

If you are starting a new business or planning to start a business in the future, this Tax Fact sheet contains the basics about sales, use, and contractors' excise tax licensing requirements and how to obtain a permit in South Dakota. More detailed information will be provided when a license is issued.

Information found in this document rescinds and replaces all previous written information on this subject. All readers and users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading the Department of Revenue newsletters, press releases, Tax Facts, and other documents published by the department.

Taxes and Rates that may apply to a retail business.

Sales and Use Tax	4.5%
Tourism Tax	1.5%
Municipal Sales and Use Tax	1 to 2%
Municipal Gross Receipts Tax	1%
Motor Vehicle Leasing Tax	4.5%
Wireless Gross Receipts.....	4%
Contractors' Excise Tax.....	2%

Who Must Hold a Sales Tax License?

Any retailer engaged in selling, renting, or leasing tangible personal property or products delivered electronically or selling services in South Dakota is required to have a tax permit.

These requirements apply whether your business is a sole proprietorship, partnership, corporation or any other organizational type including businesses that are non-profit.

This includes any retailer that:

1. has an office; distribution, sales, or sample room location; warehouse or other place of business in South Dakota, owned directly or by a subsidiary;
2. has a representative, agent, salesperson, canvasser, or solicitor in South Dakota, on either a permanent or temporary basis, who operates under the authority of the retailer or its subsidiary for any purpose, such as:
 - a. selling,
 - b. repairing,
 - c. delivering,
 - d. installing, or
 - e. soliciting orders for the retailer's goods or services;
3. delivers items into South Dakota in their own vehicles;
4. leases products in South Dakota;
5. provides taxable services in South Dakota;
6. has a contractual relationship with an entity to provide and perform installation, maintenance, or repair services for the retailer's

purchasers within South Dakota;

7. holds substantial ownership interest in, or is owned in whole or in substantial part by, a retailer maintaining a place of business within South Dakota; and

- a. the retailer sells the same or a substantially similar line of products as the related retailer in this state and does so under the same or a substantially similar business name, or
- b. the instate facility or instate employee of the related retailer is used to advertise, promote, or facilitate sales by the retailer to a consumer.

8. holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse, or similar place of business in this state that delivers property sold by the retailer to consumers; or

(Ownership includes both direct ownership and indirect ownership through a parent, subsidiary, or affiliate. Substantial ownership interest is as stated in section 78p of Title 15 of the United States Code as of January 1, 2011.)

9. is a part of a controlled group that has a component member that is engaged in business in South Dakota and that member also engages in any of the above activities on behalf of the retailer.

Businesses that have a sales tax license are required to collect and remit sales tax on all sales whether the orders are taken in person, by phone, Internet, or through the mail unless the sale is exempt. Sales tax applies to items delivered into the state electronically, by common carrier, by company owned vehicles, United States Postal Service or any other means of delivery.

Companies that do not have a physical presence (nexus) and have not met any of the criteria above cannot be held responsible for collecting and remitting sales or use tax. These companies can voluntarily register to collect the sales tax for their customers. However, if the seller does not collect and remit the sales or use tax to the state, then the consumer is responsible for reporting and paying the use tax. Use tax is due on products and services purchased from companies not licensed to collect the sales or use tax in South Dakota.

Who Needs a Contractors' Excise Tax License?

Any person entering into a contract for construction services enumerated in Division C of the Standard Industrial Classification Manual of 1987 must have a South Dakota contractors' excise tax license. Any person engaging in services not specifically listed in Division C that includes the construction, building, installation, or repair of a fixture to real property must also have a South Dakota contractors' excise tax license.

License Requirements for Sales, Use & Contractors' Excise Tax

This requirement applies whether your business is a sole proprietorship, partnership, corporation, or any other organizational type including businesses that are nonprofit.

You must be licensed **before** starting work in South Dakota and must have a license for **each** business location (not each construction site) in the state. All contractors must be licensed regardless of the amount of the receipts they have or the amount of tax due.

A person who is not primarily in the business of making realty improvements but who regularly employs people who repair, maintain or make realty improvements to his/her property is not a prime contractor, and is not liable for the contractors' excise tax.

