

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

CAROLINE CASEY and MAGGIE FLAHERTY

v.

WILLIAM GARDNER, in his official capacity as New Hampshire Secretary of State and
GORDON MACDONALD, in his official capacity as New Hampshire Attorney General

Consolidated with
NEW HAMPSHIRE DEMOCRATIC PARTY

v.

WILLIAM GARDNER, in his official capacity as New Hampshire Secretary of State and
GORDON MACDONALD, in his official capacity as New Hampshire Attorney General

Docket No. 2019-0693

Rule 34 Certification from the
United States District Court for the District of New Hampshire
Case No. 1:19-cv-00149-JL

**RESPONSIVE BRIEF FOR PLAINTIFFS CAROLINE CASEY, MAGGIE
FLAHERTY AND NEW HAMPSHIRE DEMOCRATIC PARTY**

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STATUTES

RSA 21:6 6, 7

A resident or inhabitant or both of this state and of any city, town, or other political subdivision of this state shall be a person who is domiciled or has a place of abode or both in this state and in any city, town, or other political subdivision of this state, and who has, through all of his or her actions, demonstrated a current intent to designate that place of abode as his or her principal place of physical presence to the exclusion of all others.

RSA 21:6-a 8

Residence or residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his or her principal place of physical presence to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is an intent to return to such residence or residency as the principal place of physical presence.

RSA 187-A:16, XVIII 8

Establish a differential in the rate of tuition to be charged all in-state and out-of-state students based on the dual legislative policy of:

(a) Limiting the number of out-of-state students who may attend the university system; and

(b) Giving due weight to the fact that the support of the university system is substantially dependent upon legislative appropriations derived from revenue contributed by persons domiciled within the state of New Hampshire.

RSA 259:23 10

“Domicile” shall mean a natural person taking up residence in a town or city within the state and includes but is not limited to occupying a primary place of habitation, placing children in a public school within the state, accepting gainful employment, or being a registered voter liable for a resident tax, provided, however, that no person shall be considered to be domiciled in this state who simultaneously claims residence in any other state for any of the purposes indicated above. In the case of other than a natural person, domicile shall also apply in the case of vehicles principally garaged or kept on the premises of a firm or corporation with a place of business within the state.

RSA 259:67 6, 13, 14

“Nonresident” shall mean:

I. Except as provided in paragraph II, any person whose legal residence is in some state, district or country other than New Hampshire, but a nonresident, having a regular abode or place of business within the state for more than 6 months in any year, shall be deemed a resident as to all vehicles principally used in connection with such abode or place of business and the director for the purposes of registration shall determine what vehicles are so used;

II. For the purposes of the reciprocal provisions as to arrest of nonresidents, RSA 262:27 and 28, a person who is a resident of or holds a driving license issued by a reciprocating state.

RSA 259:88 9, 14, 15

“Resident” shall mean a resident of the state as defined in RSA 21:6, except that no person shall be deemed to be a resident who claims residence in any other state for any purpose.

RSA 261:44 12

A vehicle, other than an OHRV or snowmobile, owned by a nonresident and duly registered for the current year in the state, district or country of which the owner is a resident may be driven upon the ways of this state without registration under this chapter to the extent, as to period of driving and otherwise, that the state, district or country of registration grants similar privileges for the operation of such vehicles owned by residents of this state and registered under its laws. The director for the purposes of this section shall determine the nature and extent of the privileges for the driving of vehicles granted by other states, districts or countries to residents of this state and his determination shall be final.

RSA 263:5-b 12

I. Any resident of this state who is on active duty in the armed forces of the United States, or who is employed by the State Department or other agency of the United States government shall not be considered as having lost residence when the sole reason for the person's absence is compliance with military or naval orders that require deployment outside the state of New Hampshire or federal agency or state department orders that require assignment outside of the United States.

II. A resident of this state shall not be considered as having lost residence when the sole reason for the person's absence is that he or she is accompanying his or her spouse on a United States armed forces deployment outside the state of New Hampshire or state department or other federal agency assignment abroad.

RSA 263:35 12

Notwithstanding the provisions of RSA 261:44 or any other law to the contrary, any nonresident driver of a motor vehicle who holds a valid driver's license in another jurisdiction, upon the establishment of a bona fide residency in this state, shall have a maximum of 60 days from the date his residency was established to obtain a driver's license issued by the state of New Hampshire.

