

2009 SENATE HUMAN SERVICES

SB 2346

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2346

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-11-09

Recorder Job Number: 9196, 9255, 9257

Committee Clerk Signature

*Mary K. Mowson*

Minutes:

**Senator J. Lee** opened the hearing on SB 2346 to provide for studies of the implementation of Indian treaty rights relating to education, health, and welfare.

**Senator Marcellais** (District 9) introduced SB 2346 as a sponsor. His testimony in support is attached. Attachment #1.

**Maggie Anderson** (Dept. of Human Services) provided neutral testimony. Attachment #2.

**Senator J. Lee** recessed the committee.

**Job #9255**

**Senator J. Lee** reconvened the hearing on SB 2346.

**Wayne Sanstead** (State Superintendent for DPI) provided information regarding SB 2346.

Attachment #3.

**Job #9257**

**Sen. Mathern** (District 11) testified in support of SB 2346 as a sponsor. The bill came about because of the interim study which dealt with tribal and state relations. In the interim study

process they learned that the issues were so complex that as a legislature they couldn't figure

them out in the time frame they had. They really needed executive branch agencies doing the same kind of thing so they could come to a better policy direction.

**Senator J. Lee** conveyed the concerns of Wayne Sanstead from DPI that they don't have attorneys and that so much of this is a jurisdictional issue.

**Sen. Mathern** replied that they have access to attorneys through the Attorney General's office. They also have access to legislators who have access to attorneys through the legislative council. There are different ways to get that legal help. There is some need for legal counsel but it isn't just that.

He talked about the Bush Foundation and said that they have decided to have a specific funding pattern on Native American issues.

The hearing on SB 2346 was closed.

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2346

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-16-09

Recorder Job Number: 9519

Committee Clerk Signature

*Mary R Monson*

Minutes:

**Senator J. Lee** opened SB 2346 for committee work.

**Senator Marcellais** reported that he had talked to legal counsel who felt this would be a lot of work for the state and he recommended a do not pass.

**Senator J. Lee** said they would still want to address those issues but maybe a different level needs to be involved with it.

**Senator Marcellais** moved a **Do Not Pass**.

Seconded by **Senator Heckaman**.

Roll call vote 6-0-0. **Motion carried**.

Carrier is **Senator Heckaman**.

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/12/2009

Bill/Resolution No.: SB 2346

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$400,000	\$100,000		
<b>Appropriations</b>			\$400,000	\$100,000		

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requests that a study be conducted of the implementation of Indian treaty rights relating to education, Indian health, and welfare and report the findings to legislative council by September 1, 2010.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The Superintendent of Public Instruction, State Board of Higher Education, State Department of Health, and the Department of Human Services are to conduct a study of the implementation of Indian treaty rights as it relates to education, Indian health and welfare.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

In order to conduct this study a consultant would be hired with this area of expertise. It is hard to predict how much legal work would be involved but we are estimating that the total cost would be around \$500,000. The Department of Human Services has \$100,000 of federal funds available; the balance would be general funds.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project are not included in any of the agencies' budgets and would need to be appropriated.

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health Department
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	02/16/2009

Date: 2-16-09

Roll Call Vote #: \_\_\_\_\_

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO. SB 2346**

Senate \_\_\_\_\_ **Human Services** \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Sen. Marcellais Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Heckaman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 16, 2009 12:47 p.m.

**Module No: SR-30-2878**  
**Carrier: Heckaman**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2346: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2346 was placed on the Eleventh order on the calendar.**

2009 TESTIMONY

SB 2346



# 1

**Testimony**

**Senate Bill No. 2346 – to provide for studies of Indian treaty rights relating to education, health, and welfare**

**Human Service Committee**

**Senator Lee, Chairman**

**February 11, 2009 @ 11:15 AM**

**Madam Chair, members of the Human Service Committee, for the record is my name is Richard Marcellais, Senator from District 9, Rolette County and Turtle Mountain Band of Chippewa Tribal Chairman**

**Want to thank Senator Mathern for introducing Senate Bill 2346 on my behalf.**

**This bill would provide studies to implement Indian treaty rights involving Education, Health and Welfare by the Superintendent of Public Instruction and State Board Higher Education, Department of Health and Department of Human Services and report the findings and recommendations to the legislative council by September 1, 2010.**

**Thank you very much for the opportunity to appear in support of Senate Bill # 2346. I will try an answer any questions the committee may have.**

**Testimony**  
**Senate Bill 2346 – Department of Human Services**  
**Senate Human Services Committee**  
**Senator Judy Lee, Chairman**  
**February 11, 2009**

Chairman Lee, members of the Human Services Committee, I am Maggie Anderson, Director of Medical Services Division for the Department of Human Services.

I am here today to offer a suggested change regarding SB 2346.

The Department does not oppose a study of Indian treaty rights related to welfare; however, the Department does not have the resources or expertise to conduct this study. In addition, SB 2346 does not contain an appropriation for the Department to contract for the work to be completed.

We respectfully request the bill be amended to call for a legislative council study, rather than separate studies for education, health and welfare.

In addition, the Department would suggest a definition of welfare, as this could be as narrow as the Temporary Assistance for Needy Families (TANF) program, or could be interpreted to include all economic assistance programs such as Medicaid, Supplemental Nutrition Assistance Program (SNAP), and Fuel Assistance.

I would be happy to address any questions that you may have.

**TESTIMONY ON SB 2346  
HUMAN SERVICES COMMITTEE  
FEBRUARY 11, 2009  
by Dr. Wayne G. Sanstead, State Superintendent  
701-328-4570  
Department of Public Instruction**

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Madam Chairman and members of the committee:

My name is Dr. Wayne Sanstead and I am the State Superintendent for the Department of Public Instruction. I am here to provide information regarding SB 2346.

SB 2346 is a bill which addresses a study of treaties made between the U.S. Government and the Indian tribes. As the Interim Tribal and State Relations Committee reported to the 61<sup>st</sup> session, "Indian law is a very complex area of law." I don't know how the State Superintendent's office would be able to carry out this study mandate contained in SB 2346. This is a study requirement that needs to be done by attorneys. States didn't sign the federal treaties made with the Indian tribes, so there would be clear jurisdictional questions inherent to the study and any recommendations made to the legislative council by September 1, 2010.

The Department of Public Instruction does not have staff attorneys. Without the resources – human or fiscal – to deal with the legal work that would identify all the federal treaties or deal with all the disputes possible in what the treaty obligations mean, the department would need to hire attorneys or consultants with special expertise to address the enormity of this study assignment.

Madam Chairman this completes my testimony.