

**THE STATE OF NEW HAMPSHIRE
SUPREME COURT**

No. 2019-0693

Caroline Casey
&
Maggie Flaherty

v.

William M. Gardner,
In his official capacity as the
New Hampshire Secretary of State
&
Gordon J. MacDonald,
In his official capacity as the
New Hampshire Attorney General

Consolidated with

New Hampshire Democratic Party

v.

William M. Gardner,
In his official capacity as the
New Hampshire Secretary of State
&
Gordon J. MacDonald,
In his official capacity as the
New Hampshire Attorney General

CERTIFIED QUESTIONS OF LAW PURSUANT TO RULE 34 FROM
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

DEFENDANTS' RESPONSE BRIEF

GORDON J. MACDONALD
ATTORNEY GENERAL

&

WILLIAM M. GARDNER
SECRETARY OF STATE

Anthony J. Galdieri, Bar #18594 &
Senior Assistant Attorney General
Seth M. Zoracki, Bar #267887
Assistant Attorney General
Samuel R.V. Garland, Bar #266273
Attorney
New Hampshire Department of Justice
33 Capitol Street, Concord, NH 03301
(603) 271-3605

Bryan K. Gould, Bar #8165
Cooley A. Arroyo, Bar #265810

Cleveland, Waters and Bass, P.A.
2 Capital Plaza, P.O. Box 1137
Concord, NH 03302-1137
(603) 224-7761

(Oral Argument Requested: 15 minutes)

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	3
ARGUMENT	6
I. Plaintiffs’ Interpretation Of RSA 654:1 Is Incorrect And Would Render RSA 654:1 Unconstitutional.....	6
II. Students Claiming Domicile Under RSA 654:1, I-a Are Residents Under RSA 21:6.	12
III. The Word “Residence” Under RSA 259:88 Must Be Defined By Reference To RSA 21:6-a; The Statutory Regime Makes No Sense Otherwise.	14
IV. A Person Who Is Domiciled Consistent With RSA 654:1 Has Established A “Bona Fide Residency” Under RSA 261:40 And RSA 263:35.	18
V. RSA 259:67, I Requires Nonresidents With A “Regular Abode” In New Hampshire For More Than Half The Year To Obtain A New Hampshire Driver’s License To Drive Vehicles Principally Connected With That Abode.	20
CONCLUSION	23
CERTIFICATE OF COMPLIANCE	25
CERTIFICATE OF SERVICE.....	26

TABLE OF AUTHORITIES

Cases

<i>Every v. Supervisors of Madison Checklist</i> , 124 N.H. 824 (1984)	14
<i>Felker v. Henderson</i> , 78 N.H. 509 (1917).....	6
<i>Foss v. Foss</i> , 58 N.H. 283 (1878).....	6
<i>Hershkoff v. Bd. Of Registrars of Voters of Worchester</i> , 321 N.E.2d 656 (Mass. 1974).....	10
<i>Hogan v. Pat’s Peak Skiing, LLC</i> , 168 N.H. 71 (2015)	19
<i>In re Union Telephone Co.</i> , 160 N.H. 309 (2010).....	22
<i>Lamb v. Shaker Regional Sch. Dist.</i> , 168 N.H. 47 (2015).....	8
<i>McGee v. Bragg</i> , 94 N.H. 349 (1947)	20
<i>Opinion of the Justices</i> , 171 N.H. 128 (2018).....	6
<i>State v. Pierce</i> , 152 N.H. 790 (2005)	11
<i>Teeboom v. City of Nashua</i> , 172 N.H. 301 (2019)	8
<i>Texas v. Florida</i> , 306 U.S. 398 (1939).....	20
<i>Williamson v. Osenton</i> , 232 U.S. 619 (1914).....	10

Statutes

Laws 1981, Ch. 261, § 261:2.....	14, 16, 18, 22
Laws 2017, Chapter 205 (SB 3)	9
Laws 2018, Ch. 370 (HB 1264)	passim
RSA ch. 21.....	18
RSA ch. 263.....	21
RSA ch. 654.....	8, 9
RSA 21:1	passim

