HB0357S01 compared with HB0357

{deleted text} shows text that was in HB0357 but was deleted in HB0357S01.

inserted text shows text that was not in HB0357 but was inserted into HB0357S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jordan D. Teuscher proposes the following substitute bill:

DECENTRALIZED AUTONOMOUS ORGANIZATIONS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: {_____}Kirk A. Cullimore

LONG TITLE

General Description:

This bill allows a decentralized autonomous organization that has not registered as a for-profit corporate entity or a non-profit entity to be treated as the legal equivalent of a domestic limited liability company.

Highlighted Provisions:

This bill:

‣ enacts the Decentralized Autonomous Organization Act;

‣ defines terms under the act;

‣ establishes the requirements of a decentralized autonomous organization to be recognized by the state;

▸ establishes the purposes for which a decentralized autonomous organization may be
formed; and

▸ establishes the membership requirements and rights of members of decentralized
autonomous organizations.

Money Appropriated in this Bill:

None

Other Special Clauses:

{~~None~~} This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

48-5-101, Utah Code Annotated 1953

48-5-102, Utah Code Annotated 1953

48-5-103, Utah Code Annotated 1953

48-5-104, Utah Code Annotated 1953

48-5-105, Utah Code Annotated 1953

48-5-106, Utah Code Annotated 1953

48-5-107, Utah Code Annotated 1953

48-5-108, Utah Code Annotated 1953

48-5-109, Utah Code Annotated 1953

48-5-201, Utah Code Annotated 1953

48-5-202, Utah Code Annotated 1953

48-5-203, Utah Code Annotated 1953

48-5-301, Utah Code Annotated 1953

48-5-302, Utah Code Annotated 1953

48-5-303, Utah Code Annotated 1953

48-5-304, Utah Code Annotated 1953

48-5-305, Utah Code Annotated 1953

48-5-306, Utah Code Annotated 1953

48-5-307, Utah Code Annotated 1953

48-5-401, Utah Code Annotated 1953

48-5-402, Utah Code Annotated 1953

48-5-403, Utah Code Annotated 1953

48-5-404, Utah Code Annotated 1953

48-5-405, Utah Code Annotated 1953

48-5-406, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **48-5-101** is enacted to read:

CHAPTER 5. DECENTRALIZED AUTONOMOUS ORGANIZATION ACT

Part 1. General Provisions

48-5-101. **Definitions.**

As used in this chapter:

(1) "Administrator" means a person that is appointed in a manner specified in the by-laws to make decisions for specific, predefined operations of the decentralized autonomous organization.

(2) "Asset" means an item of value, whether on-chain or off-chain.

(3) "By-laws" means the procedural rules and regulations that govern a decentralized autonomous organization and the interaction of the decentralized autonomous organization's members and participants.

(4) "Cryptographic proof" means a mathematical proof{, using a cryptographic hash function,} that verifies that a message has not been tampered with or altered in any way and can be verified by a person that has access to the original message and the proof.

(5) "Decentralized" means that decision-making is distributed among multiple persons.

(6) "Decentralized autonomous organization" means an organization:

(a) created by one or more smart contracts;

(b) that implements rules enabling individuals to coordinate for decentralized governance of an organization; and

(c) that is an entity formed under this chapter.

(7) (a) "Developer" means a person involved in the development or maintenance of a decentralized autonomous organization.

(b) "Developer" includes a person that provides:

(i) software code; or

(ii) design, business, legal, or ancillary support.

(8) (a) "Dispute resolution mechanism" means an on-chain alternative dispute resolution system that enables persons to resolve disputes arising out of a decentralized autonomous organization.

(b) "Dispute resolution mechanism" includes:

(i) arbitration;

(ii) expert determination; or

(iii) an on-chain alternative court system.

(9) "Division" means the Division of Corporations and Commercial Code.

(10) "Failure event" means an error in the decentralized autonomous organization's software code or an exploit that:

(a) renders the decentralized autonomous organization inoperative; or

(b) fundamentally changes the expected operation of the decentralized autonomous organization.

(11) "Graphical user interface" means a publicly accessible interface through which a person interacts with computer software through visual indicator representations.

