

**Charles Arlinghaus: Gov. Hassan takes both sides of school choice debate**

**Gov. Hassan contradicts herself on educational freedom.**

BY CHARLES ARLINGHAUS

Gov. Maggie Hassan would like to spend state revenues directly for scholarships to be used at any approved school, public or private in the state. At the same time, in the same term, she is arguing that legislation that does the same thing is an unconstitutional breach that must be stopped. Rarely has any leader been so directly and perfectly contradictory. In her budget address just 11 months ago, Gov. Hassan proposed spending \$4 million from the state treasury to pay directly for “need-based scholarships that can be used at both public and private colleges.” This is not an unreasonable program. To allow lower-income students access to greater educational opportunity, the governor wants to target limited dollars to the students. Rather than dictate a list of specific providers, the governor believes students and their parents should choose from any licensed school, public or private, religious or secular, in-state or out-of-state to develop the best educational option for that specific student. It makes sense. There are myriad educational options, and what's right for one student may not be as good a fit for another. I don't think she ever seriously considered saying that the scholarship can only be used at UNH because the government controls UNH. That would limit opportunity, and this program is about opportunity — opportunity that can be found, in the governor's words, “at both public and private colleges.” The same logic applies to the state's limited school-choice tax credit program. The school choice tax credit doesn't actually spend money from the state treasury, like the governor's favorite scholarship program does. It allows a tax credit for businesses that donate to scholarship-granting organizations. The scholarships are based on need and can, just like in the governor's model, be used at both public and private schools. The logic echoes the governor's. Opportunity is best extended by increasing the number of choices, not limiting them. The governor, however, can apparently see things differently out of each eye. While her own program is a grand and wonderful accomplishment, the other scholarship program threatens “the hallowed underpinnings of religious tolerance and freedom.” The quote is from her brief (written by her legal counsel) asking the state court to toss out the program — not the one she proposed, the other one. Apparently writing a check directly from the state government to St. Anselm or to Southern Methodist is an innovative and noble cause that increases opportunity among students of lower-income families, but allowing a business to take a tax credit for making its own contribution to a scholarship foundation that helps parents afford to send their children to Trinity High School is a subversive act that threatens the “hallowed underpinnings” of democracy. I want to take her seriously, but rarely has a politician taken opposite positions on items of such stark similarity. The college program is a significantly greater entanglement for the state, yet it is

touted as the very model of promoting opportunity. Perhaps she thinks so because it's her idea. My ideas are grand and noble. Yours, however similar, are threats to “hallowed underpinnings.” The intellectual goofiness (a technical term) of the argument is as amusing as it is sad. I suppose the argument asks us to believe that colleges with religious affiliations are dandy, but high schools with religious affiliations threaten democracy. In addition, we are asked to believe that an indirect tax credit that partially funds scholarships used at religiously affiliated schools is the equivalent of a direct expenditure from the state treasury, and therefore unconstitutional, but a direct state tax exemption for churches and religious non-profits is not. Despite decades of court rulings holding that money that never was sent to the state is not actually state money (for example, taking a charitable deduction for a donation to your church is not the same as the government writing a check to your church), the administration would have us believe that for this one purpose it is. Jason Bedrick, my former colleague at the Josiah Bartlett Center now spreading freedom from the Cato Institute, has the last word on this amusing protest. Jason concludes: “What's noteworthy here is not the legal reasoning, but the governor's chutzpah.”