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Nebraska Supreme Court
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Farmers Cooperative, a cooperative corporation organized under the laws of the State of Nebraska, appellant, v. State of Nebraska et al., appellees.

Frontier Cooperative Company, a cooperative corporation organized under the laws of the State of Nebraska, appellant, v. State of Nebraska et al., appellees.

898 N.W.2d 674

Filed July 7, 2017. Nos. S-16-312, S-16-313.

SUPPLEMENTAL OPINION

Appeals from the District Court for Lancaster County: Andrew R. Jacobsen, Judge. Supplemental opinion: Former opinion modified. Motion for rehearing overruled.

Thomas E. Jeffers and Andrew C. Pease, of Crosby Guenzel, L.L.P., for appellants.

Douglas J. Peterson, Attorney General, and L. Jay Bartel for appellees.

Heavican, C.J., Wright, Miller-Lerman, Cassel, Kelch, and Funke, JJ.

Per Curiam.

Cases Nos. S-16-312 and S-16-313 are before this court on the appellees' motion for rehearing concerning our opinion

in *Farmers Co-op v. State*.[1] We overrule the motion, but we modify the original opinion as follows:

(1) We withdraw the last two sentences in the paragraph preceding the subheading "(b) Frontier's Refund Claims" and substitute the following: "Farmers appealed the Tax Commissioner's decision to the district court for Lancaster County."[2]

(2) We withdraw the last two sentences in the paragraph preceding the subheading "(c) District Court's Decisions" and substitute the following: "Frontier appealed the Tax Commissioner's decision to the district court for Lancaster County."[3]

(3) We withdraw the second to the last sentence in the second paragraph under the subheading "3. The Cooperatives Failed to Establish They Were Entitled to Refund of Taxes Denied by Tax Commissioner" and substitute the following: "Neither of the Cooperatives requested a formal hearing from the Department prior to the Tax Commissioner taking action on their refund claims, so no additional evidence was developed on the record regarding the denied claims."[4] And we withdraw the last sentence of that same paragraph, which stated, "Further, the Cooperatives did not submit any additional evidence to the district court on its appeal."[5]

The remainder of the opinion shall remain unmodified.

Former opinion modified.
Motion for rehearing overruled.

Stacy, J., not participating.

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[1] *Farmers Co-op v. State*, 296 Neb. 347, 893 N.W.2d 728 (2017).

[2] *Id.* at 351, 893 N.W.2d at 733.

[3] *Id.* at 352, 893 N.W.2d at 734.

[4] *Id.* at 364, 893 N.W.2d at 740.

[5] *Id.*