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April 5, 2004

VIA Facsimile: 808-586-6171

Representative Roy M. Takumi  
Hawaii State Capitol, Room 444  
415 South Beretania Street  
Honolulu, HI 96813

Re: SB 3021, establishing an Open Source Software (OSS) Pilot Project within Hawaii's Department of Education

Dear Representative Takumi:

The Initiative for Software Choice (ISC, [www.softwarechoice.org](http://www.softwarechoice.org)) – a global coalition representing over 290 software companies and Information Technology trade associations – is writing to express our concern that SB 3021, as recently passed by the Senate may harm Hawaii public administration, its citizens, and its information technology (IT) industry and workers if it leads to a state government preference for Open Source Software (OSS). As a result, the ISC—which itself is managed by the Computing Technology Industry Association (representing over 40 small-to-midsized IT member companies in Hawaii) – urges that SB 3021 not be approved by your Committee in its present form.

As written, SB 3021 appropriates funds “as may be necessary for fiscal year 2004-2005, for the establishment of the open source software pilot project within the department of education.” While we have no objection to software pilot projects based on any software model including open source we believe the selection on technical criteria, such as which software model to utilize, should properly be the discretion of state software procurement professionals who have the knowledge and experience to carefully weigh all appropriate factors and not a decision for legislators. Pilot projects should also take into consideration the Total Cost of Ownership (TCO) including customization, training, migration, etc. during the expected life of the software to fully comprehend the costs of each software platform. In doing so, a balanced pilot project would contrast different kinds of software for the same application(s) and should address several unsubstantiated claims made in the legislation as drafted, such as:

- Open source standards based software provides the underlying code to customers, offering cheaper and more flexible options to government agencies than do expensive proprietary applications and operating systems, which provide few additional benefits.
- Open source software would allow government agencies to view and modify source code, not possible in proprietary software that is expensive to purchase and maintain.

The ISC strongly supports the development and adoption of all kinds of software: be it open source software, hybrid or proprietary. But each has its place, its advantages, and disadvantages, which get fleshed out through open competition. For this reason, we believe that legislative intervention in the procurement process, which

may give preference to certain kinds of software, weakens the overall software marketplace, biasing the choice of viable software options available to public authorities. Only when all software options are available (or evaluated in an unbiased pilot project) 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.

There are currently no barriers to unfettered software choice in Hawaii. In fact, at this present time, the state of Hawaii can rightfully choose any type of software platform it wants for its IT needs. As such, no legal obstacles stop its public administrators from going into the market and getting the best solution for a given challenge.

For these reasons, the ISC strongly urges you to reject SB 3021 in its present form, seeing that it could waste resources during tough budget times, possibly imbedding a preference for one software platform over another and thereby negatively impact the existing proprietary software developers in Hawaii. We would not object however, to modifications to the legislation that would still create a pilot project that identified desired outcomes so long as the legislation did not preclude the ability of state software procurement professionals to apply their knowledge and skills to determine what software model best fit the desired outcomes.

Yours sincerely,

Bob Kramer  
Executive Director – ISC