(12) "Hard fork" means a blockchain software upgrade that is not compatible with previous versions of the blockchain software and requires all users to upgrade to the latest version of the blockchain software.

(13) "Legal representative" means an individual appointed in the manner specified in the by-laws of a decentralized autonomous organization to perform procedural functions off-chain on behalf of a decentralized autonomous organization.

(14) "Majority chain" means the version of the blockchain accepted by more than half of the blockchain's validators following a hard fork.

(15) "Meeting" means a synchronous or asynchronous event for the purpose of discussing and acting upon decentralized autonomous organization related matters by members or participants.

(16) (a) "Member" means a person who has governance rights in a decentralized autonomous organization.

(b) "Member" does not include an individual that has involuntarily received a token with governance rights, unless that person has chosen to participate in governance by

undertaking a governance behavior, on-chain or off-chain, for the decentralized autonomous organization.

(17) "Minority chain" means the version of the chain that is not the majority chain following a hard fork.

(18) "Off-chain" means any action that is not on-chain.

(19) "On-chain" means any action that is recorded and verified on a blockchain.

(20) "On-chain contribution" refers to any token segregated and locked in one of the decentralized autonomous organization's smart contracts for the purpose of member buy-in to the decentralized autonomous organization and the provision of withdrawable capital.

(21) "Organizer" means a person that submits the certificate of filing as required in Section 48-5-201.

({21}22) "Participant" means a person that:

(a) is not a member of a decentralized autonomous organization; and

(b) holds or interacts with a token of a decentralized autonomous organization.

({22}23) "Permissionless blockchain" means a publicly distributed ledger that allows a person to transact and produce blocks in accordance with the blockchain protocol, in which the validity of the block is independent of the identity of the user.

({23}24) "Public address" means a unique, durable identifier that an individual can transact with on a permissionless blockchain.

({24}25) "Public forum" means a freely accessible online environment that is commonly used for the exercise of speech and public debate.

({25}26) "Public signal" means a declaration authorized by the decentralized autonomous organization in a public forum.

({26}27) "Quality assurance" means a security review of the software code of the decentralized autonomous organization in accordance with industry standards.

({27}28) "Redeem" means to exchange a token for the value that the token represents.

({28}29) "Smart contract" means software code that:

(a) is deployed on a permissionless blockchain;

(b) consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network; and

(c) produces a change on the blockchain network.

(~~{29}~~30) "Token" means a record on a permissionless blockchain that represents an asset, participation right, or other entitlement.

(~~{30}~~31) "Transaction" means a new entry in a permissionless blockchain, including the recording of a change in ownership of an asset or participation in a decentralized autonomous organization.

Section 2. Section **48-5-102** is enacted to read:

48-5-102. Governing document hierarchy -- Governing law.

A decentralized autonomous organization shall be governed by the following, listed in order of primacy:

(1) this act;

(2) the by-laws of the decentralized autonomous organization;

(3) if this act and a decentralized autonomous organization's by-laws are silent, the provisions of Chapter 3a, Utah Revised Uniform Limited Liability Company Act; and

(4) principles of law and equity.

Section 3. Section **48-5-103** is enacted to read:

48-5-103. Powers of the division.

(1) (a) The division may make, amend, or rescind a rule, form, or order when necessary to carry out this chapter.

(b) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division may by rule:

(a) provide the form and content of a registration requirement required under this chapter;

(b) provide the method of determining whether formation requirements described in Section 48-5-201 have been met and when to issue a certificate of organization; and

(c) identify industry standards for determining whether the decentralized autonomous organization has undergone security review for quality assurance.

Section 4. Section **48-5-104** is enacted to read:

48-5-104. Legal personality.

A decentralized autonomous organization that meets the requirements of this act:

(1) shall be deemed a legal entity separate and distinct from the decentralized

autonomous organization's members;

(2) has the capacity to sue and be sued in the decentralized autonomous organization's own name and the power to do all things necessary or convenient to carry on the decentralized autonomous organization's activities and affairs;

(3) shall meet the decentralized autonomous organization's liabilities through the decentralized autonomous organization's assets;

(4) may have any lawful purpose; and

(5) has perpetual duration.

