

ANNUAL REPORT TO THE LEGISLATURE  
ON THE STATUS OF  
THE IMPLEMENTATION OF LB 629 [2015]

NEBRASKA PUBLIC SERVICE COMMISSION

DECEMBER 29, 2017

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December 29, 2017

On behalf of the Nebraska Public Service Commission, I submit the third annual report on the status of the implementation of the provisions of LB 629, entered into law during the 2015 Legislative session. This report will cover pertinent information related to Nebraska's transportation network companies (TNCs) and taxicab companies from January 2017 through December 2017.

Discussions from London to Lincoln have centered on TNC background checks and safety, and the Commission takes the safety of the riding public seriously. The Commission has remained diligent in its monitoring of TNCs in the state, including the continuation of our public investigation of driver misconduct and background checks. A workshop will be held in early 2018.

This year's report includes information collected from the permitted TNCs in addition to the taxicab companies, which we hope will be helpful to the Legislature in assessing the effectiveness of LB 629. If you have any questions about the report or any other issue, please contact our Commissioners or staff.

Sincerely,

Tim Schram

Chairman

## Introduction

Transportation Network Companies (TNCs) use online-enabled applications such as smartphone apps to provide prearranged transportation services in a participating driver's personal vehicle. Drivers and passengers are connected through the TNC's online-application.<sup>1</sup> This report provides information, research, and analysis, pursuant to LB 629 (2015), which form basis for the Public Service Commission's (PSC, Commission) recommendations to the Legislature regarding the implementation of statutes related to TNCs. The data presented herein also reflects impacts to the existing taxicab industry within the state.

The statutory framework in LB 629 includes a list of data that, at a minimum, should be included in each year's report:

- number of TNC permits issued;
- any permit revocation proceedings;
- number of taxicab carriers, as well as the following statistics for each, relative to historical numbers:
  - rides provided,
  - taxicabs in service, and
  - drivers employed or contracted.

The statute also allows the Commission to provide any other information in its possession that it believes will assist the Legislature in evaluating the effectiveness of LB 629.<sup>2</sup> In order to provide the Legislature with sufficient information, the Commission solicited data from taxicab carriers, TNCs, and the Nebraska Department of Health and Human Services. The final section of this report details specific recommendations to the Legislature for its upcoming session, but in summary, the highlights of the 2017 TNC Annual Report are as follows:

- *Permits.* During 2017, the Commission approved a new permit for one TNC, Liberty Mobility Now, Inc., of Lincoln, bringing the total number of TNCs permitted to operate in Nebraska to three.
- *Enforcement.* The Commission continues its enforcement efforts to reduce the number of illegal operators across the state, many of which either pose as participating TNC drivers or are actually participating TNC drivers who solicit passengers and receive payment outside of the online-enabled platform.
- *Insurance.* A handful of insurance companies are now offering TNC Endorsements for personal auto insurance policies for Nebraska drivers that drive for one or more

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<sup>1</sup> Neb. Rev. Stat. § 75-323(10) (Neb. Supp. 2015).

<sup>2</sup> Neb. Rev. Stat. § 75-343 (Neb. Supp. 2015).

TNCs. These endorsements provide additional coverage options for TNC drivers besides the insurance coverage provided by the TNC.

- *Fees.* The Commission determined that the 2018 per-vehicle fee for TNCs should remain at \$80 per vehicle.
- *Impact of TNCs.* TNCs are providing transportation services to previously unserved or underserved populations in all reported areas of the state, as indicated by the boom in the total number of rides provided by both TNCs and taxicabs observed after the addition of TNCs to the market. Although Omaha has experienced a decline in taxicab ridership that is strongly correlated with an increase in TNC ridership, the TNCs' increase far exceeds the taxicabs' decrease. Lincoln has experienced a similar decrease in taxicab ridership, but this trend began in 2014, making it somewhat difficult to implicate the growth of TNCs as the sole cause of that decline.

## Brief History of Transportation and the Commission

The Nebraska Public Service Commission (Commission) is a constitutionally-created body established under Article IV, Section 20 of the Nebraska Constitution. The Legislature initially created the Commission in 1885 to regulate railroads, but that was not firmly established until the passage of a constitutional amendment in 1906, creating a three member elected Railway Commission. Membership increased to five Commissioners in 1964 and the State was divided into five districts, each to elect a commissioner to serve six-year terms. A general election vote in 1972 changed the Railway Commission's name to the Public Service Commission.

Today, the Commission regulates telecommunications carriers; natural gas jurisdictional utilities; major oil pipelines; railroad safety; household goods movers and passenger carriers; grain warehouses and dealers; construction of manufactured and modular homes and recreational vehicles; high voltage electric transmission lines; and private water company rates. The Commission also oversees and administers several statutorily created funds with specific legislative purposes and goals including the Nebraska Universal Service Fund, the Enhanced Wireless 911 Fund, and the Nebraska Telecommunications Relay System Fund.

The Commission is active on local, state, and national levels and contributes on those levels to determine policy regarding the future of communications and universal service. Many Commissioners, past and present, have served on boards, committees, and advisory groups to recommend and give insight on policy matters to state and federal agencies and to legislative bodies.

