

2026 Regular Session

SENATE BILL NO. 402

BY SENATOR MIZELL

SCHOOLS. Provides for parental choice in education and the Preservation of Religious Education Act. (gov sig)

1 AN ACT
2 To amend and reenact R.S. 17:236(A), (B), and (C)(1), 407.33(1), and 407.35 and to enact
3 Subpart H of Part I of Chapter 1 of Title 17 of the Louisiana Revised Statutes of
4 1950, to be comprised of R.S. 17:50 through 50.4, and Subpart H-1 of Part I of
5 Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of
6 R.S. 17:50.7 through 50.8, and R.S. 17:236(F) and 236.1.1 and to repeal R.S.
7 17:24.8(B)(2), relative to nonpublic schools and parental choice in education; to
8 provide for the preservation of parental rights to religious education; to provide with
9 respect to constitutional restrictions on nonpublic schools; to provide for the
10 religious rights of certain church-affiliated schools and other religious educational
11 institutions; to provide for the Preservation of Religious Freedom Act; to provide for
12 prekindergarten elementary education; to provide for early learning centers; to
13 provide for legislative intent and purpose; to provide for definitions; to provide for
14 remedies; to provide for exceptions; to provide for an effective date; and to provide
15 for related matters.
16 Be it enacted by the Legislature of Louisiana:
17 Section 1. R.S. 17:236(A), (B), and (C)(1), 407.33(1), and 407.35 are hereby

1 amended and reenacted and Subpart H of Part I of Chapter 1 of Title 17 of the Louisiana
2 Revised Statutes of 1950, comprised of R.S. 17:50 through 50.4, and Subpart H-1 of Part I
3 of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S.
4 17:50.7 through 50.8, and R.S. 17:236(F) and 236.1.1 are hereby enacted to read as follows:

5 **SUBPART H. PRESERVATION OF RELIGIOUS EDUCATION ACT**

6 **§50. Short title**

7 **This Subpart shall be known as and may be cited as the "Preservation**
8 **of Religious Education Act".**

9 **§50.1. Legislative findings; purpose**

10 **A. The legislature finds and declares that:**

11 **(1) The legislature enacted Act 358 of the 2025 Regular Session of the**
12 **Legislature to clarify and codify parental rights to religious education that are**
13 **guaranteed by the Constitution of the United States of America and the**
14 **Constitution of Louisiana and made effective by the Preservation of Religious**
15 **Freedom Act, R.S. 13:5231 et seq. Act 358 clarifies that state and local**
16 **government agencies may not discriminate against religious institutions "by**
17 **requiring restrictions that are greater than the least severe restrictions that are**
18 **imposed upon or enforced against any secular business, service, or assembly".**

19 **(2) With respect to the rights of parents to choose religious schools and**
20 **educational opportunities that comport with their religious values, the Supreme**
21 **Court of the United States has affirmed all of the following:**

22 **(a) "For many people of faith, there are few religious acts more**
23 **important than the religious education of their children." (Mahmoud v. Taylor,**
24 **606 U.S. 522, 523 (2024))**

25 **(b) "And the practice of educating one's children in one's religious**
26 **beliefs, like all religious acts and practices, receives a generous measure of**
27 **constitutional protection. The Constitution protects, for example, a parent's**
28 **decision to send his or her child to a private religious school instead of a public**
29 **school." (Mahmoud v. Taylor, 606 U.S. 522, 523 (2024))**

1 (c) The right of parents to choose the means and methods whereby their
2 children may be educated free from unreasonable or excessive government
3 interference is a liberty protected by the Fourteenth Amendment. (*Pierce v.*
4 *Society of Sisters*, 268 U.S. 510 (1925))

5 (d) "A State need not subsidize private education. But once a State
6 decides to do so, it cannot disqualify some private schools solely because they
7 are religious." (*Espinoza v. Montana Department of Revenue, et al*, 591 U.S. 464
8 (2020) and *Carson v. Makin*, 596 U.S. 767 (2022))

9 (3) The Preservation of Religious Freedom Act, R.S. 13:5231 et seq., was
10 originally enacted in the 2010 Regular Session of the Legislature to protect both
11 the religious rights of the individual as well as churches and religious
12 institutions from discrimination or disparate treatment by all state and local
13 government agencies, boards, and commissions. When enacted in 2010, R.S.
14 13:5232 affirmed that the "(f)ree exercise of religion is a fundamental right of
15 the highest order in this state".

