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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/12

SPONSOR Greigo, E. LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Pajarito Mesa Cleanup Plan SB 107

ANALYST Hartzler-Toon

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	50.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

#### Response not Received From

University of New Mexico (UNM)

### SUMMARY

#### Synopsis of Bill

Senate Bill 107 appropriates \$50 thousand from the general fund to the Atrisco Land Grant-Merced to work with the University of New Mexico School of Architecture and Planning to form a plan to clean up Pajarito Mesa.

### FISCAL IMPLICATIONS

The appropriation of \$50 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2013 shall revert to the general fund.

### SIGNIFICANT ISSUES

The Atrisco Land Grant-Merced is a political subdivision of the state pursuant to the Laws of 2011, Ch. 68; however, the law specifically limits the land grant's jurisdiction by prohibiting any jurisdiction "over lands or interests in real property owned by another person, including a public or private corporation, partnership or limited liability company." The initial LFC analysis notes

that it is unclear whether the Atrisco Land Grant-Merced holds any common lands on behalf of the land grant, which are the only lands this land grant may control or govern. Further, if there are lands within the land grant's boundaries that are owned or controlled by the federal or governments, private persons, and others, the Atrisco Land-Grant Merced cannot control or govern these lands pursuant to state law.

Where Artisco Land Grant-Merced lacks control over lands, the land grant may not be able to access the Pajarito Mesa or the lands subject to Senate Bill 107 and may not be able to implement any plan that may be formed after expending the general fund appropriation. For example, the land grant may be able to implement a clean-up plan on common lands held by the land grant but would be prevented from executing a clean-up plan funded with state funds on lands not owned or held by the land grant, particularly privately-owned real property. The N.M. Constitution, Art. 9, Sect. 14, commonly referred to as the "anti-donation clause," general prohibits the use of state funds for private benefit, and the land grant may violate this constitutional provision if state funds are used to clean up private lands within the land grant's boundaries.

The New Mexico Land Grant Council's list of proposed legislation for the 2012 session did not include the issues raised in Senate Bill 107.

### **PERFORMANCE IMPLICATIONS**

There are no performance measures or targets associated with this appropriation.

### **ADMINISTRATIVE IMPLICATIONS**

The DFA response stated that the bill directly appropriates funds to the Atrisco Land Grant-Merced, and that there is no state agency identified to provide the administration and oversight of the appropriation. The DFA's Local Government Division is responsible for administered appropriations to land grants.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The reasons for the appropriation – cleaning the Pajarito Mesa – will need to be addressed by the Atrisco Land Grant-Merced or others.

### **POSSIBLE QUESTIONS**

- Clarifying the land grant's common lands and those lands that are beyond its control or jurisdiction could avoid the possible constitutional conflict with providing state funds for improvements on privately-owned real property.

THT/amm