HB 203 Out of District Attendance AKA the Tuition Bill
Frequently Asked Questions[1]

1. Is a K-8 district now required to pay tuition to the High School for children attending 9-12th grade?

   HB 203 does not change anything pertaining to this issue. If you are a K-8 district you are only responsible for the K-8 students in your district, just as has been the case under the law prior to HB 203.

2. Some districts do not offer certain grades or services, such as kindergarten or 7th and 8 grades, and have had long standing multidistrict agreements for services provided in other districts. Will these multidistrict agreements be null and void under HB203 or are these agreements exempt?

   HB 203 changes the law regarding this issue and has removed the ability to negotiate if and in what amounts tuition is charged for these arrangements. See section 20-5-320(3):

   (3) This section does not preclude the trustees of a district from approving an attendance agreement for educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for attendance and any transportation requirement. The tuition requirements under 20-5-323 and 20-5-324 apply to agreements under this subsection. For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

   When this multidistrict agreement exists, you will still need to utilize an FP14 form. Check District to District Placement.

[1] This FAQ was jointly developed by the public education advocacy groups listed to assist Montana's Public Schools in successfully implementing the provisions of House Bill 203.

3. Are the FP14 forms required as they have been in the past? How they should be filled out and what is the timeline?

   Yes, each student that attends a district that is not their district of residence, should have an FP14 form. The forms should be used to document the application process, the decision-making process and utilized as a tool for estimating future costs and enrollments.

   While there are spaces on this form for tuition rates, we do not advise our members to fill in an amount. You do not know what the FY25 budgets are and will not be able to accurately estimate this expense. Additionally, parents are not to be charged tuition fees for discretionary placements. Parents are responsible for transportation costs (see question 4).

   Form timelines are dependent upon school policies. However, once a form is received by the district of choice, the district of choice has ten days to notify the parent(s)/guardian(s) of the date on which the Board of the district of choice will decide upon the form (decision based on applicable policies and procedures). You DO NOT have to decide in ten days, only notify the applicants of the date of the meeting at which the determination will be held. After the meeting takes place, the district of choice has ten days to notify the parent(s)/guardian(s) of Board's decision and the policy or procedure used in making the decision if it is a denial. An appeal process should be outlined if the form is denied. This process of appeal begins with the county superintendent and progressing the to the state superintendent, pursuant to MCA 20-3-107 and 20-3-210.

4. Is the district of residence or the district of attendance required to provide and pay for travel for discretionary enrollments?

   No. Transportation is not required but it is allowed. Section 20-5-320(2)(b) provides:

   The attendance agreement must set forth the financial obligations, if any, for costs incurred for transporting the child under Title 20, chapter 10. Unless otherwise agreed by the district of residence and the district of attendance, the family of a nonresident child whose application for attendance has been approved is responsible for transportation of the child and the **child is not an eligible transportee** as defined in 20- 10-101. The district of attendance may discretionarily provide transportation pursuant to 20-10-122.

5. How do the provisions of HB 203 affect pre-existing special education tuition and how this is to be determined under the new law?

   HB 203 does not change anything pertaining to this issue. This law does not affect SPED tuition agreements and continues to allow use of SPED tuition revenues for increased spending as needed to serve such students. SPED tuition for in-district students may also be permissively levied in the tuition fund and is not affected by this bill.

6. In reference to HB203 Tuition rate and HB352 Early Literacy legislation: The calculation for maximum tuition rate is determined in HB203 (see section 4; 20-5-323, MCA). The question is, can the district charge 1.25 the amount if the district enrolls students for the Early Literacy Jumpstart Program?

   The tuition rate is set forth in law and is based on the fraction of the budget represented by property taxes (BASE and over BASE) in the lower of the district of residence and the district of attendance, multiplied times the per student tuition amount.

   On prorating tuition, ARM Section 10.10.301(5)(d) provides an avenue by which tuition calculated under law could be increased to cover jumpstart attendance.

   (5)(d) “Tuition amounts shall be adjusted for the portion of the year the student is enrolled, based on the percentage calculated by dividing the number of days the student is enrolled by the number of pupil instruction days scheduled by the school district in the year of attendance.”

7. If a student is enrolled in a district of attendance for the Jump Start Early Literacy Program only, how should the district of attendance bill the district of residence?

   In the same manner as for all other instances. Tuition is calculated pursuant to the law and the district of attendance must use the proceeds of such tuition to reduce their BASE levy. The district of residence may pay for the tuition charges from its Tuition fund, General fund or any other lawful funding source.