16 (4) The court in *Rankins v. Louisiana State Board of Elementary and*
17 *Secondary Education* held that the, "La. Const. Art. VIII §4 gives BESE the
18 limited power to approve a private elementary, secondary, or proprietary
19 school with a sustained curriculum or specialized course of study of quality at
20 least equal to that prescribed for similar public schools. . . BESE's authority
21 over non-public schools is further constrained by the United States Constitution.
22 The United States Supreme Court has held that the First and Fourteenth
23 Amendments prevent the state from intruding into family decisions in the areas
24 of religious freedom and parental control over the rearing of children. . . Under
25 these constitutional proscriptions, BESE cannot dictate the curriculum. . . in
26 non-public schools without infringing upon the rights of parents who choose to
27 send their children to non-public schools or who choose religious over public
28 education". (*Rankins v. Louisiana State Board of Elementary and Secondary*
29 *Education*, 637 So.2d 548, 552-553)

1 **B. The purpose of this Subpart is to clarify that the protections provided**
2 **for religious persons, entities, and religious institutions, pursuant to the**
3 **Preservation of Religious Freedom Act, R.S. 13:5231 et seq., are enforceable**
4 **against all government agencies, including government educational agencies**
5 **that are authorized or governed by this Title.**

6 **§50.2. Definitions**

7 **Unless otherwise indicated, the definitions provided for in R.S. 13:5234**
8 **and the following definitions shall apply to this Subpart:**

9 **(1) "Burdening" shall have the same meaning as "burden" as provided**
10 **for in R.S. 13:5234.**

11 **(2) "Church-affiliated school" or "religious educational institution"**
12 **means an educational institution operated with a religious mission or purpose**
13 **by a church, an association of churches, a religious order, body, or institution**
14 **which qualifies for exemption from taxation under Section 501(c)(3) or (d) of**
15 **the Internal Revenue Code of 1986, Public Law 99-514, 26 U.S.C. Section 501,**
16 **and includes any one or more of the following:**

17 **(a) Is established for the purpose of affirming the ministry of the church,**
18 **association of churches, religious order, body or religious institutions and assists**
19 **religious parents in their duty to educate their minor children to be self-**
20 **sufficient and successful members of society upon reaching adulthood.**

21 **(b) Is a religious nonpublic prekindergarten school program established**
22 **pursuant to R.S. 17:50.7.**

23 **(c) Is a religious nonpublic elementary or secondary educational**
24 **institution, which is approved, or seeking approval, from the State Board of**
25 **Elementary and Secondary Education, as provided for in R.S. 17:11.**

26 **(d) Is a religious nonpublic elementary or secondary education**
27 **institution not seeking state approval, as provided for in R.S. 17:221.**

28 **(e) Is a religious educational program that is implemented or conducted**
29 **by two or more parents whose children are participating in a religious**

1 educational program, without regard to hours or days of the week and
2 regardless of age, pursuant to R.S. 13:5233.1.

3 (f) Is a nonpublic institution of higher education that offers or provides
4 religious training or theological education and may also offer training in a
5 secular field of endeavor.

6 (3) "Governmental educational agency" shall have the same meaning as
7 "governmental agency", as defined in R.S. 13:5234, and includes but is not
8 limited to the state Department of Education, the State Board of Elementary
9 and Secondary Education, postsecondary education management boards, any
10 city, parish, or other local public school board and any other state agency that
11 has authority over educational institutions and educational opportunities
12 pursuant to this Title or any other provision of law.

