

HB 645-FN - VERSION ADOPTED BY BOTH BODIES

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HOUSE BILL

645-FN

AN ACT relative to the establishment of decentralized autonomous organizations as legal entities within the state.

SPONSORS: Rep. Ammon, Hills. 42; Rep. Berezhny, Graf. 11; Rep. Alexander Jr., Hills. 29; Rep. Osborne, Rock. 2; Rep. Potucek, Rock. 13; Sen. Avard, Dist 12; Sen. Murphy, Dist 16

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

The bill:

I. Establishes regulations and the legal framework and operational guidelines for decentralized autonomous organizations (DAOs) in the state.

II. Covers provisions on judicial deregistration, forks in blockchains, restructuring, failure events, and the application of general business organization law and other relevant laws.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the establishment of decentralized autonomous organizations as legal entities within the state.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Decentralized Autonomous Organizations. Amend RSA by inserting after
2 chapter 301-A the following new chapter:

3 CHAPTER 301-B

4 DECENTRALIZED AUTONOMOUS ORGANIZATIONS

5 301-B:1 Short Title. This act may be cited as the “New Hampshire Decentralized Autonomous
6 Organization act” (the “act”).

7 301-B:2 Purpose of this Act. The general court finds that the state’s economy and its citizens
8 will benefit from, and the development of business and investment in New Hampshire will be
9 facilitated by, making available a unique legal entity form that can provide a framework that
10 enhances the capacity of decentralized autonomous organizations to conduct commercial, social,
11 educational, mutualistic, or social activities within both the digital and physical spheres. The
12 general court finds that the statutory recognition of decentralized autonomous organizations in
13 accordance with this act will introduce greater certainty for treatment of decentralized autonomous
14 organizations under state law, particularly with respect to the rights and duties of their developers,
15 participants, and administrators. It is the intent of the general court to give the constituent
16 developers, participants, and administrators of decentralized autonomous organizations the widest
17 discretion to establish mechanisms and structures that will support sound development and
18 innovation for such entities consistent with the provisions of this chapter.

19 301-B:3 Policy of This Act. It is the policy of this act to give maximum effect to the principle of
20 freedom of contract and to the enforceability of transactions executed pursuant to smart contracts
21 that establish and maintain decentralized autonomous organizations according with a policy
22 principle of ‘intent of code is law’.

23 301-B:4 Organization; Purposes. A New Hampshire decentralized autonomous organization
24 may be registered under this chapter for the purpose of carrying on any lawful activity within or
25 outside this state.

26 301-B:5 Definitions.

27 I. “Administrator” means a person, irrespective of title, that is appointed in a manner
28 specified in the bylaws to make discretionary decisions, either individually or collectively with other

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1 administrators, on behalf of the New Hampshire DAO with regard to specific, predefined operations
2 of the New Hampshire DAO.

3 II. "Asset" includes both on-chain assets and off-chain assets.

4 III. "Blockchain" means any technology:

5 (a) Where data is:

6 (1) shared across a network to create a public ledger of verified transactions or
7 information among network participants;

8 (2) linked using cryptography to maintain the integrity of the public ledger and to
9 execute other functions; and

10 (3) distributed among network participants in an automated fashion to concurrently
11 update network participants on the state of the public ledger and any other functions; and

12 (b) Composed of source code that is publicly available.

13 IV. "Blockchain protocol" means any executable software deployed to a blockchain composed
14 of source code that is publicly available and accessible, including a smart contract or any network of
15 smart contracts.

16 V. "Blockchain system" means any blockchain or blockchain protocol.

17 VI. "Bylaws" means the rules and regulations that govern the methods, mechanisms and
18 procedures followed by a DAO and by which developers, participants and administrators interact
19 and make decisions.

20 VII. "Contentious fork" means a hard fork that results in 2 divergent and potentially
21 competing blockchains.

22 VIII. "Decentralized autonomous organization" or "DAO" means an enterprise defined in
23 accordance with a smart contract or network of smart contracts deployed on a permissionless
24 blockchain that implements a coordinated project or undertaking among participants.

25 IX. "Decentralized network" means a blockchain system in which all of the following
26 conditions are met:

27 (a) During the previous 12-month period, no person, excluding the subject DAO itself:

28 (1) Had the unilateral authority, directly or indirectly, through any contract,
29 arrangement, understanding, relationship, or otherwise, to control or materially alter the
30 functionality or operation of the blockchain system; or

31 (2) Had the unilateral authority to restrict or prohibit any person from:

32 (A) Using, earning, or transmitting a related digital asset;

33 (B) Deploying software that uses or integrates with the blockchain system;

34 (C) Participating in a decentralized governance system with respect to the
35 blockchain system; or

36 (D) Operating a node, validator, or other form of computational infrastructure
37 with respect to the blockchain system.

(b) During the previous 12-month period:

(1) No person, excluding the subject DAO itself, directly or indirectly beneficially owned, in the aggregate, 20 percent or more of the total amount of units of a related digital asset that—

(A) Can be created, issued, or distributed in such blockchain system; and

(B) Were freely transferrable or otherwise used or available to be used for the purposes of such blockchain network; or

(2) No digital asset issuer or affiliated person had the unilateral authority to direct the voting, in the aggregate, of 20 percent or more of the outstanding voting power of such digital asset or related decentralized governance system.

(c) During the previous 3-month period, the digital asset issuer, any affiliated person, or any related person has not implemented or contributed any intellectual property to the source code of the blockchain system that materially alters the functionality or operation of the blockchain system, unless such implementation or contribution to the source code:

(1) Addressed vulnerabilities, errors, regular maintenance, cybersecurity risks, or other technical improvements to the blockchain system; or

(2) Were adopted through the consensus or agreement of a decentralized governance system.

