

Hearing date: July 9, 2025
Hearing time: 9:00 a.m.
Judge/Calendar: Skinder/Civil

**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

IN THE MATTER OF:

NO. 25-2-02476-34

THE RECALL OF ROBERT
FERGUSON, Governor of the State of
Washington.

RESPONSE OF GOVERNOR BOB
FERGUSON TO PETITION TO
DETERMINE SUFFICIENCY OF
RECALL CHARGES AND BALLOT
TITLE SYNOPSIS

I. INTRODUCTION

Courts play an important gatekeeping function when a member of the public seeks to recall an elected official. Under Washington law, elected officials may be recalled only for cause. A recall petition may not proceed unless it is both factually and legally sufficient, and Rebecca Faust’s recall petition is neither.

Petitioner alleges that Governor Bob Ferguson violated the First Amendment by signing SSB 5106 into law on April 8, 2025, and by signing the bill at the Islamic Center of Tacoma. But both of Petitioner’s charges are factually and legally insufficient. Faust’s petition is factually insufficient because it does not—and cannot—show that the Governor intended to violate the law when signing SSB 5106 at the Islamic Center of Tacoma. Further, Faust’s recall petition is legally insufficient because the Governor acted within his discretion and had legal justification for his actions—indeed, the Washington Constitution expressly grants the Governor “supreme” power to approve or reject bills and sign them into law. And no standard, law, or rule dictates

1 where a bill must be signed. Petitioner has not met her burden, and the petition must therefore
2 be dismissed.

3 II. FACTUAL BACKGROUND

4 On April 8, 2025, Governor Bob Ferguson signed into law SSB 5106, titled “AN ACT
5 Relating to celebrating Eid al-Fitr and Eid al-Adha[.]” Substitute S.B. 5106, 69th Leg., Reg.
6 Sess. (Wash. 2025). SSB 5106 added these two major Islamic holidays to a statutory list of
7 “legislatively recognized days.” RCW 1.16.050(7). Legislatively recognized days are separate
8 from state legal holidays, such as Christmas, and “may not be considered legal holidays for any
9 purpose.” *Id.* The list of legislatively recognized days includes Korean-American Day, Lunar
10 New Year, and Mother Joseph Day, which celebrates a Catholic woman of faith who built
11 hospitals in the Pacific Northwest, among others. RCW 1.16.050(7)(a), (g), (t). Governor
12 Ferguson signed SSB 5106 at the Islamic Center of Tacoma, a mosque and community center.

13 Bill action ceremonies—where bills are signed into law by a governor—are not open to
14 the public. *See* Wash. Governor Bob Ferguson, Bill Action FAQs, [https://governor.wa.gov](https://governor.wa.gov/official-actions/bill-actions/bill-action-faqs)
15 [/official-actions/bill-actions/bill-action-faqs](https://governor.wa.gov/official-actions/bill-actions/bill-action-faqs) (last visited July 1, 2025). Most bill signings take
16 place in the Governor’s Conference Room or State Reception Room in the Legislative Building
17 in Olympia and attendees are restricted to staff, bill sponsors, and a limited number of invited
18 guests. *Id.*

19 Governors occasionally sign bills in locations outside of Olympia to recognize a
20 particular community or topic. Washington governors have signed bills on Indian reservations,¹
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25 ¹ Governor Jay Inslee Bill Signing (Mar. 19, 2024), *video recording by* TVW, Washington State’s Public
26 Affairs Network, <https://tvw.org/video/governor-jay-inslee-bill-signing-2024031228/?eventID=2024031228>
(Tulalip Resort Casino).

1 universities,² training centers,³ community centers,⁴ cultural centers,⁵ economic development
2 council buildings,⁶ ferry terminals,⁷ housing developments,⁸ pickleball courts,⁹ and individuals'
3 homes.¹⁰ Guest lists for bill action ceremonies naturally prioritize the assembly of individuals
4 interested in the bill. Even when bill action ceremonies may occur in public or semi-public
5 locations around the state, venue and security constraints limit physical attendance of all who
6 might wish to attend. For this reason, members of the public are provided access to bill signings
7 online through TVW, the State's public affairs network.

8 For SSB 5106, the Governor's Office coordinated with the bill sponsor, Senator Yasmin
9 Trudeau, to hold the bill action ceremony at the Islamic Center of Tacoma to recognize
10 and celebrate the purpose of the bill. Declaration of Jaime Martin at 2. As with every ceremony,
11 the bill signing was publicly broadcast on TVW. Governor Bob Ferguson Bill Signing (Wash.
12 Apr. 8, 2025), *video recording by TVW*, Washington State's Public Affairs Network,
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14 ² Governor Jay Inslee Bill Signing (Wash. Apr. 27, 2023), *video recording by TVW*, Washington State's
15 Public Affairs Network, <https://twv.org/video/governor-jay-inslee-bill-signing-2023041345/> (University of
16 Washington – The Hans Rosling Center for Population Health).

17 ³ Governor Bob Ferguson Bill Signing (Wash. Apr. 28, 2025), *video recording by TVW*, Washington
18 State's Public Affairs Network, <https://twv.org/video/governor-bob-ferguson-bill-signing-2025041424/> (Western
19 Washington Sheet Metal JATC); Governor Bob Ferguson Bill Signing (Wash. May 9, 2025), *video recording by*
20 *TVW*, Washington State's Public Affairs Network, <https://twv.org/video/governor-bob-ferguson-bill-signing-2025051096/> (Laborers Local Union 242 Training Center).