### *History of Transportation Authority*

The Commission's first role was the regulation of transportation – specifically the regulation of railroads – in 1885. Although the Commission's authority over railroads has greatly diminished, the Commission has since gained authority to certificate and regulate passenger transportation companies and household goods movers; to perform inspections related to intrastate

railroad safety; to set the fares charged by passenger carriers and to establish the tariff used by household goods movers; to investigate alleged rate violations and other illegal activities by certificated and non-certificated providers; to regulate insurance requirements; to perform inspections of most passenger transportation vehicles to verify safety; and to investigate complaints involving improper billing, driver misconduct or safety issues.

### *LB 629*

In 2014, a new type of passenger transportation provider began doing business in Nebraska. Transportation network companies, or TNCs, provide point-to-point transportation for passengers in a driver's personal vehicle. Rides are prearranged and compensation is provided through the TNC's smartphone application or online platform.

In 2015, the Legislature passed LB 629, which created a statutory framework for the TNCs and granted authority to the Commission to implement the new statutes. The statutes require that TNCs acquire a permit from the Commission to operate as a TNC, and lays out requirements for drivers, vehicles, and insurance. The statutes do not grant the Commission the authority to regulate rates, but each TNC is required to file its rates with the Commission. The Commission may also inspect records on an audit basis no more than once each calendar quarter, or as necessary to investigate a complaint.

### *Transportation Network Company Regulation Cash Fund*

LB 629 authorized the Commission to create the Transportation Network Company Regulation Cash Fund. The Fund is to be used to regulate TNCs and to enforce the applicable statutory sections. The Commission collects annual and initial application fees from TNCs and remits these amounts to the Fund. Pursuant to NEB. REV. STAT. § 75-305(2), every TNC may choose to pay either \$25,000 or not to exceed \$80 per personal vehicle operated by a driver for the TNC. The Commission is tasked with setting the per-vehicle fee. As of December 1, 2017, the balance of the Fund was approximately \$ 56,692.06.

The Commission held a public hearing, and determined that the per-vehicle fee for 2018 should remain set at \$80 per personal vehicle operated by a driver for the TNC.

## Transportation Network Companies

NEB. REV. STAT. § 75-324 requires TNCs to apply with the Commission for permits to operate in Nebraska. Each TNC applicant must file its application with appropriate fee, along with a copy of its current rates, insurance certificate, drug and alcohol and anti-discrimination policies, and its Articles of Incorporation, Organization, or Certification to transact business from the Nebraska Secretary of State. Additionally, the TNC must indicate whether it has been duly certified to operate as a TNC in at least one other state. If a TNC has not been duly certified to operate in at least one other state, the TNC must demonstrate that it has sufficient financial and managerial resources and technical competency to provide TNC services in its proposed territory.

Rasier, LLC (Uber) and Lyft, Inc. continue to operate in the state. The Commission received and approved one application for a permit to operate as a TNC in the state of Nebraska since the previous filing of the TNC Report:

<b>Carrier</b>	<b>Authority Granted</b>
Liberty Mobility Now, Inc.	02-22-2017

The Commission estimates that there are over 600 TNC drivers, mostly in the Omaha and Lincoln metropolitan areas. No TNC permits have been the subject of revocation proceedings or been revoked.

Pursuant to NEB. REV. STAT. § 75-332, participating drivers wishing to use a personal vehicle with a lien must notify their lienholder at least seven days prior to using the vehicle in the course of driving for the TNC. That notification form must then be filed with the Commission and kept on file for at least five years. The Commission received 139 lienholder notification forms between January 1, 2017 and December 1, 2017.

Additionally, NEB. REV. STAT. § 75-329 authorizes the Commission to inspect TNC records to ensure public safety, including criminal background checks of drivers. Such inspections may be completed no more than once a calendar quarter unless the Commission deems it necessary to do so more frequently, and must be completed on an audit rather than a comprehensive basis. A review of data submitted by TNCs for this report shows that since 2014, 35 drivers have been suspended due to violating a TNC’s zero-tolerance policy on drug and alcohol use and one driver has been suspended for violating a TNC’s anti-discrimination policy. TNCs also reported about 900 safety complaints since 2014, which included situations such as accidents and complaints that a driver may have been driving in a reckless or dangerous manner. As of the date of submission of this report, the Commission is in the process of an audit review for 2017 and expects to conduct another audit review after the conclusion of the first quarter of 2018.

*Dockets*

The following is a list of pending dockets related to TNCs:

PI-204 *In the matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate certain procedures of certificated passenger carriers in the State of Nebraska.*

The Commission opened this docket on March 15, 2016, in order to investigate carrier safety practices, and received comments from several members of the industry providing information about their policies toward driver misconduct and how they conduct criminal history checks on their drivers. Due to recent local and national discussions about the effectiveness of different background check methods, the Commission scheduled a workshop for January 9, 2017 to engage in dialogue with all passenger carriers about background check systems.

*Enforcement*

The Commission has engaged in enforcement activities since TNCs began to operate in Nebraska prior to the passage of LB 629, and those activities have continued since its passage. During 2017, the Commission received several tips that have led to informal investigations by Commission staff. These informal investigations continue to include reports of TNC drivers either charging cash for trips outside of the TNC operating platform or soliciting for rides without prearranging the ride through the use of the TNC app. The Commission continues to monitor the activities of TNC drivers and investigating consumer reports and tips.