X. “Decentralized governance system” means, with respect to a blockchain system, any rules-based system permitting persons using the blockchain system or the digital assets related to such blockchain system to form consensus or reach agreement in the development, provision, publication, management, or administration of such blockchain system. The term ‘decentralized governance system’ does not include a system in which a person or group of persons under common control have the ability to (a) unilaterally alter the rules of consensus or agreement for the blockchain system; or (b) determine the final outcome of decisions related to the development, provision, publication, management, or administration of such blockchain system;

XI. “Developer” means a person involved in the development or maintenance of the DAO or the blockchain protocol, whether through the contribution of software code, design, business, legal, or ancillary support.

XII. “Digital asset” means any fungible or non-fungible digital representation of value, unit of value, voting, or usage right that can be exclusively possessed and transferred, person to person, without necessary reliance on an intermediary, and is recorded on a blockchain system.

XIII. “Dispute resolution mechanism” means an on-chain alternative dispute resolution system, such as arbitration, expert determination, or an on-chain alternative court system, which enables anyone to resolve their disputes, controversies or claims with, arising out of, or in connection with, a New Hampshire DAO. Any such award, decision, or judgment shall be accorded the same status and treatment as an international arbitral award.

1 XIV. “Failure event” means a DAO encountering a technical bug or exploit which renders
2 the DAO non-operational or fundamentally changes the expected operation of the DAO.

3 XVI. “GUT” means a graphical user interface, publicly accessible by all DAO participants,
4 whether hosted centrally via location-based storage or via decentralized or distributed storage ,
5 through which users interact with computer software via visual indicator representations. This can
6 include, but is not limited to, a web interface or standalone application.

7 XVII. “Hard fork” means a blockchain software upgrade that is not compatible with previous
8 versions of the blockchain software, and therefore requires all users to upgrade.

9 XVIII. “Jurisdiction” means a territory that is under a defined legal authority.

10 XIX. “Legal representative” means a person who is appointed and authorized by a New
11 Hampshire DAO in a manner specified in the bylaws to perform functions, activities and operations
12 on behalf of the New Hampshire DAO in off-chain interactions and as may be required under this
13 act.

14 XX. “Majority chain” means the version of the chain accepted by more than 50 percent of the
15 blockchain’s validators following a hard fork.

16 XXI. “Meeting” means a synchronous or asynchronous event for the purpose of discussing
17 and acting upon DAO-related matters by participants or administrators.

18 XXII. “Minority chain” means the version of the chain that is not the majority chain
19 following a hard fork.

20 XXIII. “New Hampshire DAO” means a decentralized autonomous organization that is listed
21 on the New Hampshire DAO registry.

22 XXIV. “New Hampshire DAO registry” means the registry established and administered in
23 accordance with RSA 301-B:14.

24 XXV. “Off-chain” means any action or transaction that is not on-chain.

25 XXVI. “On-chain” means any action or transaction that is recorded and verified on a
26 blockchain according to a blockchain protocol’s consensus mechanism .

27 XXVII. “On-chain contribution” refers to any token segregated and locked in one of the
28 DAO’s smart contracts for the purpose of participant buy-in to the DAO and the provision of
29 withdrawable capital.

30 XXVIII. “Open-source format” means software that is within the open-source definition as
31 established and maintained by the Open Source Initiative.

32 XXIX. “Participant” means, unless the bylaws provide otherwise, any person who is entitled
33 under the bylaws to exercise governance rights in a DAO.

34 XXX. “Permissionless blockchain” means a blockchain system that allows any person to
35 transact and produce blocks in accordance with the blockchain protocol, whereby the validity of the
36 block is not determined by the identity of the producer.

1 XXXI. "Person" means a natural person, partnership, limited liability company, trust,
2 business trust, estate, association, joint venture, corporation, custodian, nominee, or any other
3 individual or entity in its own or any representative capacity, including a DAO that is subject to this
4 act.

5 XXXII. "Proposal" means a suggestion for actions to be taken by the DAO, to be decided on
6 in accordance with the bylaws of the DAO.

7 XXXIII. "Public address" means a unique, durable identifier that person(s) can transact with
8 on a permissionless blockchain.

9 XXXIV. "Public forum" means a freely accessible online environment that is commonly used
10 for the exercise of speech and public debate.

11 XXXV. "Public signaling" means a declaration authorized by way of proposal by the DAO in
12 a public forum.

13 XXXVI. "Quality assurance testing" means that the software code of the DAO has undergone
14 security review according to industry standards including standards that may be designed,
15 developed, and tested by the registry administrator.

16 XXXVII. "Registry administrator" means the person, including the university of New
17 Hampshire Interoperability Laboratory, or any other entity authorized by the secretary of state in
18 accordance with this act to administer the New Hampshire DAO registry.

19 XXXVIII. "Registered Agent" means the person appointed by a New Hampshire DAO in
20 accordance with RSA 301-B:9.

21 XXXIX. "Registered e-mail address" means with respect to any person a unique designation
22 for an electronic mailbox that sends and receives electronic messages or e-mails.

23 XL. "Related digital asset" means a digital asset that is intrinsically linked to a blockchain
24 system, including: (a) where the digital asset's value is reasonably expected to be generated by the
25 programmatic functioning of the blockchain system; (b) where the digital asset represents voting
26 rights with respect to the blockchain system; or (c) where the digital asset is issued through the
27 programmatic functioning of the blockchain system.

28 XLI. "Smart contract" is software code deployed in a blockchain system that consists of a set
29 of predefined and deterministic instructions and conditions that may be executed in a decentralized
30 manner by the participants in the underlying blockchain network. Execution of a smart contract
31 shall produce a change in the blockchain state.

32 XLII. "Token" means a record on a permissionless blockchain, typically representing an
33 asset, participation right, or other entitlement.

34 XLIII. "Transaction" means a new entry in a permissionless blockchain, often but not
35 exclusively, recording a change in ownership of an asset or participation in a DAO.