21 ⁴ Governor Inslee Bill Signing (Wash. May 4, 2021), *video recording by TVW*, Washington State's Public
22 Affairs Network <https://twv.org/video/governor-inslee-bill-signing-2021051054/> (Tukwila Community Center).

23 ⁵ Governor Jay Inslee Bill Signing (Wash. May 17, 2021), *video recording by TVW*, Washington State's
24 Public Affairs Network, <https://twv.org/video/governor-inslee-bill-signing-2021051108/> (Duwamish Longhouse
25 and Cultural Center); Governor Jay Inslee Bill Signing (Wash. May 8, 2021), *video recording by TVW*, Washington
26 State's Public Affairs Network, <https://twv.org/video/governor-jay-inslee-bill-signing-2023051137/> (Northwest
African American Museum).

⁶ Governor Bob Ferguson Bill Signing (Wash. May 15, 2025), *video recording by TVW*, Washington
State's Public Affairs Network, <https://twv.org/video/governor-bob-ferguson-bill-signing-2025051134/> (Tri-Cities
Development Council).

⁷ Governor Jay Inslee Bill Signing (Wash. Mar. 25, 2022), *video recording by TVW*, Washington State's
Public Affairs Network, <https://twv.org/video/governor-jay-inslee-bill-signing-2022031265/> (Mukilteo Ferry
Terminal).

⁸ Governor Bob Ferguson Bill Signing (Wash. May 7, 2025), *video recording by TVW*, Washington State's
Public Affairs Network, <https://twv.org/video/governor-bob-ferguson-bill-signing-2025051098/> (Blake House).

⁹ Governor Jay Inslee Bill Signing (Wash. Mar. 28, 2022), *video recording by TVW*, Washington State's
Public Affairs Network <https://twv.org/video/governor-jay-inslee-bill-signing-2022031281/> (Bainbridge Island).

¹⁰ Governor Bob Ferguson Bill Signing (Wash. May 16, 2025), *video recording by TVW*, Washington
State's Public Affairs Network, <https://twv.org/video/governor-bob-ferguson-bill-signing-2025051135/> (Issaquah).

1 <https://tvw.org/video/governor-bob-ferguson-bill-signing-2025041217/>. The day before the bill
2 signing, the Governor’s Executive Director of Legislative Affairs sent a memo to several
3 standard governmental distribution lists, notifying them of the bill signing and referring them to
4 TVW. Martin Decl. at 2.

5 During his remarks, Governor Ferguson noted that while bills were usually signed in a
6 conference room outside his office, he was signing SSB 5106 “out in the community at a location
7 like this” because a “key part” of the bill was part of an effort to address “hate crimes,
8 discriminatory practices . . . [and] policies” “rooted in a fundamental misunderstanding of people
9 who are perceived as different” and “to creat[e] a culture of belonging and celebrating our state’s
10 diversity . . . [and] showing you, our Muslim friends, family, and neighbors, that we honor your
11 culture and religious practice[.]” Governor Bob Ferguson Bill Signing (Wash. Apr. 8, 2025),
12 at 1:50-05:32. Attendees included one of SSB 5106’s sponsors, Senator Yasmin Trudeau, the
13 first Muslim-American to serve in the Washington State Legislature, and Representative Osman
14 Salahuddin, the first Muslim-American to serve in the State House of Representatives. *Id.*

15 On June 9, 2025, Petitioner Rebecca Faust filed a Request for Recall against Governor
16 Bob Ferguson with the Office of Secretary of State. Attachment A. Faust’s allegations all relate
17 to Governor Ferguson’s signing of SSB 5106.

18 III. NATURE OF CHARGES

19 Pursuant to RCW 29A.56.130, the Office of the Attorney General prepared a Ballot
20 Synopsis that set out Petitioner’s charges against Governor Ferguson as follows:

- 21 1. On April 8, 2025, Governor Ferguson signed Senate Bill 5106 (2025),
22 which gave state recognition to Eid al-Adha and Eid al-Fitr. Eid al-Adha
23 and Eid al-Fitr are Islamic religious holidays and, by signing Senate Bill
24 5106, Governor Ferguson granted favored status to Islam and its
holidays in violation of the First and Fourteenth Amendments of the
United States Constitution.
- 25 2. Governor Ferguson signed Senate Bill 5106 at the Islamic Center of
26 Tacoma. By signing the bill at a religious venue, Governor Ferguson
violated the Free Exercise and Establishment Clauses of the First
Amendment of the United States Constitution by effectively restricting

1 access to the event for individuals uncomfortable or unwelcome at the
2 venue, giving the reasonable appearance of state governmental approval
of Islam, and entangling state government in religion.