RSA 21:6	passim
RSA 21:6-a	passim
RSA 21:9	18
RSA 259:67, I.....	20, 21, 22
RSA 259:74	18
RSA 259:88	passim
RSA 261:40	18, 19
RSA 263:1	20
RSA 263:35	18, 19
RSA 263:36	20
RSA 654:1	passim
RSA 654:1, I.....	passim
RSA 654:1, I-a.....	12, 13
RSA 654:12, I(c)	9
RSA 654:2, II.....	9
RSA 654:2, II(b).....	9, 13
RSA 654:2, II(d)(1-9).....	9
RSA 654:7, I(c)	8
RSA 654:7, IV(b-c)	9

Other Authorities

Christine McConville, <i>A car crackdown along the border, Mass. Police are getting tougher on drivers who falsely register in N.H. to save money</i> , Boston.com, Local News, July 20, 2016, http://archive.boston.com/news/local/articles/2006/07/20/a_car_crackdown_along_the_border/	16
Restatement (Second) of Conflict of Laws § 12 (1971).....	11

Tyngsborough Police Department, *From the Police Chief: Register your out-of-state vehicle*, Department News <http://www.tyngsboropolic.com/from-the-police-chief-register-your-out-of-state-veichle.html>... 15

Constitutional Provisions

1974 N.H. Constitution Convention.....6, 7, 10
 N.H. CONST. Pt. I, Art. 11passim

ARGUMENT

I. PLAINTIFFS’ INTERPRETATION OF RSA 654:1 IS INCORRECT AND WOULD RENDER RSA 654:1 UNCONSTITUTIONAL.

The plaintiffs assert that RSA 21:6 and RSA 21:6-a, as amended by HB 1264, are not equivalent to the definition of “domicile for voting purposes” in RSA 654:1. They contend that these authorities contain fundamentally different concepts. These contentions fail to give meaning to the term “domicile” in RSA 654:1 and, if accepted, would render RSA 654:1, I unconstitutional under Part I, Article 11 of the New Hampshire Constitution.

Part I, Article 11 provides in part as follows:

All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election. Every person shall be considered an inhabitant for the purposes of voting in the town, ward, or unincorporated place *where he has his domicile*.

(Emphasis added). The term “domicile” in Part I, Article 11 means a person’s home or principal place of residence, at least for the time being, for all his interests, the exercise of his rights, and the performance of his civic duties. *See, e.g., Opinion of the Justices*, 171 N.H. 128, 136-37 (2018); *Felker v. Henderson*, 78 N.H. 509, 512 (1917); *Foss v. Foss*, 58 N.H. 283, 284 (1878).

The 1974 Constitutional Convention added the term “domicile” into Part I, Article 11 to require this heightened level of connection to a particular place in New Hampshire. 1974 N.H. Constitution Convention at 179-80. The relevant convention discussion went as follows:

Del. LEILA MAYNARD of Bow: Would the Commission define the word “domicile” and explain why they recommend changing from the well-defined word “inhabitant”?

Del. HALL of Rochester: The Commission to Study the Constitution did recommend that the use of the word “residence” be dropped in favor of the word “domicile,” the reason being that the word “domicile” seems to have, in our law, a more definite meaning than “residence.” *By this, let me say that, though, there do not seem to be any New Hampshire cases specifically involved, domicile has a stronger meaning than residence in that it denotes more permanency in the place where one abides or, perhaps, it might be further defined as being the permanent place of abode to which a person intends to return.* It does not have the same transitory quality that the word “residence” does, which has created some problems. In the judgment of the Study Commission and in the judgment of the Committee, this is a desirable change in the wording. I might say in addition to this, that the Legislature, at the past session, saw fit to use the word “domicile” in connection with some legislation defining the rights of out-of-state students in New Hampshire to become residents for tuition purposes, and it certainly was very important in that connotation. Also, I suspect, although it has no direct bearing on the resolution that is before you, it will, as time goes on, have some serious connotations with respect to the domiciled person in matters of taxation, particularly in the matters of state inheritance taxes.

