January 30, 2020

The Honorable Christine Rolfes
Ways & Means Committee, Chair
Washington State Senate
311 John A. Cherberg Building, P.O. Box 40600
Olympia, WA 98504-0482

The Honorable John Braun
Ways & Means Committee, Ranking Member
Washington State Senate
311 John A. Cherberg Building, P.O. Box 40600
Olympia, WA 98504-0482

Dear Senators Rolfes, Braun, and Members of the Senate Ways & Means Committee,

On behalf of the Tech Fairness Coalition – a collective of community groups concerned with the just and responsible use of technology, particularly as it impacts communities of color – we urge you to **oppose Substitute Senate Bill 6281, an Act Relating to the Management and Oversight of Personal Data.**

While we have expressed ongoing concerns about the provisions of SB 6281, and as maintained in SSB 6281, we are disappointed to inform the committee that our issues have not yet been addressed. We hope you will take our concerns into serious consideration in your deliberations.

The concerns we list below have been shared widely with all members of the Senate Environment, Energy & Technology Committee, on which Senator Reuven Carlyle (the bill's Prime Sponsor) presides as Chair.

Our Coalition's engagement on this issue dates back to 2019, when a prior version of this bill was introduced, and changed more than seven times in the House, including passing as a title-only bill during a special meeting of the House Appropriations Committee.

Our Coalition has repeatedly called for facial recognition to be kept separate from a data bill, and for the legislature to establish a moratorium, which would temporarily ban the use of this this racially biased, inaccurate, and deeply flawed technology.

Our topline concerns with SSB 6281 are:

Facial Recognition (Section 17) – History repeatedly demonstrates that technology is often abused as a tool of oppression, and we are concerned that the facial recognition components of this bill will legitimize use of a powerful tool rife with race and gender biases, in any domain. The use of facial recognition in this bill applies to the private sector, but the provisions in

Section 10 (Limitations and Applicability) create large exemptions for government agency use, including law enforcement. For this bill to be acceptable, all facial recognition provisions must be removed. We support a ban or a moratorium on the private and public use of facial recognition technology.

Weak Protections for Individual Consumers (Section 11) **–** Under this bill, individuals are not able to take companies to court for violations, as it prohibits a private right of action. A strong enforcement mechanism is critical to making sure this bill is accountable to consumers. Our State Attorney General's Office testified both in 2019 and 2020 in support of a private right of action. We agree with their position.

Overrides Consumer Requests (Section 10) – Individuals should have the final say on what happens to their data. This bill does not clearly state the only purposes for which data can be used and contains a long list of exemptions allowing companies to override individuals' privacy decisions.

Preemption (Section 14) **–** This bill sets a ceiling, not a floor, as it prohibits local jurisdictions from enacting their own data privacy and face surveillance protections, taking away autonomy from local communities to decide what is appropriate for their communities.

Thank you for hearing our concerns. We invite lawmakers to connect with us to better understand our opposition to this bill. Please do not hesitate to reach out if you have questions.

Signed,

American Civil Liberties Union of Washington
Asian Counseling and Referral Service
Council on American-Islamic Relations Washington (CAIR-WA)
Densho
Entre Hermanos
InterIm CDA
John T. Williams Organizing Committee
OneAmerica
Real Change
Seattle Chapter Japanese American Citizens League (JACL)
Washington Civil & Disability Advocate
Washington Association of Criminal Defense Lawyers