RSA 263:36 12

No owner of a pleasure vehicle, and no nonresident or driver thereof, holding a license to drive in the state, district, or country in which he resides shall be required to obtain a license to drive such vehicle within this state.

RSA 654:1 6, 7, 10

I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any

meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.

I-a. A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I.

II. Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law.

RULES

U. Sys. of N.H. Bd. of Trs. R. IV.E.1.1 *available at*
<https://www.usnh.edu/policy/bot/iv-financial-policies/e-classification-students-tuition-purposes-residency-rules> (last visited Jan. 27, 2020) 10, 11

ARGUMENT

Answering the questions certified by the federal court does not require consultation of the definition of “domicile” at common law, nor the examination of unconfined laws from the 1980s that have since been superseded by statute. Instead, to resolve this case, all the Court must do is examine the plain text of the statutes as they exist today using the same long-standing canons of statutory construction it has used in other cases. As explained below, this Court should reject Defendants’ arguments because they conflict with the Court’s precedents and the legislature’s explicit choice of words as to the various definitions of resident and domicile for voting purposes at issue in this case.

Plaintiffs submit this responsive brief to briefly address three points made by the Defendants in their brief. *First*, “resident” as defined by RSA 21:6 and “domicile for voting purposes” as defined by RSA 654:1, I are different. In reaching a different conclusion, Defendants ignore the plain meaning of the words of the statutes and erroneously conflate the concepts of domicile and residence. *Second*, a person can have “domicile for voting purposes” under RSA 654:1 without being a “resident” under RSA 259:88. To argue otherwise, Defendants rely on session law from 1981 that has since been superseded by statute and incorrectly argue that construing RSA 259:88 in accordance with its terms would lead to an absurd result. *Third*, RSA 259:67 does not require nonresidents to obtain a New Hampshire driver’s license or vehicle registration. Defendants err in concluding otherwise by ignoring the meaning of a prepositional phrase in the second clause of the statute and further err by ignoring the statute’s irreconcilable conflict with RSA 259:88 which controls over RSA 259:67 as the later statute in time.

I. “Resident” As Defined By RSA 21:6 and “Domicile For Voting Purposes” As Defined By RSA 654:1, I Are Different

Defendants’ argument that “resident,” as defined by RSA 21:6 and “domicile for voting purposes” convey the “same basic concept,” *Defendants’ Brief*, p. 41 is wrong because it ignores the plain text of the statute and misreads RSA 21:6. As acknowledged by the State in its brief, courts interpret the plain language of statutes presuming the

Legislature chose the words purposefully and intentionally and give effect to each word chosen according to its plain meaning. *See Defendants' Brief*, p. 40.

In considering the meaning of a statute, the court begins with the “words in the statute itself.” *Merrill v. Great Bay Disposal Serv.*, 125 N.H. 540, 542 (1984). Domicile for voting purposes “is that one place where a person, more than any other place, has established a physical presence and *manifests an intent to maintain a single continuous presence for domestic, social and civil purposes relevant to participating in democratic self-government.*” RSA 654:1, I (emphasis added). By contrast, the general definition of residence requires that “a person [be] domiciled or ha[ve] a place of abode . . . and . . . [have] demonstrated a current intent to designate that place of abode as his or her principal place of physical presences *to the exclusion of all others.*” RSA 21:6 (emphasis added). The general definition of residence thus requires more than domicile—as evidenced by the use of the word “and”—and also requires more of a connection to the State than for “domestic, social and civil purposes relevant to participating in democratic self-government,” in fact requiring a principal place of physical abode “to exclusion of all others.” Following the standard canon of statutory construction that the meaning of a statute is derived from the plain language of the statute, domicile for voting purposes under RSA 654:1 has a different meaning than residence under RSA 21:6. *See Teeboom v. City of Nashua*, 172 N.H. 301, 310 (2019) (“We first look to the language of the statute itself, and, if possible, construe that language according to its plain and ordinary meaning. Moreover, we do not consider words and phrases in isolation, but rather within the context of the statute as a whole.”).