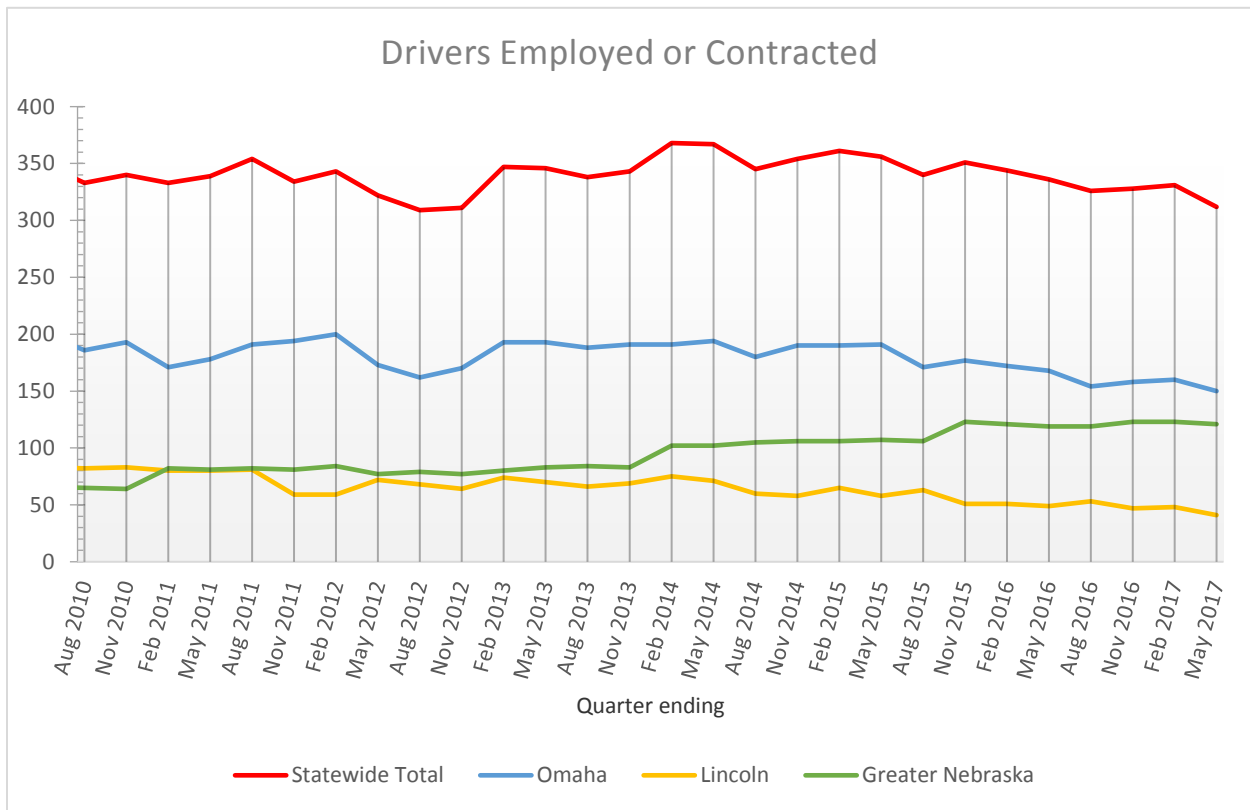
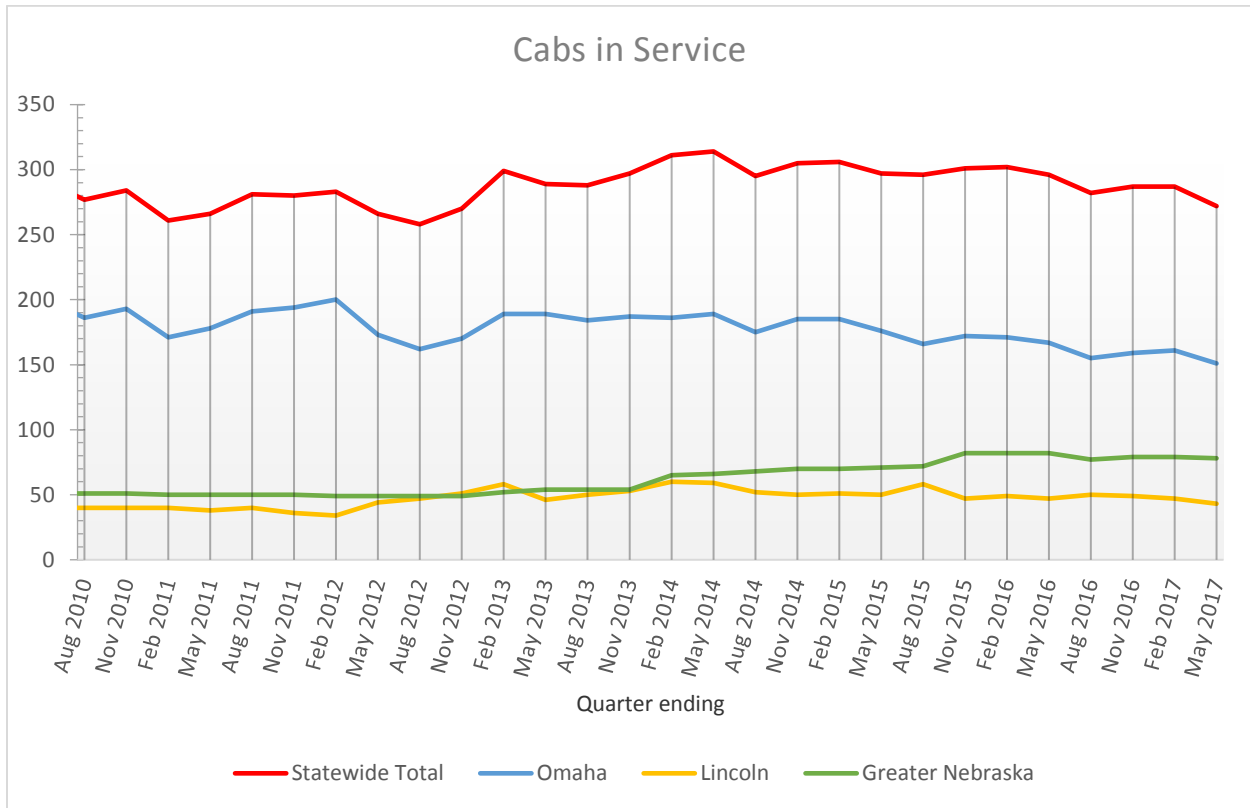
**Taxicab Carriers**

