Cross-References
Utility lines and facilities — definitions, 69-4-303, 69-4-401.

69-4-502. Information to be sought before excavation — notification — exceptions. (1) (a) Except as provided in subsection (1)(b), an excavator may not make or begin an excavation without first obtaining information concerning the possible location of an underground facility from each public utility, municipal corporation, underground facility owner, or other person having the right to bury underground facilities that is a member of a one-call notification center pursuant to subsection (2)(a).

(b) (i) A registered land surveyor or a person under the supervision of a registered land surveyor may hand dig for shallow survey monuments at a depth of 12 inches or less below the road surface of a highway or at the intersection of the center lines of public streets.

(ii) The registered land surveyor, prior to hand digging, shall obtain proper approval from the appropriate governing authority regarding safety and pavement repair and, when appropriate, shall reference the monument upon exposure.

(iii) The governing authority is not liable for any damages caused or suffered by the registered land surveyor or any person under the supervision of the registered land surveyor.

(iv) The registered land surveyor is liable for damages incurred regarding facility destruction.

(v) A public utility, municipal corporation, underground facility owner, or other person having the right to bury underground facilities is not liable for any damages suffered by the registered land surveyor or any person under the control of the registered land surveyor.

(2) (a) A public utility, municipal corporation, underground facility owner, or person having the right to bury underground facilities must be a member of a one-call notification center covering the service area in which the entity or person has underground facilities.

(b) Subsection (2)(a) does not apply to an owner or occupant of real property where underground facilities are buried if the facilities are used solely to furnish services or commodities to that property and no part of the facilities is located in a public street, alley, or right-of-way dedicated to the public use.

History: (1)En. Sec. 2, Ch. 180, L. 1971; Sec. 32-4802, R.C.M. 1947; (2)En. Sec. 3, Ch. 180, L. 1971; Sec. 32-4803, R.C.M. 1947; R.C.M. 1947, 32-4802, 32-4803(part); amd. Sec. 2, Ch. 286, L. 1991; amd. Sec. 1, Ch. 393, L. 1993; amd. Sec. 2, Ch. 179, L. 1997.

Cross-References
County Clerk and Recorder, Title 7, ch. 4, part 26.
Professional land surveyors, Title 37, ch. 67.

69-4-503. Notification — locating and marking. (1) Before beginning an excavation, the excavator shall notify, through a one-call notification center, all owners of underground facilities in the area of the proposed excavation.

(2) After an excavator has notified the appropriate one-call notification center of a proposed excavation, an owner of an underground facility shall:

(a) provide the locates and mark the location within 2 business days; or

(b) respond immediately if the excavator notifies the one-call notification center that an emergency exists.

(3) (a) After an owner of an underground facility has located and marked the underground facilities, the excavator shall determine if weather, time, or other factors may have affected location marks, warranting relocation of the facilities.

(b) If excavation has not occurred within 30 days of the locate and mark, the excavator shall request that the facility be relocated and remarked before excavating unless other arrangements have been made with the underground facility owner. The excavator is responsible for costs associated with relocating and remarking a facility that is not excavated within 30 days of the locate and mark.

(4) Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to the owner's locatable underground facilities by surface locating and marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of the facilities shall provide the excavator with the best available information as to their locations. An excavator may not excavate until all known facilities have been located and marked. An excavator is not

responsible for damages to an underground facility that cannot be located by its owner. Once the facilities are located and marked by the facility owner, the excavator is responsible for maintaining the markings.

(5) Upon receipt of notice from the excavator, the facility owner shall respond within 2 business days by locating and marking the facility or by notifying the excavator that locating and marking is unnecessary. An excavator may not begin excavating before the locating and marking is complete or before the excavator is notified that locating and marking is unnecessary.

(6) An excavator shall locate and mark the area to be excavated if requested by the facility owner or the owner's representative. If an excavator discovers an underground facility that has not been located and marked, the excavator shall stop excavating in the vicinity of the facility and notify the facility owner or the one-call notification center.

(7) An underground facility owner may attempt to identify the location of a private underground facility connected to the owner's facility, but the facility owner is not liable for the accuracy of the locate.

History: En. Sec. 3, Ch. 180, L. 1971; R.C.M. 1947, 32-4803(part); amd. Sec. 1, Ch. 43, L. 1983; amd. Sec. 3, Ch. 286, L. 1991; amd. Sec. 3, Ch. 179, L. 1997.

69-4-504. Information to be part of architects' and engineers' plans. (1) Architects and engineers designing projects requiring excavation in or adjacent to any public street, alley, or right-of-way dedicated to public use or utility easement shall obtain information from the owners of underground facilities and then make the information a part of the plan by which the contractors operate. The owners of the underground facilities shall make available all records showing the locations of underground facilities and shall provide locates, if requested, pursuant to 69-4-503.

(2) This section does not excuse a person from the obligation imposed by 69-4-502(1).

History: En. Sec. 8, Ch. 180, L. 1971; R.C.M. 1947, 32-4808; amd. Sec. 2, Ch. 43, L. 1983; amd. Sec. 4, Ch. 286, L. 1991; amd. Sec. 4, Ch. 179, L. 1997.

Cross-References
Architecture, Title 37, ch. 65.
Engineers, Title 37, ch. 67.

69-4-505. Liability for damages to underground facilities. (1) If any underground facility is damaged by any person who has failed to obtain information as to its location as provided in 69-4-503, then such person shall be liable to the owner of the underground facility for the entire cost of the repair of such facility.

(2) If information requested pursuant to 69-4-503 is not provided within the time specified therein, any person damaging or injuring underground facilities shall not be liable for such damage or injury, unless caused by his negligence.

(3) The act of obtaining information as required by this part shall not excuse any person making any excavation from doing so in a careful and prudent manner, nor shall it excuse such person from liability for any damage or injury resulting from his negligence.

History: (1)En. Sec. 4, Ch. 180, L. 1971; Sec. 32-4804, R.C.M. 1947; (2)En. Sec. 5, Ch. 180, L. 1971; Sec. 32-4805, R.C.M. 1947; (3)En. Sec. 6, Ch. 180, L. 1971; Sec. 32-4806, R.C.M. 1947; R.C.M. 1947, 32-4804, 32-4805, 32-4806.

Cross-References
Damages, Title 27, ch. 1, part 2.
Liability, Title 27, ch. 1, part 7.

69-4-506. Repealed. Sec. 6, Ch. 179, L. 1997.
History: En. Sec. 7, Ch. 180, L. 1971; R.C.M. 1947, 32-4807.

69-4-507. Public authority — liability. A public authority, as defined in 18-1-201, that has jurisdiction over a right-of-way is not liable for improper or unauthorized installations made by persons or entities other than the public authority or those acting at its discretion.

History: En. Sec. 5, Ch. 286, L. 1991.

Cross-References
Governmental liability and insurance covering liability, Title 2, ch. 9.

69-4-508. Emergency location and excavation. (1) When an emergency excavation is required, the excavator shall notify the one-call notification center. An underground facility owner shall respond as soon as is practical after notification.

EXHIBIT NO. 4
DATE 2/3/05
BILL NO. SB 326