Operating Without a License

Anyone operating a taxable business in South Dakota without a tax license is guilty of a Class I misdemeanor. The penalty, if convicted, is up to \$1000 and/or one year in jail. Any person continuing to operate a business after receiving notification from the Department that a license is required could be found guilty of a Class VI felony. If convicted, the fine is up to \$2000 and/or two years in the state penitentiary.

How to Apply

Applications for a state tax license may be submitted online at <http://dor.sd.gov/>. If you do not have access to the Internet, stop by any of our local offices to complete your application or call 1-800-829-9188.

There is no fee for a sales or contractors' excise tax license.

You will receive a license card once the license is approved.

Are you Doing Business in Multiple States?

If you are doing business in multiple states, you may use the Streamlined Sales Tax Registration System to register for sales tax purposes with all states that are members of the Streamlined Sales Tax Governing Board.

By registering through the Streamlined registration you will be registered in all full member states and any associate member state you select and will be required to file returns with each state. Exception: If you have no taxable sales in a member state, you may select the option "I will NOT have sales in this state". If you have selected this option, you are not required to file returns for that state. If you do have sales in that state you must contact them to begin reporting.

Click the following link for more information or to register: <http://www.streamlinedsalestax.org> and select the Registration tab.

File and Pay Electronically

Sign up to file and pay your taxes electronically at the same time you apply for a sales and use tax or contractors' excise tax license. Simply provide a Username, your name and an email address. Your EPath account will be created when your license is issued. You will receive a letter with a temporary password after the account

is created.

If you file and pay your sales tax returns electronically and on time you will receive a collection allowance of 1.5% of the due, not to exceed \$70 for each reporting period.

Licensees who have outstanding tax returns, who have outstanding tax balances due to the Department or those that do not file and pay electronically will not receive the allowance. In addition, the allowance does not apply to contractors' excise tax returns.

To create an EPath account after your license is issued, go to: <http://sd.gov/epath> or call 1-800-829-9188.

Consolidated Filing - Multiple Locations

Businesses with multiple locations in South Dakota must hold a permit for each business location. For example, a clothing business with locations downtown and at a mall is required to have a separate tax permit for each location.

Businesses with multiple locations that remit South Dakota sales, use, or contractors' excise taxes may be eligible to apply for a statewide tax permit for consolidated filing. A statewide tax permit allows a business that has multiple locations to file one consolidated tax return, rather than a tax return for each business location. Statewide tax permits may only be issued to businesses with identical ownership, the same federal identification number, the same Standard Industrial Classification number, and the same license type.

An application for a consolidated return must be completed by the business and approved by the department. For more information or to apply for a statewide tax permit call the department at 1-800-829-9188.

Bonding Your Business

Depending on the nature of your business the department may require you to post a bond or security to guarantee payment of state and local taxes. The bond or security may be a bank certificate of deposit (with right of setoff), a time savings certificate, cash bond, or a continuous surety bond. Any interest earned on any interest-bearing security may be paid to you.

Personal or business checks are not accepted for bonds.

Performance bonds for contracts, including public contracts, entered into for the construction, alteration or repair of improvements to property located in South Dakota must include a guarantee of taxes to be paid to the State.

Personal Liability

If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership fails to file the required returns or to pay the tax due, corporate officer, member-managers or managers of limited liability companies,

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or partners of partnerships that control, or are charged with the responsibility of filing the returns or remitting tax payments are personally liable.

If the liable party does not want to be personally liable they must make an election to that effect in writing and provide the department with a surety bond or certificate of deposit in an amount sufficient to cover one year's worth of tax liability.

Liable parties are responsible for payment of taxes beyond the amount covered by the security.

Contractors' Excise Taxable Projects

The following is a representative listing of contractors who are included under the excise tax law.

A. BUILDING CONSTRUCTION — GENERAL CONTRACTORS AND OPERATIVE BUILDERS

This group includes general contractors and builders primarily engaged in the construction of residential, farm, industrial, commercial or other buildings.

1. General Contractor - Single Family Houses

These general contractors are primarily engaged in construction (including new work, additions, alterations, remodeling and repair) of single family houses.