8. Is the required tuition rate to be applied based on the number of days enrolled?

   On prorating tuition, ARM Section 10.10.301(5)(d) provides:

   (5)(d) “Tuition amounts shall be adjusted for the portion of the year the student is enrolled, based on the percentage calculated by dividing the number of days the student is enrolled by the number of pupil instruction days scheduled by the school district in the year of attendance.”

9. Based upon the language of the law, prorating the fee for enrollment days may vary between districts. Example school 1: 180 PI days. School 2: 150 PI days (4-day school). Students are enrolled for 10 days less than the full year. 170/180=.944 140/150=.933 Although the difference is small, it is a difference. Is there guidance for this?

   On prorating tuition, ARM Section 10.10.301(5)(d) provides:

   (5)(d) "Tuition amounts shall be adjusted for the portion of the year the student is enrolled, based on the percentage calculated by dividing the number of days the student is enrolled by the number of pupil instruction days scheduled by the school district in the year of attendance."

   In the above example, tuition will be set on the basis of the percentage of days the student is enrolled in the district of attendance, not the instructional calendar of the district of residence.

10. Schools that qualify and apply for impact aid funds are concerned that they will not be able to utilize students who reside outside the district if tuition is accessed within their impact aid calculations. If this is correct, are impact aid schools required to access tuition under HB203 if it negatively affects their impact aid funding?

    Short Answer: Impact Aid is unaffected by HB 203 compared to current law.

    Details:

    Due to the cap of tuition in HB 203 at no more than 35.3% of the tuition per ANB amount, no tuition paid will ever reach the threshold under Impact Aid that will deny the district serving the student of the right to claim Impact aid for that student. In districts with Impact Aid, the actual tuition rate will always be much lower than 35.3%. Even assuming that the tuition rate is 35.3% of the tuition per ANB amount, that amount is significantly less than the benchmark at which receipt of tuition affects Impact Aid calculations.

    The federal law prohibits double counting a student in two separate districts. The Impact Aid laws specify as a default that a student is to be counted by the district serving the child, unless the district serving the child has received:

    - tuition *in any amount when paid by a parent* (which is inapplicable because HB 203 does not allow tuition to be charged to a parent); or
    - unless that district serving the child has received a tuition payment from the district of residence that is equal to or greater than the "local contribution rate" for the district serving the child. This won't ever happen.

There are four ways a school district can calculate its Local Contribution Rate (LCR). A school district may choose the LCR which yields the highest amount from among the following:

- 50-percent of the state average per-pupil expenditure or
- 50-percent of the national per-pupil expenditure or
- The average percentage of local revenue that makes up the average per- pupil expenditure in the state or
- The use of comparable school district per-pupil expenditures

Under the options above, both the Montana state average per-pupil expenditure and the national per-pupil expenditure are so high that 50% of those averages is well beyond the tuition cap in HB 203.

- National per pupil expenditures, FY22 (latest year for which data is available) was $16,340. 50% of this amount is $8,170.
- Montana per pupil expenditures, FY23 (latest year for which data is available) is $16,000. 50% of this amount is $8,000.

The cap on tuition in HB 203 is 35.3% of the “tuition per-ANB amount”, defined in section 20-5-323(7) as follows:

> (7) As used in this section, "tuition per-ANB amount" means the applicable per-ANB maximum rate established in 20-9-306, plus the per-ANB amounts of the instructional block grant and related services block grant under 20-9-321.

For purposes of this analysis, we will use the middle and high school ANB rate to calculate the hypothetical maximum tuition that could be charged under HB 203:

FY25 Per-ANB maximum rate, middle and high:	$8,075
FY25 per-ANB Instructional Block Grant:	$ 154
FY25 per-ANB Related Services Block Grant:	$ 51
Total tuition per ANB amount:	$8,280
35% of Maximum Tuition Per ANB Amount, HS:	$2,922

Unless tuition under HB 203 meets or exceeds approximately $8,000, which is impossible due to the 35.3% cap, it will not affect Impact Aid calculations because the tuition amount received by the district serving the student will be lower than the local contribution rate.