...

Id. at 179-81. (Emphasis added.)

RSA 654:1, I uses the term “domicile” in the same manner as Part I, Article 11:

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*.

RSA 654:1, I (emphasis added). This sentence indicates that a person's "domicile for voting purposes" is the place where that person is "domiciled." In other words, one cannot be "domiciled" in another state, yet still maintain a "domicile for voting purposes" in New Hampshire. Maintenance of a "domicile" in New Hampshire is a pre-requisite to having a "domicile for voting purposes." *See also* RSA 654:7, I(c) ("[a]ny person registering to vote shall be . . . (c) Domiciled in the town or city in which the applicant is registering to vote and not otherwise disqualified to vote").

The plaintiffs' analysis reads the term "domicile" out of RSA 654:1. This Court has rejected such an approach to statutory construction. *See, e.g., Teeboom v. City of Nashua*, 172 N.H. 301, 314 (2019) ("The legislature is not presumed to waste words or enact redundant provisions and whenever possible, every word of a statute should be given effect.") (Internal quotations omitted).

The statutory context further reveals that the term "domicile" in RSA Chapter 654 means one's home or principal place of residence. *See, e.g., Lamb v. Shaker Regional Sch. Dist.*, 168 N.H. 47, 49 (2015) (explaining that this Court "do[es] not read words or phrases in isolation, but in the context of the entire statutory scheme" with the goal "to apply statutes in light of the legislature's intent in enacting them, and in light of the policy sought to be advanced by the entire statutory scheme"). Under

RSA 654:2, II(b),¹ a person present in a New Hampshire community for 30 or fewer days is presumed to be there for temporary purposes “unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent.” RSA 654:2, II(d) lists documentation a person may use to demonstrate an “intent to make a place his or her domicile,” including evidence of residency at an institution of learning, evidence of leasing an abode, a New Hampshire driver’s license or motor vehicle registration, or a government issued document with one’s domicile address on it. RSA 654:2, II(d)(1-9).

The standard voter registration form requires persons to swear under oath to the following: “I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.” RSA 654:7, IV(b-c).² RSA 654:12, I(c) uses the term “domicile” to connote a strength of connection to a particular place in New Hampshire that is stronger than merely being present in that place with a desire to vote there.³ Thus, the context reveals that the term “domicile” in RSA 654:1 has independent meaning and conveys the same connection to a particular place in New

¹ SB 3 added RSA 654:2, II into RSA Chapter 654.

² This statutory language pre-dates SB 3 and was not altered or amended by it.

³ SB 3 made extensive changes to RSA 654:12, I(c).

Hampshire as RSA 21:6 and RSA 21:6-a, as amended by HB 1264, and Part I, Article 11.

The plaintiffs' interpretation would render RSA 654:1 unconstitutional. The plaintiffs' interpretation of "domicile for voting purposes" makes the term virtually synonymous with merely living in a particular New Hampshire community for any length of time with a desire to vote there. The plaintiffs even go so far as to suggest that RSA 654:1 permits them to choose to vote in a New Hampshire community, while choosing other out-of-state communities for the performance of their civic duties. The concept, which finds no support in the case law, is that persons may fragmentize their domicile, claiming domicile for voting purposes in New Hampshire, domicile for motor vehicle purposes in Texas, and domicile for taxation purposes in Alaska.

The 1974 Constitutional Convention rejected this fragmented, transitory approach in favor of a heightened standard that a particular place in New Hampshire be a person's home or principal residence, consistent with the traditional concept of "domicile," before one is eligible to vote in New Hampshire. N.H. CONST. pt. I, art. 11; 1974 N.H. Constitution Convention at 179-81. "The very meaning of domicil is the technically pre-eminent headquarters that every person is compelled to have in order that certain rights and duties that have been attached to it by the law may be determined." *Williamson v. Osenton*, 232 U.S. 619, 625 (1914). A "person's domicil is usually the place where he has his home . . . the place where . . . [he] dwells and which is the center of his domestic, social and civil life.'" *Hershkoff v. Bd. Of Registrars of Voters of Worchester*, 321

N.E.2d 656, 663 (Mass. 1974) (quoting Restatement (Second) of Conflict of Laws § 12 (1971)).