Instead of addressing the differences in the language between these two statutes, Defendants simply assert that “residence” in RSA 21:6 and “domicile for voting purposes” in RSA 654:1 mean the same thing. *See Defendants' Brief*, p. 42. RSA 21:6 and RSA 21:6-a do not define, as Defendants suggest, domicile “for all other statutory purposes”¹—they define “resident” and “residence.” As a result, when HB 1264 amended

¹ Defendants say that this court erred in *Guare v. State*, 167 N.H. 658, 662 (2015) when it wrote that “[t]he basic difference between a ‘resident’ and a person who merely has a New Hampshire ‘domicile,’ is that a ‘resident’ has

RSA 21:6 and RSA 21:6-a, it did not bring different definitions of domicile into harmony—instead it changed one definition of resident to be similar to (although not identical to) the definition of domicile for voting purposes.

The in-state tuition regime is a vivid illustration of the State’s erroneous reasoning because one of the main potential benefits of living in New Hampshire—reduced fee attendance at a public university—does not accrue to everyone who is domiciled for voting purposes in the state. Under RSA 187-A:16, XVIII, the Trustees of the University System of New Hampshire are empowered to “[e]stablish a differential in the rate of tuition to be charged to all in-state and out-of-state students based on the dual legislative policy of: (a) Limiting the number of out-of-state students who may attend the university system; and (b) Giving due weight to the fact that the support of the university system is substantially dependent upon legislative appropriations derived from revenue contributed by persons *domiciled* within the State of New Hampshire.” *Id.* (emphasis added).

Following this directive, the Trustees set the rule that students “shall be charged tuition at a rate to be determined by their domicile. Those domiciled within the State of New Hampshire shall pay the in-state rate. Those domiciled elsewhere shall pay the out-of-state rate.” U. Sys. of N.H. Bd. of Trs. R. IV.E.1.1 *available at* <https://www.usnh.edu/policy/bot/iv-financial-policies/e-classification-students-tuition-purposes-residency-rules> (last visited Jan. 27, 2020). The Trustees defined domicile as “a person’s true, fixed and permanent home and place of habitation, to the exclusion of all others. It is the place the person intends to remain and to which he or she expects to

manifested an intent to remain in New Hampshire for the indefinite future, while a person who merely has a New Hampshire ‘domicile’ has not manifested that same intent.” In Defendants’ view, the statutory definition of residence was “equivalent to the common law definition of domicile,” such that anyone who was domiciled in New Hampshire was necessarily also a resident of the state. *See Defendants’ Brief*, p. 31–32. The State did not make this argument—that residence in RSA 21:6 was identical to the common law definition of domicile for non-voting purposes—in its brief in *Guare*. In fact, the State acknowledged that domicile and residence were different. *See State’s Br.* at 8, *Guare v. State*, No. 2014-0558 (N.H. Jan. 6, 2015) (“There is no dispute between the parties that ‘resident’ and ‘domicile’ have different definitions”), *id.* at 9 (“Residency, while similar, does not entirely overlap with domicile”). In any event, the definition of “domicile” for non-voting purposes is irrelevant to the issues before the Court in these proceedings. The certified questions refer only to domicile for voting purposes in RSA 654:1, and the certification order broadly makes clear that the federal court is interested in the impacts of New Hampshire law on those who vote.

return when he or she leaves without intending to establish a new domicile elsewhere.” *Id.* at 2.2. Additionally, the Trustees provided that “[n]o person shall be eligible for in-state tuition unless he or she established that his or her residence in New Hampshire is for some purpose other than the temporary or primary one of obtaining an education,” *id.* at 6.4, suggesting that a person could be domiciled in New Hampshire for in-state tuition purposes, a different definition of domicile than under RSA 654:1, and still not qualify for in-state tuition if their residence in New Hampshire was primarily for the purpose of going to college.²

II. A Person Can Have “Domicile for Voting Purposes” Under RSA 654:1, I Without Being a Resident Under RSA 259:88

Defendants are wrong when they argue that a person claiming domicile cannot be a person who claims residence in any other state for any purpose. *See Defendants’ Brief*, p. 45. RSA 259:88 defines “resident,” for motor vehicle purposes as “a resident of the state as defined in RSA 21:6, except that no person shall be deemed to be a resident [for motor vehicle purposes] who claims residence in any other state for any purpose.” As Plaintiffs explained in their opening brief, the class of people who are residents under RSA 21:6 cannot be identical to the class of people who are residents for motor vehicle purposes under RSA 259:88, because that would have the effect of rendering the clause “except that no person shall be deemed to be a resident who claims residence in any other state for any purpose” in RSA 259:88 surplusage. The canons of statutory interpretation compel against such a result. *See Town of Amherst v. Gilroy*, 157 N.H. 275, 279 (2008) (“The legislature is not presumed to waste words or enact redundant provisions and whenever possible, every word of a statute should be given effect.”).