36 301-B:6 Governing Law. The laws of the state of New Hampshire govern:

37 I. The internal affairs of a New Hampshire DAO; and

1 II. The liability of a participant as a participant and of an administrator as administrator for
2 the debts, obligations, or other liabilities of a New Hampshire DAO.

3 301-B:7 Legal Existence of New Hampshire DAOs.

4 I. A New Hampshire DAO shall exist as a separate legal entity distinct from its developers,
5 participants, administrators, and legal representatives and shall at no time be deemed a partnership
6 under RSA 304-A:6.

7 II. Except to the extent otherwise provided in the bylaws of the New Hampshire DAO, the
8 New Hampshire DAO shall have perpetual existence, and a New Hampshire DAO may not be
9 terminated or revoked by a developer, participant, administrator, legal representative or other
10 person except in accordance with the terms of its bylaws.

11 III. Except to the extent otherwise provided in the bylaws, the death, incapacity, dissolution,
12 termination, or bankruptcy of a developer, participant, administrator or legal representative shall
13 not result in the termination or dissolution of a New Hampshire DAO.

14 IV. In the event that a New Hampshire DAO does not have perpetual existence, a New
15 Hampshire DAO is deregistered, and its affairs shall be wound up at the time or upon the happening
16 of events specified in the bylaws.

17 V. Upon dissolution of a New Hampshire DAO and until the filing of a deregistration
18 instruction as provided in RSA 301-B:12, the persons who, under the bylaws of the New Hampshire
19 DAO, are responsible for winding up the New Hampshire DAO's affairs may, in the name of and for
20 and on behalf of the New Hampshire DAO, prosecute and defend suits, whether civil, criminal, or
21 administrative, gradually settle and close the New Hampshire DAO business, dispose of and convey
22 the New Hampshire DAO property, discharge or make reasonable provision for the New Hampshire
23 DAO liabilities, and distribute to the participants any remaining assets of the New Hampshire DAO
24 as may be required by the bylaws.

25 VI. A New Hampshire DAO which has deregistered shall pay or make reasonable provision
26 to pay all claims and obligations, including all contingent, conditional, or unmatured claims and
27 obligations, known to the New Hampshire DAO and all claims and obligations which are known to
28 the New Hampshire DAO but for which the identity of the claimant is unknown and claims and
29 obligations that have not been made known to the New Hampshire DAO or that have not arisen but
30 that, based on the facts known to the New Hampshire DAO, are likely to arise or to become known to
31 the New Hampshire DAO within 10 years after the date of deregistration. If there are sufficient
32 assets, such claims and obligations shall be paid in full and any such provision for payment shall be
33 made in full. If there are insufficient assets, such claims and obligations shall be paid or provided
34 for according to their priority and, among claims and obligations of equal priority, ratably to the
35 extent of assets available therefor. Unless otherwise provided in the bylaws of a New Hampshire
36 DAO, any remaining assets shall be distributed to the beneficial owners. Any person, including any
37 trustee, who under the bylaws is responsible for winding up a New Hampshire DAO's affairs who

1 has complied with this section shall not be personally liable to the claimants of the dissolved New
2 Hampshire DAO by reason of such person's actions in winding up the New Hampshire DAO.

3 301-B:8 Legal Proceedings.

4 I. A New Hampshire DAO may sue and be sued, and service of process upon its New
5 Hampshire registered agent or other authorized legal representative shall be sufficient. In
6 furtherance of the foregoing, a New Hampshire DAO may be sued for debts and other obligations or
7 liabilities contracted or incurred by the administrators, or by the duly authorized agents of such
8 administrator, in the performance of their respective duties under the New Hampshire DAO's
9 bylaws, and for any damages to persons or property resulting from the negligence of such
10 administrators or agents acting in the performance of such respective duties. The property of a New
11 Hampshire DAO shall be subject to attachment and execution as if it were a limited liability
12 company, in accordance with the relevant provisions of New Hampshire law.

13 II. A New Hampshire legal representative of a New Hampshire DAO may be served with
14 process in the manner prescribed in paragraph III in all civil actions or proceedings brought in this
15 state involving or relating to the activities of the New Hampshire DAO.

16 III. Service of process shall be effected by serving the New Hampshire legal representative
17 of such New Hampshire DAO with one copy of such process in the manner provided by law for
18 service of writs of summons. In addition, the clerk of the court in which the civil action or
19 proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by
20 registered mail, postage prepaid, true and attested copies of the process, together with a statement
21 that service is being made pursuant to this section, addressed to the defendant at the legal
22 representative's registered address.

23 IV. In any action in which any such New Hampshire legal representative has been served
24 with process as hereinafter provided, the time in which a defendant shall be required to appear and
25 file a responsive pleading shall be computed from the date of mailing by the clerk of the court as
26 provided in paragraph III; provided however, the court in which such action has been commenced
27 may order such continuance or continuances as may be necessary to afford such legal representative
28 reasonable opportunity to defend the action.

29 V. In the bylaws of the New Hampshire DAO, a New Hampshire DAO may consent to be
30 subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or
31 the exclusive jurisdiction of the courts of this state, or the exclusivity of arbitration in a specified
32 jurisdiction or this state, and to be served with legal process in the manner prescribed in the bylaws
33 of the New Hampshire DAO. Except by agreeing to arbitrate any arbitrable matter in a specified
34 jurisdiction or in this state, a participant or administrator who is not a legal representative may not
35 waive its right to maintain a legal action or proceeding in the courts of this state with respect to
36 matters relating to the organization or internal affairs of a New Hampshire DAO.

1 VI. Nothing herein contained limits or affects the right to serve process in any other manner
2 now or hereafter provided by law. This section is an extension of and not a limitation upon the right
3 otherwise existing of service of legal process upon nonresidents.

