



---

**House Judiciary Committee  
February 27, 2025**

**Senate Bill 84  
Testimony of the BIDS Legislative Committee  
Presented by James Houston Bales  
Neutral**

Chairperson Humphries and Members of the Committee:

SB84 alters the offense of Criminal Use of a Financial Card, adding to the current statute a series of new definitions and criminalizing the improper use or tampering with a gift card. While changes in the way Kansas families manage their finances may warrant a response from the Legislature, the SBIDS Legislative Committee submits neutral testimony to share our concerns that the bill duplicates existing legislation, will be difficult to prosecute, and transforms a compact and tidy statute into an unwieldy puzzle.

A plain reading of the bill reveals the duplication of existing statutory schemes to punish the same conduct. The behaviors criminalized in this bill are Theft, as defined in K.S.A. 21-5801. All that separates Theft from the conduct criminalized in this bill is a slightly lower threshold to escalate the severity of the crime, with Theft requiring \$1,500 to reach a felony where this statute only requires \$1000.

The proposed language also duplicates itself. Look at the language in (c)(3) of the proposed statute: “‘financial card’ means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions.” A gift card, in its simplest form, is an instrument issued by a business organization authorizing the cardholder to conduct financial transactions. This language is unmodified from the previous version of this statute. Any gift card already meets these requirements, whether it is activated or not. There is no need to amend the statute as it exists now to criminalize this conduct.

This proposed offense will also be difficult to prosecute. Few gift cards are issued, or even printed, for amounts that would allow a single card to rise to the level of a felony prosecution under this statute. And the contemplated “open-loop” gift cards included in the new statute are essentially debit cards that do not involve a bank directly. Without a critical mass of cards, or taking advantage of what is essentially someone’s debit card, it is difficult to find a set of facts that would not also be prosecutable as a simple Theft or under the preexisting version of this statute.

There also remains the difficulty of proving the offense. Rarely are gift cards issued with

robust identification for their intended cardholder. Instead, determining the identity of a cardholder under this statute will now require proof of a fair amount of extraneous facts to prove any individual is the cardholder of a card that does not bear their name.

Finally, the statute itself is unwieldy. Some sections that would logically apply to credit cards apply only to gift cards. Definitions are required multiple layers deep. The statute's construction as explained before already appears to cover this conduct. All of this extraneous information creates a statute that makes figuring out the offense more difficult than it has to be.

Despite these criticisms, there are elements of the statute that show promise. The offense alternative in (a)(5) is a situation that does not cleanly fit into the other preexisting alternatives to commit this offense, and once the limitation on "gift cards" is removed and the provision broadened to include "financial cards" generally, it seems to fill a gap in the statute's existing coverage. But this is not all that the bill in its current form would do.

One more note, regarding the fiscal effects of this legislation: As mentioned in SB 84's Fiscal Note prepared by the Division of Budget, BIDS expects enactment of SB 84 to increase agency expenditures on legal counsel and support staff for each case charged as a felony under the amended statute. On average, a severity level 7, nonperson felony case requires 57 hours of direct work by an attorney to provide constitutionally adequate representation, while the average severity level 9, nonperson felony case requires 35 attorney work hours. Based on the rates of \$83.36 per hour for BIDS-employed public defenders and \$125 per hour for assigned counsel, each new severity level 7, nonperson felony case brought to the agency would result in State General Fund expenditures of \$4,752 to \$7,125. Each new severity level 9, nonperson felony case brought to the agency would result in State General Fund expenditures of \$2,918 to \$4,375.

If prosecutors file charges in 50 new cases against indigent individuals per year, BIDS will need between \$145,900 to \$356,250 per year in additional funding to provide defense services in those cases.

For the above reasons, we have some concerns with this bill, but recognize the merit of some of its proposals. Thank you for your time.

James Houston Bales  
BIDS Legislative Committee Member  
jbales@sbids.org  
316-264-8700 ext. 229