may appear to some as simply a respectful nod to the Dakota may, in fact, be legally challengeable. It is the singling out of a particular language or an elevation of the status of a language or a phrase requiring further legal support. Future legislation changing the state motto was mentioned by one of the legislators on the Commission, but this was not the charge of the commission, nor was it part of the underlying legislation.

- **The removal of the date of Statehood from the seal**. The removal was done at the request of the Capitol Board Representative, Dr. Kate Beane, who characterized Minnesota Statehood as a purely negative event. This was after Secretary of State Simon gave a speech indicating that Statehood Day was an event Minnesotans could share in and take pride in. It was an exchange that questioned the whole concept of designing new symbols for a common purpose, if no common view exists of Minnesota Statehood. Commissioner Wittnebel did some research on his own, contacted notaries and other end users of the seal, and adds his findings in the section below. One of the things he learned was that eals generally contain a year of foundation. The omission of a date of any kind makes the Minnesota Seal non-compliant with general standards of official seals. We find this peculiar, given the attention that applying general standards of flag design got in the Commission's work.

- **The addition of rondels to the seal to make the total of rondels reflect 87 counties plus 11 tribes within the borders of Minnesota**. The state seal is a not merely symbolic, it is a symbol of authority. There is no reason to have the state symbol of authority encompass 11 other sovereign nations. These entities were not separately consulted to see if they wanted to be included in this manner. Minnesota counties were created by the state and are subject to state authority, so their representation alone is entirely appropriate.

[Aaron Wittnebel]

Minority Report in Rebuttal of the State Emblem Redesigns Commissions' Report's Portion on the Great Seal of the State of Minnesota

I. Introduction

In the 2023 Regular Session of the Minnesota Legislature, HF1830 known as the State Government Finance bill was amended by the House Ways and Means Committee to include a provision for the State Emblems Redesign Commission as reported in the Journal of the House on the 48th Day of Session, Thursday, April 13. 2023 (Top of Page 4578). HF1830 was passed by Conference Committee on the 76th Day of Session, May 21, 2023 (Top of Page 10454) as reported to the House by the Secretary of Senate, Thomas S. Bottern.

The records show that there was little to no debate on the substance of the State Emblems Redesign Commission clause, except by Senator Drazkowski and Representative Kurt Daudt.

II. The Law Establishing the State Emblems Redesign Commission

Minnesota Session Laws - 2023, Regular Session

CHAPTER 62

Sec. 118. STATE EMBLEMS REDESIGN COMMISSION.

Subd. 4. Duties; form and style of recommended state emblems.

"**The designs must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that**

represent only a single community or person, regardless of whether real or stylized, may not be included in a design. The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the **design of official seals,** to assist in the work. The commission must also solicit public feedback and suggestions to inform its work."

III. Questions Both Unanswered and Answered

A. Is the annulus (label) defined as being part of the design under the enabling legislation?

Unclear.

B. When looked at separately is the annulus (or label) and the blazon (design) defined as being the design under the enabling legislation?

No. If the Commission listened to its own expert on the official Great Seal.

"The annulus is the label of, and the blazon is the design or center icon, together they complete the Great Seal." – Dr. Jonathan Good, Heraldic Fellow

C. Is the placement of a non-state symbol or statement on the blazon of the Great Seal allowed under the enabling legislation?

No.

D. Does the Commission have the authority to change the State Motto under the enabling legislation?

No.

E. Did the Commission have a responsibility to listen to the tribal representatives assigned to serve on the Commission, over other members of the Commission appointed to represent certain state agencies who also may be enrolled tribal members?

Yes. The legislation does assign members by certain communities and agencies, except for the three Gubernatorial Appointees. With that being the case, the Commissioner for the Ojibwe Communities and the Commissioner for the Dakota Communities would speak for their communities, not the Commissioner for the Capitol Area Architectural & Planning Board.

F. Did the Commission have a responsibility to listen to the 87 County Recorders (or Registrar of Titles) and Public Notaries regarding the Great Seal?

The Commission was responsible for soliciting feedback from the public but did not do so in matters consistent with state laws in the first, second, and final rounds of design comments. *See Minn. Stat. § 13, § 13D, and §15.17, subd. 1.*

When asked if his office would poll the Public Notaries on the potential designs for the Great Seal, at the different stages of comments; the Secretary of State stated that his office would. However, no polling or surveying of the Public Notaries was ever conducted. This is known because two Commissioners, Commissioner Mazone and I serve as Public Notaries and have colleagues who do as well and no survey or poll was ever conducted and in proving that point further, no results were ever shared with the Commission or published.