3 Pet. to Determine Sufficiency of Recall Charges & For Approval of Ballot Synopsis
4 (Petition), Exhibit B.

5 IV. STANDARDS FOR ASSESSING FACTUAL AND LEGAL SUFFICIENCY

6 “In the recall process, the courts act as gatekeepers and [their] role is ‘to ensure that the
7 recall process is not used to harass public officials by subjecting them to frivolous or
8 unsubstantiated charges.’” *In re Recall of Inslee*, 200 Wn.2d 809, 817, 522 P.3d 972 (2023)
9 (*Inslee I*) (quoting *In re Recall of Riddle*, 189 Wn.2d 565, 570, 403 P.3d 849 (2017)). “Courts are
10 obligated to review recall petitions to ensure they allege a recallable offense and not merely an
11 unpopular decision or an unpopular stance.” *In re Recall of White*, 196 Wn.2d 492, 495, 474
12 P.3d 1032 (2020) (citing RCW 29A.56.110, .140; *Chandler v. Otto*, 103 Wn.2d 268, 270-71,
13 693 P.2d 71 (1984)). Courts fulfill this role by determining whether the recall charges are legally
14 sufficient and factually sufficient; to move forward, a recall petition “must be both legally and
15 factually sufficient[.]” *In re Recall of Boldt*, 187 Wn.2d 542, 548, 386 P.3d 1104 (2017). If a
16 recall petition fails either prong, it is insufficient. *In re Recall of Snaza*, 197 Wn.2d 104, 111,
17 480 P.3d 404 (2021). The burden is on the recall proponent to demonstrate both factual and legal
18 sufficiency. *In re Recall of Kelley*, 185 Wn.2d 158, 163, 369 P.3d 494 (2016).

19 Factual sufficiency requires that the petition “state[s] with specificity substantial conduct
20 clearly amounting to misfeasance, malfeasance, or violation of the oath of office.” *In re Recall*
21 *of Boldt*, 187 Wn.2d at 549 (alteration in original) (quoting *Chandler*, 103 Wn.2d at 274). Recall
22 petitioners must have “‘some form of knowledge of the facts upon which the charges are based
23 rather than simply a belief that the charges are true.’” *In re Recall of Beasley*, 128 Wn.2d 419,
24 425, 908 P.2d 878 (1996) (quoting *Jewett v. Hawkins*, 123 Wn2d 446, 447-48, 868 P.2d 1223
25 (1989)). Mere conjecture is factually insufficient. *In re Pearsall-Stipek*, 129 Wn.2d 399, 918
26 P.2d 493 (1996) (*Pearsall-Stipek I*). An official may not be recalled for an act of a subordinate

1 staff member without the official’s knowledge or direction. *In re Recall of Durkan*, 196 Wn.2d
2 652, 664, 476 P.3d 1042 (2020). “If a petitioner alleges an official violated the law, the facts
3 must show that the official intended to do so.” *In re Recall of Weyrich*, 3 Wn.3d 614, 621, 554
4 P.3d 1202 (2024). To be factually sufficient where an official exercises discretion, a recall
5 petition “must allege that they exercised their discretion in a manifestly unreasonable manner[.]”
6 *In re Recall of Snaza*, 197 Wn.2d at 112.

7 “Legal sufficiency means the charge must define substantial conduct clearly amounting
8 to misfeasance, malfeasance or a violation of the oath of office.” *In re Recall of Wasson*, 149
9 Wn.2d 787, 791-92, 72 P.3d 170 (2003). A petitioner must identify a “standard, law, or rule that
10 would make the [elected official]’s conduct wrongful, improper, or unlawful.” *In re Recall of*
11 *Inslee*, 194 Wn.2d 563, 568, 451 P.3d 305 (2019) (*Inslee II*) (quoting *In re Recall of Pepper*, 189
12 Wn.2d 546, 554-44, 403 P.3d 839 (2017). Charges are legally insufficient where the acts
13 complained of amount to “insubstantial conduct” by the Governor or if the Governor acted with
14 legal justification. *In re Recall of Kast*, 144 Wn.2d 807, 815, 31 P.3d 677 (2001) (citing *Greco*
15 *v. Parsons*, 105 Wn.2d 669, 671-72, 717 P.2d 1368 (1986)). “A legally cognizable justification
16 for an official’s conduct . . . render[s] a recall charge [legally] insufficient.” *In re Recall Petition*
17 *of Olsen*, 154 Wn.2d 606, 610, 116 P.3d 378 (2005) (citing *In re Recall of Pearsall-Stipek*, 141
18 Wn.2d 756, 766, 10 P.3d 1034 (2000) (*Pearsall-Stipek III*)).

19 In addition, an official’s “lawful, discretionary acts are not a basis for recall.” *Inslee II*,
20 194 Wn.2d 563 at 568. Discretionary acts are legally sufficient only where an official acted with
21 a “manifest abuse of discretion.” *In re Recall of Cy Sun*, 177 Wn.2d 251, 255, 299 P.3d 651
22 (2013). Thus, where there is no evidence of intent to act unlawfully and there is legal justification
23 for the act complained of, the recall petition is both legally *and* factually insufficient. *In re Recall*
24 *of Telford*, 166 Wn.2d 148, 158, 206 P.3d 1248 (2009).

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8 **V. ARGUMENT**

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Petitioner's charges are both factually and legally insufficient grounds for recall. The Washington Constitution grants Governor Ferguson broad authority to approve or reject bills and nothing in the petition suggests Governor Ferguson's exercise of that authority in the signing of SSB 5106, a bill with bipartisan support, was manifestly unreasonable. Additionally, Petitioner fails to allege Governor Ferguson intended to violate any law when signing SSB 5106 at the Islamic Center of Tacoma.