² Finally, to the extent that the Defendants suggest that the plaintiffs only amended their complaint in response to the federal court’s October 9, 2019 procedural order, that suggestion is incorrect. Plaintiffs had been developing an amended complaint alleging that RSA 259:88 *did not* require those who claim residency in another state for another purpose to comply with motor vehicle obligations typically imposed on residents. In fact, within three hours of the Court’s October 9 order, and on that same day, the Plaintiffs sent Defendants, through counsel, the proposed amended complaint and sought Defendants’ position on their motion to amend. The Individual Plaintiffs filed their motion to amend (attaching the proposed amended complaint) on October 10.

Defendants claim that when the legislature defined a resident for motor vehicle purposes as one who is “a resident of the state as defined in RSA 21:6, except that no person shall be deemed a resident who claims residence in any other state for any purpose” what it really meant was a “a domiciliary as defined in RSA 21:6, except that no person shall be a domiciliary who claims domicile in any other state for any purpose.” This is because, Defendants argue, “domicile” generally means “residence” and because the motor vehicle code contains a definition of “domicile” that is similar to that of “resident.” *See* RSA 259:23. And, the argument goes, “[t]his conforms to the black letter rule of law that a person can only have one domicile at a time.” *Defendants’ Brief*, p. 46 n.2.

This is wrong for a number of reasons. *First*, the certified question from the federal court seeks resolution of whether one who establishes domicile for voting purposes—and not domicile more broadly—is necessarily a resident for motor vehicle purposes under RSA 259:88. *See Certification Order*, p. 13 (“If a registered voter can both claim a New Hampshire domicile and claim residence for motor vehicle purposes in another state, the plaintiffs would not face the harms they fear.”). As explained in response to the federal court’s first certified question, “domicile for voting purposes,” which is defined in RSA 654:1, is not equivalent to residence; it therefore follows that someone who is domiciled for voting purposes in New Hampshire is not necessarily a resident for motor vehicle purposes. *Second*, whether it is “black letter” law that a person can have only one domicile is irrelevant to the question here: whether a person domiciled in New Hampshire for voting purposes is necessarily also a “resident” for motor vehicle purposes under RSA 259:88. The justices of this Court have held in an advisory opinion that a person can have multiple residences. *See Op. of the Justices (Definition of Resident and Residence)*, 171 N.H. 128, 136 (2018) (opinion of Lynn, C.J., and Hantz Marconi and Donovan, JJ.) (considering residence and domicile and indicating “one . . . may have more than one residence at the same time.”) (citation omitted). One may therefore be domiciled for voting purposes in New Hampshire but also have residences in multiple states—in which case that person would not be a resident of New Hampshire for motor

vehicle purposes under RSA 259:88, which provides that a person cannot be a resident of New Hampshire for motor vehicle purposes if that person “claims residence”—and not domicile—“in any other state for any purpose.” *Third*, even if it were true at common law that a person could only have one residence, such a principle is not enshrined in the Constitution. The legislature is therefore free to define “resident” as it chooses, and in the case of motor vehicle purposes, it has chosen to recognize that a person may have multiple residences.

Defendants also argue that a session law from 1981, which the legislature did not see fit to codify, made “resident” and “domicile” for motor vehicle purposes identical to the general definition of “resident,” *see Defendants’ Brief*, p. 45–46 (“N.H. Laws 1981, Chapter 261, Section 261:2 also expressly contemplates equating the term ‘residence’ with the term ‘domicile’ as used in the Motor Vehicle Code”). But any equivalency that was created in 1981 was destroyed as these statutes were subsequently amended. Specifically, after the legislature established that “domicile” (for purposes other than elections),³ “resident” for motor vehicle purposes, and other similar words shall mean resident as defined in RSA 21:6 in 1981, it changed the statutes at issue in this case. The legislature in 1985 amended the definition for the word “resident” for motor vehicle purposes to add the “except” clause. The legislature in 2019 amended the definition of the word “resident” in 21:6 to remove the words “for the indefinite future” in HB 1264 (the subject of this lawsuit). Statutes that may have meant the same thing were changed by subsequent legislatures in different ways, and, as Plaintiffs have explained above and in their opening brief, the words of these statutes show that they now mean different things.

