

bringing to an end its grants to states. It has urged states to use revolving loan funds which means that cities will have to repay the money given to them to build wastewater treatment facilities, as opposed to straight grants, which is what we have done in the past. That does hurt cities that don't have a large tax base, and who can't easily repay those kinds of monies. One of the amendments that Senator Scofield will offer addresses that. I intend to accept it. All the Scofield's amendments on the Clerk's desk I intend to accept. There still remains an underlying issue. Let's put the bill in proper technical form and then let's have that discussion. I move the adoption of the amendment on page 1999 of the Journal.

SPEAKER BARRETT: Thank you. Discussion on the amendment offered by Senator Landis? Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President. As I said before, I appreciate the hard work the Landis staff has gone to to try to respond to my concerns and, as Senator Landis said, this amendment separates out money to attempt to get around the constitutional questions that were raised, and Senator Landis has correctly pointed out that there may still be, in my opinion, constitutional questions. We have had a difficult time with this, partly figuring out what is permissible, even at the federal level, and what is permissible, DEC spent a lot of time working on this, and we have looked at other states for models. None of them, from my understanding, really seemed to fit our situation exactly. We are not sure because our Constitution is different than other states exactly how this works out. So we have that constitutional question that faces us I think. And, secondly, there is a fundamental policy question that I will be raising later that remains, I think, regardless of what we know or don't know about constitutionality, and I would hope we don't spend a lot of time here today trying to second guess what a lawsuit on this might bring us. But I think the real policy question that I am going to want to bring to you is, should the state be obligating assets at its disposal to cover NIFA bonds, even though Senator Landis has made an attempt to separate them out. I think the mechanism that is envisioned here puts the state in the middle between NIFA and its borrowers, and it uses the assets of a fund to secure the NIFA bond, and so my concern is, frankly, if a borrower defaults, NIFA still gets the dollars, but the state could come in and have some role to play in this default that we have not had to play before. This goes back to a couple of other Supreme Court cases, and I think we