



**Senate Judiciary Committee  
February 3, 2025**

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

Chairperson Warren 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 opposes this bill since we are concerned that the bill duplicates existing legislation, will be difficult to prosecute, and transforms a compact and tidy statute into an unwieldy mess.

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.

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

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