However, when I surveyed all 87 County Recorders (Registrar of Titles in Counties without a Recorder) and their staffs, who are public officials that have professional obligations in relation to the Great Seal of the State of Minnesota were asked; all 87 unanimously requested that at least the date of Statehood be placed in the annulus if the year alone was not kept. They also preferred that the State Motto was removed all together if the language proved divisive. If it was kept, they preferred that it be written in Dakota, Minnesota's first language over French.

No member of the public or the Commission was aware in advance that Commissioner Kate Beane, who represents the Capitol Area Architectural Planning Board, and Commissioner Anita Gaul, who is a Gubernatorial Appointee, were planning to propose the placement of a Dakota phrase on the blazon, which was not directly related to an official state symbol or motto. The proposed motion was kept secret until prior to the adoption of the Great Seal by the Commission, and it allowed no opportunity except for a notation that it did not comply with the criteria, and that it was not the state motto nor a state symbol.

G. Did the Commission review the foreign laws on how each country or region (state) within a country recognizes the Great Seal of the State of Minnesota for Notary and Apostille purposes?

No, beyond this Commissioner, no other Commissioner or support staff reviewed such laws. When this was brought up during the December 12 in-person meeting of the State Emblems Redesign Commission, both Commissioner Michael Harralson, a Gubernatorial Appointee and Commissioner Kent Whitworth, Representing the Minnesota Historical Society made comments on how this Commissioner was not an attorney, although neither of them has a background in International Law either; nor did they conduct any collating of relevant research.

IV. Other Laws Directly Related to the Great Seal of the State of Minnesota

A. International Law

1. Statute of the Hague Conference on Private International Law 1955
(revised in 2007 for publication in alternative languages, English and French)

2. Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (a/k/a The Apostille Convention of 1961)

a. As of 2016, 113 countries are parties to the Apostille Convention (The United States included.) All 113 will recognize document authentication and certification by the state or regional governments within the member countries that delegate such authority.

i. Germany, the United States of America, Brazil*, etc., allow delegation of duties.
ii. The United Kingdom and Commonwealth Nations do not**

*Brazil will not accept documents authenticated or certified by private agents, only State/Foreign Departments or Secretaries of State.
**Canada is a party to the Hague Convention but not a party to the section known as the Apostille Convention.

b. As of 2016, there are 63 countries that are not parties to the Apostille Convention but will recognize document authentication by the originating country (not but not political subdivisions such as counties, regions, or states), and will also require what is known as a C3 Document to accompany them.

3. In all 113 countries that are parties to the Apostille Convention their Foreign Office must recognize the Great Seal of Minnesota, along with the state/provincial/county subdivisions that also handle Public Notary and Apostille services on behalf of the government. In the 63 countries who are not parties to the Apostille Convention will not recognize document authentication or certification by political subdivisions; requires that the Great Seal of Minnesota is recognized by the U.S. State Department to handle authentication and certification services of Apostille.

4. U.S. Supreme Court precedence on the Hague Convention

VOLKSWAGENWERK AKTIENGESELLSCHAFT v. SCHLUNK, 486 U.S. 694, No. 86-1052 (1988)

B. U.S. Federal Code, Regulations, and Rules

1. 15 U.S. Code § 1061 (1970)
2. 28a U.S. Code § 44 (1948)
3. 35 U.S. Code § 115 (1953)
4. 35 U.S. Code § 261 (1953)
5. 37 CFR § 1.66 (2003)
6. Fed. R. Civ. P. 44 (1948)

C. Uniform Commercial Law (aka Uniform Commercial Code)

1. Law on Notarial Acts & Apostilles

a. 2021 Newly Revised – 6 States, the District of Columbia and the U.S. Virgin Islands approve of this Uniformed Law Revision.

b. Uniform Law – 22 States approved the Uniform Law on Notarial Acts prior to its newest revision. (Includes Minnesota)

c. 22 States and 4 U.S. Territories have individual laws pertaining to Notarial Acts, none which are like the other.

d. Nearly half of all U.S. States and Territories have their own unique laws pertaining to Notarial Acts and Apostilles.

