

NEBRASKA PUBLIC SERVICE COMMISSION

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



December 28, 2018

P.O. Box 94927
Lincoln, NE 68509-4927
(402) 471-3101
(800) 526-0017
psc.nebraska.gov

Nebraska Public Service Commission

COMMISSIONERS:

ROD JOHNSON
FRANK E. LANDIS
CRYSTAL RHOADES
MARY RIDDER
TIM SCHRAM



300 The Atrium, 1200 N Street, Lincoln, NE 68508

Post Office Box 94927, Lincoln, NE 68509-4927

Website: psc.nebraska.gov

Phone: (402) 471-3101

Fax: (402) 471-0254

NEBRASKA CONSUMER HOTLINE:

1-800-526-0017

EXECUTIVE DIRECTOR:

MICHAEL G. HYBL

December 28, 2018

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
P.O. Box 94604
Lincoln, NE 68509-4604

Dear Mr. O'Donnell:

On behalf of the Nebraska Public Service Commission, I submit the fourth annual report on the status of the implementation of the provisions of LB 629 [2015]. This report will cover pertinent information related to Nebraska's transportation network companies (TNCs) and taxicab companies from January 2018 through December 2018.

TNCs changed the way people traveled from one place to another. TNCs are used to get to school, work, medical appointments or a night out with friends. Now with TNCs testing autonomous vehicles in parts of the country, regulators must think about mobility in a completely new way. As regulators, we want to encourage transportation innovation while balancing the public interest. However, we must stay mindful of the potential affect that new transportation modes will have on the existing industry.

This year's report contains data collected from taxicab carriers and TNCs that operate within the state. If you have any questions about the report or any other issue, please contact our Commissioners or staff.

Sincerely,

A handwritten signature in blue ink that reads "Mary Ridder".

Mary Ridder
Chair

Introduction

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 Transportation Network Companies (TNCs). 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.¹ 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 629.² In order to provide the Legislature with sufficient information, the Commission solicited data from taxicab carriers 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 2018 TNC Annual Report are as follows:

- *Permits.* During 2018, the Commission revoked a permit for one TNC, Liberty Mobility Now, Inc., of Lincoln, bringing the total number of TNCs permitted to operate in Nebraska to two.
- *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.

¹ Neb. Rev. Stat. § 75-323(10) (Neb. Supp. 2015).

² Neb. Rev. Stat. § 75-343 (Neb. Supp. 2015).

- *Insurance.* A handful of insurance companies are now offering TNC Endorsements for personal auto insurance policies for Nebraska drivers that drive for a TNC. These endorsements provide additional coverage options for TNC drivers besides the insurance coverage provided by the TNC.
- *Fees.* The Commission determined that the 2019 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.
- *Other Considerations:* This report focuses on the impacts of TNCs on Nebraska's taxicab industry. As stated above, other factors may be contributing to the decline in taxicab ridership illustrated in the data. For instance, availability of lower cost public transportation options may play a role. Additionally, the recent provision of on-demand services by a service class that historically had not provided on-demand services in Omaha and Lincoln could also have an impact on taxicab ridership in those areas. Additional data gathering would be required in order to bring clarity to the causes for taxicab ridership 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 Commission is comprised of five elected Commissioners serving six-year terms. 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. 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 tariffed rates 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 November 30, 2018, the balance of the Fund was approximately \$58,537.70.

On September 25, 2018, the Commission held a public hearing and determined that the per-vehicle fee for 2019 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.

In May 2018, the Commission revoked the permit of authority issued for Liberty Mobility Now, Inc. As of this report, Rasier, LLC (Uber) and Lyft, Inc. continue to operate in the state. The Commission estimates that there are well over 600 TNC drivers, mostly in the Omaha and Lincoln metropolitan areas.

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 has received 55 lienholder notification forms between January 1, 2018 and December 15, 2018.

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. The Commission completed a review of TNC driver records during 2018 and did not find compliance issues of note.

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. The Commission held a workshop on January 9, 2017 to discuss the various background checks conducted by passenger carriers, with TNCs participating in the discussion. In its December 18, 2018 Order closing the investigation, the Commission determined that it would continue to monitor industry policies and would take no further action at this time.

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 2018, the Commission received several tips that led to investigations by Commission staff. These have involved 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 investigate any consumer reports and tips.