13 (4) "Parent" or "parents" means a biological birth parent, an adoptive
14 parent, or the legal guardian who is authorized by law to make decisions
15 regarding the education of their child.

16 (5) "Adult student" or "adult" means a person who is eighteen years of
17 age or older or is an emancipated minor who is authorized by law to make his
18 own decisions regarding his education.

19 §50.3. Protection of religious education; parental rights to religious education

20 A. Notwithstanding any other provision of law, rule, or regulation to the
21 contrary, no governmental educational agency shall discriminate against any
22 church-affiliated school, religious educational institution, any adult student, or
23 any parent who chooses a church-affiliated school or religious educational
24 institution to educate their minor child by burdening the church-affiliated
25 school, religious educational institution, adult student, or parent's free exercise
26 of religion in violation of Article I, Section 8 of the Constitution of Louisiana,
27 the First Amendment of the Constitution of the United States of America, the
28 Preservation of Religious Freedom Act, R.S. 13:5231 et seq., or the provisions
29 of this Subpart.

1 **B. No governmental educational agency shall discriminate against a**
2 **church-affiliated school or religious educational institution by burdening the**
3 **church-affiliated school or religious institution with licensing requirements or**
4 **other restrictions, or a combination thereof, that are greater than the least**
5 **severe restrictions that are imposed upon or enforced against any public school**
6 **or any secular nonpublic school, in violation of R.S. 13:5233.**

7 **C. If the government enacts an educational benefit or makes an**
8 **appropriation to provide scholarships, educational opportunities, or subsidies**
9 **in the form of tax deductions, tax credits, or other monetary benefits to allow**
10 **students to attend a nonpublic school or a nonpublic educational program, then**
11 **the scholarship, subsidy, or benefit shall not be denied or reduced solely because**
12 **the provider is affiliated with a church or other religious organization.**

13 **D. In furtherance of the legislative purposes and legislative intent set**
14 **forth in the Preservation of Religious Education Act, R.S. 17:50.1, the**
15 **provisions of this Subpart are enacted to implement safeguards to avoid**
16 **violating the constitutionally protected rights to the free exercise of religion**
17 **guaranteed to parents, adult students, church-affiliated schools, and other**
18 **religious educational institutions.**

19 **§50.4. Construction of Subpart; remedies**

20 **A. Any claim for relief for violations of this Subpart shall be made**
21 **pursuant to the Preservation of Religious Freedom Act, R.S. 13:5231 et seq.**

22 **B. Nothing in this Subpart is intended to limit, supercede, or nullify any**
23 **other protections with respect to religious liberty that are granted pursuant to**
24 **other applicable federal law, state law, the Constitution of Louisiana, and the**
25 **Constitution of the United States of America.**

26 **SUBPART H-1. EDUCATIONAL CHOICE IN**

27 **OPPORTUNITIES FOR RELIGIOUS PARENTS**

28 **§50.7. Religious prekindergarten programs; rights of parents**

29 **A. A nonpublic elementary school that is operated by a church affiliated**

1 school or religious educational institution, as defined in R.S. 17:50.2, may
2 develop and offer a religious prekindergarten program of instruction in
3 furtherance of the mission and purpose of the church-affiliated or religious
4 institution so that parents may exercise their constitutionally protected rights
5 to choose religious education for their children.

6 B. A religious nonpublic prekindergarten program that is established
7 pursuant to this Section shall be part of a nonpublic elementary school, as
8 defined in R.S. 17:236. Therefore, a religious nonpublic elementary school
9 prekindergarten program shall not be considered an early learning center, as
10 defined in R.S. 17:407.33.

11 C. A religious nonpublic prekindergarten program that is part of an
12 approved elementary school shall meet all requirements for an approved
13 nonpublic prekindergarten program, as provided in R.S. 17:236.1.1.