Further Documentation from the Federal Regulations:

- 34 CFR 222.2 provides that for receipt of tuition to affect Impact Aid for the district serving the student, the tuition arrangement must meet the requirements of 34 CFR 222.30

- 34 CFR 222.30 provides that for receipt of tuition to affect the Impact Aid calculations of the district serving the student, it must either be received by a parent in any amount (which is prohibited by HB 203 so will not apply) or is in an amount that "genuinely reflects the applicant LEA's responsibility to provide a free public education." In order for the tuition to reflect the LEA's responsibility to provide a free public education, it must be in an amount equal to or greater than the Local Contribution Rate addressed above in this FAQ. As previously demonstrated, the maximum tuition rate in HB 203 is well below the Local Contribution Rate. Hence, no impact on Impact Aid any different than under current law.

Further Documentation in Communication from Federal Impact Aid Program:

From: Ognibene, Amanda <Amanda.Ognibene@ed.gov>
Sent: Wednesday, February 21, 2024 10:42 AM
To: McCracken, Pad <Pad.Mccracken@legmt.gov>
Cc: Alston, Shaunton <Shaunton.Alston@ed.gov>; Kurz, Cara <Cara.Kurz@ed.gov>; Walls, Kristen <kristen.walls@ed.gov>
Subject: RE: Info needed - time sensitive

Hi Pad,

We start with a number similar to the "Local Contribution Percentage" LCR, but we can also do the calculations on a district rather than state basis. Typically, as a starting place, we use the latest available data from the Common Core of Data to determine the state's average percentage of revenues that come from local sources. This is the 2021 data we have for Montana:

State or jurisdiction	Revenues [in thousands of dollars] Total	Local1

Montana	2,258,752	919,260

Since local revenue makes up approximately 40% of the share of education in Montana, as a general rule, we'd apply 40% to the latest available per-pupil expenditure data for the DOA to figure out an approximation for what the tuition should be. This is a starting place; if the LEA thinks 40% is way off, then we'd have to look at their latest annual financial report to confirm the DOA's actual local percentage of revenues, and apply that percentage to their per-pupil expenditures.

So, as a rule of thumb, unless there's a dramatic shift in the source of revenues for Montana, we'd say that if the tuition doesn't cover about 40% of what it costs to educate the child in the DOA, then the DOR's payment does not "genuinely reflect the…LEA's responsibility to provide a free public education," (34 CFR 222.30(4)(ii)) and it's not tuition under our regs.

Amanda Ognibene (she/her)
Group Leader, Impact Aid Program

11. Will the new Infinite Campus system allow for tracking of student enrollment across LE's? If so, is there a way for the MAEFAIRS system to assess the cost for each student in the budget calculations of those LE's affected and automate this process?

That would be a question for OPI. There is a possibility that OPI could implement prorated tuition for these circumstances by rule, but no such rulemaking has yet been initiated.

12. If these calculations are not handled within MAEFAIRS, is there guidance as to how School Business Officials and Superintendents of the district of attendance will adjust the taxpayer contribution of the general fund budget? If adjustments are made in error, is there a mechanism for correction.

Example 1: the General Fund local levy revenue budget is reduced by $800 (based on invoices sent to district of residence LE's) but the district only receives $750. Is there a way to recoup these projected incomes?

Given the timing of processing of the attendance agreements between district of residence and district of attendance, at the time of calculating the net levy requirement, both districts will have relatively accurate information. You will be budgeting based on agreements in your possession that reflect amounts already calculated. The sequence of attendance and payment is:

1. Once a district of attendance enrolls and admits and serves the student, the district of attendance is obligated to notify the district of residence of a tuition obligation by July 15 after the year of service.
2. The district of residence then has a month to incorporate the tuition charges into the tuition budget during August budget adoption.
3. After collecting the first half of the tuition fund tax revenue, the district of residence pays ½ the tuition amount to the district of attendance by December 31.
4. After collecting the second half of the tuition fund tax revenue, the district of residence pays the district of attendance the second ½ of tuition by June 15.

Section 20-5-324 provides: "The amount of the reduction in the BASE budget mills levied as a result of anticipated tuition payments must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to the reduction in BASE mills."

Example 2: the General Fund local levy revenue budget is reduced by $800 (based on invoices sent to district of residence LE's) but the district receives $850. How will the district account for the additional revenues?