The plaintiffs seek an interpretation of RSA 654:1 that permits them to be something less than “domiciled” in a particular New Hampshire community. That result is inconsistent with the domicile qualification contained in Part I, Article 11 and, if adopted, would render RSA 654:1 unconstitutional. *See State v. Pierce*, 152 N.H. 790, 791 (2005) (“We interpret statutes to avoid conflict with constitutional rights wherever reasonably possible.”).

It is therefore evident that RSA 21:6 and RSA 21:6-a, as amended by HB 1264, and RSA 654:1, I contain the same basic concept of domicile and are equivalent. All of the statutes use the freestanding term “domicile.” All of the statutes have had the indefinite intention to remain requirement removed from them. All of the statutes recognize that a particular New Hampshire community must be one’s home, or that one place, more than any other place, where a person 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, or one’s “principal place of physical presence to the exclusion of all others,” RSA 21:6. These expressions, while containing different words, convey the same concept of domicile. Accordingly, this Court should answer “yes” to the first certified questions.

II. STUDENTS CLAIMING DOMICILE UNDER RSA 654:1, I-A ARE RESIDENTS UNDER RSA 21:6.

The case law regarding domicile recognizes that students attending institutions of learning are unique. They are generally a class of persons who have recently acquired the right to vote by age, who are moving away from their existing domicile, and who are becoming increasingly independent. They therefore generally have contacts in both the place where they came from and the place where they reside for educational purposes that would qualify them to be domiciled in either place. Thus, students may be able to choose the place where they attend school as their domicile.

RSA 654:1, I-a merely codifies and recognizes this basic reality. It specifies that students may claim “domicile for voting purposes” in a particular New Hampshire community so long as that “student’s claim of domicile” meets the requirements of RSA 654:1, I. One of the requirements of RSA 654:1, I is that the student be “domiciled” in a particular New Hampshire community. Another requirement is that the particular New Hampshire community be the student’s home “for domestic, social, and civil purposes relevant to participating in democratic self-government.” RSA 654:1, I.

The concept of “democratic self-government” encompasses more than merely voting, as the plaintiffs suggest. Pls.’ Brief at 21. It means being an integrated part of a political community, bound by the laws one’s elected representatives pass, and therefore obligated to pay taxes in that community when taxes are due, to obtain permits, licenses, and/or registrations in that community when the law requires them, and to sit for

jury duty in that community when called to do so. *See* RSA 654:2, II(b) (indicating that the “domestic, social, and civil activities of participating in democratic self-government includ[e] voting”). It is not a concept that can be fragmentized.

Thus, because a person “domiciled” under RSA 654:1, I is also a “resident” under RSA 21:6, a student able to claim a “domicile for voting purposes” under RSA 654:1, I-a is also a “resident” under RSA 21:6. The second certified question should therefore be answered, “yes.”

III. THE WORD “RESIDENCE” UNDER RSA 259:88 MUST BE DEFINED BY REFERENCE TO RSA 21:6-A.

Under RSA 259:88, the term “resident” means “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.” Under RSA 21:6, a “resident” is someone who has a “residence” in New Hampshire, consistent with RSA 21:6-a. Under RSA 21:6-a, a “residence” means “a person’s place of abode or domicile,” which is that person’s “principal place of physical presence to the exclusion of all others.” Because the term “residence” is not defined in the motor vehicle code, RSA 21:1 and N.H. Laws 1981, Chapter 261, Section 2 directs that the term shall be defined in accordance with RSA 21:6-a, unless the context indicates otherwise. The context does not indicate otherwise. The term “resident” under RSA 259:88 is expressly defined in accordance with RSA 21:6, which contemplates the existence of a “residence” as defined in RSA 21:6-a. The statutory context therefore indicates that the term “residence” in RSA 259:88 should be interpreted in accordance with RSA 21:6-a.