- a. Single family house construction and improvements
- b. Prefabricated single family house erection
- c. Remodeling or repairing of buildings for single family housing
- d. Townhouse construction

2. General Contractors - Residential Buildings Other Than Single Family

These general contractors are engaged in construction (including new work, additions, alterations, remodeling and repair) of residential buildings other than single family houses.

- a. Apartment building construction and alterations
- b. Dormitory construction
- c. Hotel and motel construction
- d. Remodeling, renovating, or repairing of buildings
- e. Two or more family house construction

3. Operative Builders

These builders are primarily engaged in the construction of single family houses and other buildings for sale on their own account rather than as contractors.

- a. Apartment developers
- b. Condominium developers
- c. Speculative builders

4. General Contractors - Industrial Buildings and Warehouses

These general contractors are primarily engaged in construction (including new work, additions, alterations, remodeling and repair) of industrial buildings and warehouses such as aluminum plants, pharmaceutical manufacturing plants, and commercial

warehouses.

- a. Factory construction
- b. Grain elevator construction
- c. Industrial and warehouse building construction
- d. Prefabricated building erection
- e. Remodeling, renovating or repairing industrial and warehouse buildings

5. General Contractors - Nonresidential Buildings, Other than Industrial Buildings and Warehouses

These contractors are engaged in construction (including new work, additions, alterations, remodeling and repair) of nonresidential buildings such as commercial, institutions, religious, amusement and recreation buildings.

- a. Auditorium construction
- b. Bank building construction
- c. Church construction
- d. Commercial building construction
- e. Farm building construction
- f. Hospital construction
- g. Office building construction
- h. Post Office building construction
- i. The remodeling, renovating, repairing of other nonresidential buildings
- j. School building construction
- k. Shopping center construction
- m. Silo construction

B. CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION

This group includes general contractors engaged in heavy construction (including new work, additions, improvements, maintenance and repair) such as highways and streets, bridges, sewers, railroads, irrigation projects, flood control projects, marine construction, and miscellaneous types of construction work other than buildings.

1. Highway and Street Construction

These contractors are engaged in the construction of roads, streets, alleys, sidewalks, guardrails, parkways, parking areas, airports, bridge paths, athletic fields, and grading and maintenance of roads.

2. Heavy Construction

These contractors are primarily engaged in construction of heavy projects such as bridges, viaducts, elevated highways, tunnels, subway construction, pipeline, communication, powerline, sewer, water mains, and other miscellaneous heavy projects.

- a. Blasting construction
- b. Bridge construction
- c. Cable laying construction
- d. Canal construction
- e. Dam construction
- f. Drainage construction
- g. Earth moving
- h. Elevated highway construction
- i. Gas main construction
- j. Irrigation project construction
- k. Land clearing
- l. Man-hole construction

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- m. Pipeline construction
- n. Powerline construction
- o. Railroad construction by general contractors
- p. Rock removal
- q. Sewer construction
- r. Telegraph and telephone line construction
- s. Transmission line construction
- t. Trenching
- u. Trestle construction

C. CONSTRUCTION SPECIAL TRADE CONTRACTORS

This group includes contractors who are specialized in activities such as plumbing, painting, plastering, carpentry, etc. Also included are establishments engaged in miscellaneous specialized construction activities such as industrial machinery or equipment installations, gas leakage detection, and water well drilling. Special trade contractors usually work on a subcontract basis for the general contractor, performing only part of the work covered by the general contractor, or they may work directly for the owner and become the prime contractor.

1. Plumbing, Heating, except Electrical, and Air Conditioning

These contractors are engaged in the heating, plumbing or air conditioning and similar work or any combination of these types of work.