The processing of the forms between school districts and determining accurate amounts is the challenge and burden brought on by HB203, not subsequent billing and collection. School business officials deal with revenue shortfalls and overages in the normal course of managing the district's finances. For example, when calculating the net levy requirement for the general fund, 20-9-141 (1)(b)(ii) requires amounts received in the last fiscal year, such as interest earnings and miscellaneous income, be used to reduce the BASE levy. There is no guarantee these amounts will materialize at the exact amounts in the budget year. The same can be said for the expenditure side of the equation. Nothing is exact. This dynamic is not new.

With respect to HB203, the district of attendance must manage the amounts it is expecting to receive just as any other accounts receivable. The process outlined in the law makes the likelihood of collecting the accurate amount pretty reliable. If the resident district doesn't pay, or doesn't levy enough in its Tuition fund to pay the amount owed, it can pay from a different lawful source or build it into its Tuition fund budget in the following year. The district of attendance continues to carry the remaining accounts receivable (Due from Other Governments). These are common accounting practices in school finance.

13. If this is not handled through MAEFAIRS, the administrative burden will be enormous to track enrollment dates and prorated costs for every student and produce invoices accordingly. This process will take place during other major budgeting events that fall heavily upon the LE's business offices. Is there any effort to assist schools with this administrative burden or other burdens moving forward?

    OPI has been provided over $14 million (in the 2021 Legislative Session) to modernize all of its data systems. The Legislature has passed subsequent legislation further directing OPI to effectively use these resources to modernize its data systems. OPI has the resources and direction necessary to ease the administrative burden on school districts, going on over three years. There are opportunities to provide the interim education committee's feedback regarding how this is and is not working.

    House Bill 203 does not change the existing requirement long in the law requiring an out of district attendance agreement for every child attending school outside of their district. See the prior version of 20-5-320, which has, for over 20 years, required an attendance agreement for each child, setting forth the financial obligations, if any, for tuition and for costs incurred for transporting the child under Title 20, chapter 10. The new reporting requirements are nearly identical to long-standing reporting requirements for mandatory out of district attendance students under 20-5-321, MCA.

    The vast majority of school districts have traditionally waived tuition and therefore have only had the burden of processing the attendance agreement forms. Under HB203, accurately calculating and tracking the charges and costs will add to that burden. The Office of Public Instruction's MAEFAIRS system already has a Tuition module and a Budget module, both of which can be used to automate the provisions of HB 203, including OPI's own annual reporting requirement to the education interim committee under 20-5-324 (8). It makes sense and would be most efficient for all parties involved to manage the provisions of HB203 using MAEFAIRS.

14. If a student physically moves mid school year, what is the process for transferring the burden of cost to the resident district? If a student transfers to a different school of choice, what process should be followed?

    If the student changes and returns to the district of residence mid year, the student will be included ½ ANB in the first district of attendance based on enrollment during October and will be included ½ ANB in the district of residence based on enrollment in February. Both ANB and the tuition obligation will be prorated.

On prorating tuition, ARM Section 10.10.301(5)(d) provides:

(5)(d) “Tuition amounts shall be adjusted for the portion of the year the student is enrolled, based on the percentage calculated by dividing the number of days the student is enrolled by the number of pupil instruction days scheduled by the school district in the year of attendance.”

With regard to a student jumping from one district of attendance to another mid-year, the district of attendance has the authority to set reasonable deadlines for application and has the power to prevent this practice from occurring. If it does occur, tuition will be allocated between the two districts of attendance pursuant to OPI rule.

15. How does HB 203 impact the Notice of Intent to Increase Non-Voted Levies required in March each year? Will schools be required to include estimates of tuition for children who are residents of the LE but not attending the LE?

Example:
The district estimates General fund tuition revenue of $5,000 coming in from resident districts, and $5,000 tuition charges going out to several districts of choice in its Tuition fund. Based on this example, the district will experience zero change in taxpayer burden but the Notice of Intent to Increase Non-Voted Levies will reflect an anticipated increase, which overall, is inaccurate. Should the district include the general fund tax impact in its Notice in some manner to be more accurate?

The district is not required to include general fund taxes in its notice. Those are either calculated under separate law with no discretion by the board (in the case of BASE levy) or are subject to other notice requirements that provide even more information than is required under the March 31 notice (in the case of voted levies).