D. Minnesota Statutes and Administrative Rules

1. Minn. Stat. § 1.135
2. Minn. Stat. § 357.17
3. Minn. Stat. § 358.115
4. Minn. Stat. §§ 358.51-358.76
5. Minn. Stat. § 359
6. Minn. R. 2810.9920 (2007)
7. Minn. R. 2810.9950 (2017)
8. Minn. R. 2860.9920 (2007)
9. Minn. R. 2860.9930 (2007)
10. Minn. R. 4601.0100 § Subp. 18. (2015)
11. Minn. R. 5219.0300 (2011)
12. Minn. R. 6400.6100 (2021)
13. Minn. R. 7035.2805 (2006)
14. Minn. R. 7045.0524 (2013)
15. Minn. R. 7900.0500 (2002)
16. Minn. R. 8210.0500 (2019)
17. Minn. R. 8210.0600 (2016)
18. Minn. R. 8210.3000 (2016)
19. Minn. R. 8215.0500 (2018)
20. Minn. R. 8610.0160 (2023)
21. Minn. R. 9500.1206 (2021)
22. Minn. R. 9560.0030 (2016)

V. Summary of Dissent

A. The Commission did not solicit public comment in a manner consistent with state law (*See Minn. Stat. § 13, § 13D, and §15.17, subd. 1.)*, therefore the anonymous comments received cannot be counted as fulfilling this specific requirement under the Commission's enabling legislation.

B. While I proposed the compromise of writing the State Motto in the Dakota language as reference to the history of Minnesota, and Dakota being the first language here and not French; I believe that would not have violated the clause in the enabling legislation as it would

have been a historical reference and not a symbol stylized that represents one group of people over others. However, the adoption of a phrase for to be placed on the blazon of the Great Seal, that is not a state symbol or the state motto in the Dakota Language favors the Dakota people over other groups of peoples in Minnesota. This clearly violates the statute and should be removed from the Great Seal as adopted.

C. The State Emblems Redesign Commission in Minnesota eliminated the year of statehood from the Great Seal because it is deemed offensive, based on the opinion from the Commissioner representing the Capitol Area Architectural Planning Board who use their credentials of a PhD as being an expert on the matter, all though no disclosure on what specific subject that PhD covers. However, many other experts (including the Commission's expert, Dr. Jonathan Good, a Heraldic Fellow) believe that either the date or the year should be placed in the annulus of the Great Seal, where the current Year of statehood is positioned; this includes both the Commissioner for the Ojibwe Community and the Commissioner for the Dakota Community. The inclusion of the year of statehood on the Great Seal of the State of Minnesota is a longstanding tradition that represents the state's history and culture. The annulus is an official label that is used to display the state's name and the year or date of statehood, and it is not part of the blazon. Therefore, it is reasonable to include the year or of statehood on the Great Seal, within the annulus.

D. Though there are a few Great Seals of other U.S. States that do not have their date or year of statehood on them currently, as they have been used since their entry into the Union; the Apostille Convention does recommend that if a change is made, that those dates or years are included on the seal. (See the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.)* In this day of Artificial Intelligence, the physical seal utilizing the date or year of statehood within the annulus and stylized the same way as the rest of the annulus could be considered and extra security measure when authenticating or certifying documents.

VI. Other Issues of Concern to Address

A. Basic Rules of Procedure for State Boards, Commissions, Committees, and Task Forces

1. The Commission at its first meeting elected a Chair and Vice Chair to preside over meetings, as Commissioners are considered equals among each other. The Chair and Vice Chair exceeding their purview on several occasions, but a few specifically stuck out:

    a. The Chair for legitimate purposes that could not wait and with full transparency afterwards to the Commission when he changed the agenda to schedule expert and public testimony for us to meet deadlines.

b. The Vice-Chair utilized an MNHS Support Staff Member as their own personal press aide to schedule interviews nearly every week. This led to the Vice Chair making a claim during a Valley News Live interview stating that she could speak for the BIPOC Commissioners and Communities; afterward, when I suggested these Commissioners provide interviews where our opinions are asked for, we could provide them. After doing so, there were consistently times when the Vice Chair and that Staff Member made under-the-radar biased remarks purposely when I was around during discussions about the press; this complaint was reported to Chair Fitch and Mr. Kelliher, and the incidents did not stop." While we had MNHS Support Staff, like David Kelliher, Lindsey Dyer, Olivia Gentilcore, and intern Jack Barrett who went above and beyond in their duties and commitment to the Commission, Commissioners, and our work, I do feel that the other staff member referenced as the press aide was not an appropriate use of Commission funding as that particular staff member only worked with or for the Vice Chair, a very confusing situation to say the least.