The Commission defines taxi service as the business of carrying passengers for hire by a vehicle along the most direct route between the points of origin and destination or a route under the control of the person who hired the vehicle. Taxi rides are either prearranged or on-demand and conducted within a defined geographic area at a metered, mileage-based or per-trip fare.

There are currently 23 taxicab carriers that hold an active Certificate of Public Convenience and Necessity to operate taxi services in the State of Nebraska. In 2017, one taxicab company cancelled their Certificate of Authority and ceased operations. The Commission approved two new Certificates of Authority and approved expanded authority for an existing carrier:

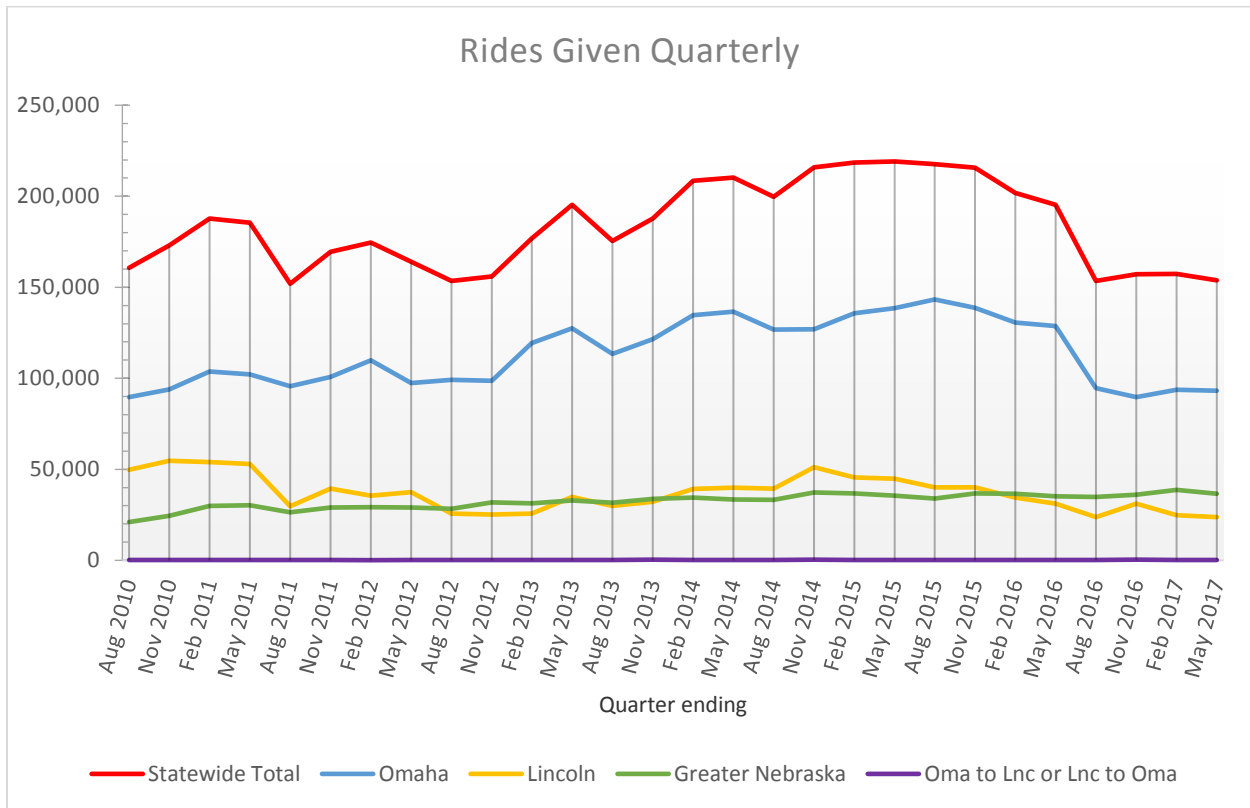
<b>Carrier</b>	<b>Authority Granted</b>
Dashabout Town Taxi, LLC	09-26-2017
Blair Blue Cab, LLC	11-07-2017
<b>Carrier</b>	<b>Extended Authority Granted</b>
Airport Transportation Company, d/b/a My Sedan	10/31/2017