14 §50.8. Applicability

15 A. The definitions that are provided for in R.S. 13:5234 and R.S. 17:50.2
16 shall apply to this Subpart.

17 B. The provisions of this Subpart are subject to all provisions and
18 remedies provided in the Preservation of Religious Education Act, R.S. 17:50
19 et seq.

20 * * *

21 §236. Definition of a school

22 A. For the purposes of this Chapter, a school is defined as an institution for
23 the teaching of children, consisting of an adequate physical plant, whether owned or
24 leased, instructional staff members, and students. For such an institution to be
25 classified as a school, within the meaning of this Chapter, instructional staff
26 members shall meet the following requirements:

27 (1) if If a public day school or a nonpublic school which receives local, state,
28 or federal funds or support, directly or indirectly, they shall be certified or approved
29 in accordance with rules established by the State Board of Elementary and Secondary

1 Education;

2 **(2) if If** a nonpublic school **not seeking state approval** which receives no

3 local, state, or federal **educational** funds or support, directly or indirectly, **they it**

4 shall meet such requirements as may be prescribed by the school or the church **and**

5 **is subject to the zoning requirements and other provisions of R.S. 13:5233.1 that**

6 **apply to churches.**

7 **B.(1)** In addition, ~~except as otherwise provided in Subsection B of this~~

8 ~~Section,~~ any such institution, to be classified as a school, shall operate a minimum

9 session of not less than one hundred eighty days.

10 **(2)** Solely for purposes of compulsory attendance in a nonpublic school, a

11 child who participates in a home study program approved by the State Board of

12 Elementary and Secondary Education shall be considered in attendance at a day

13 school; a home study program shall be approved if it offers a sustained curriculum

14 of a quality at least equal to that offered by public schools at the same grade level.

15 **(3)** Solely for purposes of compulsory attendance, a child shall be considered

16 in attendance at a day school if the child is participating in the LA GATOR

17 Scholarship Program pursuant to R.S. 17:4037.1 et seq.

18 ~~B. Effective for the 2005-2006 school year, the provisions of Subsection A~~

19 ~~of this Section relative to the required operation of a minimum school session of not~~

20 ~~less than one hundred eighty days shall not be applicable. However, the State Board~~

21 ~~of Elementary and Secondary Education may adopt rules effective for the 2005-2006~~

22 ~~school year relative to the minimum session required of any institution in order to~~

23 ~~be classified as a school.~~

24 C. For the purpose of reporting data:

25 (1) The term "elementary school" means a school composed of any span of

26 grades prekindergarten through grade eight ~~that~~ **and** excludes grades nine through

27 twelve.

28 * * *

29 **F. Notwithstanding any other provision of law to the contrary, a**

1 prekindergarten program is an elementary school, as defined in Paragraph
2 (C)(1) of this Section and, therefore, shall not be considered a daycare or an
3 early learning center and is, therefore exempt from licensing requirements
4 pursuant to R.S. 17:407.31 et seq., and R.S. 17:407.41.

5 §236.1.1. Requirements for an approved nonpublic prekindergarten program;
6 criminal history reports; child safety and welfare minimum
7 standards

8 A. If a nonpublic school that is approved, pursuant to Article VIII,
9 Section 4 of the Constitution of Louisiana, is seeking further approval to add a
10 prekindergarten program for three-year-old students or four-year-old students
11 to its existing approved nonpublic elementary school or to meet the
12 requirements to receive funds or support, pursuant to R.S. 17:236(A)(1), then
13 the approved nonpublic school shall submit to the state Department of
14 Education all of the following:

15 (1) Evidence that the educational institutional applicant meets the
16 definition of a school, pursuant to R.S. 17:236(A)(1).

17 (2) The sustained curriculum for the limited purposes of Article VIII,
18 Section 4 of the Constitution of Louisiana.