4 VII. The New Hampshire supreme court may make all necessary rules respecting the form
5 of process, the manner of issuance and return thereof, and such other rules which may be necessary
6 to implement this section and are not inconsistent with this section. The courts of this state shall
7 have jurisdiction over New Hampshire DAOs that are listed on the registry.

8 301-B:9 Registered Agent in New Hampshire.

9 I. Each New Hampshire DAO shall have and maintain in the state of New Hampshire:

10 (a) A registered office; and

11 (b) A registered agent, which agent may be:

12 (1) An individual who resides in this state and who's residential or business office is
13 identical with the registered office; or

14 (2) A corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A
15 whose business office is identical with the registered office; or

16 (3) A limited liability company formed or authorized under RSA 304-C, or a
17 professional limited liability company formed or authorized under RSA 304-D whose business office
18 is identical with the registered office; or

19 (4) A limited liability partnership formed or authorized under RSA 304-A:44 whose
20 business office is identical with the registered office.

21 II. A New Hampshire DAO may change its registered office or registered agent, or both, by
22 filing with the secretary of state a statement setting forth:

23 (a) The name of the New Hampshire DAO;

24 (b) The street address of its current registered office;

25 (c) If the street address of its registered office is to be changed, the street address to
26 which the registered office is to be changed;

27 (d) The name and address of its current registered agent;

28 (e) If its registered agent is to be changed, the name and address of its successor
29 registered agent; and

30 (f) That after the change or changes are made, the street addresses of its registered
31 office and the business office of its registered agent will be identical.

32 III. A registered agent of a New Hampshire DAO may resign as registered agent by signing
33 and filing a written notice of resignation with the secretary of state. The secretary of state shall
34 mail a copy of the notice to the New Hampshire DAO at its principal office.

35 IV. The appointment of the registered agent shall terminate 31 days after filing of the notice
36 of resignation with the secretary of state or on the appointment of a successor registered agent,

1 whichever occurs first. The notice of resignation may include a statement that the registered office
2 is also discontinued.

3 V. If a registered agent changes its address to another place in this state, it may change the
4 address of the registered office of any New Hampshire DAO for which it is a registered agent by
5 filing a statement with the secretary of state as required by paragraph II, except that the statement
6 need be signed only by the registered agent. The statement shall recite that a copy of it has been
7 mailed to a New Hampshire DAO.

8 VI. The registered agent shall have the status as a legal representative of the New
9 Hampshire DAO as provided by RSA 301-B:19.

10 301-B:10 Powers.

11 I. Unless the bylaws provide otherwise, every New Hampshire DAO shall have the power to
12 do all things necessary or convenient to carry out its activities, business, and internal affairs,
13 including the capacity to sue and be sued in its own name, and the power to acquire, own, hold,
14 develop, or dispose of property, both movable and immovable.

15 II. Except as provided in paragraph III, the validity of an action taken by a New Hampshire
16 DAO may not be challenged on the ground that the New Hampshire DAO lacks or lacked power to
17 act.

18 III. A New Hampshire DAO's power to act may be challenged:

19 (a) In a proceeding by a participant against the New Hampshire DAO to enjoin the act;

20 (b) In a proceeding by the New Hampshire DAO, directly, derivatively, or through a
21 receiver, trustee, or other legal representative, against an incumbent or former participant or
22 administrator of the New Hampshire DAO; or

23 (c) In a proceeding by the attorney general under RSA 301-B:24 to deregister the New
24 Hampshire DAO.

25 IV. In a participant proceeding under RSA 301-B:10, III(a) to enjoin an unauthorized act of a
26 New Hampshire DAO, the court may enjoin or set aside the act if to do so is equitable and if all
27 affected persons are parties to the proceeding, and the court may award damages for loss, other than
28 anticipated profits, suffered by the New Hampshire DAO or another party because of enjoining the
29 unauthorized act.

30 301-B:11 Liability of Participants and Administrators to Third Parties.

31 I. Except as provided in paragraph II:

32 (a) The debts, obligations, and liabilities of a New Hampshire DAO, whether arising in
33 contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the New
34 Hampshire DAO.

35 (b) No participant, administrator, or legal representative of a New Hampshire DAO
36 shall be obligated personally for any such debt, obligation, or liability of the New Hampshire DAO

solely by reason of being a participant or acting as an administrator or legal representative of the New Hampshire DAO.

(c) A New Hampshire DAO shall meet its liabilities through its on-chain and off-chain assets.

(d) Except as provided in paragraphs II, III or IV, participants, administrators or legal representatives of a New Hampshire DAO shall only be responsible for providing on-chain contributions that they have committed to the New Hampshire DAO, as required by the bylaws. If the New Hampshire DAO exhausts its assets, its participants, administrators and legal representatives shall not be liable for excess liabilities of the New Hampshire DAO.

II. A participant or administrator may agree under the New Hampshire DAO bylaws or other agreement to be personally liable for any or all of the debts, obligations, and liabilities of the New Hampshire DAO.

III. If the New Hampshire DAO refuses to comply with an enforceable judgment, order, or award entered against it, the participants who voted against compliance shall be liable for any monetary payments ordered in the judgment, order, or award.

IV. Paragraph I shall not affect the personal liability of a participant, administrator, or legal representative in tort for their own wrongful act or omission, but such a person shall not be personally liable for the wrongful act or omission of any other participant, administrator, or legal representative of the New Hampshire DAO.

301-B:12 Notice of Registration.

I. In order to register as a New Hampshire DAO under this act, one or more authorized persons, acting in the capacity of administrator or legal representative, shall deliver a notice of intent to register as a New Hampshire DAO to the secretary of state for filing.

II. The notice of intent to register shall include the following information:

(a) The name of the New Hampshire DAO, which shall comply with the requirements of RSA 301-B:13; and

(b) The name and address of the registered agent for service of process required to be maintained by RSA 301-B.