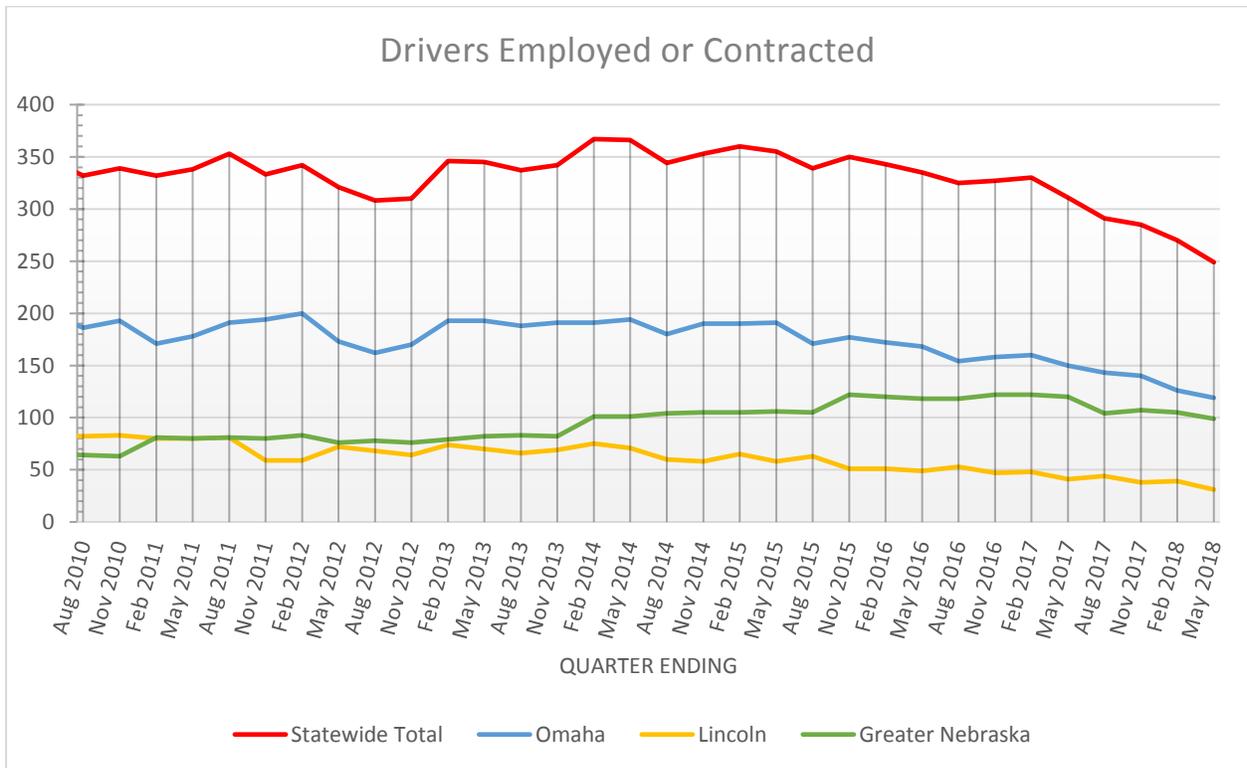
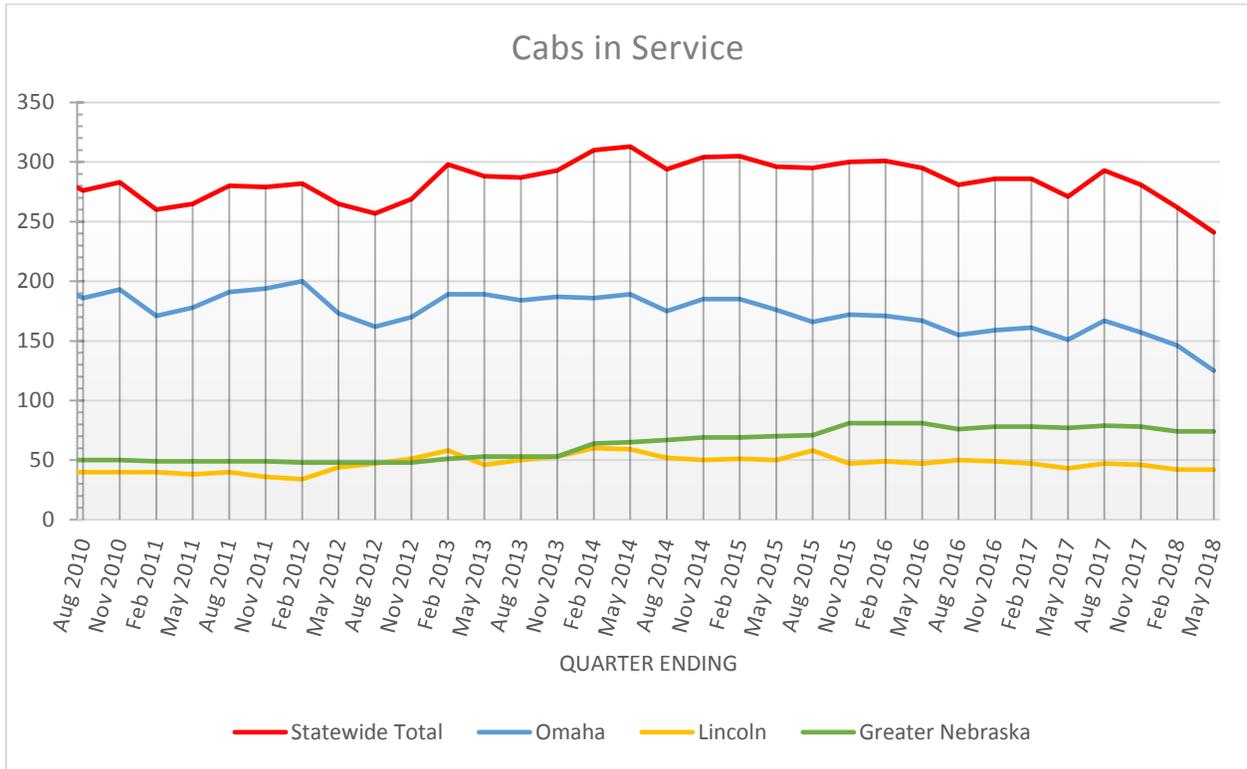
Taxicab Carriers