Section 5. Section **48-5-105** is enacted to read:

48-5-105. Permitted names.

(1) (a) The name of a limited liability decentralized autonomous organization shall contain the words limited liability decentralized autonomous organization or limited decentralized autonomous organization or the abbreviation L.L.D., LLD, L.D., or LD.

(b) Limited may be abbreviated as Ltd., and decentralized autonomous organization may be abbreviated as DAO.

(2) Except as authorized by Subsection (3), the name of a decentralized autonomous organization shall be distinguishable as defined in Subsection (4) upon the records of the division from:

(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or

(b) any tradename, trademark, or service mark registered with the division.

(3) (a) A decentralized autonomous organization may apply to the division for approval to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the name for which the decentralized autonomous organization applies under Subsection (3)(a) if:

(i) the other person with a name that is not distinguishable from the name under which the applicant desires to file:

(A) consents to the filing in writing; and

(B) files a form approved by the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name contains one or more different words, letters, or numerals from other names upon the division's records.

(5) The following differences are not distinguishing:

(a) the term:

(i) decentralized autonomous organization;

(ii) DAO;

(iii) limited liability decentralized autonomous organization;

(iv) L.L.D. or L.L.DAO.; or

(v) L.D. or L.DAO.;

(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(d) differences in punctuation and special characters;

(e) differences in capitalization; or

(f) differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a decentralized autonomous organization is an agency of this state or any of the state's political subdivisions, if the decentralized autonomous organization is not actually such a legally established agency or subdivision.

(7) The authorization to reserve or register a decentralized autonomous organization name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a decentralized autonomous organization may not contain:

(a) the term:

(i) association;

(ii) corporation;

(iii) incorporated;

(iv) partnership;

(v) limited liability corporation;

(~~{v}~~vi) limited partnership; or

(~~{vi}~~vii) L.P.;

(b) any word or abbreviation that is of like import to the terms listed in Subsection

(8)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) Olympic;

(ii) Olympiad; or

(iii) Citius Altius Fortius;

(d) without the written consent of the Division of Consumer Protection issued in

accordance with Section 13-34-114, the terms:

(i) university;

(ii) college; or

(iii) institute or institution; or

(e) the number sequence 911.

(9) A person, other than a decentralized autonomous organization formed under this

chapter or another decentralized autonomous organization that is authorized to transact

business in this state, may not use in the person's name in this state the term:

(a) limited liability decentralized autonomous organization;

(b) limited decentralized autonomous organization;

(c) L.L.DAO. or L.L.D.; or

(d) L.DAO. or L.D.

Section 6. Section **48-5-106** is enacted to read:

48-5-106. Registered agent.

Each decentralized autonomous organization shall designate a registered agent in this

state in accordance with Subsection 16-17-203(1) and maintain a registered agent in the state.

Section 7. Section **48-5-107** is enacted to read:

48-5-107. Fees.

{(1) }Unless otherwise provided by statute, the division shall charge and collect a fee for services established by the division in accordance with Section 63J-1-504 including fees:

({a}1) for issuing a certified copy of any document, instrument, or paper relating to a decentralized autonomous organization; and

({b}2) for affixing the seal to a certified copy described in Subsection (1)(a).

{ (2) (a) The division shall provide 24-hour processing of any item under this section upon request.

(b) The division shall charge and collect additional fees established by the division in accordance with Section 63J-1-504 for 24-hour processing service provided under Subsection (2)(a).

} Section 8. Section **48-5-108** is enacted to read:

48-5-108. Certificates issued by the division.

(1) Any person may apply to the division for:

(a) a certificate of existence for a decentralized autonomous organization; or

(b) a certificate that sets forth any facts of record in the division.

(2) A certificate of existence or certificate of authorization sets forth:

(a) the decentralized autonomous organization's name;

(b) that the decentralized autonomous organization is recognized under the law of this state;

(c) the date of the decentralized autonomous organization's formation;

(d) that articles of dissolution have not been filed by the division; and

(e) other facts of record in the division that may be requested by the applicant.

(3) Subject to any qualification stated in the certificate, a certificate issued by the division may be relied upon as conclusive evidence of the facts set forth in the certificate.