2. At the first meeting, Rules of Procedure for the Commission were brought up as something we should establish but passed over because of our short deadline to do our work.

3. The enabling legislation for the Commission stated that all appointments to it needed to be made by August 1st. However, this Commissioner was told that certain appointments had not been made. This caused us and the state to lose one month's worth of work.

4. The Legislature should establish an outline of rules under the advisement of the Secretary of the Senate, the Clerk of the House, and the Legislative Reference Librarian for all State Boards, Commissions, Committees, Councils, and Task Forces when they receive no such outline with specificity in statute.

B. Conflict of Interest Disclosures

1.) The Commission set up a Conflict-of-Interest rule where no one who had financial interests or familial ties could submit design concepts. I was the only Commissioner to complete a Conflict-of-Interest form, that was also publicly accessible. I don't understand as a commissioner who did not receive payment, unlike four Commissioners that we know of, from an agency or other organization while serving on this Commission, why I was the only one to complete an "Ethical Practices & Conflict-of-Interest Disclosure Form." After the fact, it was brought to my attention that the artist that provided the flag design concept, "The Ojibwe Loom" had some form of previous relationship with the Commissioner for the Area Architectural Planning Board and it could not be determined if it were familial or financial in nature, as no disclosure form was provided. As recent as the time of writing my portion of the Minority Report, I have continued to be contacted by people working directly for the Lt. Governor and CAAPB upset that I did support a Native Artist, which I didn't know until after and based on the design submitted still would not have voted in favor. The same issue happened with the Vice Chair for the Commission,

who was a Gubernatorial Appointee; it was brought to light prior to our selection of flag designs during our first in-person meeting that they had a pre-existing relationship with a particular artist, who "they actively campaigned to other Commissioners to choose that artist's design, placing him into the first final six and then the second final round of three.

2.) Gubernatorial Appointees in the past had to sign and turn in Campaign Finance & Disclosure Economic Interest Statement forms in addition to conflict-of-interest forms; I believe this practice should be returned, as it would be for the betterment of the public trust.

C. Unpaid versus Paid

1. In the Commission's Report to the Legislature and Governor it thanks all the Commissioners for volunteering and the extra work that they put into the Commission. However, that is an incorrect statement as four Commissioners were paid to participate unlike the rest of the Commission:

   A. Kent Whitworth, Executive Director for the Minnesota Historical Society

   B. Philip McKenzie, Chair, Minnesota State Arts Board

   C. Lauren McGinty, Explore Minnesota

   D. Steve Simon, Secretary of State

   Two of the above, Mr. Whitworth and Mr. Philip McKenzie appointed themselves to the Commission as the heads of their appointing authorities. Secretary Simon was written into the enabling legislation. Though the work of the Commission could have serious implications for tourism in the state, I would disagree that our flag or seal should be dependent on the latest branding advisory, the most recent being from Explore Minnesota in 2018. I don't exactly know why a seat for a Commissioner was available for Explore Minnesota when it may have been better to have supplied the Commission with additional support staff or expert testimony instead

2. For the most part, when groups like this meet in person, it works better for everyone. Pandemic procedures are no longer in effect and not necessary at this time. It's time for the Legislature to start requiring state boards, commissions, committees, councils, and tasks forces to meet in person instead of online. And with that, they should consider small stipends or per diems in addition to the typical expenses incurred. It wasn't long ago that the Legislature placed the Office of State Treasurer on the ballot to eliminate as an elected official for sending faxes from his vacation home to conduct state business; I wonder how that is different from Zoom, WebEx, Google Meet, and MS Teams today?

3. I also need to point out that funds from the Commission's budget were expended on purchasing flags based on design concepts that were not yet refined at the request of Explore Minnesota to show residents and gauge feedback. I feel that this venture did more harm than good, and that Explore Minnesota should have paid for the flags, since the Commission did not have an opportunity to vote on whether the plan was sound or the funding appropriate.

4. Greater Participation. To obtain greater participation in commissions we need to look at establishing seats for each Congressional District back in, and a more representative balance between DFL, GOP, and independent members, even on Boards, Committees, Councils, and Task Forces as we once did, and had to disclose on our open appointment forms for the public record.

