



On November 10<sup>th</sup>, JFAC met for the final time before the beginning of session. The Committee began by entering an executive session to break into budget groups. Afterward, the Committee heard updates on the findings of the Idaho Health Data Exchange Report, LUMA, ARPA, and other federal fund sources to the state. Co-Chair Grow explained how in the executive session the members would discuss the security of state resources, facilities, data penetration results, and network security threats.

Upon returning, Sasha O’Connell, a Principal Evaluator with the Office of Performance Evaluations (OPE), presented the Idaho Health Data Exchange Report. The Health Information Exchange (HIEs) allows participating users to access health records electronically. Idaho’s HIE filed for bankruptcy in August 2022, and OPE received a request to evaluate state oversight of the exchange in March 2023. OPE used a mixed-method approach for their research and collected data from several independent entities which included academic and non-profit research, national surveys, federal agencies, interviews, court documents, and state agencies. Throughout her presentation, Ms. O’Connell discussed the design of a Health Information Exchange. The findings suggest there was a lot of confusion about the state’s role with the Idaho Health Data Exchanges as it was viewed in a variety of ways. The Legislature viewed it as a quasi-governmental entity, some saw it as a private company, and others saw the Idaho Department of Health and Welfare (IDHW) as having a contract to access the data.

The Idaho Health Data Exchange was created by the Legislature in 2006 and it established a Commission within IDHW to create an HIE. In January 2008, the Commission voted to approve and the Director of IDHW signed Articles of Incorporation for the Idaho Health Data Exchange. In June 2008, IDHW opened public comments for the Commission’s plan to develop the HIE. The Exchange was not treated like other private vendors, as it had a special relationship with the state from the beginning, and as it became more independent the state lost the informal mechanism of accountability. Idaho Code required the Commission to monitor the HIE but never included an enforcement mechanism nor defined the HIE as separate from IDHW. The first director of the HIE was a former IDHW employee, and the Board found overtime they had a significant turnover, decisions were less involved, and out-of-state consultants were used for management starting in 2019. Idaho Code treats non-profit corporations created by government officials like any other non-profit, but the HIE was fundamentally different than other non-profits as it was created by public officials for public purposes and had a significant reliance on public funding.

Public accountability faded because non-profit corporations have lower transparency requirements than government entities. Another issue was the Legislature didn’t appropriate funding to the HIE after 2006, IDHW requested and received appropriations for work related to the exchange and IDHW invested \$493.3M for the development, promotion, and use of HIE. Ms. O’Connell shared policy considerations the Legislature should consider as mechanisms to increase transparency of any new public-private partnerships like the HIE and shared the Legislature should consider clarifying what authority public officials have to create non-profits and other corporate entities to carry out public work.

Next, Ms. O’Connell discussed defining and overseeing agreements, stating how after the creation of the Idaho Health Data Exchange the state treated it like it had a monopoly for data access. Since 2009 IDHW had a \$100,000 annual contract to access data on the exchange and they requested a sole source exemption from competitive procurement laws for the data access contract. From 2008-2014, IDHW developed and improved the exchange using agreements called subawards. The procurement exemption is concerning for several reasons, but mainly how other vendors may have been able to build a better exchange and be more efficient with public dollars. The state’s special relationship with the exchange, including the procurement exemption, gave the exchange disproportionate bargaining power in contract negotiations. OPE recommends that IDHW take steps to prevent scope creep in procurement exemptions. Due to the procurement exemption, IDHW did not have help from the Department of Administration when there were contract disputes. OPE also recommends the Department of Administration should review policies about administering contracts that are exempt from procurement.



Ms. O'Connell then discussed contract management. In 2020, IDHW made its largest single budget request to improve HIE, funding was made available through the Federal SUPPORT Act. IDHW requested \$33.2M and had \$19.5M approved by the Legislature. The state's relationship with the HIE led to a loose contract and was deemed insufficient by IDHW staff as it was falling behind on work and not meeting other federal requirements. It also violated contract provisions several times by entering subcontracts without approval even before SUPPORT Act funding was appropriated. As IDHW staff tried to require more transparency the relationship began to deteriorate as new management started to push back on IDHW. When looking at their findings of financial audits, they had reported ten (10) submissions to the IRS but only one (1) was found submitted since 2015. HIE filed for bankruptcy after being sued by a subcontractor for withholding pass-through payments from IDHW; the subcontractor sued HIE on the status of breaching of contract, breach of implied good faith and fair dealing, and fraud in September 2021.

HIE reported they wouldn't be able to pay the claims owed to creditors under liquidation. The bankruptcy court approved a five-year plan for the exchange to pay 25% of claims owed to creditors, including subcontractors who worked on the SUPPORT Act contract IDHW. IT experts at IDHW did not believe there was sufficient documentation that HIE met data security requirements. In September 2020, HIE asserted it met federal requirements but a CMS IT expert, IT architect, Chief Information Officer, Chief Information Security Officer, and other IDHW staff disagreed. OPE recommends that IDHW regularly require proof of HIE data security by an independent party. Ms. O'Connell explained how IDHW did not receive everything promised under the improvement contract but still has a small data access agreement with the exchange. There was \$9M in funding from IDHW and \$19.5M in SUPPORT Act funding appropriated for two (2) connections delivered out of the fifty (50) expected connections.

The last component of the presentation was about the national landscape and the future of the exchange. Federal funding began in 2009 and some states had more private options available than Idaho. Initially, the most common model was for state agencies to operate an HIE, but only nine (9) states do so now and OPE did not know if any other states created a nonprofit corporation to run their HIE. 48% of community HIEs didn't fully cover operating expenses with revenue from participants in 2019, but many don't have this as a goal. Ms. O'Connell shared a 2021 survey that suggested hospitals in Idaho use private options less than hospitals in other states. The survey also suggested that Idaho hospitals relied more on sending and receiving health information in the mail or by fax.