8 **A. The Governor's Signing of SSB 5106 Is Not a Factually or Legally Sufficient Basis for Recall**

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Faust's first charge alleges that Governor Ferguson committed misfeasance and violated his oath of office by signing SSB 5106, allegedly granting favored status to Islam and its holidays in violation of the First Amendment. The allegations are insufficient to proceed.

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First, the charge is not factually sufficient. Where a recall petition alleges that an "official committed an unlawful act, factual sufficiency also requires that the petition contain a factual basis for both the proposition that the official intended to commit the act *and* 'that the official intended to act unlawfully.'" *In re Recall of Boldt*, 187 Wn.2d at 550-51 (quoting *In re Recall of Heiberg*, 171 Wn.2d 771, 778, 257 P.3d 565 (2011)). Factual sufficiency, accordingly, "require[s] demonstrat[ing] 'not only that the official intended to commit the act, but also that the official *intended to act unlawfully*.'" *Pearsall-Stipek III*, 141 Wn.2d at 765 (emphasis added) (quoting *In re Recall of Pearsall-Stipek*, 136 Wn.2d 255, 263, 961 P.2d 343 (1998) (*Pearsall-Stipek II*)). Here, Petitioner does not allege (or have a basis to allege) that the Governor intended to violate the constitution when he signed a bipartisan bill into law. Equally important, Petitioner fails to allege she has knowledge of facts that would demonstrate such intent.

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Second, the charges are not legally sufficient. The Washington State Constitution vests "supreme executive power" in an elected governor. Wash. Const. art. III, § 2. The governor is empowered to approve or reject "[e]very act which . . . passe[s] the legislature." Wash. Const.

1 art. III, § 12 “If he approves, he shall sign it” and the bill becomes law. *Id.* The state constitution
2 does not require the governor to sign any particular bill, rather it expressly gives the governor a
3 choice, i.e., discretion, to sign or veto bills. No constitutional or statutory provision precludes a
4 governor from signing legislation even if it is later determined to be defective.

5 Here, Governor Ferguson exercised his constitutionally vested authority to approve
6 SSB 5106 and sign it into law. Because he lawfully exercised his discretion to approve the bill,
7 his signing of SSB 5106 is not a basis for recall. Although Faust suggests SSB 5106 itself is
8 unconstitutional, Faust points to no rule or law, nor could she, that requires the Governor—even
9 one who is an attorney—to determine the constitutionality of a piece of legislation prior to
10 signing it. While it is the executive’s prerogative to approve or reject the acts of the legislative
11 branch, it is the judicial branch that ultimately determines what the law is. *Colvin v. Inslee*, 195
12 Wn.2d 879, 892, 467 P.3d 953 (2020); *see also* Wash. Const. art. IV, § 1 (vesting the judicial
13 power of the state in courts).

14 Under the separation of powers doctrine, each branch of government has its own sphere
15 of activity and ensures that the “fundamental functions of each branch remain inviolate.” *Hale*
16 *v. Wellpinit Sch. Dist. No. 49*, 165 Wn.2d 494, 504, 198 P.3d 1021 (2009). Due to this deference
17 to its coequal branches of government, courts will not inquire into the procedures preceding the
18 passage of a bill that is “properly signed and fair upon its face.” *Wash. State Grange v. Locke*,
19 153 Wn.2d 475, 500, 105 P.3d 9 (2005) (quoting *Schwarz v. State*, 85 Wn.2d 171, 175, 531 P.2d
20 1280 (1975)). Certainly, some of the hundreds of bills the Governor signs into law each year will
21 be modified or invalidated after judicial review. But the future legal outcome of the legislation
22 is irrelevant to the Governor’s constitutional authority to sign a bill in the first place. In other
23 words, this Court need go no further for purposes of this petition. Since there is no allegation—
24 let alone evidence—of intent to violate the constitution and the Governor squarely has the
25 authority to sign bills, Petitioner’s charge should be dismissed.
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1 If this Court nonetheless decided to reach the validity of SSB 5106 itself, Faust’s claims
2 are still meritless. The First Amendment requires the government to “make no law respecting an
3 establishment of religion[.]” U.S. Const. amend. I. The Establishment Clause is interpreted by
4 “reference to historical practices and understandings.” *Kennedy v. Bremerton Sch. Dist.*, 597
5 U.S. 507, 510, 142 S. Ct. 2407, 2411, 213 L. Ed. 2d 755 (2022) (quoting *Town of Greece v.*
6 *Galloway*, 572 U.S. 565, 576, 134 S. Ct. 1811, 188 L. Ed. 2d 835 (2014). Although the Petitioner
7 alleges the Governor “granted [Islam] favored status,” Petition at 2, courts distinguish between
8 what is permissible and impermissible government activity in accordance with the understanding
9 of the Founders. *Kennedy*, 597 U.S. at 536.

10 Here, there is a historical American tradition of symbolic recognition or acknowledgment
11 of religious holidays. In 1789, Congress passed a resolution asking “President George
12 Washington to issue a Thanksgiving Day Proclamation to ‘recommend to the people of the
13 United States a day of public thanksgiving and *prayer*, to be observed, by acknowledging, with
14 grateful hearts, the many and signal favors of Almighty God.’” *Van Orden v. Perry*, 545 U.S.
15 677, 686-87, 125 S. Ct. 2854, 163 L. Ed. 2d 607 (2005) (emphasis added) (quoting 1 Annals of
16 Cong. 90, 914). President Washington did so, proclaiming recognition of a day of thanks
17 dedicated “to the service of that great and glorious Being . . . for His kind care and protection of
18 the people of this country[.]” 1 J. Richardson, Messages and Papers of the Presidents, 1789-
19 1897, p. 64 (1899). The Founders saw Thanksgiving as an overtly religious holiday and they
20 adopted it as a federal holiday.