19 B. Any parent who chooses to enroll their child in a religious or other
20 nonpublic prekindergarten program authorized pursuant to this Section shall
21 sign an acknowledgment that the parent is aware that they are enrolling their
22 child into a religious or other prekindergarten school program that is operated
23 by an approved nonpublic elementary school and, therefore, the facility is not
24 a daycare that is subject to federal daycare regulations, as codified in 45 CFR
25 Part 98, or its successor citation, and is not licensed by the state as an early
26 learning center, pursuant to R.S. 17:407.31 et seq.

27 C. If the religious approved nonpublic elementary school or other
28 nonpublic elementary school chooses to operate a prekindergarten program
29 pursuant to this Section on or after January 1, 2026, the governing authority of

1 the church-affiliated school, religious educational institution, or the approved
2 nonpublic school shall develop and adopt an enhanced safety plan to provide
3 enhanced safety protocols due to the age of the prekindergarten students.

4 D. All teachers and other employees of the prekindergarten program
5 must have a criminal background check or a criminal history review, as
6 required in R.S. 17:15.

7 E. If prior to January 1, 2026, a church-affiliated school, religious
8 educational institution, or other nonpublic school that was previously approved
9 and in good standing with the State Board of Elementary and Secondary
10 Education to operate a nonpublic prekindergarten program, then the
11 department's prior approval shall remain in effect thereafter in accordance
12 with the provisions of this Section.

13 F. Nothing in this Section shall prohibit a church-affiliated school,
14 religious educational institution, or a nonpublic school from electing to apply
15 for a license to operate an early learning center, pursuant to R.S. 17:407.31 et
16 seq., instead of, or in addition to, an elementary school prekindergarten
17 program authorized pursuant to this Section.

18 G. Except for those programs and schools that are subject to church
19 zoning, building code, fire safety programs, and other legal requirements,
20 pursuant to R.S. 13:5233.1, all approved prekindergarten programs that are
21 authorized pursuant to this Section shall meet all child safety and welfare
22 minimum standards for approved nonpublic schools, including fire safety
23 standards, pursuant to R.S. 40:1578.6, all health and safety standards, pursuant
24 to R.S. 40:5, and all local government safety requirements that are applicable
25 to approved nonpublic schools to ensure the safety of children.

26 * * *

27 §407.33. Definitions

28 As used in this Part, the following terms have the following meanings unless
29 the context clearly indicates otherwise:

1 (1) "Camp" means any place or facility operated by any institution, society,
2 agency, corporation, person or persons, or any other group which **includes any of**
3 **the following:**

4 (a) ~~serves~~ **Serves** only children ~~five~~ **three** years of age or older and operates
5 only when school is not in session during the summer months or school holidays
6 ~~including but not limited to.~~

7 (b) a ~~Provides~~ **Provides** Vacation Bible School, ~~or Bible Camp,~~ **Torah camp, or**
8 **religious camp that is operated by a church or religious organization for**
9 **children, regardless of age, that is exempt from licensure pursuant to R.S.**
10 **17:407.35.**

11 (c) **Operates an after-school or weekend extracurricular or athletic**
12 **program, including but not limited to a private debate club, dance class,**
13 **cheerleading class, sports training, and any competition related thereto.**

14 (d) **Operates an after-school or weekend tutoring program or other**
15 **educational or enrichment program authorized by this Title.**

16 * * *

17 §407.35. Exemptions from licensure requirements

18 A. The provisions of this Part shall not apply to grades kindergarten and
19 above, prekindergarten programs attached to a public **and nonpublic** day school,
20 Louisiana Montessori accredited or provisionally accredited approved schools, **a**
21 **school as defined in R.S. 17:236,** camps, registered family child day care homes,
22 and care given without charge. However, all prekindergarten programs shall comply
23 with the child safety and welfare minimum standards provided for in R.S. 17:407.41
24 **or R.S. 17:236.1.1, whichever is applicable.**

25 B.(1) ~~A~~ **The provisions of Paragraph (2) of this Subsection shall apply to**
26 **a recognized church or other** religious organization which is qualified as a
27 tax-exempt organization under Section 501(c) of the Internal Revenue Code, which
28 **does any of the following:**