The following charts show the number of taxicabs and drivers in service since August 2010:

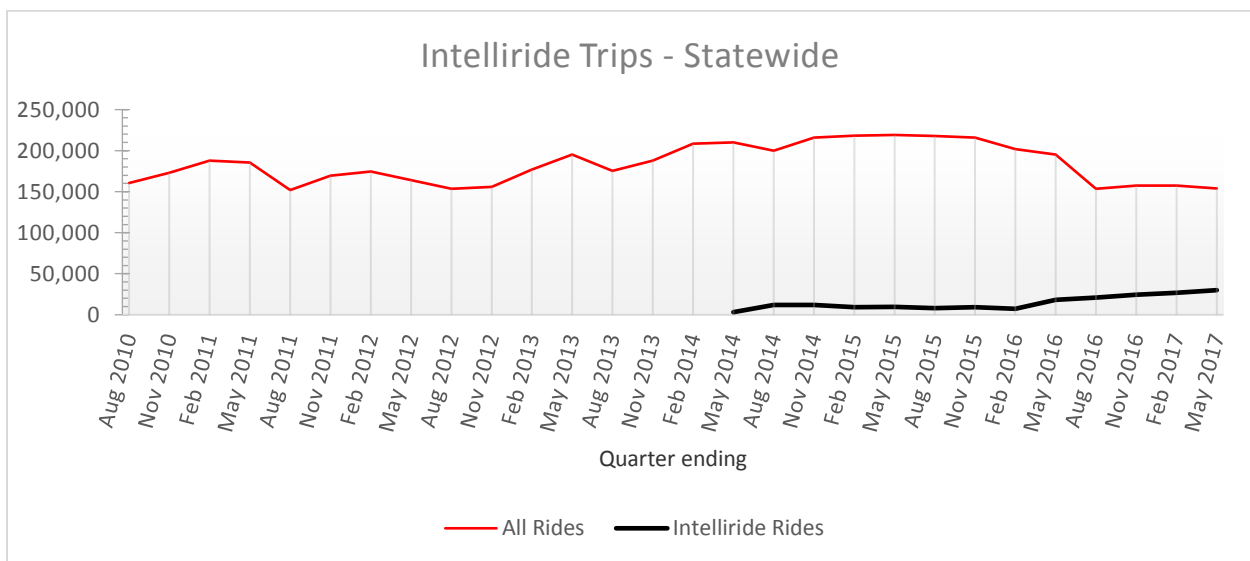




Taxicab carriers provide transportation to the general public as well as through contracts with various public and private entities. The following chart shows the total rides completed for taxicab companies since June 1, 2010:



Many taxicab carriers across the state provide non-emergency medical transportation (NET) services for clients of the Nebraska Department of Health and Human Services (DHHS). NET trips have been arranged through IntelliRide, a broker that has contracted with DHHS since May 2014.



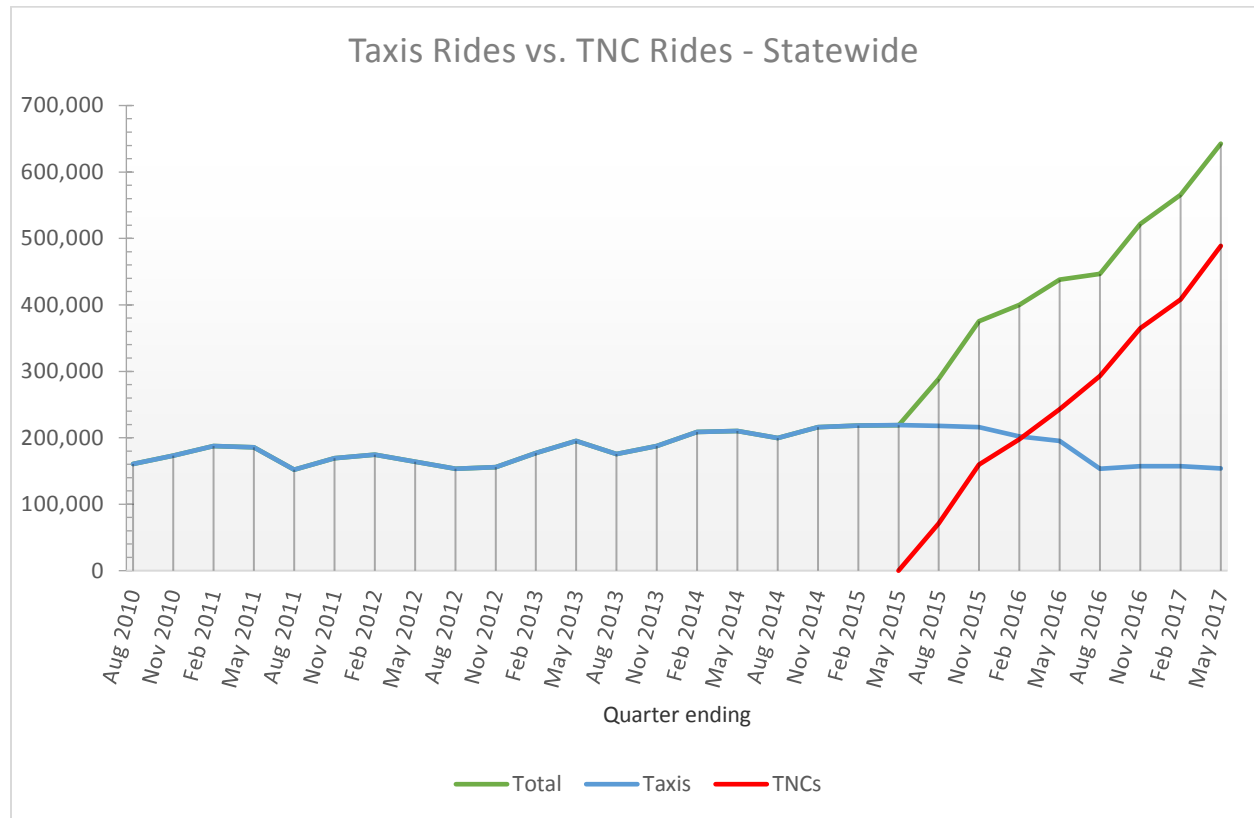
Neb. Rev. Stat. § 75-342 provides that TNCs may apply to provide similar transportation services for DHHS by submitting an Application for HHS Designation to the Commission. In order to receive HHS Designation, the TNC must demonstrate that such service is or will be required by the present or future public convenience and necessity. No TNCs have applied for HHS Designation.