In closing, while I feel there are other issues that need attention as noted, my main concern and reason for this Minority Report is the inclusion of non-state symbol stylized in favor of one group over all others on the Great Seal of the State of Minnesota and the date being omitted. The flag process would have been better with clearer direction from the Legislature and a longer deadline. I am happy with the flag adopted, I'm unsure whether we would find a better one. I am so glad that we were able to accomplish the first part of the Commission's main goal by separating the Great Seal from the State Flag. However, I have serious concerns about the Great Seal and its functionality as a tool and symbol of the authority of the state of Minnesota's government. It is not a mere ceremonial symbol for press conferences (although it will also be used for those by elected officials). It was my general feeling that the liberal majority of the Commission could care less about what the Great Seal is or isn't and more interested in treating it like a middle school art project. I also believe a review by the Office of the Legislative Auditor of the State Emblems Redesign Commission is warranted. It would be good to get a set of best practices regarding Minnesota's system of Boards, Commissions, Committees, Councils, and Task Forces.

Defects in the Flag construction by the commission

[Senator Steve Drazkowski and Rep. Bjorn Olson]

Although our main criticism is with the flag and seal selection process and the committee's construction, we want to point out a few issues with the flag. Not so much with what it is but what it is not. The law commits the commission to select a flag that "must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that represent only a single community or person, regardless of whether real or stylized, may not be included in a design." This flag has three elements.

- **A stylized depiction of the shape of the state** (which it happens, leaves out Angle Inlet, the part of Minnesota geography which gives us the designation of being the northernmost part of the United States.) It also over-emphasizes the state's southern half because it was agreed that the design should be symmetrical. From a design perspective, that may be true, but that's of little consolation to people in Minnesota's 7th and 8th congressional districts.

- **There is no Green or any nod to agriculture or environment** on the Flag. We are apparently only known for our water.

- **The 8-pointed star is known as a "Dakota Star, but it appears in many cultures. I**t can also be a compass rose, a quilt pattern, or a Scandinavian knitting pattern. It's a religious symbol to Christians, Jews, Muslims, and Hindus, each with its own separate meaning, NOT a universal meaning that creates unity. A symbol with that many meanings does not mean "the North Star," which is usually depicted with the four compass points as more prominent as it is a directional aid in the sky. Equidistant points do not aid in showing a direction. They fan out in every direction. This North Star would get you lost.

Although not intentional, and no disrespect meant to any designer or group, country or state whose flag this final flag may resemble, the final design accepted by the commission looks to some members of the public like some of the flags designed for Somalia. To clarify, the similarity is to the country flag itself and to states within Somalia.[6] The Commission needed to take seriously the sense of the people who noticed this and not just brush off the comment as inspired by some ill intention. In no way do we mean to argue that this is an intentional similarity, but the Commission needed to have more awareness of the totality of the effects of their reductions as they were designing and the effect their work would have after it was designed. Is the final flag identical to one of these flags? No. But the "swallowtail" created by the reduction of the state shape and the contrast between the white star and light blue next to it are probably creating that impression.

[6] https://en.wikipedia.org/wiki/List_of_Somali_flags

EXHIBITS

Exhibit A: State Emblems Redesign Commission Law

Laws Chapter 62, 2023, Art 2, Sections 5 and 118.

Sec. 5.

Minnesota Statutes 2022, section 1.141, subdivision 1, is amended to read:

Subdivision 1

Adoption.

The design of the state flag ~~proposed by the Legislative Interim Commission acting under Laws 1955, chapter 632,~~ as certified in the report of the State Emblems Redesign Commission, as established by this act, is adopted as the official state flag.

EFFECTIVE DATE.

This section is effective May 11, 2024.

Sec. 118.

STATE EMBLEMS REDESIGN COMMISSION.

Subdivision 1.

Establishment.

The State Emblems Redesign Commission is established. The purpose of the commission is to develop and adopt a new design for the official state flag and the official state seal no later than January 1, 2024.

Subd. 2.

Membership; meetings.

(a) The commission consists of the following members:

(1) three members of the public, appointed by the governor;

(2) one member appointed by the Council for Minnesotans of African Heritage;

(3) one member appointed by the Minnesota Council on Latino Affairs;

(4) one member appointed by the Council on Asian-Pacific Minnesotans;

(5) one member representing the Dakota community and one member representing the Ojibwe community, appointed by the executive board of the Indian Affairs Council;

(6) the secretary of state or the secretary's designee;

(7) the executive director of the Minnesota Historical Society or the director's designee;

(8) the chair of the Capitol Area Architectural and Planning Board or the chair's designee;

(9) the chair of the Minnesota Arts Board or the chair's designee; and

(10) the executive director of Explore Minnesota Tourism or the director's designee.