21 Just two years after passing the Fourteenth Amendment, Congress further recognized
22 Christmas, a Christian holiday, as a federal holiday in 1870. Act of June 28, 1870, ch. 167, § 1,
23 16 Stat. 168. So, from the moment the First Amendment became applicable against the states, it
24 was understood that the recognition of religious, sectarian holidays did not violate a state’s duty
25 to abide by the First Amendment. Beyond the universal recognition of Christmas Day at the
26 federal, state, and local level, numerous states and jurisdictions recognize other explicitly

1 religious holidays. For example, eleven states recognize Good Friday as a state holiday, Texas
2 recognizes both Yom Kippur and Rosh Hashanah, and Pennsylvania recognizes Diwali as a state
3 holiday.¹¹

4 Beyond mere recognition of religious holidays, the Founders understood “establishment”
5 of religion “‘necessarily [to] involve actual legal coercion.’” *Van Orden*, 545 U.S. at 693
6 (alteration in original) (citation omitted). “The coercion that was a hallmark of historical
7 establishments of religion was coercion of religious orthodoxy and of financial support by force
8 of law and threat of penalty.” *Lee v. Weisman*, 505 U.S. 577, 640, 112 S. Ct. 2649, 120 L. Ed.
9 2d 467 (1992) (Scalia, J., dissenting) (emphasis omitted). So long as government practices were
10 not coercive, the Founders accepted “benign acknowledgements of religion’s role in society” as
11 compatible with the Establishment Clause. *Town of Greece*, 572 U.S. at 576. SSB 5106 is just
12 that. Unlike Christmas, SSB 5106 does not create a paid state holiday. This legislatively
13 recognized day does not coerce religious observance. It does not mandate or fund religious
14 services. SSB 5106 merely places Eid al-Fitr and Eid al-Adha alongside an existing statutory list
15 of culturally significant observances, many of which are already religiously affiliated or
16 ethnically specific. The Supreme Court has upheld far more overtly religious acts by the
17 government. *See, e.g., Town of Greece*, 572 U.S. at 576 (upholding practice of opening town
18 meetings with sectarian prayer). Faust mistakenly maintains that government recognition of a
19 “religious holiday tradition is unconstitutional.” Pet’r’s Opening Br. at 3, citing *Allegheny*
20 *County v ACLU*, 492 U.S. 573, 109 S. Ct. 3086, 106 L. Ed. 2d 472 (1989), *abrogated by Town*
21 *of Greece*, 572 U.S. 565. But in *Allegheny County*, the U.S. Supreme Court upheld the

23 ¹¹ *See, e.g.,* Haw. Rev. Stat. § 8-1 (2024) (designates Good Friday as a legal state holiday with government
24 office closures); Del. Code Ann. tit. 1, § 501 (2024) (same); Fla. Stat. § 683.01 (2025) (same); Ind. Code § 1-1-9-1
25 (2024) (same); Ky. Rev. Stat. Ann. § 18A.190 (2024) (Good Friday observed as a half-day state holiday); La. Rev.
26 Stat. Ann. § 1:55 (2024) (same as Haw.); N.C. Gen. Stat. § 103-4 (2024) (recognizing both Good Friday and Yom
Kippur); N.D. Cent. Code § 1-03-01 (2024) (same as Haw.); N.J. Stat. Ann. § 36:1-1 (2024) (same); Tenn. Code
Ann. § 15-1-101 (2024) (same); Tex. Gov’t Code Ann. § 662.003 (2024) (recognizing Good Friday, Yom Kippur,
and Rosh Hashanah as “optional holidays”); 2024 Pa. Laws 112 (designating Diwali as “Diwali Day” in
Pennsylvania).

1 government's display of a of a menorah as a simple recognition of "cultural diversity." *Allegheny*
2 *County*, 492 U.S. 573 at 600-01. While *Allegheny* also struck down display of a nativity scene
3 in a county courthouse, the *Allegheny* court's requirement that a display be generic or
4 nonsectarian was later abrogated by *Town of Greece*, 572 U.S. at 579. Legislative recognition of
5 Eid al-Fitr and Eid al-Adha simply provides "visibility [and] . . . afford[s] [Washington] the
6 opportunity to reinforce [its] commitment to religious liberty and the freedom to practice one's
7 own faith, free of fear and judgment." Hr'g on SB 5106 Before the S. State Government Tribal
8 Affairs & Elections Comm. (Wash. Jan. 28, 2025), at 3 min 35 sec, *video recording by TVW*,
9 Washington State's Public Affairs Network, [https://tvw.org/video/senate-state-government-](https://tvw.org/video/senate-state-government-tribal-affairs-elections-2025011497/)
10 [tribal-affairs-elections-2025011497/](https://tvw.org/video/senate-state-government-tribal-affairs-elections-2025011497/) (Remarks of Senator Yasmin Trudeau).