## TNC Impact on Taxicab Industry in Nebraska

The purpose of this Annual Report is to provide information to the Legislature that would assist in evaluating the effectiveness of LB 629, and address any need for further legislation.

This year’s report includes data received from the certificated taxicab carriers, the permitted TNCs, as well as the Nebraska Department of Health and Human Services. All data is reported and analyzed in the aggregate, with no discussion about impacts to individual carriers.

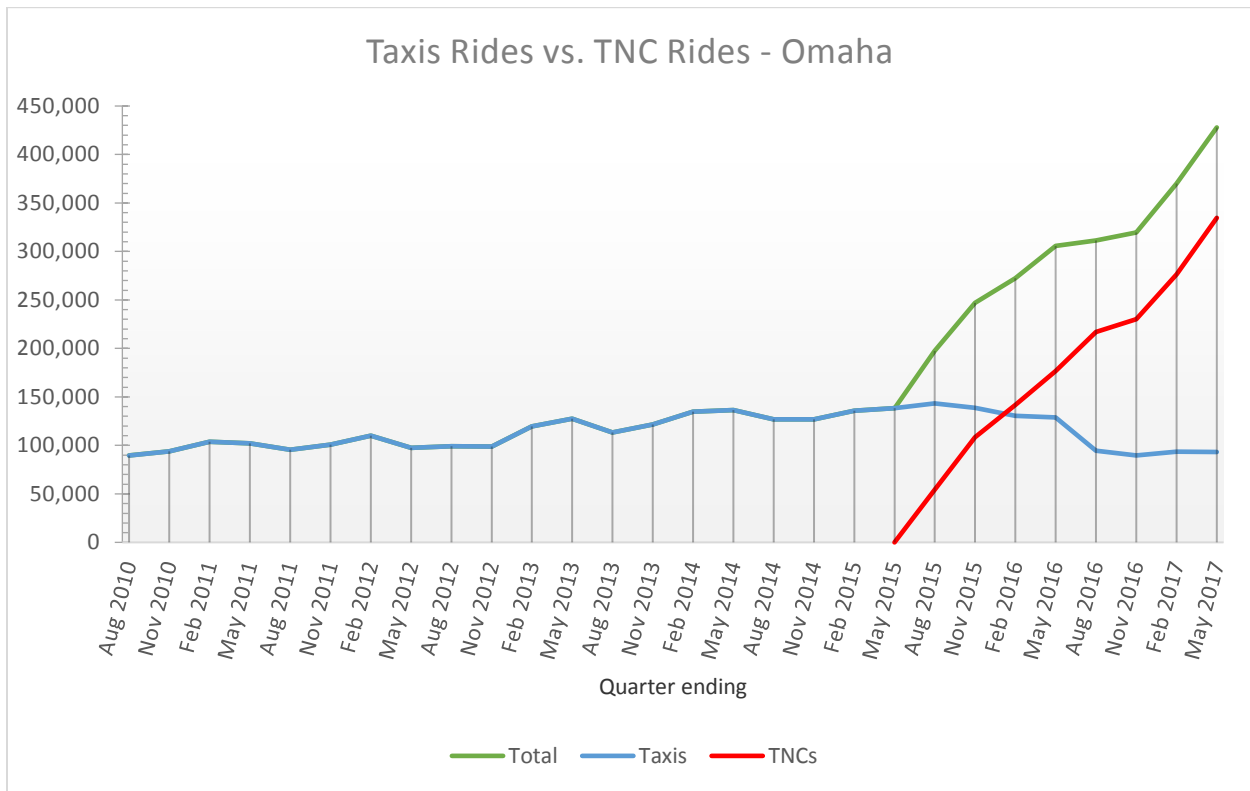
### *Statewide Impact*



Overall, the data received suggests that TNCs are serving a previously unserved portion of the market across the state. Statewide data shows that taxicab ride numbers rise and fall, likely depending upon season or events, but have stabilized over time. The dramatic rise in ridership with TNCs is not proportional to the level of any decline in taxicab ridership. We would expect to see a closer causal relationship between TNC rides and taxicab rides in order to say that TNCs are an overwhelming harm to the taxicab market. There may be additional variables at play in the market

which, combined with the introduction of TNCs, have created a cumulatively negative impact on the taxicab market. Additional data would need to be gathered and analyzed to identify those factors and their impacts.