The first time a district will have an occasion to consider incorporating HB 203 tuition fund increases will be in March 2025. At that time, the district of residence could make a good faith estimate based on the out-of-district attendance agreements that are in place. The order of how this will work is:

1. Students are allowed to attend district of attendance for the 2024-25 school year.
2. Based on the attendance agreements it has in its possession, the district of residence makes a good faith estimate of the increase in the FY2026 Tuition fund levy on its Notice of Intent published by March 31, 2025.
3. District of attendance notifies the district of residence of a tuition obligation by July 15, 2025.
4. The district of residence increases the tuition levy in adopting the FY2026 tuition budget in August 2025.
5. In March 2026, the district will not yet have information sufficient to estimate any

further increase in its tuition levy and should either estimate based on a good faith estimate of how many students you expect to attend out of district, or, if you are unable to identify a particular amount, estimate $0. Do not leave out the tuition fund, but rather incorporate it and estimate $0. This will ensure flexibility to change from your estimate once you have known amounts to incorporate in your budget.

6. July 15, 2026, you will receive a bill for tuition from the district(s) of attendance.
7. August 2026, incorporate the tuition charges into the FY2027 levy based on new information you did not have in March 2026.

16. If a district of residence receives an invoice from the district of attendance after the date outlined by law (or a reasonable timeframe therein), is the district of residence required to permissively levy the costs? If budgets have been submitted how will this process be administered?

    The district of residence is obligated to pay for invoices received by July 15. For late received invoices, the district of residence can Impose the levy in the year after. Or, if the district has time, it can adjust the levy and impose in the current year.

    This is an example of how the OPI MAEFAIRS system can help.

17. What should a district of attendance do if a district of residence disputes the residency of a student and refuses to pay?

    Section 1-1-215 provides:
    (5) In the case of a controversy, the district court has jurisdiction over which residence is the residence of an unmarried minor.

    The laws on residency are ambiguous, both as stated and as interpreted by the courts. Litigation is always uncertain, and both districts have much to lose in fighting over residency of a pupil. The better course of action would be to work things out, starting with a recognition that disproving residency when a parent claims it is an uphill battle you are likely to lose in court.

18. Will district of residence districts be required to report “due to’s” on their TFS and will district of choice schools be required to report “due from’s” on their FY2025 TFS for these invoices?

    At this time, we are advising that schools should not post either on their TFS documents as this will be FY26 revenues. Further guidance has been requested from the OPI.

19. How does a district decide what rate to pay in the following situation:
    - Example. A student from Fishtail (non-accredited 7-8 program so all rates are elementary level rates) choses to attend Absarokee (an accredited 7-8 program). Absarokee's rate is capped by the law at 35.3% and Fishtail's rate is 35.28%.

student cost in FY2024		
	Elem	HS
Per-ANB	$ 6,123	$ 7,840
Per-IBG	$ 154.21	$ 154.21
Per-RSBG	$ 51.40	$ 51.40
TOTAL	$ 6,329	$ 8,046

So would Absarokee bill $2,232.87 ($6,329 X 35.28%) or $2,838.63 ($8,046 X 35.28%)

In this example Absarokee is the District of Choice. So, they will issue an invoice at the lower of the two district's rates (35.28%), but at Absarokee's accredited rate. So, the invoice for one student, enrolled for one full year is
35.28% X $8,046 = $2,838.63

20. Will there be training provided by the OPI for School Business Managers and Superintendents?

This question must be directed to OPI. CAMPS organizations will happily share with its membership any OPI trainings that become available.

21. If the School Board of the district of attendance denies the application for admittance based on valid concerns and the parents choose to appeal the board's decision, is there a timetable for this process?

House Bill 203 does not change the law regarding challenges. The law before and after HB 203 provides that denial of admission of an out of district student is subject to provisions for the appeal of controversies pursuant to 20-3-107 (state superintendent) and 20-3-210 (county superintendent).

Rules on appeals of all controversies can be found online. Generally speaking:

- 30 days to appeal to the county superintendent after denial by a board.
- 30 days to appeal the decision of the county superintendent to the state superintendent.

22. What should we do if we receive two invoices from different schools for the same student with overlapping dates?

    Ask for proof of enrollment from both districts and work it out among the affected districts, but the district of residence will have a copy of an out-of-district attendance agreement for the student in its possession.

23. Based on the suggested policy outlined with MTSBA, does the LE need to go into closed session to approve each agreement?

    This has been MTSBA's recommendation both prior to and after the passage of HB 203. Nothing has changed here.

    It is advisable for the Board of Trustees to discuss discretionary out-of-district applications in accordance with the following procedure from the updated model Policy 3141. If the matter requires board discussion or if there is a possibility of the application being denied, it has to be in closed session. A matter cannot be predetermined outside of a board meeting so it is unknown whether an application may be denied. This is the basis for the language in the policy.