11 In sum, signing a bill with bipartisan support is squarely within the Governor's discretion.
12 The Governor did not act outside the scope of his authority by exercising his discretion and
13 placing his signature on the bill, regardless of whether SSB 5106 is ultimately considered
14 constitutional or not. Nor does Petitioner's bare, unsupported assertion of unconstitutionality
15 satisfy the burden to show that the Governor exercised his discretion in a manifestly
16 unreasonable manner. *See In re Recall of Inslee*, 199 Wn.2d 416, 425, 508 P.3d 635 (2022)
17 (*Inslee III*). "A clear abuse of discretion may be shown by demonstrating discretion was
18 exercised for untenable grounds or for untenable reasons." *Id.* at 572. No such showing has been
19 made here. Petitioner's charge with respect to the Governor's signing of SSB 5106 should be
20 dismissed.

21 **B. The Governor's Signing of SSB 5106 at the Islamic Center of Tacoma Is Not a**
22 **Factually or Legally Sufficient Basis for Recall.**

23 Faust's second recall charge alleges that Governor Ferguson committed misfeasance and
24 violated his oath of office by signing SSB 5106 at the Islamic Center of Tacoma in violation of
25 the First Amendment. The allegations as set forth in the petition are insufficient to proceed.
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1 First, the charges are not factually sufficient. Petitioner does not allege that the Governor
2 invited only Muslims to attend the event, individually screened the religious practices of
3 attendees at the door, or prohibited non-Muslims from entering the bill signing. Contrary to
4 Faust's claims, bill signings are not "traditionally public events." Petition at 3. While the public
5 has access to watch Governor Ferguson sign bills through TVW, these events are not open to the
6 public. Just like any bill signed by the Governor in restricted areas of the State Legislature
7 Building in Olympia, attendance at SSB 5106's signing may have been limited. But perhaps only
8 limited by the capacity of the room. Local news reports of the event at the Center note that the
9 Governor was surrounded by a "standing-room-only crowd[.]"¹² Petitioner has alleged no facts
10 that suggest any limitation on attendance—if there was any such limit at all—and certainly not
11 one based on religion.

12 Petitioner has alleged no actual knowledge about the attendee list for SSB 5106's signing
13 and does not allege any instance of non-Muslims being prohibited from attending the event at
14 the Center, a venue welcome to "worshippers from all backgrounds."¹³ Instead, Faust makes
15 conclusory assumptions about who *may* have been excluded from the event. Faust asserts that
16 the Governor "*effectively* restricted access . . . on the basis of religion, *de facto* excluding anyone
17 who would be uncomfortable or unwelcome at an Islamic venue." Petition at 3 (emphasis added).
18 But Faust's allegation that someone might be "uncomfortable" at a bill signing at a mosque
19 cannot factually sustain a recall petition.

20 Even if there was something improper about the venue or guest procedures at this event,
21 Petitioner includes no allegations about the guest list to the April 8 bill action ceremony or that
22 the Governor's Office managed the details of attendee entrance. Petitioner cannot support a
23 claim that access to the event was restricted by the Governor on the basis of religion. *See*
24 *Pearsall-Stipek I*, 129 Wn.2d 399 (concluding baseless conjecture is factually insufficient for

25 ¹² Gov Bob Ferguson signs historic bill officially recognizing Eid holidays, Lynwood Times (Apr. 9, 2025),
26 <https://lynnwoodtimes.com/2025/04/09/eid-holidays/>.

¹³ Islamic Center of Tacoma, <https://icoft.com/> (last visited July 2, 2025).

1 recall). Indeed, the Governor’s Office did not manage guest attendance at all. Martin Decl. at 2.
2 Likewise, nothing alleges Governor Ferguson actually intended to violate the First Amendment
3 by signing SSB 5106 at the Islamic Center of Tacoma. The charges allege that the Governor, as
4 a former attorney, “knew or should have known” he violated the law. Petition at 3-4; Pet’r’s
5 Opening Br. at 4-5. That is not enough. Recall requires any violation of the constitution by the
6 Governor to be done with intent. *In re Recall of Weyrich*, 3 Wn.3d at 621.

7 Second, Faust’s recall petition is also legally insufficient. As discussed above, the
8 Washington State Constitution empowers the Governor the discretion to approve or reject
9 “[e]very act which . . . passe[s] the legislature.” Wash. Const. art. III, § 12. Neither the state
10 Constitution nor statute imposes requirements on the specific location governors must sign bills
11 or require access by members of the public. *See generally*, Wash. Const. art. III; Chapter 43.06
12 RCW.

13 Governor Ferguson acted within his lawful discretion to sign SSB 5106 at the Islamic
14 Center of Tacoma. The Governor’s Office coordinated with Senator Trudeau to sign the bill at
15 the Center to recognize and celebrate the purpose of SSB 5106. Martin Decl. 2. The Governor’s
16 remarks before signing the bill suggest that, just as SSB 5106 was enacted to address
17 discrimination through visibility, the bill-signing location within the Muslim community was
18 selected to address discrimination through visibility. Governor Bob Ferguson Bill Signing
19 (Wash. Apr. 8, 2025), at 1:50-05:32. Nothing about this exercise of discretion suggests the
20 Governor acted in an unreasonable or untenable manner. In fact, given the Center suffered an
21 arson attack in 2021,¹⁴ the signing of SSB 5106 at the Islamic Center of Tacoma was a
22 reasonable, discretionary act of civic engagement with Muslim Washingtonians, not a religious
23 endorsement.

