

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To authorize compensation to individuals, organizations, and companies impacted by the Gold King Mine wastewater spill of 2015, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. BENNET (for himself and Mr. HICKENLOOPER) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To authorize compensation to individuals, organizations, and companies impacted by the Gold King Mine wastewater spill of 2015, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gold King Mine Spill  
5 Compensation Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) BPMD CONTAMINATION.—The term  
5           “BPMD contamination” means a release or threat-  
6           ened release of hazardous substances that occurred  
7           or is occurring on or before the date of enactment  
8           of this Act at or from mining-related sources within  
9           the Bonita Peak Mining District Superfund Site in  
10          San Juan County, Colorado, Environmental Protec-  
11          tion Agency Docket ID No. EPA HQ-OLEM2016-  
12          0152, as published in the final rule of the Environ-  
13          mental Protection Agency entitled “National Prior-  
14          ities List” (81 Fed. Reg. 62397 (September 9,  
15          2016)), including all areas of that site that the En-  
16          vironmental Protection Agency has ever defined or  
17          described for purposes of, or in relation to, the Na-  
18          tional Priorities List developed by the President in  
19          accordance with section 105(a)(8)(B) of the Com-  
20          prehensive Environmental Response, Compensation,  
21          and Liability Act of 1980 (42 U.S.C.  
22          9605(a)(8)(B)).

23          (3) COVERED CLAIM.—The term “covered  
24          claim” means a written request for monetary com-  
25          pensation of a certain amount under chapter 171 of

1 title 28, United States Code (commonly known as  
2 the “Federal Tort Claims Act”), submitted to the  
3 Administrator on or before August 5, 2017, by an  
4 injured person for compensation for covered dam-  
5 ages.

6 (4) COVERED DAMAGES.—

7 (A) IN GENERAL.—The term “covered  
8 damages” means any of the following types of  
9 adequately documented, as determined by the  
10 Administrator, damages suffered by an injured  
11 person as a result of the Gold King Mine spill  
12 that is otherwise uncompensated:

13 (i) Injury.

14 (ii) Lost business income incurred  
15 during the period beginning on August 5,  
16 2015, and ending on December 31, 2015,  
17 excluding lost business income from vaca-  
18 tion rentals.

19 (iii) Expenses arising from relocating  
20 livestock and providing alternative water  
21 supplies incurred during the period begin-  
22 ning on August 5, 2015, and ending on  
23 October 15, 2015.

24 (iv) Diminished yield or loss of agri-  
25 cultural crops occurring during the period

1 beginning on August 5, 2015, and ending  
2 on December 31, 2015.

3 (B) EXCLUSIONS.—The term “covered  
4 damages” does not include—

5 (i) costs for response (as defined in  
6 section 101 of the Comprehensive Environ-  
7 mental Response, Compensation, and Li-  
8 ability Act of 1980 (42 U.S.C. 9601)); or

9 (ii) emotional distress.

10 (5) GOLD KING MINE SPILL.—The term “Gold  
11 King Mine spill” means the release, on August 5,  
12 2015, of more than 3,000,000 gallons of acid mine  
13 drainage containing heavy metals from the Gold  
14 King Mine located in San Juan County, Colorado,  
15 into downstream waters, including the Animas and  
16 San Juan Rivers, that occurred during a removal  
17 site evaluation by the Environmental Protection  
18 Agency.

19 (6) INJURED PERSON.—

20 (A) IN GENERAL.—Subject to subpara-  
21 graph (B), the term “injured person” means a  
22 homeowner, a livestock grazer, a farmer, or a  
23 recreation company or other business—

24 (i) that, as a result of the Gold King  
25 Mine spill, suffered covered damages;

1                   (ii) that has not, prior to the date of  
2                   enactment of this Act, entered into a set-  
3                   tlement agreement with the United States  
4                   for any amount exceeding \$2,500, or had  
5                   a judgment entered by any court in any  
6                   case related to BPMD contamination or  
7                   the Gold King Mine spill; and

8                   (iii) to which the Administrator—

9                               (I) denied a covered claim; or

10                               (II) did not fully compensate the  
11                   individual or entity for covered dam-  
12                   ages described in a covered claim.

13                   (B) LIMITATIONS.—The term “injured  
14                   person” only includes an individual or entity de-  
15                   scribed in subparagraph (A) that—

16                               (i) has, on or before August 5, 2017,  
17                   submitted a covered claim to the Adminis-  
18                   trator;

19                               (ii) if the entity is a business, is in op-  
20                   eration as of the date of a payment under  
21                   this Act; and

22                               (iii) if the entity is a business, does  
23                   not own a mine or perform any mine-re-  
24                   lated business.



