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## Education Interim Committee

68th Montana Legislature

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PAD MCCRACKEN, Lead Staff  
LAURA SANKEY KEIP, Staff Attorney  
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TO: Education Interim Committee and Education Interim Budget Committee  
FROM: Pad McCracken, Committee Staff  
RE: HB 203 and HB 214 – overview  
DATE: March 8, 2024

Perhaps the easiest, quickest way to describe and distinguish these two bills is to provide the first two clauses of their respective titles:

[House Bill No. 203](#) (2023; Bedey)

AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO OUT-OF-DISTRICT ATTENDANCE; REVISING OUT-OF-DISTRICT AND TUITION LAWS TO INCREASE EDUCATIONAL CHOICE AND IMPROVE TAXPAYER EQUITY...

[House Bill No. 214](#) (2023; Bertoglio)

AN ACT GENERALLY REVISING EDUCATION LAWS TO ENHANCE EDUCATIONAL OPPORTUNITIES FOR STUDENTS; REVISING DEFINITIONS TO DISTINGUISH IN-PERSON OFFSITE INSTRUCTIONAL SETTINGS AND REMOTE INSTRUCTION AND REVISING RELATED DEFINITIONS AND STATUTES...

So, HB 203 is about students attending (physically attending) a school of a district of attendance outside the student's district of residence. HB 203 enhances student and parent choice in where children attend school, and it is about ensuring that the educational costs of nonresident students are not transferred onto the taxpayers of a district of attendance. It requires tuition payments from the district of residence to the district of attendance.

HB 214 is about student access to remote instruction (think virtual/online learning) and as part of that, distinguishing remote instruction from in-person offsite instruction (think school district programs that happen outside a true "school" – Billings Career Center, Willard Alternative High School Program in Missoula, district-run "attendance centers" on Hutterite colonies, etc.). When a student's resident district does not offer an equivalent course, HB 214 empowers students to seek remote instruction in the nearest district that does. HB 214 does not involve tuition payments but does provide that when a student is provided remote instruction from a district other than the student's resident school district, that the district providing the remote instruction can include the student in enrollment counts which trigger ANB funding for that

district, using the same fractional methodology as any other part-time enrollment when applicable.

Most of the implementation concern has been related to HB 203; here is some additional information. HB 203:

- Provides limited circumstances under which a district of attendance can deny an out-of-district attendance request; retains existing mandatory approval circumstances
- Removes any parent-paid tuition from out-of-district attendance
- Requires tuition payment from district of residence to district of attendance in the year following the year of attendance and requires that this tuition payment be used to lower local property taxes in the district of attendance; the district of residence can use its tuition levy or any other legally available fund for these tuition payments
- Establishes the tuition payment as the lesser of either district's local property tax share within the general fund, not to exceed 35.3% of the tuition per-ANB amount. Here's a [table](#) showing these amounts for FY 24 as an example, but new tuition rates under HB 203 will apply for the first time for the year of attendance FY 25.
- Requires districts to submit out-of-district attendance agreements to OPI and OPI to report to the legislature
- Effective July 1, 2024, and applies to years of attendance beginning July 1, 2024 (FY 25). This means no tuition pertaining to HB 203 changes needs to be paid until FY 26.

Montana's out-of-district attendance and tuition laws have been perhaps the most complicated statutes in all of Title 20, and the looming effective date and applicability for HB 203 has generated numerous questions. I have asked Shelley Turner, Executive Director of the Montana Association of School Business Officials (MASBO), to visit with you about the questions that have come up and the guidance that MASBO and other education associations have recently published. I have then asked OPI to share their plans for guidance and implementation. With the complexity and questions surrounding these bills, and especially HB 203, it is imperative that school districts are getting timely, accurate, and consistent guidance.