- a. Boiler erections and installation
- b. Fuel oil burner installation and service
- c. Furnace repair
- d. Pipe and duct work
- e. Plumbing repair
- f. Refrigeration and freezer work
- g. Sewer hook-ups and connections for buildings
- h. Sprinkler system installation
- i. Sump pump installation and service

2. Painting, Paper Hanging and Decoration

- a. Bridge painting
- b. House painting
- c. Painting of buildings and other structures
- d. Paper hanging
- e. Traffic lane painting

3. Electrical Work

- a. Burglar alarm installation
- b. Communication equipment installation
- c. Electric heating equipment installation
- d. Fire alarm installation
- e. General electric work
- f. Heating equipment installation
- g. Sound equipment installation

4. Masonry, Stone Works, Tile and Plastering

- a. Acoustical work
- b. Brick laying
- c. Chimney construction
- d. Dry wall construction
- e. Fresco work
- f. Insulation installation

- g. Marble installation
- h. Masonry
- i. Plastering
- j. Taping and finishing
- k. Asbestos removal

5. Carpenters Engaged in Carpentry Work

- a. Carpentry work
- b. Garage door installation
- c. Store fixture installation
- d. Window and door installation

6. Roofing and Sheet Metal Work

- a. Down spout installation
- b. General siding contractors
- c. Metal ceilings
- d. Roof repair
- e. Sheet metal work
- f. Skylight installation

7. Concrete Work

- a. Asphaltting of driveways
- b. Blacktop work
- c. Concrete construction
- d. Concrete floor surfacing
- e. Grouting
- f. Sidewalk construction

8. Water Well Drilling

These are contractors primarily engaged in water well drilling and servicing of such wells.

9. Miscellaneous Trade Contractors.

- a. Structural steel erection
- b. Glass and glazing work
- c. Excavation and foundation work

10. Wrecking and Demolition Work

These contractors are engaged in the wrecking and demolition of buildings and other structures, and who may or may not sell materials derived from demolition of buildings and other structures.

11. Installation or Erection of Building Equipment

These contractors are normally engaged in the installation or erection of building equipment such as elevators, pneumatic tube systems, dust collection equipment, revolving door installation, vacuum cleaning systems, and the installation of machinery and other industrial equipment.

12. Special Trade Contractors

- a. Antenna installation (not residential)
- b. Awning installation
- c. Bowling alley installation
- d. Caulking contractors
- e. Cleaning building exteriors
- f. Countertop installation
- g. Fence construction
- h. Fire escape installation
- i. Gasoline pump installation
- j. House moving

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- k. Paint and wallpaper stripping
- l. Sandblasting of building exteriors
- m. Scaffolding construction
- n. Service and repair of broadcast stations
- o. Swimming pool construction
- p. Welding contractors at site of construction

Services Subject to Sales Tax

The following is a representative list of services that are subject to sales tax.

Accounting, Auditing, and Bookkeeping Services

Amusement Establishments, Recreational Services, and Athletic Contests - movies; plays; musical and dance performances; amusement parks; athletic contests; athletic instructional schools; billiard and pool establishments; bowling alleys; dance halls; studios and dance schools; day camps; exposition operations; fireworks display services; hunting and fishing guides; judo or karate instructions; membership clubs in sports and recreation activities; operation of fishing lakes; racing (including track operations); professional sports clubs and promoters; public golf courses; ski instruction; swimming pools; ticket sales offices for sporting events; carnivals; circuses; rodeos, and all other events where a ticket or admission fee is required.

Exempt: admissions to state, county, district and municipal fairs (except rodeo admissions); charges to places of amusement or athletic contests conducted by educational, religious, benevolent, fraternal, or charitable organizations or youth associates if the activities do not continue for more than three consecutive days and the entire amount of the receipts after costs directly related to the activity are expended for the above stated purposes; charges or entry fees on tournaments, contests and league activities and admissions or receipts from municipal and county historical society or centennial committee activities when the entire net proceeds are spent for centennial celebration purposes.

Amusement Machines and Devices - jukeboxes, video games; pinball machines; arcades and other mechanical games and coin-operated devices used for commercial purposes.

Note: In lieu of municipal taxes, a \$12 registration fee will be assessed on all coin operated amusement devices. Each machine must be registered yearly and the decal issued at registration must be glued, not taped, in a highly visible location on each machine. Any unregistered machines are subject to confiscation and subsequent sale or destruction. In addition, their owners will be subject to criminal and monetary penalties.

Auctioneer Services/Clerking Services - An auctioneer's commissions or fees are subject to tax. All tangible personal property and services sold at auction, except for livestock, real estate and titled motor vehicles, is subject to sales tax.

