

**Via Fax: 334-353-3135**

Representative Ken Guin  
Alabama State House Majority Leader  
Room 517-E  
11 South Union Street  
Montgomery, AL 36130

April 20, 2004

**Re: Urging Rejection of HB 750, that establishes a preference for the use of Open Source Software (OSS) in Alabama's Public Administration**

Dear Majority Leader Guin:

The Initiative for Software Choice (ISC, [www.softwarechoice.org](http://www.softwarechoice.org)) – a global coalition with over 300 software companies and associations – is writing to express our concern that HB 750, the companion measure to SB 276, the open source software preference legislation recently passed by the Senate would incalculably harm Alabama's public administration, its citizens, and its information technology (IT) industry and workers because it will eviscerate software choice presently available to the state of Alabama. As a result, the ISC—which itself is managed by the Computing Technology Industry Association (representing over 70 small-to-midsized IT member companies in Alabama) – urges that HB 750 not be approved for further legislative consideration.

As written, HB 750 creates a preference for the use of OSS by state agencies in Alabama. Quite simply, HB 750 will strip merit from the software procurement process, using access to source code as a proxy for software project success. As a result, the bill will limit the software choices available and prevent Alabama from selecting software that best meets its needs.

Several other states and municipalities have considered similar legislation and have rejected it, seeing that preference policies do not serve their interests, or the interests of their constituents.

The ISC strongly supports the development and adoption of all kinds of software: be it open source software (OSS), hybrid or proprietary. For this reason, we believe that mandatory government regulations, which give preference to certain kinds of software, weaken the overall software marketplace, biasing the choice of viable software options available to public authorities. Only when all software options are available can the specific needs of each IT project be met, driven by a flexible range of factors such as cost, reliability, security, functionality and availability.

The ISC is aware of no barriers to unfettered software choice in Alabama. At this present time, the state of Alabama can rightfully choose any type of software/platform it wants for its IT needs. In fact, at least two Alabama state agencies are exercising that choice and currently implement OSS solutions.<sup>1</sup> No new legislation is necessary to promote software choice.

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<sup>1</sup> The Alabama Executive Branch is running Apache/1.3.27 (Unix) on Solaris 8 and the Alabama Supercomputer Authority is running Apache/2.0.40 on Red Hat Linux.

The software market constantly readjusts the landscape, bringing the best to the fore. This occurs agnostically, regardless of software development model. We trust that where Alabama administrators see the best products/values for the tasks at hand, they make the appropriate choices. Administrators should not care if their choices are OSS, hybrid, or proprietary in nature – development model guarantees nothing. They should care only that the widest possible software choices remain available in order to most flexibly adapt to the evolution of technology and the demands of their constituents.

If HB 750 is fully implemented, the ISC believes that it will have a number of serious practical repercussions, such as:

- Disproportionately impacting Alabama small software companies and workers, which primarily develop and sell proprietary software solutions;
- Aside from harming small software companies, this policy would harm other commercial IT companies and workers in Alabama, including companies that resell software, retailers, and Application Service Providers, by limiting their ability to recommend the best solutions to both their government and private-sector clients;
- Inflexibly locking-in OSS offerings without fair consideration to the merits of other competing options;
- Lost tax revenue that the state currently realizes from local commercial technology companies who will no longer be able to sell their products to the state;
- Wasting taxpayer dollars because fewer competitive options will be available; and reducing the efficacy of Alabama's public administration for its constituents because fewer competitive solutions will be available.

For these reasons, the ISC strongly urges you to reject HB 750, seeing that it will not only reduce software choice for Alabama, but also harm Alabama's public administration, its IT industry and workers, and your constituents.

HB 750 is a choice Alabama does not ever have to make.

Yours sincerely,

Grant Mydland  
Director of State Government Relations & Grassroots Programs  
CompTIA