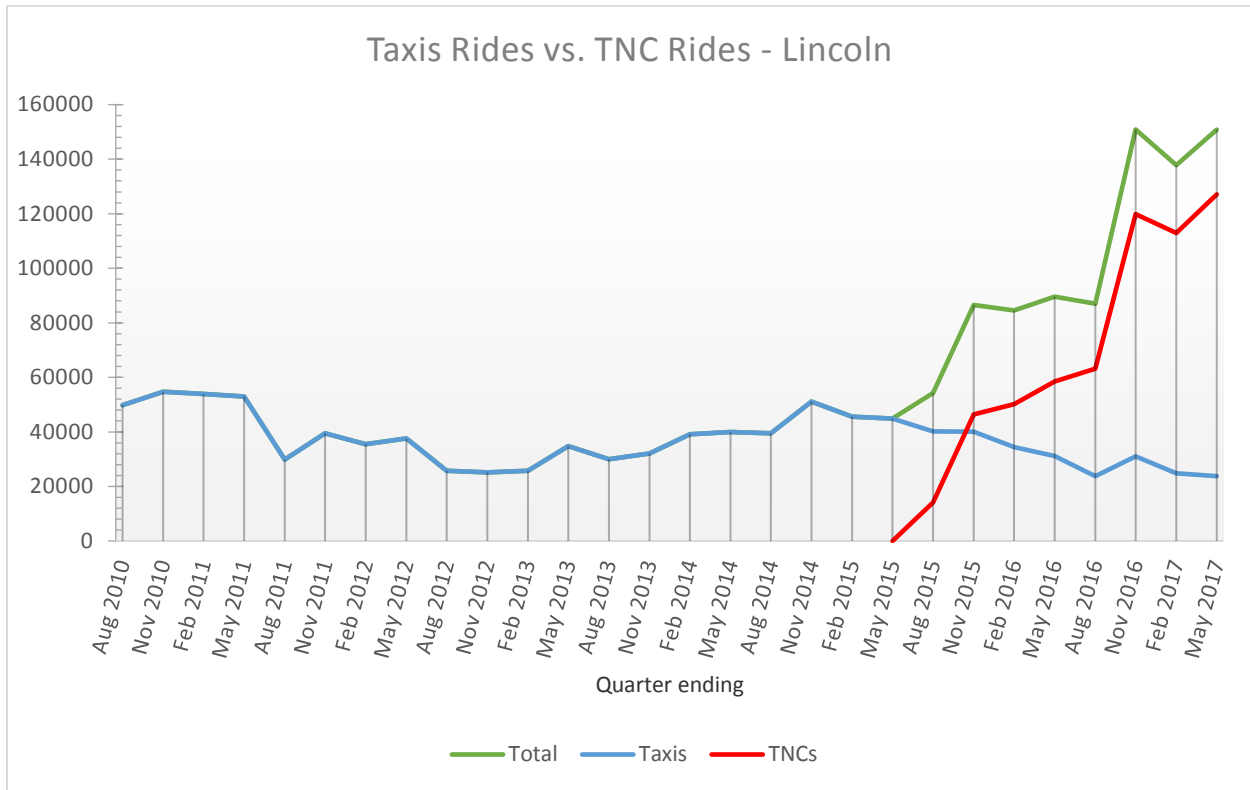
*Omaha*



In the Omaha metropolitan area, taxicab rides dropped between May 2016 and August 2016 and have since stabilized. TNC ridership has seen growth since their appearance in the market, and the numbers suggest a correlation between the increase in TNC ridership and sharp decline in Omaha taxicab ridership. Again, it is difficult to say with certainty that TNCs are the largest factor for decline in taxicabs, but TNCs seem to be serving both some of the taxicab market and previously unserved riders.

Year End	TNC Rides	Taxi Rides	TNC Change (Percent)	Taxi Change (Percent)	Overall Change (Percent)
May-11		389,346			
May-12		403,663		14,317 (3.68%)	14,317 (3.68%)
May-13		444,663		41,000 (10.16%)	41,000 (10.16%)
May-14		506,103		61,440 (13.82%)	61,440 (13.82%)
May-15		527,984		21,881 (4.32%)	21,881 (4.32%)
May-16	480,964	541,302	480,964	13,318 (2.52%)	494,282 (93.62%)
May-17	1,057,969	371,142	577,005 (119.97%)	-170,160 (-31.44%)	406,845 (39.80%)