III. The notice of registration required under this section shall not be effective until payment of a filing fee of \$100.

IV. If the secretary of state determines the proposed DAO name available, the notice otherwise complete, and the required fee paid, the secretary shall file the notice in its records and issue a Legal Entity Identifier (LEI) number to the New Hampshire DAO.

301-B:13 Name Requirements.

I. The name of each New Hampshire DAO as set forth in its notice of organization shall end with the words "decentralized autonomous organization" or the abbreviation "D.A.O." "DAO" or any other similar abbreviation.

1 II. Except as authorized by paragraph IV, V, or VI, a DAO name, based upon the records of
2 the secretary of state, shall be distinguishable from, and not the same as:

3 (a) The name of an entity incorporated, authorized, formed, or registered to do business
4 in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A,
5 RSA 304-B, this act, RSA 305-A, RSA 349, RSA 383-C, RSA 383-D or RSA 383-E;

6 (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or this act;

7 (c) The fictitious name of another foreign entity authorized to transact business in this
8 state;

9 (d) The name of an agency or instrumentality of the United States or this state or a
10 subdivision of this state, including names reserved pursuant to RSA 53-E;

11 (e) The name of any political party recognized under RSA 652:11, unless written consent
12 is obtained from the authorized representative of the political organization; or

13 (f) The name "farmers' market" unless the entity meets the definition of "farmers'
14 market" established in RSA 21:34-a.

15 III. Except as authorized by paragraphs IV, V, and VI, a decentralized autonomous
16 organization name, based upon the records of the secretary of state, is not distinguishable upon the
17 record if the only distinguishing factor to the DAO name is:

18 (a) An article.

19 (b) Plural forms of the same word.

20 (c) Phonetic spelling of the same name or word.

21 (d) An abbreviation in place of a complete spelling of the name.

22 (e) A suffix or prefix added to a word or any other deviation from or derivative of the
23 same word, excluding antonyms and opposites.

24 (f) A change in a word or name indicating entity status.

25 (g) The addition of a numeric designation, unless consent is granted by the current name
26 holder.

27 (h) Differences in punctuation or special characters, unless it changes the clear meaning
28 of the word.

29 (i) Differences in whether letters or numbers immediately follow each other or are
30 separated by one or more spaces.

31 (j) An Arabic numeral representing a number, a Roman numeral representing the same
32 number, or a word representing the same number appearing in the same position within otherwise
33 identical names.

34 IV. A decentralized autonomous organization may apply to the secretary of state for
35 authorization to use a name that is not distinguishable from, or is the same as, one or more of the
36 names described in paragraph III as determined from review of the records of the secretary of state.

37 V. The secretary of state shall authorize use of the name applied for if:

1 (a) The holder or holders of the name as described in paragraph III gives written consent
2 to use the name that is not distinguishable from the name of the applying DAO; or if the name is the
3 same, one or more words are added to the name to make the new name distinguishable from the
4 other name; or

5 (b) The other entity consents to the use in writing and submits an undertaking in a form
6 satisfactory to the secretary of state to change its name to a name that is distinguishable from, and
7 not the same as, the name of the applying DAO; or

8 (c) The applicant delivers to the secretary of state a certified copy of the final judgment
9 of a court of competent jurisdiction establishing the applicant's right to use the name applied for in
10 this state.

11 VI. A decentralized autonomous organization may use the name, including the fictitious
12 name, of another domestic or foreign entity that is used in this state if the other entity is
13 incorporated, authorized, formed, or registered to transact business in this state and the proposed
14 user DAO:

15 (a) Has merged with the other entity;

16 (b) Has been formed by reorganization of the other entity; or

17 (c) Has acquired all or substantially all of the assets, including the name, of the other
18 entity.

19 VII. Nothing in this act is intended to prohibit the owner or owners of a trade name
20 registered under RSA 349 from forming a decentralized autonomous organization under the same
21 name as that trade name.

22 301-B:14 Registry of New Hampshire DAOs.

23 I. The registry administrator shall maintain a registry of New Hampshire DAOs that have
24 satisfied the listing requirements set forth in RSA 301-B:15. The registry shall be referred to as the
25 New Hampshire DAO registry.

26 II. With respect to each New Hampshire DAO listed in the New Hampshire DAO registry,
27 the information contained in the registry shall be limited to the name and registered domain address
28 of the New Hampshire DAO, the web address where the New Hampshire DAO's open source code
29 may be accessed, and the name, physical address and e-mail address of the New Hampshire DAO's
30 registered agent.

31 III. The registry administrator shall publish the New Hampshire DAO registry on a website
32 established by the registry administrator for such purpose. The registry administrator shall update
33 the registry to reflect all changes to the registry. The website required by this paragraph shall be
34 available for review by the public.

35 IV. Listing of a DAO on the New Hampshire DAO registry shall be deemed conclusive
36 evidence of the New Hampshire DAO's recognition under this chapter and shall not require any

1 further action, including any method of certification, by the registry administrator, any other
2 accreditation authority, or any other governmental agency.

3 V. A New Hampshire DAO may request removal from the registry by providing notice of
4 deregistration to the registry administrator.

5 VI. The registry administrator shall undertake reasonable efforts to establish the New
6 Hampshire DAO registry as a blockchain system.

7 301-B:15 Registry Listing Requirements.

8 I. In order to be eligible for listing on the registry as a New Hampshire DAO that is subject
9 to requirements and benefits of this chapter, the DAO must satisfy each of the following listing
10 requirements as of the date of the initial application, and at all times after the date of the
11 application:

12 (a) The DAO shall be deployed on a permissionless blockchain.

13 (b) The DAO shall provide a unique public address by which any person can review and
14 monitor the DAO's activities.