The plaintiffs assert that this interpretation renders the language “except that no person shall be deemed a resident who claims residence in any other state for any purpose” meaningless. That argument is inaccurate and ignores the fact that DMV agents implementing the law must be able to do so practically in real world settings. A DMV agent cannot undertake the type of investigation and evidence weighing that occurred in *Every v. Supervisors of Madison Checklist*, 124 N.H. 824 (1984) to ascertain whether a person is a “resident” under RSA 259:88 every time a person attempts to register a motor vehicle. Thus, if a person “claims residence

[*i.e.*, domicile] in another state for any purpose,” (*e.g.*, to vote there, to send their children to public school there, to obtain a homestead property tax exemption there) that person is not a “resident” under RSA 259:88, even if all of the facts, when fully discovered and weighed, might indicate otherwise. The statute expresses a rule of practical (not perfect) application, which, consistent with its legislative history, seeks to address “problems with the registration of vehicles by persons claiming residence in more than one state.” Pls.’ App. at 94.

The problems referenced in the legislative history concern persons who are residents/domiciliaries of neighboring states seeking to register vehicles in New Hampshire because it is cheaper to do so here. For example, the Tyngsborough Massachusetts Police Department has warned its residents not to register their vehicles in New Hampshire:

...

Why would a citizen of Tyngsborough register their vehicle in New Hampshire? They may be trying to avoid paying Tyngsborough excise tax, sales tax, or looking to save money on car insurance. Unlike Massachusetts, New Hampshire does not require a vehicle to be insured before it is registered.

There is no legal reason for any Massachusetts resident to register their automobile in any state but Massachusetts. This practice is illegal, and if you receive a citation for this offense, you could be fined \$250- \$500 on each violation.

...

Tyngsborough Police Department, Department News, From the Police Chief: Register your out-of-state vehicle,

<http://www.tyngsboroplace.com/from-the-police-chief-register-your-out->

[of-state-veichle.html](#).⁴ The statutory language of RSA 259:88 is not concerned with exempting persons who are in fact New Hampshire residents/ domiciliaries from New Hampshire's driver's license or motor vehicle requirements because those persons would prefer to maintain out-of-state licenses or registrations.

The plaintiffs also fail to explain how one "claims residence" for motor vehicle purposes. One typically "claims residence" in a particular place to obtain a benefit that is available only to the residents/domiciliaries of that place, such as the right to vote or to enroll children in public school. Motor vehicle laws are not benefits obtained through a claim of residency/domicile; they are regulations that attach to people who engage in certain regulated conduct within a particular jurisdiction. Once those regulatory obligations attach, a person must abide them. The plaintiffs' interpretation is inconsistent with the ordinary concept of "claiming residence."

Consequently, the defendants' interpretation of RSA 259:88 is correct, is compelled by the text of RSA 259:88, RSA 21:1, and N.H. Laws 1981, Chapter 261, Section 2, and is supported by RSA 259:88's legislative history. The defendants' interpretation also avoids employing definitions different from those contained in RSA 21:6 and RSA 21:6-a, thereby eliminating the confusion the Department of Safety was concerned about when it proposed the language contained in RSA 259:88 in the first

⁴ See also Boston.com, Local News, Christine McConville, Globe Staff, *A car crackdown along the border, Mass. Police are getting tougher on drivers who falsely register in N.H. to save money* (July 20, 2016), http://archive.boston.com/news/local/articles/2006/07/20/a_car_crackdown_along_the_b_order/.

instance. Pls.' App. at 69-70. Accordingly, the Court should answer "no" to the third certified question.

IV. A PERSON WHO IS DOMICILED UNDER RSA 654:1 HAS ESTABLISHED A “BONA FIDE RESIDENCY” UNDER RSA 261:40 AND RSA 263:35.

The plaintiffs’ assertion that a person who is domicile in a particular New Hampshire community under RSA 654:1 has “not necessarily” established a “bona fide residency” in that community under RSA 261:40 and RSA 263:35 is incorrect and injects unnecessary confusion into the statutory regime.