Section 9. Section **48-5-109** is enacted to read:

48-5-109. Electronic documents.

(1) Subject to Section 48-5-107, the division shall by rule permit a writing required or permitted to be filed with the division under this chapter:

(a) to be delivered, mailed, or filed:

(i) in an electronic medium; or

(ii) by electronic transmission; or

(b) to be signed by photographic, electronic, or other means prescribed by rule, except that a writing signed in an electronic medium shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

(2) The division may by rule provide for any writing required or permitted to be prepared, delivered, or mailed by the division under this chapter to be prepared, delivered, or mailed:

(a) in an electronic medium; or

(b) by electronic transmission.

Section 10. Section **48-5-201** is enacted to read:

Part 2. Formation

48-5-201. **Formation requirements.**

(1) (a) One or more persons may act as organizers to form a decentralized autonomous organization by delivering to the division for filing a certificate of organization.

(b) At least one of the organizers of a decentralized autonomous organization shall be an individual.

(2) (a) A certificate of organization shall provide:

(i) the name of the decentralized autonomous organization, which shall comply with Section 48-3a-108;

(ii) the name of an organizer that is an individual; and

(iii) the street and mailing address of the organizer described in Subsection (2)(a)(ii).

(b) An organizer may request that the information provided in Subsections (2)(a)(ii) and (iii) is redacted by the division before any public disclosure of the filing.

(3) A decentralized autonomous organization shall {benefit from limited liability and legal personality as provided in this chapter, by meeting}submit evidence to the division that the decentralized autonomous organization has complied with the following requirements:

(a) the decentralized autonomous organization {shall be}is deployed on a permissionless blockchain;

(b) the decentralized autonomous organization {shall provide}has a unique public address through which an individual can review and monitor the decentralized autonomous organization's transactions;

(c) the software code of the decentralized autonomous organization {shall be}is

available in a public forum for any person to review;

(d) the software code of the decentralized autonomous organization {shall have}has undergone quality assurance;

(e) the decentralized autonomous organization {shall provide}has a graphical user interface that:

(i) allows a person to read the value of the key variables of the decentralized autonomous organization's smart contracts;

(ii) allows a person to monitor all transactions originating from, or addressed to, the decentralized autonomous organization's smart contracts;

(iii) specifies the restrictions on a member's ability to redeem tokens;

(iv) makes available the decentralized autonomous organization's by-laws; and

(v) displays the mechanism to contact the administrator of the decentralized autonomous organization;

(f) the governance system of the decentralized autonomous organization {shall be}is decentralized;

(g) the decentralized autonomous organization {shall have}has at least one member{ at any given time};

(h) (i) there {shall be}is a publicly specified communication mechanism that allows a person to contact the registered agent of the decentralized autonomous organization and provide legally recognized service; and

(ii) a member or administrator of the decentralized autonomous organization {shall be}is able to access the contents of this communication mechanism; and

(i) the decentralized autonomous organization {shall refer to}describes or {provide}provides a dispute resolution mechanism that is:

(i) binding on the decentralized autonomous organization, the members, and participants of the decentralized autonomous organization; and

(ii) able to resolve disputes with third parties capable of settlement by alternative dispute resolution.

({2}4) Notwithstanding the requirements of Subsection ({1}3)(e)(iv), a decentralized autonomous organization may redact sensitive information from the by-laws before making {them}the by-laws available, if those redactions are necessary to protect the privacy of

individual members or participants in the decentralized autonomous organization.

([(3) Upon meeting the formation requirements]5) A decentralized autonomous organization is formed when the decentralized autonomous organization's certificate of organization becomes effective and the decentralized autonomous organization submits the evidence required in Subsection ([1]3).

(6) Upon formation, the decentralized autonomous organization shall have limited liability, subject to the provisions of Section 48-5-202.

([4]7) A decentralized autonomous organization may request a certificate of organization from the division to signify that the decentralized autonomous organization has complied with the requirements for legal personality under this act.

Section 11. Section **48-5-202** is enacted to read:

48-5-202. Limited liability.