The Court should also reject Defendants’ characterization that “assigning the common meaning to the term ‘residence’ in RSA 259:88 would lead to an absurd result.” *Defendants’ Brief*, p. 47, but there is nothing “absurd” about exempting people who have

³ *See Defendants’ Brief*, p. 28 (noting that N.H. Laws 1981, Chapter 261, Section 261:2 explicitly exempted the election code). The definition of domicile for voting purposes contained in RSA 654:1, I has also already repeatedly changed since 1981.

residences in multiple states from being subject to the obligations of residence for motor vehicle purposes in the state. Indeed, such a result is precisely what the legislature intended when it amended the statute in keeping with the request of the DMV. *See Plaintiffs' Brief* Section III.C (discussing legislative history of RSA 259:88). Nor does such a reading conflict with other statutes as Defendants suggest. RSA 263:35 requires those with “bona fide residency” in the state to obtain a New Hampshire driver’s license—it does not suggest a particular definition of “resident.” Similarly, RSA 263:5-b provides that a resident of the State in the armed forces does not lose residence by virtue of leaving the state under military orders; it is silent on what makes such a person a “resident” in the first place.

III. RSA 259:67 Does Not Require Nonresidents to Obtain New Hampshire Driver’s Licenses or Vehicle Registrations

Contrary to Defendants’ arguments, RSA 259:67 does not require nonresidents to obtain New Hampshire driver’s licenses or vehicle registrations. As the Plaintiffs have explained in their opening brief, there are large exceptions to the rule that drivers and vehicles in New Hampshire must be licensed and registered. Specifically, nonresidents who are licensed to drive in their home jurisdiction need not get a New Hampshire driver’s license, RSA 263:36, and a vehicle owned by a nonresident and registered in its owner’s home jurisdiction need not be licensed in New Hampshire, RSA 261:44.

This makes sense. Every day, Americans drive from one state to the next for work, school, or pleasure, and they are able to do so without stopping at the state line to change their license plates or swap their driver’s licenses. Any change to the scheme or motor vehicle reciprocity could dramatically impact significant internal mobility and interstate commerce, yet that is precisely what the Defendants invite when they put forward their argument that RSA 259:67 requires some in New Hampshire to domesticate driver’s licenses and vehicle registrations. Defendants’ argument fails for the following two reasons.

First, the statutory language of RSA 259:67 plainly does not act to impose any obligations on anyone with respect to driver’s licenses. The statute defines nonresident—

i.e. one who is entitled to the licensing and registration exemptions of RSA 263:36 and RSA 26:144—as follows:

“Nonresident” shall mean:

I. Except as provided in paragraph II, any person whose legal residence is in some state, district or country other than New Hampshire, but a nonresident, having a regular abode or place of business within the state for more than 6 months in any year, shall be deemed a resident as to all vehicles principally used in connection with such abode or place of business and the director for the purposes of registration shall determine what vehicles are so used.

RSA 259:67. Beginning with the word “nonresident” through the end of paragraph I, the statute is a (run-on) sentence with three independent clauses separated with the conjunctions “but” and “and.” The first independent clause contains a prepositional phrase (beginning with “except”) and makes clear that, generally, a nonresident is a person whose legal residence is somewhere other than New Hampshire. The second independent clause (beginning with “a nonresident,” and ending with “place of business”) provides that, under certain circumstances, a nonresident shall be “deemed” a resident, and contains a participle phrase modifying nonresident (“having a regular abode . . .”) and a prepositional phrase modifying deemed (“as to all vehicles . . .”). The third independent clause explains that the director determines which vehicles are so used for the purposes of registration.

The salient point is that someone who would otherwise be considered a nonresident may only be “deemed a resident” “*as to all vehicles* principally used in connection with such abode or place of business” in the state. *Id.* (emphasis added). Vehicles can be registered, but only drivers are licensed. If the legislature had intended that such a person could be “deemed a resident” for all DMV purposes, including licensing, it would not have included the limiting prepositional phrase modifying “deemed.” Defendants’ argument—that RSA 259:67 can require people who reside outside the state to obtain in-state driver’s licenses—ignores this prepositional phrase. Because this argument ignores the prepositional phrase, it must be rejected. *See Merrill*, 125 N.H. at 543 (“It is an elementary principle of statutory construction that all of the

words of a statute must be given effect and that the legislature is presumed not to have used superfluous or redundant words.”).