1 (i) actual compensatory damages  
2 measured by injuries suffered; and

3 (ii) the amount originally claimed by  
4 the injured person in the covered claim;  
5 and

6 (B) shall not include—

7 (i) interest before or after settlement  
8 or payment of a covered claim; or

9 (ii) punitive damages.

10 (c) PAYMENT OF COVERED CLAIMS.—

11 (1) DETERMINATION REQUIRED.—Not later  
12 than 180 days after the date of enactment of this  
13 Act, the Administrator shall determine and fix the  
14 amount, if any, to be paid for the covered claim.

15 (2) PARAMETERS OF DETERMINATION.—In de-  
16 termining and settling a covered claim, the Adminis-  
17 trator shall determine only—

18 (A) whether the claimant is an injured per-  
19 son;

20 (B) whether the injury that is the subject  
21 of the covered claim resulted from the Gold  
22 King Mine spill;

23 (C) the amount, if any, to be allowed and  
24 paid under this Act; and

1 (D) the person or persons entitled to re-  
2 ceive the amount.

3 (d) ACCEPTANCE OF AWARD.—The acceptance by a  
4 claimant of any payment under this Act shall—

5 (1) be final and conclusive on the claimant with  
6 respect to all covered claims arising out of or relat-  
7 ing to the same subject matter;

8 (2) constitute a complete release of all covered  
9 claims against the United States (including any  
10 agency or employee of the United States) under  
11 chapter 171 of title 28, United States Code (com-  
12 monly known as the “Federal Tort Claims Act”), or  
13 any other Federal or State law, arising out of or re-  
14 lating to the same subject matter; and

15 (3) include a certification by the claimant,  
16 made under penalty of perjury and subject to the  
17 provisions of section 1001 of title 18, United States  
18 Code, that the covered claim is true and correct.

19 (e) ELECTION OF REMEDY.—

20 (1) IN GENERAL.—An injured person may elect  
21 to seek compensation from the United States for 1  
22 or more injuries resulting from the Gold King Mine  
23 spill by—

24 (A) pursuing compensation under a cov-  
25 ered claim;

1 (B) filing a claim or bringing a civil action  
2 under chapter 171 of title 28, United States  
3 Code; or

4 (C) bringing an authorized civil action  
5 under any other provision of law.

6 (2) EFFECT OF ELECTION.—An election by an  
7 injured person to seek compensation in any manner  
8 described in paragraph (1) shall be final and conclu-  
9 sive on the claimant with respect to all injuries re-  
10 sulting from the Gold King Mine spill that are suf-  
11 fered by the claimant.

12 (3) NO EFFECT ON ENTITLEMENTS.—Nothing  
13 in this Act affects any right of a claimant to file a  
14 claim for benefits under any Federal entitlement  
15 program.

16 (f) JUDICIAL REVIEW.—

17 (1) IN GENERAL.—Any claimant aggrieved by a  
18 final decision of the Administrator under this Act  
19 may, not later than 60 days after the date on which  
20 the decision is issued, bring a civil action in the  
21 United States District Court for the District of Col-  
22 orado, to modify or set aside the decision, in whole  
23 or in part.

1           (2) RECORD.—The court shall hear a civil ac-  
2           tion under paragraph (1) on the record made before  
3           the Administrator.

4           (3) STANDARD.—The decision of the Adminis-  
5           trator incorporating the findings of the Adminis-  
6           trator shall be upheld if the decision is supported by  
7           substantial evidence on the record considered as a  
8           whole.

9           (g) REPORT.—Not later than 90 days after the date  
10          on which all covered claims have been processed under this  
11          Act, the Administrator shall submit to Congress a report  
12          that describes—

13                 (1) the amounts claimed;

14                 (2) a brief description of the nature of the cov-  
15          ered claims; and

16                 (3) the disposition of the covered claims, includ-  
17          ing the amount of any payment under this Act.

18          **SEC. 4. APPROPRIATION OF FUNDS.**

19           (a) IN GENERAL.—There are appropriated to the Ad-  
20          ministrator for fiscal year 2025, out of any amounts in  
21          the Treasury not otherwise appropriated, such sums as are  
22          necessary for the payment of claims in accordance with  
23          this Act, to remain available until expended.

24           (b) EMERGENCY REQUIREMENT.—The entire amount  
25          made available under subsection (a) is designated by Con-

1 gress as an emergency requirement under section  
2 251(b)(2)(A) of the Balanced Budget and Emergency  
3 Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).