(b) The following serve as ex officio, nonvoting members of the commission: (1) two members of the house of representatives, one each appointed by the speaker of the house and the minority leader of the house; and (2) two members of the senate, one representing the majority caucus appointed by the senate majority leader and one representing the minority caucus appointed by the senate minority leader.

(c) Appointments to the commission must be made no later than August 1, 2023. The voting members of the commission shall elect a chair and vice-chair. An appointee designated by the governor shall convene the commission's first meeting. Decisions of the

commission must be made by majority vote. The Minnesota Historical Society must provide office space and administrative support to the commission.

Subd. 3.

Meetings.

Meetings of the commission are subject to Minnesota Statutes, chapter 13D.

Subd. 4.

Duties; form and style of recommended state emblems.

The commission shall develop and adopt a new design for the official state seal and a new design for the official state flag. The designs must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that represent only a single community or person, regardless of whether real or stylized, may not be included in a design. The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work.

Subd. 5.

Report.

The commission shall certify its adopted designs in a report to the legislature and governor no later than January 1, 2024. The commission's report must describe the symbols and other meanings incorporated in the design.

Subd. 6.

Expiration.

The commission expires upon submission of its report.

Exhibit B: Loon Seal Flag email exchange and designs

(See attached pages).

Re: [EXTERNAL] Loon seal in a flag as requested

Sen. Steve Drazkowski <sen.steve.drazkowski@mnsenate.gov>
Thu 12/7/2023 11:51 AM
To:Luis Fitch <luis@unobranding.com>

Thanks so much, Luis. I agree wholeheartedly with your private comment from last night. Pushing a rock uphill is no fun, ever. It feels like that is what the current flag selections are attempting to do.

Steve.

From: Luis Fitch <luis@unobranding.com>
Sent: Thursday, December 7, 2023 9:21 AM
To: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>
Subject: Re: [EXTERNAL] Loon seal in a flag as requested

All these concepts will be printed, numbered, and displayed like last time. Commissioners can discuss and vote on all these new alternative directions submitted by designers, NAVA experts, and Commissioners.

LUIS FITCH
(he/him/his)
Founder and Creative Director
AIGA MN Fellow

UNO Branding / A Strategic Cross-Cultural Design Agency

Ph. + 1 612. 874 1920 Ext. 11

Commission Chair for the MN State Emblems Redesign

www.unobranding.com

USPS stamps

From: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>
Date: Wednesday, December 6, 2023 at 5:29 PM
To: Luis Fitch <luis@unobranding.com>
Subject: Re: [EXTERNAL] Loon seal in a flag as requested

Thank you for your legwork on this, Luis. I believe that the last example, where the loon image is show full-page (or full-flag) is what people were suggesting.

Can we show this to the commission at the next meeting, to show the members a direction for the flag, that is different than the current one, and would match up the visual identity in both the seal and the flag?

Steve.

From: Luis Fitch <luis@unobranding.com>
Sent: Wednesday, December 6, 2023 1:15 PM

To: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>
Subject: [EXTERNAL] Loon seal in a flag as requested

Hello Senator,

What do think about these ideas?

See attached PDF file.

LUIS FITCH
(he/him/his)
Founder and Creative Director
AIGA MN Fellow

UNO Branding / A Strategic Cross-Cultural Design Agency

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Commission Chair for the MN State Emblems Redesign

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USPS stamps

From: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>
Date: Tuesday, December 5, 2023 at 11:59 AM
To: Luis Fitch <luis@unobranding.com>
Cc: Lindsey Dyer <lindsey.dyer@mnhs.org>, david.kelliher@mnhs.org <David.Kelliher@mnhs.org>
Subject: Design Ask

Chair Fitch and Staff,

I am responding to your comment in the meeting today to submit suggestions.

Several commenters online suggested that we take the state seal selection S224, which we all agreed today should move forward and put on a blue background and consider it as our state flag. I want to put that forward as a suggestion.

Now I know that the idea of “the seal on a bedsheet” has been derided by designers and “vexillologists,” both amateur and professional. But I think that we are making a mistake if we use artistic criteria alone to cut us off from a solution that could work. The flag is not just a piece of artwork but something meant to symbolize our identity as Minnesotans.

As one commenter said, “Sometimes a solution is just staring you in the face.”

Steve Drazkowski


L'ÉTOILE DU NORD


L'ÉTOILE DU NORD