29 (a) ~~remains~~ **Remains** open for not more than twenty-four hours in a

1 continuous seven-day week, and in which no individual child remains for more than
2 twenty-four hours in one continuous stay;

3 **(b) Operates a Vacation Bible School, Bible camp, Torah camp, or other**
4 **religious camp.**

5 **(c) Operates a mother's day out program, pursuant to R.S. 13:5233.1.**

6 **(2) A religious organization conducting religious activities pursuant to**
7 **this Subsection or pursuant to R.S. 13:5233.1** shall not be considered an early
8 learning center for the purposes of this Part.

9 * * *

10 Section 2. R.S. 17:24.8(B)(2) is hereby repealed.

11 Section 3. The Louisiana State Law Institute, pursuant to its statutory authority, is
12 hereby directed to change "prekindergarten program" to "public prekindergarten program"
13 and to change "prekindergarten programs" to "public prekindergarten programs" in R.S.
14 17:407.41.

15 Section 4. The State Board of Elementary and Secondary Education is hereby
16 authorized and encouraged to adopt emergency rules, pursuant to R.S. 49:962, to implement
17 the provisions of this Act in a manner so as to avoid school closures that may otherwise
18 result in the 2026-2027 school year and in a manner so as to avoid the loss of available
19 summer camps and other options for parents during the summer.

20 Section 5. The State Board of Elementary and Secondary Education is hereby
21 authorized and encouraged to review its existing administrative rules in light of the
22 legislative findings in Section 1 of this Act to determine if any rules have the potential to
23 violate the constitutional rights of religious and other nonpublic schools.

24 Section 6. If any provision or item of this Act, or the application thereof, is held
25 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
26 which can be given effect without the invalid provision, item, or application and to this end
27 the provisions of this Act are hereby declared severable.

28 Section 7. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 402 Original 2026 Regular Session Mizell

Present law (R.S. 13:5231 et seq.) provides that the "Preservation of Religious Freedom Act", prohibits all state and local government agencies, boards, and commissions from discriminating against religious institutions and religious people by requiring government restrictions that are more stringent on churches, religious people, and religious institutions than those restrictions imposed upon similar secular institutions. Present law (R.S. 13:5238-5239) applies to government activities which result in religious discrimination, whether the discrimination was intended or not, and provides for methods by which state and local governments can cure unintentional religious discrimination once they receive notice.

Proposed law retains present law but clarifies that government educational agencies are recognized as governmental agencies and, therefore, the Preservation of Religious Freedom Act applies in the same manner as any other agency in state or local government.

Proposed law provides legislative intent as follows:

- (1) The Preservation of Religious Freedom Act affirms that the free exercise of religion is a fundamental right of the highest order in this state. The Act provides that state and local governments may not discriminate against religious institutions by requiring restrictions that are greater than the least severe restrictions that are imposed upon or enforced against any secular business, service, or assembly.
- (2) With respect to the rights of parents to choose religious schools and educational opportunities that comport with their religious values, the U.S. Supreme Court has affirmed multiple times that the constitutional rights of parents to choose religious education for their children over secular or public schools. The high court found that the 14th Amendment of the U.S. Constitution protects the rights of parents to choose the means and methods whereby their children are to be educated in a manner that is free from unreasonable or excessive government interference.
- (3) The U.S. Supreme Court held that a state that decides to subsidize private schools may not subsidize only secular private schools, while discriminating against similarly situated religious schools solely because they are religious.
- (4) BESE's authority over nonpublic elementary and secondary schools is constrained by the La. Constitution and the U.S. Constitution and is limited to the approval of a nonpublic school's sustained curriculum that must be at least equal to that prescribed for similar public schools, according to Louisiana court precedent. The state may not exert other control over private schools because to do so would effectively intrude into family decisions in the areas of religious freedom and parental control over the rearing of children.

