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Analysis: Montana sued for shirking its constitutional duty to fund a quality education

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BOB EDWARDS, host: This is MORNING EDITION from NPR News. I'm Bob Edwards.

In **Montana**, a coalition of school districts, parents and education groups is suing the state, claiming it has shirked its constitutional duty to fund a quality education. There are similar lawsuits across the country as school advocates find more success in the courts than in the legislatures. Kathy Witkowsky reports.

KATHY WITKOWSKY reporting:

It's Friday afternoon at Target Range School. The kids are rushing out the door, eager to start their weekend. But several parents remain, manning a folding table set up in the front hallway in hopes of raising a few more dollars for the school.

Unidentified Woman #1: I need five 20s, please.

Unidentified Woman #2: Those ours?

Unidentified Woman #1: Yes.

Unidentified Woman #2: OK.

WITKOWSKY: These volunteers are selling scrip, certificates that some local businesses will accept instead of cash. The businesses then donate a percentage of the scrip purchases back to the school group. Ann Rokelvis(ph) was one of the parents that initiated the idea after seeing the toll that staff cuts were taking on her son's education.

Ms. ANN ROKELVIS: I've seen the quality of the education available diminished because the class sizes have increased, and the individual attention to the students has been reduced. I know for a fact when our child was in the fifth grade, the teacher said, 'There are a number of things I'm simply not going to be able to offer to this group of kids because there are too many of them.'

WITKOWSKY: Rokelvis' son is now in seventh grade and things, she says, have only gotten worse. Last year, the school let go of five teachers and more cuts are looming. Her group is hoping to raise \$25,000 through scrip sales, enough to keep one teacher from getting the ax.

Ms. ROKELVIS: The loss of the teachers is just a knife in the heart. Being able to contribute possibly to keeping a teacher on staff is a

repair to that wound.

WITKOWSKY: District voters have repeatedly approved tax increases to support the school, but it's still bleeding, says Target Range superintendent Michael Magone. He says state funding hasn't begun to keep pace with the increased cost of salaries, insurance and building maintenance. Thanks to budget cuts, Magone also acts as the school's junior high principal, and today he's in jeans and a T-shirt, moving file cabinets and furniture out of a school wing he's closing in an effort to save on utility bills.

Mr. MICHAEL MAGONE (Target Range Superintendent): We've been saying for the last five years here that the ship's gonna hit the rocks pretty soon. We are hitting the rocks. Another year like this and Target Range is going to have an extremely difficult time providing an adequate basic education for its kids.

WITKOWSKY: School officials say that's the situation across **Montana** where cash-strapped schools are being forced to cut programs and low wages make it difficult to recruit and retain high-quality teachers. Over the past decade the state's portion of funding has slipped 60 percent, leaving local taxpayers to pick up an increasing share of the tab. Jack Copps is executive director of the **Montana** Quality Education Coalition. He helped organize a lawsuit that alleges the state's education funding system is inadequate and unfair, and in fact violates its own constitution.

Mr. JACK COPPS (Executive Director, **Montana** Quality Education Coalition): It's the legislators' responsibility to provide a basic system of quality schools. We are asking the courts to order the Legislature to do that. The Legislature, to this time, has refused to do that. Instead, they simply fund schools based upon what is left over, and it has no relationship to their constitutional obligation.

WITKOWSKY: But state solicitor Brian Morris argues that the notion of a quality education, often referred to in court cases as an adequate education, is subjective.

Mr. BRIAN MORRIS (State Solicitor): I don't know how to measure that. It's a nebulous concept in some ways. The question is whether more money is needed to provide an adequate education. We're urging the court to look at three objective factors.

WITKOWSKY: Morris says those criteria, **Montana's** test scores, spending per pupil and teacher quality, indicate that **Montana's** schools are actually in pretty good shape. But plaintiffs are asking the court to force the Legislature to take a different approach: determine the components of a quality education, figure out how much they cost, and then provide the necessary funding. That's a relatively new way to think about school funding, says Molly Hunter. She's with the Campaign for Fiscal Equity, an advocacy organization that is involved in

a similar lawsuit.

Ms. MOLLY HUNTER (Campaign for Fiscal Equality): And once you know that cost, then the onus is on the state to figure out--even though the funding might be state and local, but the onus is on the state to figure out how to fund that.

WITKOWSKY: But **Montana** state solicitor Morris says it's a mistake to ask the court to do the Legislature's job.

Mr. MORRIS: The Legislature looks at all the needs and demands in the state Treasury. The court here, in this case, is forced to focus exclusively on one of those demands, which is the need for education. Education's a very important duty of the state. But it's not the only duty of the state. So if we take money from education, by implication we're going to take money from some other source.

WITKOWSKY: That hasn't kept the courts from intervening in other states. Thirty years ago most education funding cases addressed inequities between rich and poor districts, but more recently the main focus has been on the rights of all students to receive an adequate education, and in about two-thirds of those cases the courts have sided with the plaintiffs. The **Montana** case is expected to wrap up this spring. For NPR News, I'm Kathy Witkowsky in Missoula, **Montana**.

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