(1) Except as set forth in Subsections (2) and (3), a member:

(a) may only be liable for the on-chain contributions that the member has committed to the decentralized autonomous organization;

(b) may not be held personally liable for any excess liability after the decentralized autonomous organization's assets have been exhausted;

(c) may not be held personally liable for any obligation incurred by the decentralized autonomous organization; and

(d) may not be held personally liable, in the member's capacity as a member, for the wrongful act or omission of any other member of the decentralized autonomous organization.

(2) If a decentralized autonomous organization refuses to comply with an enforceable judgment, order, or award entered against the decentralized autonomous organization, the members who voted against compliance may be liable for any monetary payments ordered in the judgment, order, or award in proportion to the member's share of governance rights in the decentralized autonomous organization.

(3) Subsections (1) and (2) do not affect the personal liability of a member in tort for a member's own wrongful act or omission.

Section 12. Section **48-5-203** is enacted to read:

48-5-203. By-laws.

(1) A decentralized autonomous organization shall adopt by-laws that establish internal

organization and procedures for the decentralized autonomous organization.

(2) The by-laws shall be set out in plain terms.

(3) The bylaws of a decentralized autonomous organization may contain any provision for managing the entity and regulating the affairs of the decentralized autonomous organization that is not inconsistent with law.

Section 13. Section **48-5-301** is enacted to read:

Part 3. Members

48-5-301. Classes of participation rights -- Membership.

(1) A decentralized autonomous organization's by-laws may create multiple classes of member participation rights.

(2) Where the decentralized autonomous organization has tokens providing governance powers to the token holder, the token holder shall be considered a member of the decentralized autonomous organization:

(a) from the time the ownership of the tokens is established to be in the possession of an address; or

(b) from the time when ownership is first acknowledged by the token holder through an on-chain interaction with the decentralized autonomous organization.

(3) This section does not apply in the event of a hard fork.

Section 14. Section **48-5-302** is enacted to read:

48-5-302. Voting rights.

(1) The by-laws shall set out the distribution of voting rights for the classes of member participation rights in a decentralized autonomous organization.

(2) The method by which these voting rights are computed and distributed shall be set out in the by-laws.

Section 15. Section **48-5-303** is enacted to read:

48-5-303. Proxies.

(1) A member may be represented by a proxy.

(2) The by-laws of a decentralized autonomous organization may establish the requirements for representation by proxy.

(3) A proxy may exercise all rights of a member.

Section 16. Section **48-5-304** is enacted to read:

48-5-304. **Minority rights protection.**

The decentralized autonomous organization shall state in the by-laws whether the decentralized autonomous organization provides minority rights protection.

Section 17. Section **48-5-305** is enacted to read:

48-5-305. **Administrators.**

(1) Unless mandated in the decentralized autonomous organization's by-laws, a decentralized autonomous organization is not required to have an administrator, including a board of directors or a trustee.

(2) In the absence of a provision requiring administrators, all the powers and tasks of an administrator shall be vested in the decentralized autonomous organization members as a class.

(3) The voting mechanism for nominating and appointing an administrator shall be set out in the decentralized autonomous organization's by-laws.

Section 18. Section **48-5-306** is enacted to read:

48-5-306. **Legal representation.**

(1) A decentralized autonomous organization may elect to retain a legal representative to undertake tasks that cannot be achieved on-chain.

(2) Legal representation of the decentralized autonomous organization may be carried out by the legal representative in the manner provided in the by-laws, as evidenced by an authorization displayed on a public forum, and verifiable by cryptographic proof.

(3) The legal representative may undertake and execute any and all acts and contracts included within the scope of such authorization.

(4) The legal representative may not be required to reside in Utah.

(5) A legal representative may not be personally liable for acts performed on behalf of the decentralized autonomous organization.

Section 19. Section **48-5-307** is enacted to read:

48-5-307. **No implicit fiduciary status.**

A developer, member, participant, or legal representative of a decentralized autonomous organization may not be imputed to have fiduciary duties towards each other or third parties solely on account of their role, unless the developer, member, participant, or legal representative:

(1) explicitly holds themselves out as a fiduciary; or

(2) stipulates to assume a fiduciary status as provided in the decentralized autonomous organization's by-laws.

Section 20. Section **48-5-401** is enacted to read:

Part 4. Miscellaneous Provisions

48-5-401. Asset subscription and payment.