Present law (R.S. 13:5237) provides that state or local government agencies that discriminate on the basis of religion are subject to damages, attorney fees, and court costs in state court

and federal court (42 U.S.C. 1983 et seq.).

Present law (R.S. 13:5234) defines "person" as an individual or a church or other religious organization, "exercise of religion" and "government" or "government agency".

Proposed law retains present law and provides for additional definitions specifically related to education, including definitions for "governmental education agency", "church affiliated school", and "religious educational institution".

Proposed law (R.S. 13:5231 et seq.) provides that no governmental educational agency shall discriminate against any religious adult or parent who chooses religious education, in violation of the free exercise of religion in the state and federal constitutions and in violation of the Preservation of Religious Freedom Act.

Proposed law provides that no governmental educational agency shall discriminate against a church affiliated school or religious educational institution by burdening the church affiliated school or religious institution with licensing requirements or other restrictions, or a combination thereof, that are greater than the least severe restrictions that are imposed upon or enforced against any public school or any secular nonpublic school, in violation of present law (R.S. 13:5233).

Proposed law provides that, if the government enacts an educational scholarship, tax credit, or other monetary benefit to allow students to attend an approved nonpublic school, then the benefit cannot be denied or reduced when the only basis for the denial or reduction is the fact that the approved nonpublic school is religious.

Proposed law provides that the purpose of proposed law is to avoid violating the constitutionally protected rights to the free exercise of religion guaranteed to parents, adult students, church affiliated schools, and other religious educational institutions and to allow state and local agencies to correct the religious discrimination if the offense was unintentional.

Proposed law (R.S. 13:5237-5242) provides that any claims for relief for violations of proposed law are to be handled in the same manners as those other claims are handled in the Preservation of Religious Freedom Act.

Present law (La. Const. Art. 8, §4) provides that upon the application by a private elementary or secondary school with a sustained curriculum or specialized course of study of quality that is at least equal to that prescribed for similar public schools, then BESE shall approve the private school.

Present law (R.S. 17:236) defines an elementary school to include prekindergarten grades or programs.

Present law (R.S. 17:24.8) authorizes BESE approved nonpublic elementary schools to operate a prekindergarten program for three-year-olds and four-year-olds. Present law provides that the goal of elementary school prekindergarten programs is to improve academic readiness, individual development skills, and social skills in preparation for kindergarten.

Prior law that was in effect before 2025, exempted all school prekindergarten programs from daycare licensing regulations, fees and other requirements, whether the school was public or nonpublic.

Present law provides that daycares, which are allowed to enroll infant children, have regulations that require licensing fees, inspections, and other requirements from the Dept. of Health, Dept. of Education, and the La. State Fire Marshal. Present law, as enacted in 2025, extends all daycare regulatory licensing fees, inspections, and requirements only to

church affiliated or religious nonpublic elementary schools as well as some, but not all, secular nonpublic elementary schools that operate prekindergarten programs for three or four-year-olds. Present law, as enacted in 2025, prohibits all those same daycare licensing requirements, fees, inspections, and regulations from being imposed on prekindergarten programs that are operated by secular nonpublic Montessori schools and public schools, including public charter schools.

Proposed law exempts all nonpublic religious and nonpublic secular elementary school prekindergarten programs from daycare licensing regulations, fees and other requirements in the same manner that present law exempts all public schools, all public charters schools, and all secular Montessori schools from daycare licensing regulations. Proposed law exempts nonpublic religious and nonpublic secular elementary schools from requirements related to the number of staff needed to operate elementary prekindergarten grades or programs.

Present law (R.S. 17:407.33) provides that early learning centers are licensed childcare facilities (daycares) that may accept children from birth to 18 years old. All daycares and childcare facilities must be licensed by the state, unless the child care facility is exempted from those licensing requirements by law.