Nor does the placement of RSA 259:67 in the “Words and Phrases Defined” chapter compel a different result. RSA 259:67 is placed in that chapter because it is a general definition of the word nonresident. The first clause of RSA 259:67, I generally defines a nonresident. The second clause contains an exception to the first clause—that people who maintain an abode or place of business in the state for more than six months in a year are deemed residents instead of nonresidents—but the second clause is expressly limited by its terms to apply only to vehicles. The statute’s general definition of nonresident contained in its first clause applies throughout the title, which is why it was appropriately placed in the definitional chapter, but the legislature saw fit to limit the exception in its second clause to vehicles.

Defendants’ ignoring of this phrase and reading of RSA 259:67 to require some nonresidents to get in state driver’s licenses in addition to car registrations is not inconsequential. As Defendants acknowledge, “[m]ost, if not all, nonresident college students have had, or may currently have, a regular abode in New Hampshire for more than six months during the year.” *Defendants’ Brief*, p. 55. The State’s colleges have thousands and thousands of undergraduate students, many of whom are residents of other states. It is no exaggeration to say that Defendants’ reading, if adopted by this court, would require thousands of people in New Hampshire to hold two driver’s licenses—one in New Hampshire to be used with vehicles principally used in connection with a New Hampshire address—and one from the person’s state of residence to be used in all other vehicles, a result prohibited under RSA 263:4.

Second, the Defendants err when they do not consider RSA 259:67 in the context of the greater statutory scheme. Defendants argue that RSA 259:67 causes one to be “deemed a resident” but ignore that the same chapter provides that “no person shall be deemed to be a resident who claims residence in any other state for any purpose.” RSA 259:88. These statutes are in direct conflict in the case of a person who is a resident of another state, but has an abode in New Hampshire for more than six months in any

year. According to RSA 259:67, such a person is deemed to be a resident with respect to certain vehicles, but RSA 259:88 provides that they shall not be deemed a resident because they claim residency in another state. In such a case, the latter statute in time shall control—here, RSA 259:88. *See Bd. of Selectman v. Planning Bd.*, 118 N.H. 150, 152–53 (1978) (“When a conflict exists between two statutes, the later statute will control, especially when the later statute deals with a subject in a specific way and the earlier enactment treats that subject in a general fashion.”).

CONCLUSION

As discussed above and in the Plaintiffs’ opening brief, the certified questions should be answered as follows:

The definitions of “resident” and “residence” in RSA 21:6 and :6-a, as recently amended, are not effectively the same as the definition of “domicile” as used in RSA 654:1, such that one with a New Hampshire “domicile” is necessarily a New Hampshire “resident.”

A student who claims a New Hampshire “domicile” pursuant to RSA 654:1-a is not necessarily a New Hampshire resident under RSA 21:6, as recently amended.

An individual with a New Hampshire “domicile” pursuant to RSA 654:1 can “claim[] residence in any other state for any purpose” and thus is not necessarily a “resident” for the purposes of RSA 259:88.

An individual who claims a New Hampshire “domicile” pursuant to RSA 654:1, I or :1, I-a, does not necessarily establish a “bona fide residency” for the purposes of RSA 261:45 and 263:35.

Given the definition of non-resident in RSA 259:67, college students who maintain an abode for more than six months in any year are not required to obtain New Hampshire drivers’ licenses by RSA 263:1 if they wish to drive in the state and are not required by RSA 261:40 to register in New Hampshire any vehicles they keep in the state.

Respectfully submitted,

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STATEMENT OF COMPLIANCE

Counsel hereby certifies that pursuant to New Hampshire Supreme Court Rule 26(7), this brief complies with New Hampshire Supreme Court Rule 26(2)–(4). Further, this brief complies with the Court’s Order of December 20, 2019, which states that “A responsive brief shall not exceed 4,000 words.” Counsel certifies that the brief contains 3,908 words (including footnotes) from the “Argument” to the “Conclusion” sections of the brief.

/s/ Henry Klementowicz

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was served on counsel for Defendants through the court's electronic filing system on today's date: Seth Zoracki, Esq., Anthony Galdieri, Esq., Samuel Garland, Esq., Anne Edwards, Esq., New Hampshire Department of Justice, 33 Capitol Street, Concord, NH 03301, and Bryan Gould, Esq., Cooley Arroyo, Esq., Cleveland, Waters and Bass, P.A., 2 Capitol Street, Concord, NH 03301.

Dated: January 28, 2019

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