(1) No minimum capital requirements may apply to a decentralized autonomous organization recognized by this act.

(2) If the decentralized autonomous organization wishes to maintain a minimum amount of capital, the by-laws of the decentralized autonomous organization shall specify the rules for subscription and payment.

(3) The by-laws shall provide the rules for exiting the decentralized autonomous organization that address the consequences of voluntary and involuntary member and participant exit on subscriptions and payments made by the member or participant.

(4) No member may compel the dissolution of the decentralized autonomous organization for failure to return the member's on-chain contribution.

Section 21. Section **48-5-402** is enacted to read:

48-5-402. Meetings.

(1) A decentralized autonomous organization may hold meetings as provided in the decentralized autonomous organization's by-laws.

(2) Unless explicitly specified in the by-laws, meetings are not required to be in person.

(3) If the by-laws include a meeting requirement, the by-laws shall include an explicit and transparent mechanism of giving notice of meetings to administrators, members, or participants, and a defined time period for deliberating upon proposals submitted by an administrator, member, or participant.

(4) Notice of any required meeting shall be communicated through a graphical user interface.

(5) The quorum and majority requirements for meetings of a decentralized autonomous organization's administrators, members, or participants shall be specified in the by-laws.

Section 22. Section **48-5-403** is enacted to read:

48-5-403. Contentious forks in the underlying blockchain.

(1) Except as provided in this section, in the event of a hard fork in the underlying permissionless blockchain:

(a) the legal representation of the decentralized autonomous organization remains on the majority chain; and

(b) any off-chain assets shall belong to the decentralized autonomous organization on the majority chain.

(2) (a) A decentralized autonomous organization may choose to maintain legal presence on a minority chain if the decentralized autonomous organization expresses an intent to do so by public signal.

(b) If the decentralized autonomous organization expresses an intent by public signal to maintain legal presence on a minority chain, any off-chain assets shall belong to the decentralized autonomous organization on the selected minority chain.

(3) The decentralized autonomous organization may liquidate the decentralized autonomous organization's on-chain assets after a hard fork to move those assets to the chosen chain.

(4) The decentralized autonomous organization may split into multiple legal entities after a hard fork, each on a separate chain, after public signal of an intent to do so, provided there is a definitive distribution of off-chain assets between the majority and minority chain.

Section 23. Section **48-5-404** is enacted to read:

48-5-404. Restructuring.

(1) When a decentralized autonomous organization is restructured, whether through modification, upgrade, or migration, the decentralized autonomous organization's legal personality and limited liability is retained only to the extent that:

(a) the new software code of the decentralized autonomous organization fulfills all the formation requirements of Section {201}48-5-201; and

(b) where the decentralized autonomous organization has to be associated with a new unique public address, proper notice is provided by way of public signal.

(2) A decentralized autonomous organization that is restructured in compliance with Subsection (1) inherits the rights and obligations of the original decentralized autonomous organization as a successor.

Section 24. Section **48-5-405** is enacted to read:

48-5-405. Failure event.

(1) In the case of a failure{,} event, legal personality and limited liability are maintained to the extent necessary to protect decentralized autonomous organization members and participants from personal liability.

(2) A failure event may trigger liability on the person deploying or upgrading the decentralized autonomous organization if that person:

(a) acted in bad faith; or

(b) engaged in gross negligence.

Section 25. Section **48-5-406** is enacted to read:

48-5-406. Taxation.

(1) A decentralized autonomous organization recognized by this act shall be eligible to elect the decentralized autonomous organization's classification for federal tax purposes.

(2) (a) Unless otherwise elected under Subsection (1), a decentralized autonomous organization recognized by this act shall be treated as a pass-through entity for tax purposes, with no entity-level tax accruing to the decentralized autonomous organization.

(b) Any realized gains shall pass through to the decentralized autonomous organization's members in proportion to their token holdings.

(3) Where a member is not a taxable entity, the realized gains allocated to such members shall pass to the first taxable person.

Section 26. **Effective date.**

This bill takes effect on January 1, 2024 with the exception of 48-5-406 which takes effect for a taxable year beginning on or after January 1, 2024.