    If there is no discussion anticipated a closed session may not be necessary but if a matter emerges during the meeting where the application may not be approved or there is discussion necessary on an application, that student would have to be tabled until such time as there is a properly convened closed session as discussed below.

    Discussion of the application in open session makes the application itself subject to public disclosure, because there has been no conclusion by the Board Chair that the discussion relates to matters of individual privacy and the demands of individual privacy clearly exceed the merits of public disclosure. This can be problematic if the person requesting the application knows the identity of the student whose application is being considered. Public disclosure of a student application under those circumstances very likely constitutes a violation of the FERPA.

    Of additional concern may be that the Board's discussion may reference private matters, possibly including prior disciplinary action taken against the student. While the argument could be made that using a number instead of the student's name for the purposes of discussion may sufficiently protect the student's privacy rights, the fact remains that the Board is having a discussion about private student matters in an open session, frequently without having given advance notice to the parents of the Board's intent to do so. Under circumstances where the identity of the student can or has been determined by third parties, the potential liability to the District could be substantial.

Each parent that has submitted an out-of-district application must be notified in writing of the date and time of the Board meeting during which the Board will consider their application. A separate closed session must then be convened for each application being considered, and, if the parents are in attendance at the meeting, they are entitled to be present in the closed session. As indicated by the model policy, the Board's vote to approve or deny the application must be made in open session with the motion referencing the application number only as opposed to the student's name.

24. Is there an obligation to pay for a student who attends another LE remotely and not physically?

There is neither a right nor an obligation to pay tuition in such instances. Remote instruction is limited by law pursuant to section 20-7-118, which provides:

The provision of remote instruction by a district is limited to pupils:

(a) meeting the residency requirements for that district as provided in 1-1-215;
(b) living in the district and eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or
(c) seeking remote instruction in the nearest district when the pupil's district of residence does not provide remote or in-person instruction in an equivalent course. A course is not equivalent if the course does not provide the same level of advantage on successful completion, including but not limited to dual credit, advanced placement, and career certification.

The law further specifies that in cases where a student participates in remote instruction of another district under 20-7-118, MCA, that such participation yields fractional enrollment for the district providing such remote instruction, which is correspondingly netted out of the ANB of the district of residence. See 20-9-311:

"When a pupil is concurrently enrolled in more than one district, any fractional enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district."

25. Is there any obligation to pay for students who attend a school across the state border?

HB 203 does not change anything pertaining to this issue. There is no obligation to pay tuition and no authority to charge tuition for a student going to or coming from out of state. Existing law provides OPI with the authority to enter into reciprocal attendance agreements with adjoining states or provinces. 20-5-314, MCA.

26. Are there specific guidelines for schools to determine the district of residence for a student? There are times when this can be very difficult to determine. Should the school outline how they determine residence within their policies?

HB 203 does not change anything pertaining to this issue. MTSBA model policy has long addressed rules for confirming residency. The law is very flexible for the person seeking to establish residency, both as written in 1-1-215 and as interpreted by the courts over the years.

27. Can a Board set different deadlines in policy for different demographics, (example -previously enrolled students, staff's children, siblings of previously enrolled students) in regard to enrollment limits for out of district students in relation to HB203?

No. Although section 20-5-320(2)(c) authorizes a board to adopt reasonable timelines for the submission of applications, there is nothing in the law that allows a board to stagger application deadlines based on the characteristics or circumstances of the students seeking enrollment.

There is one step in the process, set forth in 20-5-320(2)(f), that allows a district to prioritize applications "on any rational basis that prioritizes the quality of education for students who are residents of the district of attendance and the obligations of resident taxpayers. The ability to prioritize applications does not apply unless the district "receives more applications than the district can accommodate under subsections (2)(e)(i) and (2)(e)(ii)."