The term “resident” under RSA 259:88 is defined by reference to RSA 21:6. Under RSA 21:6, a “resident” is a person who has a “residence” or “residency” in New Hampshire within the meaning of RSA 21:6-a. The term “person” is also defined within the motor vehicle code by reference to RSA 21:9. RSA 259:74. RSA 21:1 requires that undefined terms in the RSAs be defined by reference to RSA Chapter 21’s provisions, unless the context indicates others. And, N.H. Laws 1981, Chapter 261, Section 2 expressly directs the application of RSA 21:6 and RSA 21:6-a to provisions within the motor vehicle, “as the context requires.” Thus, the term “residency” in RSA 261:40 and RSA 263:35 is presumed to be defined in accordance with RSA 21:6-a, unless the statutory context indicates otherwise.

The plaintiffs make no effort to show that the statutory context requires the term “residency” in RSA 261:40 and RSA 263:35 to carry a meaning different from that contained in RSA 21:6-a. Instead, they read a different term into RSA 261:40 and RSA 263:35—“bona fide resident”—that does not exist in those statutes. They then attempt to shoehorn their interpretation of the definition of “resident” under RSA 259:88 into an

analysis of RSA 261:40 and RSA 263:35. This approach makes no sense, does not follow ordinary rules of statutory construction, and, as the plaintiffs readily admit, results in HB 1264 not accomplishing its intended purpose. This Court does not lightly interpret statutes to defeat the purpose they seek to accomplish and the invitation to do so reveals that the statutory context requires the term “residency” in RSA 261:40 and RSA 263:35 to be interpreted in accordance with RSA 21:6 and RSA 21:6-a, as amended by HB 1264, as RSA 21:1 directs. *See, e.g., Hogan v. Pat’s Peak Skiing, LLC*, 168 N.H. 71, 73 (2015) (“We construe all parts of a statute together to effectuate its overall purpose and avoid an absurd or unjust result.”) (Internal quotations omitted).

V. RSA 259:67, I APPLIES BEYOND VEHICLE REGISTRATIONS.

The plaintiffs agree that RSA 263:1 requires persons driving motor vehicles in New Hampshire to have a valid New Hampshire driver's license unless the motor vehicle code exempts them from that obligation. Pls.' Brief at 31. The plaintiffs also appear to agree that the only exemption within the code applicable to them is the nonresident licensing exemption, RSA 263:36. The plaintiffs also agree that RSA 259:67, I: (a) supplies a definition for the term "nonresident"; and (b) identifies under what circumstances a person ceases to be a "nonresident." *Id.* The plaintiffs then assert, without any meaningful analysis, that RSA 259:67, I applies only to motor vehicle registrations, is unworkable unless so limited, and cannot be reconciled with RSA 259:88. All of those arguments are incorrect and unpersuasive.

Whether a person is domiciled in a particular place is an individualized question of fact regarding the person's intention and his physical presence and related acts. *McGee v. Bragg*, 94 N.H. 349, 351-52 (1947). A person's connection to a particular community changes over time. A person living in New Hampshire for temporary purposes to attend school or to complete a temporary job commitment may develop ties that transform New Hampshire into his or her domicile. Persons may or may not be aware of this shift when it happens. Nonetheless, once it occurs, certain legal consequences may attach. *See Texas v. Florida*, 306 U.S. 398, 424 (1939) ("When one intends the facts to which the law attaches consequences, he must abide the consequences whether intended or not.").

The motor vehicle code is practically applied in this context. Thus, RSA 259:67, I specifies that when a person has a “regular abode” within New Hampshire “for more than 6 months in any year,” that person “shall be deemed a resident as to all vehicles principally used in connection with such abode” In other words, the code assumes that a person who regularly occupies an abode in New Hampshire for more than half the year is not a nonresident present for temporary purposes, but is really a resident/domiciliary of the state.