Present law provides that operating an unlicensed childcare facility (that is not exempted from daycare licensing requirements) subjects the unlicensed operator to monetary fines and criminal penalties as follows:

- (1) Operating an unlicensed daycare facility subjects the operator to a civil fine from the Dept. up to \$1,000 a day. (R.S. 17:407.37)
- (2) Operating an unlicensed daycare facility is also a criminal offense with criminal penalties ranging from \$1,000 to \$5,000 in fines and up to 12 months in jail depending on the offense count. Fines can also be imposed at a rate of up to \$1,000 per day of operation. Additional penalties include potential bans on future licensing for up to 48 months. (R.S. 14:91.15)

Proposed law provides that, since prekindergarten grades or programs are part of elementary schools, they are not required to be licensed as daycare facilities and are not subject to civil fines and criminal sentences that may otherwise be imposed on unlicensed daycare facilities.

Present law (R.S. 17:407.35) provides that the following are exempted from daycare licensing laws:

- (1) Prekindergarten programs operated by public schools, including public charter schools.
- (2) Prekindergarten programs operated by secular Montessori schools.
- (3) Summer and holiday camps, including Vacation Bible School and Bible camps, operated for children who are five years old or older.
- (4) Programs operated for no more than 24 hours a week.
- (5) Registered family child day care homes, with no more than six children.
- (6) Care given without charge.

Proposed law maintains present law and also exempts from daycare licensing laws:

- (1) All prekindergarten programs, including those operated by religious elementary schools and all secular nonpublic elementary schools.

- (2) Summer and holiday camps operated for children who are three years old or older.
- (3) Vacation Bible Schools, Bible camps, and other religious camps, regardless of age.
- (4) After-school or weekend athletic programs, such as dance classes, private cheerleading classes, or sports classes.
- (5) After-school or weekend tutoring programs or other educational enrichment programs authorized by law.
- (6) Mother's day out programs at churches.
- (7) Church conducted activities that are exempt under present law (R.S. 13:5233.1).

Proposed law provides that, in order for parents to exercise their constitutionally protected rights to choose religious education for their children, nonpublic elementary schools that are operated by a church affiliated school or religious educational institution may develop and offer a religious prekindergarten program of instruction in furtherance of the mission and purpose of the church affiliated or religious institution.

Proposed law provides that if a nonpublic religious elementary school or a nonpublic secular elementary school seeks approval from BESE to operate an approved prekindergarten elementary program, then the school shall do all of the following:

- (1) Submit evidence that the educational institutional applicant is an approved elementary school, as defined in present law.
- (2) Provide a sustained curriculum, as required in the La. Const. Art. 8, §4.
- (3) Obtain a signed acknowledgment from each parent that the parent is aware that their child is enrolling into a religious prekindergarten school program that is operated by an approved nonpublic elementary school and, therefore, the facility is not a licensed daycare that is subject to federal daycare regulations and is not licensed as a childcare facility by the state.
- (4) Prepare an enhanced safety plan adopted by the school governing authority to provide enhanced safety protocols due to the age of the prekindergarten students.
- (5) Abide by all enhanced fire safety and health and welfare standards that are required by law for schools.
- (6) Obtain criminal background checks and reports for all teachers and employees of the elementary school prekindergarten program.

Proposed law provides that nothing in proposed law is to prohibit a church affiliated elementary school or other nonpublic school from electing to apply for a daycare license instead of, or in addition to, an elementary school prekindergarten program authorized pursuant to proposed law.

Proposed law provides that, if prior to Jan. 1, 2026, a church affiliated school or other nonpublic school was previously approved and in good standing with the state Dept. of Education to operate a nonpublic prekindergarten, then the prior approval is to remain in effect, in accordance with proposed law.

Proposed law provides that BESE is to adopt emergency rules for the approval process of a previously approved religious or secular nonpublic elementary prekindergarten program so as to avoid school closures in the 2026-2027 school year and to avoid the closure of summer camps during the upcoming summer.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:236(A), (B), and (C)(1), 407.33(1), and 407.35; adds R.S. 17:50-50.4, 50.7-50.8, and 236(F) and 236.1.1; repeals R.S. 17:24.8(B)(2))