1. **Issue:** NDSU is preparing to transfer a parcel of land to Burlington Northern / Santa Fe (BNSF) railway. The transfer of land has been approved by the legislature, with authorization included in Section 29 of the SBHE appropriations bill, but subject to final approval by the SBHE. To facilitate transfer of land, NDSU and BNSF have agreed to establish an easement/right-of-way which allows BNSF to enter the land and begin limited site work for the purpose of designing the improvements for the intended use as a fueling station. The easement does not guarantee that the land will be transferred, and includes provisions for restoring the property should the transfer not occur.

2. **Proposed motion:** Authorize NDSU to provide BNSF with an easement and right-of-way for a tract of land lying in the Southwest Quarter of Section 35, Township 140 North, Range 49 West of the 5th Principal Meridian. Further authorize the Chancellor to determine jointly with the commissioner of university and school lands, the terms of conveyance as per SB 2003, prior to final approval by the board.

3. **Background:** BNSF approached NDSU to acquire a section of land adjacent to BNSF property for the purpose of constructing a fueling station. The transfer of land was approved by the legislature, with authorizing language included in SB 2003. In order for BNSF to proceed expeditiously, NDSU has agreed to provide BNSF with an easement to begin site work while terms of the conveyance are approved.

4. **Financial implications:** None

5. **Academic implications:** None

6. **Legal/policy issues:** Although existing SBHE policy allows presidents of the institutions to authorize easements upon their respective institutions, SBHE authorization for this easement is sought as it retains conditions for the permanent transfer of the land to the BNSF.

7. **Review Process:** Reviewed by Tonder

8. **Enclosures:** Memorandum of understanding and easement.

9. **Contact person:** Bruce Bollinger, VP for Finance and Administration

10. **Chancellor’s Recommendation:** Chancellor recommends approval.