A person may dispel this legal assumption if he or she claims residence/domicile in another state for another purpose. RSA 259:88. If a person does claim residence/domicile in another state for another purpose, then that person cannot be “deemed a resident” by operation of RSA 259:88 and remains a nonresident. If a person does not claim residence/domicile in another state for another purpose, then that person is considered a resident/domiciliary of New Hampshire, is no longer a nonresident, does not benefit from the nonresident licensing and registration exemptions, and must obtain a New Hampshire driver’s license and motor vehicle registration if he desires to own, keep, and drive that vehicle in New Hampshire in connection with his abode.

This result applies beyond motor vehicle registrations, as is evident from the fact that RSA 259:67, I states a general definition applicable throughout the motor vehicle code and does not state that it is limited solely to motor vehicle registrations. Rather, the term “nonresident” appears 32 times in the drivers’ license chapter of the code. *See generally* RSA Chapter 263.

The defendants' interpretation is also workable and reconcilable with RSA 259:88 when the terms "resident," "residence," and "residency" are defined uniformly by reference to RSA 21:1, RSA 21:6, RSA 21:6-a, and N.H. Laws 1981, Chapter 261, Section 2 and made equivalent to the term "domicile." Indeed, the fact that the plaintiffs' interpretation of RSA 259:88 results in RSA 259:67, I being inconsistent and irreconcilable with RSA 259:88 counsels in favor of defendants' interpretation, which harmonizes the statutes, creates uniformity and consistency within the motor vehicle code, and advances the evident regulatory purposes of the motor vehicle code. *See, e.g., In re Union Telephone Co.*, 160 N.H. 309, 319 (2010) ("Where reasonably possible, statutes should be construed as consistent with each other.").

Accordingly, the Court should answer the fifth certified "yes," unless a person can show that they have a domicile in another state.

CONCLUSION

The plaintiffs' analysis is incorrect and unpersuasive. It misreads RSA 654:1 and would render RSA 654:1 unconstitutional. It ignores the legislature's directives to give the words "resident," "residence," "residency," and "domicile" the same meaning, unless the context indicates otherwise. It creates inconsistent, unworkable, and irreconcilable results within the motor vehicle code. It contradicts the legislative history associated with RSA 259:88, and it ensures that HB 1264 does not achieve its intended purpose.

The defendants' interpretation encounters none of these problems, harmonizes all of the statutes, and reveals a workable statutory regime, consistent with HB 1264's purpose and RSA 259:88's legislative history. Accordingly, this Court should answer each certified questions as the defendants have suggested.

Respectfully submitted,

WILLIAM M. GARDNER,
in his official capacity as the Secretary of
State of the State of New Hampshire,

and

GORDON J. MACDONALD,
in his official capacity as the Attorney
General of New Hampshire

By their attorneys,

THE OFFICE OF THE ATTORNEY
GENERAL

Dated: January 28, 2020

/s/Anthony J. Galdieri
Anthony J. Galdieri, Bar #18594
Senior Assistant Attorney General

Seth M. Zoracki, Bar #267887
Assistant Attorney General

Samuel R.V. Garland, Bar #266273
Attorney

Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
(603) 271-3650

and

Bryan K. Gould, Esquire, Bar #8165

Cooley A. Arroyo, Esquire, Bar #265810

Cleveland, Waters and Bass, P.A.
2 Capital Plaza
P.O. Box 1137
Concord, NH 03302-1137
(603) 224-7761

CERTIFICATE OF COMPLIANCE

I, Anthony J. Galdieri, hereby certify that pursuant to this Court's order dated December 20, 2019, this brief contains approximately 3,998 words, which is fewer than the words permitted by said order. Counsel relied upon the word count of the computer program used to prepare this brief.

January 28, 2020

/s/ Anthony J. Galdieri
Anthony J. Galdieri

CERTIFICATE OF SERVICE

I, Anthony J. Galdieri, hereby certify that a copy of the Defendants' Response Brief shall be served on all counsel of record through the New Hampshire Supreme Court's electronic filing system.

January 28, 2020

/s/ Anthony J. Galdieri
Anthony J. Galdieri