Business Services - adjustment and collection agencies; appraisers; auctioneer's services on a commission or fee basis; bail bonding; blueprint service and photo copying services; business brokers; commercial testing laboratories; computer data processing services and fees or access charges; consumer credit reporting agencies;

decoration service for special events; detective and protective agencies; employment agencies; engrossing of diplomas, resolutions, etc.; exterminating services; florist telegraph service; handwriting analysis; hotel reservation service; insurance adjusters; interior decorators; lecture bureaus; limousine services; locksmiths; locksmith shops; management; consulting and public relations service; news syndicates (such as various press services); repossession services; press cleaning service; promoters of home shows; speakers bureaus; service of fire extinguishers; sign painting and lettering shops; stenographic services (including court reporting services and various other typing services); swimming pool cleaning and maintenance; temporary help services; trading stamp services; water softener services; and window cleaning.

Carpet Laying - asphalt tile installation; carpet laying or removal service; fireproof flooring construction; floor laying, scraping, finishing and refinishing; wood flooring; hardwood flooring; linoleum installation; parquet flooring; resilient floor laying; vinyl floor tile, sheet installation, durastone, and duraceramic.

Note: All other types of flooring such as ceramic tile and terrazzo work are subject to the contractors' excise tax.

Coating, Engraving and Allied Services - electroplating; plating, anodizing; coloring and finishing of metals and form products.

Communications - Cable television service; subscription for closed circuit television; stock ticker service; telegraph, telephone, cellular or other miscellaneous communications services.

Drapery Installation - Theater curtain installation is subject to contractors' excise tax.

Engineering, Architectural and Surveying Services

Janitorial and Other Cleaning Services

Insurance Related Services - third party administrators; claims adjusters; loss prevention; advisory; appraisal; rate making; consulting; claims processing; managed care plans.

Exempt: commissions received from the sale of insurance policies; premiums received for insurance policies that are subject to the insurance premiums tax.

Internet Services - Internet access service; domain fees; design or placement of ads on the Internet (if a provider both designs and places an ad on the Internet, the service is exempt as an advertising service. If the provider designs or places ads, but not both, each service is taxable); web hosting services; and other miscellaneous services.

Lawn and Garden Services - Seeding, sodding, lawn care, tree planting and trimming services.

Legal Services - the services of attorneys, legal aid services, patent solicitors, referees in bankruptcy.

Membership Fees - membership or entrance fees for the use of facilities, membership fees giving the right to purchase tangible personal property or service.
Exempt: membership fees to business associations; professional membership organizations; labor unions; civil, social and fraternal

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associations; political organizations; religious organizations.

Metal Mining Services - anthracite mining services, bituminous coal and lignite mining services, nonmetallic minerals services, removal of overburden, surface mining for metallic ores, prospect and test drilling, mine exploration and development.

Miscellaneous Repair Services - antique repair and restoration; bicycle repair; camera repair shops; cesspool cleaning; electrical and electronic repair shops; gunsmith shops; key duplicating; lawn mower repair; leather goods repair; motorcycle repair; motor repair shops; musical equipment repair; office equipment repair; piano tuning and repair; radio and television repair; appliance; refrigeration; window air-conditioning service and repair shops; reupholster and furniture repair; jewelry repair.

Miscellaneous Services - the service of real estate agents; loan brokers; dog groomers; the sale of pets; counseling and planning services; livestock slaughter services.

Mobile Telecommunications - mobile telecommunications services when the customer's place of primary use is in South Dakota.

Personal Services - baby-sitting referral services; barbershops; beauty spas; beauty shop; carpet and upholstery cleaning; dating services; credit counseling except when provided by individual and family social services; adjustment services; dry-cleaning; funeral service and crematories; garment pressing; health clubs; industrial laundries; linen supply; massage practitioner or technician; photographic studios; privately operated wedding chapels; power laundries; reducing salons; shoe repair shops; installation of draperies and blinds; valet parking.

Rental of Rooms, Lodging Facilities, and Parking Sites - rental of rooms or parking sites by lodging establishments or campgrounds and rental of meeting rooms.

