

Commentary

From Benny's penny to Luna's laws

Jim Weatherby/special to Lewiston Tribune

And you think the debate over the education reform measures was contentious. Read on.

Referenda in 1936 and 2012 have been the only successful ones in Idaho history. In both years major legislation was repealed by the voters. Three other attempts failed.

The 1936 referendum campaign targeted the 2-cent sales tax and the 2012 effort generally focused on education reform. Even though the subject matter of the two referenda efforts were quite different, there are a number of interesting similarities.

Both were personalized. The 2-cent sales tax was mocked as a "penny for Benny" for Gov. C. Ben Ross, who championed the tax. In 2012, the education reform laws were often referred to as "Luna laws" for the primary sponsor of the legislation, state schools Superintendent Tom Luna.

The 1935 and 2011 legislative actions that precipitated the referenda movements were achieved through unified governments: In 1935, Democrats controlled the governor's office and the Legislature by lopsided majorities; in 2011, Idaho was a overwhelming one-party Republican state.

Both measures generated a lot of opposition and heated debate. The 1935 state Senate debated the sales tax bill for five hours. According to the Idaho Statesman, the "charges of double-crossing, of pressure, of graft, of bribery, of lying were freely made. Senators shouted at one another, while the gallery ... applauded whenever a point struck their fancy." The current debates over the "Luna laws" have been widely documented.

Both measures were hailed at the time as urgently needed. The sales tax was Depression-era legislation designed to generate enough money to match federal relief dollars. After the regular 1935 session refused to pass a sales tax, Gov. Ross shut down the state's relief agencies, contending that federal officials were pressuring him. Two days later, in special session, the Legislature yielded and the sales tax was enacted. The Idaho Statesman editorialized: "Idaho has never seen a more shameful exhibition of the way a ruthless political machine can override the wishes of the majority of citizens than presented by the forces determined to cram the sales tax down the public's throat," providing more fodder for the referendum campaign.

Education reform was presented by Superintendent Luna as a way to improve education despite budget cutbacks and future revenue shortfalls. He said the reforms were necessary in order to bring Idaho's classrooms into the 21st century. "These are the steps we must take. Not next year, not five years from now. But this year for our kids. The electorate demands it. The economy requires it. "

Further comparisons are the roles played by the election administrators - clearly a study of contrast.

Franklin Girard, secretary of state in 1935, strongly and publicly opposed the sales tax. He said the sales tax was "the most pernicious device for raising revenue ever discovered by the ingenuity of man. It would tax 'the crust upon the lips of hunger and the rags upon the back of the beggar.' "

Maintaining strict neutrality, Idaho's current secretary of state, Ben Ysursa, stayed out of the campaign debate but did assert his responsibility in seeking pre-election disclosure of political action committee contributions both for and against the education reform measure.

Idaho politics has changed a lot since the 1930s. At that time there were conservative and progressive factions in both parties. Democrat Ross was challenged by the "economy bloc" of conservative Democrats who opposed any new taxes fearing greater expansion of government. Progressive Republicans and Democrats supported the sales tax, though some Democrats opposed it as being too regressive, not based upon ability to pay.

Even though it was Idaho's first referendum vote and a new tax was featured, the big race in 1936 was for U.S. senator: Sen. William E. Borah versus Gov. Ross.

Ross lost in a landslide. Incredibly, after all of the contentious debate on the sales tax referendum, there was a substantial under-vote. In the Borah-Ross race, 203,172 ballots were cast. But only 144,196 voted on the referendum - a difference of almost 59,000 voters.

There was great variance in the margin of victory between the two years. The sales tax was barely repealed by a narrow majority. In the "Students Come First" legislation, all of the elements were repealed by huge majorities.

It's challenging to speculate as to what will happen to the "Luna laws." Some will no doubt become law again but likely only after a more open process of seeking input from the education stakeholder groups, many of whom opposed the bills when they were rushed through the 2011 Legislature.

Passing follow-up legislation will likely take some time, which is more in tune with the Idaho political culture. Rarely has sweeping legislation like this been introduced and passed within one legislative session. Often it takes several years combined with a broad coalition of supporters.

Whatever further legislative action takes place, it won't take as long as did the sales tax.

The message of the 1936 vote lingered for years before the 1965 Idaho Legislature enacted another sales tax measure - which would also face a referendum vote the following year.

This time voters would uphold the law by a comfortable margin, making the sales tax the last leg of Idaho's balanced tax structure - the "three-legged stool."

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