24
25 ¹⁴ Amanda Zhou, Islamic Center of Tacoma overwhelmed with support following fire, ongoing arson
26 investigation, The Spokesman-Review (Oct 15, 2021), <https://www.spokesman.com/stories/2021/oct/15/islamic-center-of-tacoma-overwhelmed-with-support/>.

1 Again, this Court need go no further for purposes of this petition. Since there is no
2 allegation—let alone evidence—of intent to violate the constitution and nothing prohibits the
3 Governor from signing bills in restricted spaces, Petitioner’s charge should be dismissed.
4 However, if this Court decided to consider the Governor’s signing of SSB 5106 at the Center,
5 the Petitioner’s claims are still meritless. Faust alleges that Governor Ferguson’s civic
6 engagement with the community congregated at the Islamic Center of Tacoma violated the
7 Establishment Clause, Free Exercise Clause, gave an appearance of governmental approval of
8 Islam, and entangled the state government with Islam. Petition at 3; Pet’r’s Opening Br. at 4.
9 But, again, these unsupported assertions of unconstitutionality cannot satisfy the burden to show
10 Governor Ferguson engaged in misfeasance, violated his oath of office, or exercised his
11 discretion in a manifestly unreasonable manner. *See Inslee III*, 199 Wn.2d at 425.

12 For the Establishment Clause claim, Faust provides no allegation or supporting evidence
13 that there was any coercion when the Governor’s Office coordinated with Senator Trudeau’s
14 office to sign at the Center. For the Free Exercise Clause claim, Faust does not explain how
15 choosing to have an event at the Center “prohibited the free exercise of religion.” U.S. Const.
16 amend. I. Petitioner has not made a claim that anyone’s sincere religious beliefs were in any way
17 burdened here. *See Kennedy*, 597 U.S. at 525 (a plaintiff can show a free exercise violation by
18 showing that a government entity burdened their sincere religious practice pursuant to a non-
19 neutral policy). At most, Petitioner points to a belief that the selection of the Center for the bill
20 signing potentially excluded individuals “uncomfortable or unwelcome” at an Islamic venue.
21 But that potential is not sufficient to support a recall petition.

22 As for Faust’s suggestion of government approval and entanglement with a religion
23 claims, Petitioner does not explain how signing SSB 5106 at the Center went beyond the scope
24 of a neutral, civic engagement event. The First Amendment neither requires the government to
25 be “totally oblivious to religion,” nor “‘show a callous indifference to religious groups.’”
26 *Malyon v. Pierce County*, 131 Wn.2d 779, 805, 935 P.2d 1272 (1997) (quoting *Zorach v.*

1 *Clauson*, 343 U.S. 306, 314, 72 S. Ct. 679, 684, 96 L. Ed. 954 (1952)). Instead, the First
2 Amendment “‘respects the religious nature of our people and accommodates the public service
3 to their spiritual needs.’” *Id.* (quoting *Zorach*, 343 U.S. at 314). Faust’s recall petition lacks a
4 credible basis to show Governor Ferguson exercised his discretion in a manifestly unreasonable
5 manner in violation of the First Amendment.

6 As the Governor exercised his lawful discretion in signing SSB 5106 at the Islamic
7 Center of Tacoma, this recall charge is factually and legally insufficient. *In re Recall Petition of*
8 *Olsen*, 154 Wn.2d 606 at 610; *Inslee II*, 194 Wn.2d at 568. Ultimately, the Petitioner fails to put
9 forth allegations that show that Governor Ferguson’s civic recognition of a minority group of
10 Washingtonians within the walls of one of its community worship centers was a manifest abuse
11 of discretion. Faust’s second charge should also be dismissed.

12 **C. Adequacy of Ballot Synopsis**


13 If this Court concludes that Faust’s recall petition is legally or factually insufficient, it
14 need not address the adequacy of the ballot synopsis, which would be moot. If this Court does
15 reach the adequacy of the ballot synopsis, however, Governor Ferguson would suggest the Ballot
16 Synopsis should be neutral. To ensure adequacy, Governor Ferguson believes the ballot synopsis
17 should delete “granted favored status to Islam and its holidays” so as not to suggest that is the
18 standard for a First Amendment violation. Instead, the first charge should read: “On April 8,
19 2025, Governor Ferguson signed Senate Bill 5106 (2025), which gave state recognition to Eid
20 al-Adha and Eid al-Fitr. Eid al-Adha and Eid al-Fitr are Islamic religious holidays and, by
21 signing Senate Bill 5106, Governor Ferguson violated the First and Fourteenth Amendments of
22 the United States Constitution.”

23 **V. CONCLUSION**

24 Both of Petitioner’s recall charges are factually and legally insufficient. This Court
25 should hold that it cannot move forward and dismiss the petition.
26

1 DATED this 2nd day of July, 2025.

2 NICHOLAS W. BROWN
3 *Attorney General*

4 *s/ Marsha Chien*
5 MARSHA CHIEN, WSBA 47020
6 *Deputy Solicitor General*
7 MICHELLE SAPERSTEIN, WSBA 55539
8 *Assistant Attorney General*
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10 *Counsel for Respondent Bob Ferguson*
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CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the state of Washington, that on this date I served a true and correct copy of the foregoing document via electronic mail, pursuant to agreement between the parties, on the following:

[REDACTED]

DATED this 2nd day of July 2025, at Olympia, Washington.

s/Leena Vanderwood
LEENA VANDERWOOD
Paralegal

Attachment A

In re: Recall of Bob Ferguson

CHARGES

Submitted by Rebecca Faust

1) Petitioner Rebecca Faust requests the recall of Robert Watson Ferguson, Governor of the State of Washington.