Exempt: rental of rooms or campgrounds to the same guest for 28 or more consecutive days.

Snow Removal - snow removal services are not subject to contractors' excise tax. Snow removal services are subject to 4.5% state and applicable municipal sales tax. Contractors should report snow removal receipts on line 6 of their contractors' excise tax return along with any use taxable items reported by the contractor. The receipts are subject to 4.5% state sales tax. Do not include snow removable gross receipts on line 1. In addition, if the service is provided inside municipal boundaries, the receipts will be subject to applicable municipal tax and should be reported under the "municipal/special jurisdiction" area of the return on lines 8 through 21.

Receipts from a government entity for snow removal services are exempt from sales tax and should not be included on the return. In order to document why the receipts are not included on the return, the invoice must show the name of the entity the service was provided to, and the invoice must be marked as exempt. A copy of the exempt entity's exemption certificate should be on file with the contractor.

Solid Waste Services - solid waste haulers entire gross receipts including tipping fees charged at a landfill, dump, MRF, transfer station, recycling site, rubble site, etc. to private individuals as well as solid waste carriers.

Storage (with services), warehousing, and parking

Telecommunication Services - telecommunication services where the call originates or terminates in South Dakota that are billed or charged to a service address in South Dakota or calls that both originate and terminate in South Dakota.

Transportation Services - intrastate (when the trip's origination and destination are in South Dakota) transportation of people including: limousine and taxi services, bus and chartered bus, chartered air flights and amusement and sight-seeing transportation services such as helicopter rides. Also taxable is garbage hauling.

Exempt: intrastate trucking services, small package delivery carriers, petroleum distributors and moving companies.

Note: Transportation companies may have a use tax liability.

Veterinarian and Animal Specialty Services - veterinarian services and animal specialty services including the boarding, training, grooming, kenneling and breeding of animals other than livestock. Training of horses, including race horses.

Exempt: breeding of horses.

Publications

Additional brochures that are available online at <http://dor.sd.gov/> or by calling 1-800-829-9188.

- Municipal City Tax Guide
- Sales Tax Guide
- Contractors' Excise Tax Guide
- Accountants
- Advertising Agencies
- Agricultural Equipment & Services
- Auctioneers, Auction Clerks & Auction Services
- Attorneys
- Audits
- Bars & Restaurants
- Beauty Salons & Barber Shops
- Boats
- Carpet & Flooring
- Churches
- Communications Equipment - Installation & Repair
- County Governments
- Dentists
- Direct Mail
- Drop Shipments
- Entertainers
- Exemption Certificate
- Exempt Entities
- Financial Institutions
- Food Stamps & WIC Purchases
- Franchise Operations
- Funeral Services
- Garbage/Solid Waste
- Gravel
- Gross Receipts
- Health Services, Drugs, and Medical Devices
- Hospitals - Nonprofit
- Hotels, Motels and Campgrounds

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- Hunting and Fishing Services
- Internet
- Investigative Services Bureau
- Lease and Rental
- Manufactured and Modular Homes
- Metal Mining
- Motor Vehicle Sales & Repairs
- Moving and Storage
- Municipalities
- Non-Collecting Retailers
- Oil & Gas Field Services
- Photographers
- Prepared Food
- Printers, Newspapers and Mailing Services
- Qualified Utilities
- Real Estate
- Realty Improvements for Exempt Entities
- Relief Agencies
- Restaurants and Bars
- Rodeo and Rodeo-Related Activities
- Self Contractors
- Specialty Builders and the \$100,000 Rule
- Storage
- Taxidermists
- Title & Abstract Companies
- Tourism Tax
- Tribal Tax
- Universities
- Use Tax
- Use Tax - Everyone's Responsibility
- Veterinarians

Watertown
715 S Maple
Watertown, SD 57201

Yankton
1900 Summit Street
Yankton, SD 57078

Talk to Us!

If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at **1-800-829-9188**. Visit us on the web at **<http://dor.sd.gov>**, email us at **bustax@state.sd.us** or write us:

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445 East Capitol Ave.
Pierre, SD 57501

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Mitchell
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Rapid City
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