15 (c) The software code establishing and maintaining the DAO shall be in open-source
16 format in a public forum to allow anyone to review it.

17 (d) The software code establishing and maintaining the DAO shall have undergone
18 quality assurance testing.

19 (e) There shall be at least one GUI by which any person can read the value of the key
20 variables of the DAO's smart contracts and monitor all transactions originating from, or addressed
21 to, any of the DAO's smart contracts.

22 (f) The DAO shall have bylaws that satisfy the RSA 301-B:16 and may be publicly
23 accessed using a GUI or public forum.

24 (g) The DAO shall refer to or provide a communications mechanism accessible by the
25 public that allows a layperson to contact the DAO, and all participants and administrators of the
26 DAO shall be able to access the contents of this mechanism.

27 (h) The DAO shall refer to or provide a dispute resolution mechanism to resolve any
28 disputes among the DAO's participants and administrators.

29 (i) The DAO shall refer to or provide a dispute resolution mechanism to resolve any
30 disputes with third parties that, by their nature, are capable of being settled by alternative dispute
31 resolution.

32 (j) The DAO shall be a decentralized network at all times.

33 (k) The DAO shall have a decentralized governance system at all times.

34 II. A DAO shall, upon meeting the listing requirements in paragraph I, shall be a New
35 Hampshire DAO that is eligible for the benefits, and subject to the requirements, of this chapter.

36 III. A New Hampshire DAO shall publish at a public address sufficient information and data
37 to permit any person, including the registry administrator or any other accreditation authority, to

1 monitor and evaluate whether the New Hampshire DAO continues to satisfy the listing
2 requirements of paragraph I.

3 301-B:16 Bylaws.

4 I. Every New Hampshire DAO shall have bylaws that set forth the purposes, powers, and
5 rules and procedures for the internal organization, governance, capital requirements and other
6 procedures of the New Hampshire DAO.

7 II. The bylaws shall accurately reflect the rules, terms, instructions and conditions of the
8 software code that governs the smart contracts and permissionless blockchain network of the New
9 Hampshire DAO, including the rules and regulations that govern the procedures followed by the
10 New Hampshire DAO and the interaction of its participants, administrators and legal
11 representatives. Except to the extent that it is inconsistent with this chapter, or any other
12 applicable law, the New Hampshire DAO's bylaws may set forth any one of the following:

13 (a) Any provision defining, limiting, or regulating capital contributions;

14 (b) Any provision defining, limiting, or regulating a developer's rights, powers and
15 interests in the New Hampshire DAO;

16 (c) Any provision defining, limiting, or regulating the manner in which the New
17 Hampshire DAO's property may be applied, Decentralized or accumulated, including maintenance of
18 one or more treasuries;

19 (d) Any provision imposing obligations upon participants as a condition of any
20 distribution or other benefit;

21 (e) Any provision defining, limiting or regulating the duties, powers and liabilities of one
22 or more administrators or legal representatives of the New Hampshire DAO;

23 (f) Any provision regarding the amendment, revocation or restatement of the bylaws of a
24 New Hampshire DAO;

25 (g) Any provision regarding the appointment, resignation, and removal of administrators
26 and legal representatives of the New Hampshire DAO; and

27 (h) Any provision regarding any other matter that the New Hampshire DAO deems
28 necessary or advisable.

29 III. The bylaws shall be written in plain language comprehensible by a layperson.

30 IV. The bylaws shall provide accurate disclosure of all material facts that a reasonable
31 person would consider important in deciding whether or not to become a participant in the New
32 Hampshire DAO.

33 V. For the purposes of determining the meaning of terms of the bylaws, the terms of the
34 software establishing the blockchain system shall be paramount.

35 301-B:17 Participants; Governance; Capital; Rights and Obligations of Participants.

36 I. The bylaws shall specify rules for determining which persons are participants in the New
37 Hampshire DAO.

1 II. The bylaws shall specify rules establishing the governance rights of participants,
2 exercisable pursuant to tokens or otherwise.

3 III. If the bylaws provide for meetings of participants, the bylaws shall specify procedures
4 for providing notice to participants and administrators, allowing participants to make proposals for
5 consideration at a meeting, and establishing quorum and mechanisms for voting on various actions.
6 The bylaws may authorize participants to represent themselves or be represented by a proxy. This
7 act does not require a New Hampshire DAO to convene a general meeting of participants. This act
8 does not require physical, in-person meetings, unless set forth in the bylaws.

9 IV. Voting by participants may be on a per capita, number, profits, financial interest, class,
10 group, or any other basis, as set forth in the bylaws.

11 V. No minimum capital requirements shall apply to a New Hampshire DAO. A DAO may
12 specify in its bylaws rules and procedures for subscription and maintenance of minimum capital
13 amounts.

14 VI. The bylaws may provide for classes or groups of participants having such relative rights,
15 powers and duties as the bylaws may provide.

16 VII. The bylaws must specify the rules for exiting the DAO that address the consequences of
17 voluntary and involuntary participant exit on subscriptions and payments they have made.

18 301-B:18 Administrators.

19 I. A New Hampshire DAO is not required to appoint administrators, including a board of
20 directors or a trustee. A New Hampshire DAO may specify in its bylaws rules for appointing and
21 removing administrators and establishing the powers, rights, privileges, immunities, duties and
22 liabilities of administrators. In the absence of such provisions, all the powers and tasks of
23 administrators shall be vested in the participants in accordance with the bylaws. An administrator
24 may or may not be a participant.

25 II. The voting mechanism for nominating and appointing an administrator shall be set out
26 in the bylaws.

27 III. The appointment and authority of an administrator shall be evidenced by an
28 authorization displayed on a public forum the validity of which shall be verifiable by a valid record
29 on the blockchain of the New Hampshire DAO.