2) Gov. Ferguson has committed misfeasance and violated the oath of office.

3) Rebecca Joy Faust is a registered voter in the State of Washington.

Charge #1-2

1. Misfeasance

2. Violation of oath of office

4) Bob Ferguson, Governor of the State of Washington, has committed misfeasance and violated the oath of office.

5) Bob Ferguson signed into "law" Senate Bill 5106 (2025), officially recognizing the Islamic holidays Eid al-Adha & Eid al-Fitr, in violation of the First Amendment & Fourteenth Amendment to the U.S. Constitution.

6) Bob Ferguson knew, or reasonably should have known, that Senate Bill 5106 (2025) violated the U.S. Constitution.

7) Bob Ferguson signed Senate Bill 5106 (2025) on April 8, 2025 at the Islamic Center of Tacoma in Tacoma, WA.

8) Bob Ferguson's conduct in signing SB 5106 (2025) constitutes a violation of Ferguson's oath of office to uphold the U.S. Constitution.

9) Bob Ferguson's conduct in signing SB 5106 (2025) constitutes misfeasance for improper exercise of his discretion to sign legislative bills.

1 10)The First Amendment, made applicable to the states by the Fourteenth
2 Amendment, prohibits the government from making “any law respecting an
3 establishment of religion.”

4 11)Both Eid al-Adha and Eid al-Fitr are distinctly Islamic religious holidays.

5 12)Senate Bill 5106 (2025) gives special state recognition to select holidays,
6 specifically adding two Islamic holidays (Eid al-Adha & Eid al-Fitr) to a statutory
7 list. This recognition is not readily and equitably available to every religion’s
8 holidays. This is official government recognition of select religious events by
9 legislative fiat. It is not the opening of a public forum. It is not an accommodation
10 of personal religious practices. Senate Bill 5106 does not treat all religions and
11 religious holidays equally.

12 13)By signing Senate Bill 5106 (2025), Bob Ferguson granted favored status to
13 Islam and its holidays.

14 14)Bob Ferguson is an (now inactive) attorney and formerly served as Washington
15 State’s Attorney General. He is (at least, he reasonably should be) familiar with
16 the Bill of Rights, U.S. Constitution, and Constitutional law, including the
17 requirements of the Establishment Clause.

18 **Charges 3-4**

19 **3. Misfeasance**

20 **4. Violation of oath of office**

21 15)Bob Ferguson, Governor of the State of Washington, has committed misfeasance
22 and violated the oath of office.

1 16) Bob Ferguson signed Senate Bill 5106 (2025) on April 8, 2025 at the Islamic
2 Center of Tacoma in Tacoma, WA.

3 17) Bill signings are traditionally public events.

4 18) Even if public access to bill signing events is not required by law, the First
5 Amendment, made applicable to the states by the Fourteenth Amendment, would
6 preclude restrictions on access based on religion.

7 19) By signing SB 5106 (2025) at a religious venue, Bob Ferguson effectively
8 restricted access to the bill signing event on the basis of religion, *de facto*
9 excluding anyone who would be uncomfortable or unwelcome at an Islamic
10 venue. This violates both the First Amendment's Establishment clause & Free
11 Exercise clause.

12 20) Holding a state function at an Islamic venue (as Bob Ferguson did) gave the
13 reasonable appearance of governmental approval of Islam and entangled the
14 state government with the religion of Islam. This violated the First Amendment,
15 made applicable to the states through the Fourteenth Amendment.

16 21) Bob Ferguson violated the First & Fourteenth Amendments of the U.S.
17 Constitution by holding the bill signing for SB 5106 (2025) at the Islamic Center
18 of Tacoma.

19 22) Bob Ferguson knew, or reasonably should have known, that his actions favored
20 practitioners of one religion at the expense of other religions' practitioners (and
21 non-religious citizens).

22 23) Bob Ferguson knew, or reasonably should have known, that his actions violated
23 the First Amendment and Fourteenth Amendment.

1 24)Bob Ferguson is an (now inactive) attorney and formerly served as Washington
2 State's Attorney General. He is (at least, he reasonably should be) familiar with
3 the Bill of Rights, U.S. Constitution, and Constitutional law.

4 25)Bob Ferguson violated his oath of office to uphold the U.S. Constitution.

5 26)Bob Ferguson committed misfeasance by improperly exercising discretion to
6 select venues for bill signings.
7

8 I, Rebecca Faust, believe that these charges are true and have knowledge of the
9 (alleged) facts contained therein.
10

11 I certify under penalty of perjury under the laws of the State of Washington that the
12 foregoing is true and correct.
13

14 X _____

15 Rebecca J. Faust

16 June 9, 2025

17 **RECEIVED**

18 JUN 09 2025

19 SECRETARY OF STATE
20 STATE OF WASHINGTON
21

Rebecca Faust