In 2022, Health and Human Services developed a common agreement to standardize data privacy expectations, simplify connectivity, and increase the exchange of Electronic Health Records (EHRs). For HIE to be successful, it will need strong relationships with IDHW and other users. Sen. Cook shared his work on the Medicaid Task Force, and not once did they hear anything about this exchange. Co-Chair Grow shared it has been hard for the past couple of years and how he never wanted to fund it because of all the loose ends. He was disappointed with how it started in 2008 and now in 2023 after all the funding there were only two (2) connections delivered. Sen. Ward-Engleking asked if the Legislature in 2008 was also at fault and if they hadn't put enough barriers in the Legislation, to which Ms. O'Connell replied yes. There was discussion on the hospitals being used through this exchange and how beneficial it has been. Co-Chair Horman shared her frustration and asked if they could get rid of it. Ms. O'Connell shared there would have to be a discussion with the attorneys.

Josh Whitworth, Chief Executive of the State Controller's Office (SCO), presented to the committee on LUMA updates. To start he demonstrated logging in and how to use the state account to do so. Mr. Whitworth stressed how easy it is when one understands where everything is and how beneficial the new system is compared to the old. Idaho changed every component of how they do business from recruiting to prepositions and making payments to vendors. Mr. Whitworth logged into LUMA and explained the two-step verification only requires a phone or other device to confirm and enter a code to ensure safety. The start page shows the many benefits of LUMA and now individuals can access all information in one place, one notable benefit is the visibility of benefits and beneficiaries. Before LUMA the state didn't have access to this and now it is there for everyone to see and if it needs to be changed or updated an individual can do it themselves.



Mr. Whitworth demonstrated the invoice process and how quickly they can be approved and be able to be opened and look at the actual document, he noted this wasn't possible in past systems. There will also be confirmation once SCO staff has reviewed the invoice and marked it as correct. He shared that another benefit is approval tracking and individuals can see every document ever processed, and one can look at each department and see what they are spending money on. There is greater access to appropriations and how they are spent, as well as look at it on a month-by-month basis. He briefly shared Transparent Idaho and its link with LUMA and all the data and information that is available because of the two (2) systems. Co-Chair Horman commented that this has been a challenge, but Transparent Idaho is amazing and hopes LUMA will be able to get over the bumps.

Frances Lippitt, Budget and Policy Analyst with LSO, presented to the committee on Federal Funds. She discussed the ARPA State Fiscal Recovery Fund, ARPA Capital Projects Fund, Infrastructure Investment and Jobs Act (IIJA), and Inflation Reduction Act. With ARPA allocations the total was \$5.9B, with most being \$2.4B towards economic stimulus outside state government with half of the funds distributed subject to legislative appropriation such as grant programs to state agencies, the State Fiscal Recovery Fund, and the Capital Project Fund. Legislative intent for ARPA funds were included in legislation and to the extent allowable under the law, the state should make long-range investments with ARPA funds that will benefit many generations to come. The federal funding allocations are as follows:

ARPA ACT: \$128,518,000 for Capital Projects Fund (Broadband Infrastructure and Digital Connectivity),  
Idaho Department of Commerce received \$124.1M for Broadband infrastructure.  
Idaho Commission for Libraries received \$3.518M for library facilities.

State Fiscal Recovery Fund: \$128,518,000 to be distributed to five (5) departments.

Workforce Development Council reviewed workforce training grants.

Natural Resources received \$357,082,100.

In FY23 \$377.4M was obligated, in FY24 \$213.8M was obligated, and for FY25-FY27 \$335.7M is obligated.

Infrastructure Investment and Jobs Act: \$3.9B.

Highways received \$2,085M.

Broadband received \$649M.

Cybersecurity received \$13M.

Ms. Lippitt provided additional information on IIJA funding for broadband through the Idaho Department of Commerce. In FY24 there was an additional appropriation for the Idaho Department of Commerce for \$100,000,000 for broadband infrastructure. In the 2023 session, the Idaho Department of Commerce received \$124,100,000 for broadband infrastructure through ARPA Capital Projects funds. She also discussed the Inflation Reduction Act (IRA), and how it mainly funds household energy efficiency, pollution reduction, and drought mitigation.

Lastly, Ms. Lippitt discussed the FY25 Agency Requests. There is a negative amount in the State Fiscal Recovery Fund due to returning COVID-19 funds from Group Insurance through the Department of Administration for a total amount of \$21,054,200. The agency requests are as follows:

Department of Administration: \$1,054,200 for mail sorter.

Idaho Department of Parks and Recreation: \$20,000,000 for capital projects.

Division of Public Health: \$1,000,000 for home visiting services

Workforce Development Council: \$190,000 for childcare and workforce training grants personnel costs.

The FY25 agency requests for the Inflation Reduction Act are as follows:

Office of Energy and Mineral Resources: \$1,403,800 for TREC Grants.

Workforce Development Council: \$1,333,600 for Idaho Launch, training for residential energy contractors.



The FY25 agency requests for IJJA are as follows:

Idaho Commission for Libraries: \$750,000 for digital access.

Office of Energy and Mineral Resources: \$4,400,000 for preventing outages and enhancing electrical grid grants.

Co-Chair Horman commented on the last three (3) days and how grateful she was for everyone coming even with busy lives. She reminded the committee that the decisions they make impact Idahoans every day. Co-Chair Grow mentioned the enormous lift of staff to put this together. He also noted he wants to hear from each committee member on any recommendations relative to changes, as they spent nine (9) hours the first day going through budgets that may have to be divided up next year. The Chairs are open to suggestions, and they ended the meeting by thanking staff and committee members.