30 IV. To the extent that an administrator exercises a power in accordance with the bylaws or
31 the terms of the administrator's appointment, the administrator's action is binding upon all other
32 persons.

33 V. Unless the bylaws provide otherwise, an administrator may resign without liability upon
34 15 days' written notice to the participants of the New Hampshire DAO.

35 301-B:19 Legal Representatives.

36 I. A New Hampshire DAO may authorize one or more legal representatives to undertake
37 tasks that cannot be achieved on-chain, including the New Hampshire legal representative as

1 required by RSA 301-B:9. The scope of authority delegated to legal representatives shall be set forth
2 in the bylaws and may be limited to specific tasks, or may be more general.

3 II. Legal representation of the New Hampshire DAO shall be carried out by a legal
4 representative in the manner provided in the bylaws and as evidenced by an authorization displayed
5 on a public forum the validity of which shall be verifiable by a valid record on the blockchain of the
6 New Hampshire DAO.

7 III. A legal representative shall not be personally liable for acts done on behalf of the New
8 Hampshire DAO.

9 IV. A New Hampshire DAO shall appoint at least one legal representative who shall be the
10 registered agent of the New Hampshire DAO in accordance with RSA 301-B:9.

11 301-B:20 No Implicit Fiduciary Status. Developers, participants, administrators or legal
12 representatives of a DAO shall not be imputed to have fiduciary duties towards each other or third
13 parties solely on the basis of their role, unless the person acting in such a role explicitly holds itself
14 out as a fiduciary, or the bylaws expressly provide that such person is a fiduciary with respect to
15 each power granted to such person.

16 301-B:21 Defense of Reliance on Records of the New Hampshire DAO. In any matter relating to
17 the New Hampshire DAO, a developer, participant, administrator or legal representative shall be
18 fully protected from liability to the New Hampshire DAO and to the participants if the person acting
19 in such a role relies, in a manner consistent with contractual good faith, on the records of the New
20 Hampshire DAO as evidenced by a records displayed on a public forum the validity of which shall be
21 verifiable by a valid record on the blockchain of the New Hampshire DAO.

22 301-B:22 Exculpations. The bylaws may provide for the limitation or elimination of any and all
23 liabilities for breach of contract and breach of duties, including fiduciary duties, of a developer,
24 participant, administrator, legal representative or other person to a New Hampshire DAO or to
25 another participant or administrator, or to another person that is a party to or is otherwise subject
26 to the bylaws; provided that the bylaws may not limit or eliminate liability for any act or omission
27 that constitutes a violation of the implied contractual covenant of good faith and fair dealing.

28 301-B:23 Indemnification.

29 I. Except as provided in paragraph II, and subject to such standards and restrictions, if any,
30 as are set forth in its bylaws, a New Hampshire DAO may, and shall have the power to, indemnify
31 any participant or administrator or other person made a party to a proceeding or threatened to be
32 made a named defendant or respondent in a proceeding because the participant, administrator, or
33 other person acted on behalf of the New Hampshire DAO, against liability for a judgment,
34 settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan,
35 or reasonable expenses incurred with respect to a proceeding, if:

36 (a) The participant, administrator, or person conducted such person's activities himself
37 or herself in accordance with contractual good faith; and

1 (b) The participant, administrator, or person reasonably believed such person's conduct
2 was not opposed to the best interest of the New Hampshire DAO interpreted in accordance with the
3 stated purpose of the DAO.

4 II. A New Hampshire DAO may not indemnify a participant, administrator, or other person
5 under paragraph I:

6 (a) In connection with a proceeding by or in the right of the New Hampshire DAO in
7 which the person was judged liable to the New Hampshire DAO; or

8 (b) In connection with any other proceeding charging the person with a breach of the
9 duty of loyalty, whether or not involving action on behalf of the New Hampshire DAO, in which the
10 person was adjudged liable for the breach.

11 301-B:24 Judicial Deregistration Upon Application by Attorney General. The attorney general
12 may apply to the superior court for a decree of deregistration of a New Hampshire DAO, and the
13 superior court may issue such a decree, in any of the following circumstances:

14 I. The New Hampshire DAO has procured or maintained its registration through fraud.

15 II. The New Hampshire DAO has exceeded or abused its lawful authority under this act.

16 III. The New Hampshire DAO has carried on, conducted, or transacted its business in a
17 persistently fraudulent manner or in a manner that violates clearly established laws.

18 IV. The New Hampshire DAO has abused its power contrary to the public policy of the state.

19 301-B:25 Contentious Forks in the Underlying Blockchain. In the event of a hard fork in the
20 underlying permissionless blockchain:

21 I. By default, the New Hampshire DAO retains its legal personality and limited liability and
22 the legal representative remains the legal representative of the majority chain and any off-chain
23 assets shall belong to the New Hampshire DAO on the majority chain.

24 II. The New Hampshire DAO may choose to maintain legal presence on a minority chain if it
25 expresses its intent to do so by public signaling, and in that case any off-chain assets shall belong to
26 the New Hampshire DAO on the selected minority chain.

27 III. The New Hampshire DAO may liquidate its on-chain assets following a hard fork in
28 order to move those assets to the chosen chain.

29 IV. Alternatively, the New Hampshire DAO may choose to split into multiple legal entities,
30 each on a separate chain, if it communicates by public signaling:

31 (a) Its intent to do so, and

32 (b) There is a definitive distribution of off-chain assets between the majority and
33 minority chains.

34 301-B:26 DAO Restructuring.

35 I. In the event that there is not a contentious fork and a New Hampshire DAO's smart
36 contract is restructured through modification, upgrade or migration, it shall retain its legal
37 personality and limited liability only to the extent that:

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1 (a) The new code of the New Hampshire DAO continues to satisfy all the listing
2 requirements of RSA 301-B:13.

3 (b) In the event of migration, where the New Hampshire DAO has to be associated with
4 a new unique public address, proper notice is provided by way of public signaling.