Sections (2)(e)(i) and (2)(e)(ii) provide:

"(e) In reviewing and determining whether to approve an application for attendance by a nonresident child, the trustees of the district of attendance shall approve the application unless the trustees find that the impact of approval of the application will negatively impact the quality of education for resident pupils by grade level, by school, or in the district in the aggregate in one or more of the following ways:

(i) the approval would result in exceeding limits of:

(A) building construction standards pursuant to Title 50, chapter 60;

(B) capacity and ingress and egress elements, either by individual room or by school building, of any fire code authorized by Title 50, chapter 3; or

(C) evacuation elements of the district's adopted school safety plan;

(ii) the approval would impede meeting goals, standards, or objectives of quality that the trustees have previously adopted in a plan for continuous educational improvement required under rules adopted by the board of public education;

Under the language above, the district of attendance must document where its enrollment stands, at a minimum, regarding class size limits under accreditation standards, building codes, fire codes and evacuation elements in the district's school safety plan. The next step, which must take place immediately, is for the district to determine whether it wants to incorporate goals, standards, or objectives of quality that the district has previously adopted in its plan for continuous educational improvement (see 10.55.701 requirements).

Once the district has adopted such guidelines and incorporated them into policy, the district can then outline a clear procedure as to how it will prioritize, on a rational basis, the order in which they will accept out of district applications if the district "receives more applications than the district can accommodate under subsections (2)(e)(i) and (2)(e)(ii). Determining whether the district has more applications than it has space will require applying your strategic objectives to the circumstances at hand. The law allows a district to limit by grade, school, or district wide. A district might have, for example, a strategic objective to keep class sizes no higher than 80% of the maximum class sizes under the accreditation standards. If the district has that kind of standard, it can then use the standard, as referenced in policy, in prioritizing on any rational basis.

Grade	ARM 10.55.712 & ARM 10.55.713 limits	District's Strategic Limit	Number of students seeking enrollment
K-2	20	16	24
Grades 3-4	28	23	30
Grades 5-12	30	24	36

A district presented with the scenario above might choose to prioritize for any or all the following:

1. Applications from previously enrolled students in good standing- has not violated district truancy and disciplinary policies. Rationale: to promote stability in enrollment and prioritize students in good standing who are more likely to contribute to a positive learning environment.
2. Applications from students whose parents are currently employed within the district. Rationale: to promote good morale among staff and reduce distractions of staff who may be called away from school in cases where their children need a ride, become ill, etc.
3. Applications form students who have siblings already enrolled within the district. Rationale: to promote stability in enrollments within families and reduce the burden on parents bringing children to separate districts.
4. New applications that do not fall within the above areas. Rationale: to ensure priorities above are met prior to considering new applications.

28. Is the application an annual requirement once a student's application is approved?

Yes. FP14 forms are required annually and should be submitted annually. Each year, a nonresident student must apply for admission and must be considered on an equal basis unless there are more students seeking enrollment than the space available as explained in question 25 above.

29. What is the definite timeline of HB203 for schools.

District of Attendance:

FY 25- July 1, 2024, to June 30, 2025. Track student enrollment of those who are attending the LE that do not live within the district boundaries, (not including services provided based on SPED, foster home, or other special circumstances). FP14 Forms must be used to track these enrollments. Once enrollment is approved by the district of attendance, the district of attendance must notify the district of residence within 10 days (FP14 form). Each district will have its own procedure outlined within their policies as to when and how they will accept out of district applications for enrollment. June of 2025, the business office will then begin the process of calculating the invoices which will then be sent out to the districts of residence. These invoices need to be received by the district of residence no later than July 15, 2025.

FY 26- July 1, 2025, to June 30, 2026. Ensure invoices are sent to the district of residence by July 15, 2025. In August of 2025, the district of attendance will reduce the local taxpayer portion of the base budget in the general fund by the amount of anticipated tuition revenues within MAEFAIRS (actual process yet to be determined) by the amount invoiced. The district of attendance will receive the first half of these revenues from the district of residence in December of 2025 and the second half of these revenues from the district of residence no later than June 15, 2026.

District of Residence:

FY 25- July 1, 2024, to June 30, 2025. The district of residence must be notified within 10 days of the district of attendance's approval of attendance for a student. The district of residence must utilize the FP14 forms provided to the school to track students attending other districts and anticipate the approximate cost that will be incurred in the upcoming fiscal year. Prior to March 31, 2025, the district of residence may choose to estimate the approximate taxpayer cost and note it in the Notice of Intent to Increase Non-Voted Levies resolution in the Tuition fund. This notice is posted in the paper of local distribution and on the school's website.

FY26- July 1, 2025, to June 30, 2026. The district of residence will receive invoice(s)

from the district(s) of attendance no later than July 15, 2025. The district of residence will include these amounts in the tuition budget within MAEFAIRS. They will then pay the district of attendance the first half of these invoices in December of 2025 and the second half no later than June 15, 2026.