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proposed. But if the Legislature does away with the fund, you cannot obtain a successful mandamus order from the court. All that is is a directive from the court to a ministerial officer, telling that person, do that which the law clearly tells you to do. Now under Senator Landis' language, there will be no law that creates an Environmental Trust Fund, so there is no existing entity for this money to be directed to. Where is the court going to direct this money? Courts are practical. Rather than have money that cannot be utilized--I'm speculating--I believe the court would say, any money that comes into the state's hands which is not earmarked or otherwise obligated falls into the General Fund. That is where the money would go, in my opinion. Where else could the money go if it comes to the state? It can't remain with the Treasurer. It can't go to the Lottery Commission. It can't go to the Auditor. It can't go to the Secretary of State. It can't go anywhere. So does the state lose that money, the use of it, and the benefits derived from it? The money is going to reside someplace.

SPEAKER BROMM: One minute.

SENATOR CHAMBERS: So mandamus would not lie. The first thing you have to establish is that there is a clear, unequivocal duty imposed upon an official, that there is no discretion involved, and the official is not carrying out that duty. Then the court will direct the order to that official and say, carry out that duty, and the official would simply say, I cannot, because there is no such fund. So I don't believe the court would say, then we'll give the money to charity. I believe it would fall into the General Fund.

SPEAKER BROMM: Thank you, Senator Chambers. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, let me read you a little section of the State Constitution. The Legislature shall provide for the free instruction in the common schools of this state for all persons between the ages of 5 and 21 years, period. That's it. Senator Chambers would argue, oh, no, no, no, no, that's not nearly enough. No, we need to have a designation of the amount of money the state government should have, because the state might not come up with the aid.