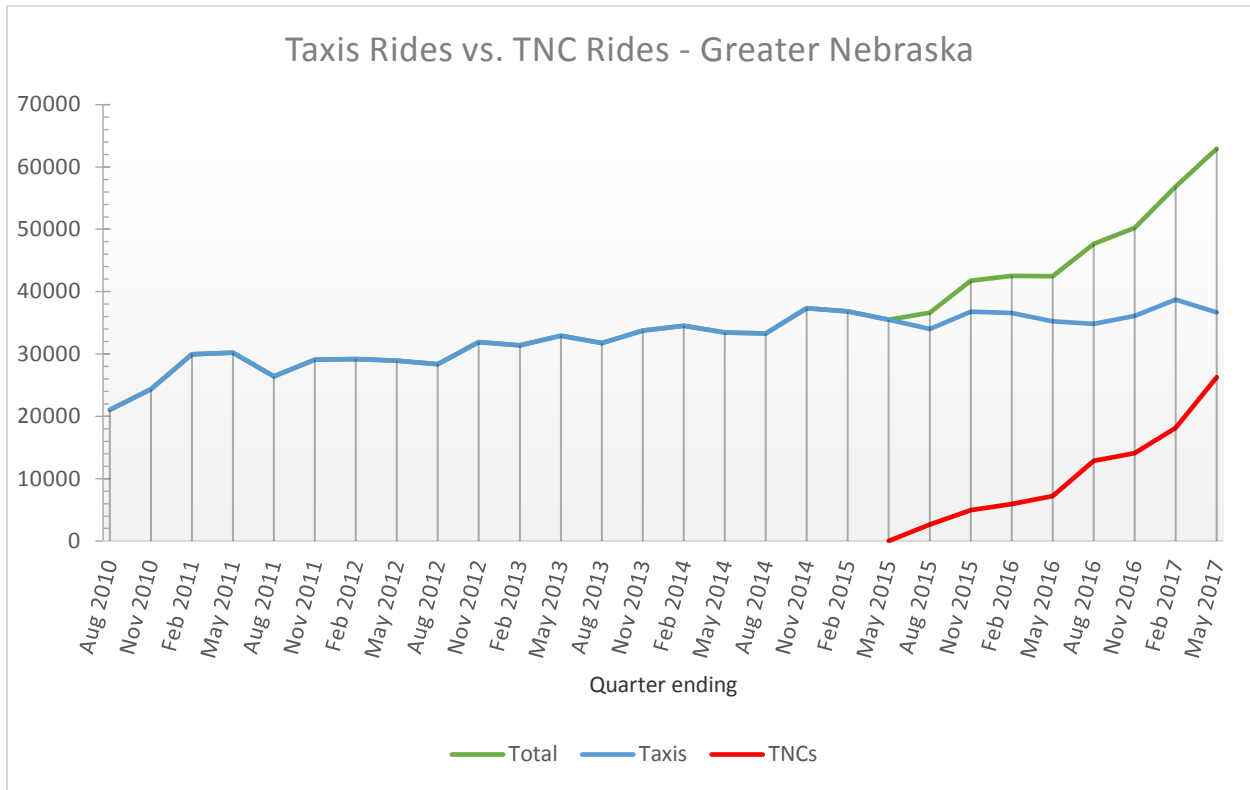
*Lincoln*



In contrast to other areas of the state, Lincoln shows an almost immediate decline in taxicab rides when the TNCs enter the Lincoln market. Although taxicab rides in Lincoln were experiencing declines before the appearance of TNCs, Lincoln is the geographic area that might be experiencing the most impact by TNCs.

Year End	TNC Rides	Taxi Rides	TNC Change (Percent)	Taxi Change (Percent)	Overall Change (Percent)
May-11		211,485			
May-12		142,309		-69,176 (-32.71%)	-69,176 (-32.71%)
May-13		111,387		-30,922 (-21.73%)	-30,922 (-21.73%)
May-14		141,136		29,749 (26.71%)	29,749 (26.71%)
May-15		181,059		39,923 (28.29%)	39,923 (28.29%)
May-16	169,102	145,818	169,102	-35,241 (-19.46%)	133,861 (73.93%)
May-17	423,014	103,480	253,912 (150.15%)	-42,338 (-29.03%)	211,574 (67.18%)

Greater Nebraska



The remaining parts of the state outside of Lincoln and Omaha have actually seen slight increases in taxicab service along with a much smaller but increasing number of TNC rides.

## Recommendations for the 2018 Legislative Session

The Commission has the following issues that the Legislature may want to consider for the 2018 Legislative Session:

1. The use of trade dress for the TNC Vehicles. State law does not currently require TNC vehicles be identified in any manner. TNC vehicles should be required to use trade dress so that the passenger can more readily identify the vehicle as opposed to a vehicle that may be operating illegally without Commission approval. The trade dress may be a sign or placard located in the lower passenger side of the vehicle's dashboard or some other non-permanent piece.
2. Insurance. Several insurance companies have begun offering an additional endorsement for a TNC driver's personal auto insurance policy to supplement the insurance provided by the TNC. TNC Insurance requirements consist of the following:
  - Engaged Stage and Passengers on Board Stage:
    - Primary liability coverage in the amount of at least one million dollars for death, personal injury, and property damage;
    - Uninsured/underinsured motorist coverage for both the driver and passengers in the amount required by the Uninsured and Underinsured Motorist Insurance Coverage Act
  - Application Open Stage:
    - Primary insurance in the amount of at least twenty-five thousand dollars for death and personal injury per person, fifty-thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage
    - Uninsured motorist coverage pursuant to the Uninsured and Underinsured Motorist Insurance Coverage Act.

Insurance requirements for coverage may be satisfied by either TNC insurance maintained by the TNC, TNC insurance maintained by the driver, or a combination of the two. The Commission would recommend continued monitoring of insurance coverage amounts mandated by current statutes to ensure that both TNC drivers and their passengers are properly covered.

The Commission will monitor TNC operations and impacts to determine any additional legislative recommendations in the future.