5 II. Failure to meet these requirements shall result in a deregistration of the New Hampshire
6 DAO and loss of legal personality and limited liability effective at the time of restructuring.

7 III. The New Hampshire DAO restructured in accordance with paragraph I shall be the
8 universal successor of the original DAO and inherit its rights and obligations.

9 301-B:27 Failure Event. In the case of a failure event:

10 I. Legal personality and limited liability shall be maintained to the extent necessary to
11 protect New Hampshire DAO participants, administrators, and legal representatives from personal
12 liability.

13 II. A failure event may trigger liability on the person deploying or upgrading the New
14 Hampshire DAO if that person:

15 (a) Acted in bad faith; or

16 (b) Engaged in gross negligence.

17 301-B:28 Application of General Business Organization Law. The New Hampshire DAO shall
18 be governed by:

19 I. The bylaws;

20 II. The provisions of this chapter; and

21 III. The provisions of RSA 304-C shall apply to New Hampshire DAOs except to the extent
22 that any such provision is inconsistent with any provision of this chapter.

23 301-B:29 Application of Other Laws. For avoidance of any doubt, a New Hampshire DAO shall
24 be subject to all other applicable laws of the state of New Hampshire, including laws regulating
25 securities activities, banking and financial activities, taxation, and all other provisions of law.

26 301-B:30 Reserved Power of State of New Hampshire to Alter or Repeal Act. All provisions of
27 this act may be altered from time to time or repealed, and all rights of New Hampshire DAOs,
28 participants, administrators and legal representatives are subject to this reservation.

29 301-B:31 Secretary of State; Duties. The secretary of state shall issue a request for proposals
30 for the development and administration of the New Hampshire DAO registry as described in RSA
31 301-B:14. The request for proposals shall have such terms as the secretary of state shall deem
32 necessary and appropriate to carry out the provisions of RSA 301-B. The request for proposals
33 should include a requirement that responses to the request should identify an appropriate
34 registration and annual fee for registrants that would be sufficient over time to defray the costs of
35 establishing and administering the registry. The secretary of state shall select one or more of the
36 respondents to the proposal and shall negotiate a contract with such respondent or respondents that
37 provides for establishment and administration of the registry; provisions for administering any

deregistration processes including providing technical assistance to the attorney general in connection with a judicial deregistration under RSA 301-B:24; and such other items as the secretary of state shall deem necessary and appropriate. In accordance with the contracts entered into, the secretary of state is authorized to set registration and annual fees and pay registry establishment, maintenance, and administration costs. The secretary of state shall prepare reports of the progress under the process described in this section every 6 months following the effective date of this section, and submit the reports to the governor, the senate president, and the speaker of the house of representatives.

2 Effective Date.

I. RSA 301-B:31 as inserted by section 1 of this act of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2025.

HB 645-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2023-2327h)

AN ACT relative to the establishment of decentralized autonomous organizations as legal entities within the state.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Revenue Fund(s)</i>	General Fund Various Government Funds			
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund Various Government Funds			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ No

METHODOLOGY:

This bill establishes Decentralized Autonomous Organizations (DAO) within the state. The Department of State indicates it cannot estimate the increase in corporate fee and/or general fund revenue from the \$100 registration fee or notice of intent to register filing fee or any additional revenue from the registration fees that are to be determined. Additionally, at this time the Department states it is researching the components of the DAO registry and the estimated annual costs associated with the registry.

The Banking Department indicates this bill provides that a New Hampshire DAO shall be subject to all applicable laws of the State, including without limitation laws regulating banking and financial activities. As such, the Department assumes new businesses organized as DAOs may apply for licensure with the Banking Department. If any such entity receives a license from the Banking Department, it would be required to pay license and examination fees in accordance with New Hampshire law. It is further assumed that, since DAO innovation is evolving rapidly and may present unique regulatory challenges, the Department may need to develop administrative rules that govern the licensure and regulation of entities organized as DAOs.

Because the extent to which new entities organize as New Hampshire DAOs will submit new license or charter applications to the Banking Department is unknown, the Department states the resulting fiscal impact to state revenues in the form of increased licensing or examination fees is indeterminable.

The Department of Justice states this bill empowers the Attorney General to seek the deregistration of New Hampshire DAOs. Taking those actions would likely require the time and attention of attorneys in the Department, potentially in the Consumer Protection and Antitrust Bureaus. It could also require the time and attention of an investigator or paralegal to determine whether such an action was necessary, develop the facts required to decide whether to take action and support any action, and assist in the bringing of any action.

Additionally, one of the possible grounds for deregistration is that the New Hampshire DAO has procured its registration through fraud. Because some of the requirements for registration are technical software requirements (e.g., being “deployed on a permissionless blockchain,” maintaining “open-source format” software code, having completed “quality assurance testing” on the DAO’s software code, etc.), determining whether a New Hampshire DAO “procured its registration through fraud” could require some level of expertise in the underlying software requirements. Because of the role that software code, blockchain technology, and cryptography play in the functioning of a New Hampshire DAO, understanding how those elements operate could also play a role in determining whether other grounds for deregistration exist. In order to conduct investigations relative to the software code, blockchain technology, or cryptography, the Department would likely need to hire additional personnel with applicable expertise in the relevant areas. The Department indicates, because it is not possible to know how many, if any, deregistration investigations or actions would be necessary, or the role that software code, blockchain technology, or cryptography will play in investigations relating to deregistration, the Department is uncertain what resources would be needed to satisfy the requirements of this bill and is not able to estimate the impact on expenditures.

The Judicial Branch states it is not possible to estimate how the bill will impact court operations, however litigation and court rulemaking are expected to increase.

AGENCIES CONTACTED:

Department of Justice, Secretary of State, Banking Department and Judicial Branch