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.

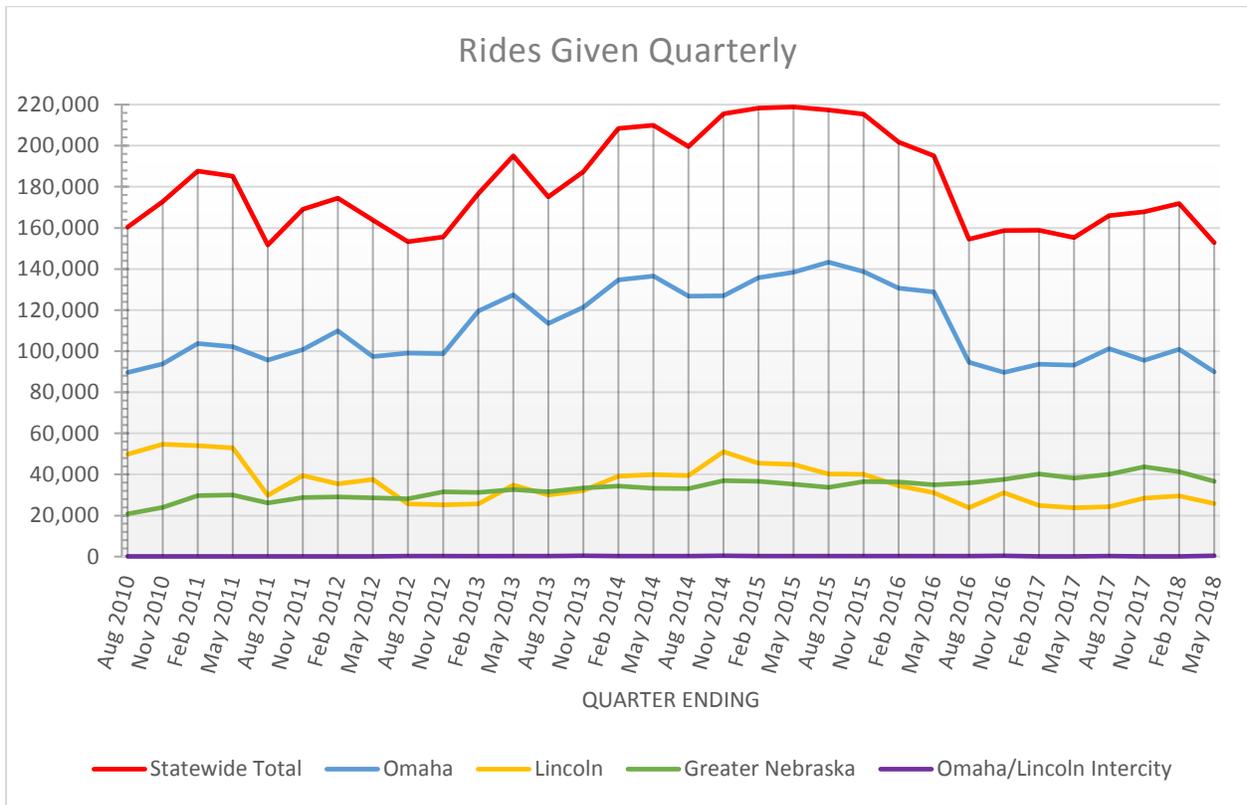
There are currently 19 taxicab carriers with a Certificate of Public Convenience and Necessity to provide taxi services in the state of Nebraska. In 2018, two taxicab companies cancelled their Certificate of Authority and ceased operations, one taxicab application was dismissed, and one taxicab company was granted exemption from Commission authority. The Commission approved six new Certificates of Authority through acquisition:

Carrier	Authority Granted
WHC NE LLC d/b/a ZTrip d/b/a Airport Transportation, d/b/a Van Go, d/b/a My Sedan	06-12-2018
WHC NE LLC d/b/a ZTrip d/b/a Cornhusker Cab Company	06-12-2018
WHC NE LLC d/b/a ZTrip d/b/a Happy Cab	06-12-2018
WHC NE LLC d/b/a ZTrip d/b/a Checker Cab Company	06-12-2018
WHC NE LLC d/b/a Yellow Cab Company	06-12-2018
WHC NE LLC d/b/a Safeway Cab	06-12-2018

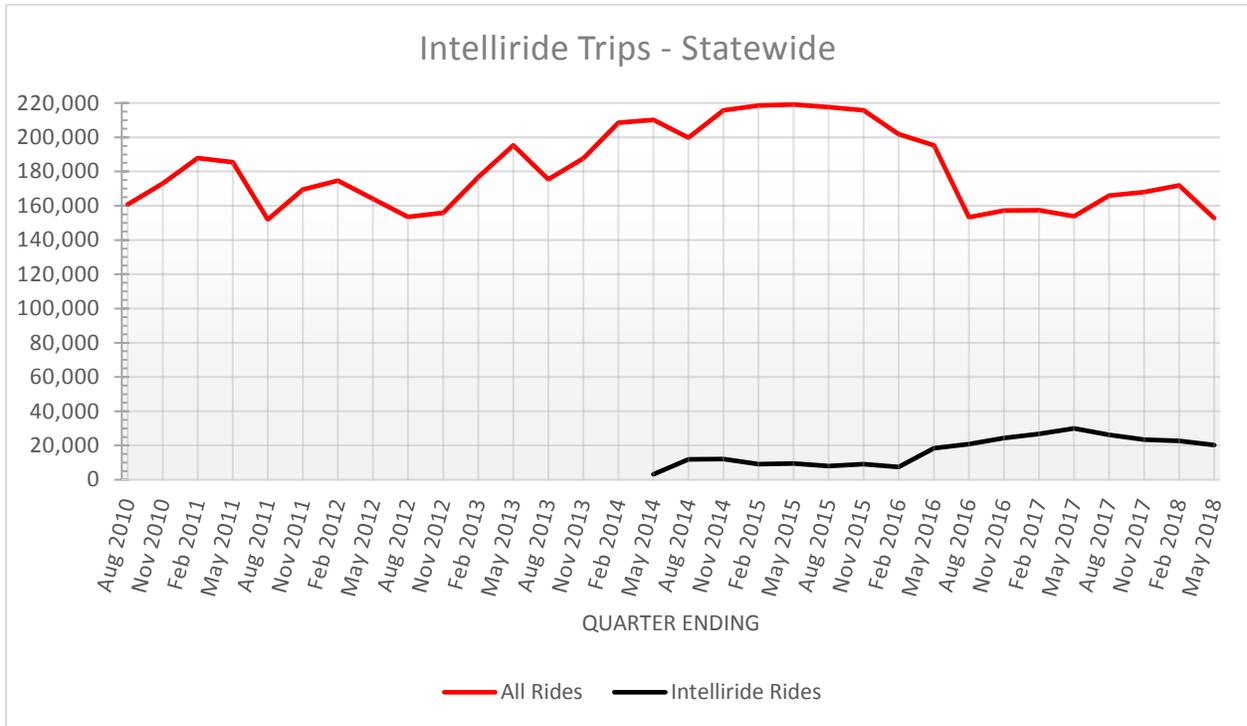
The following charts show the number of taxicabs and drivers in service since August 2010:



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 August 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). The following chart shows the total DHHS trips completed by taxicabs, as compared to all rides:



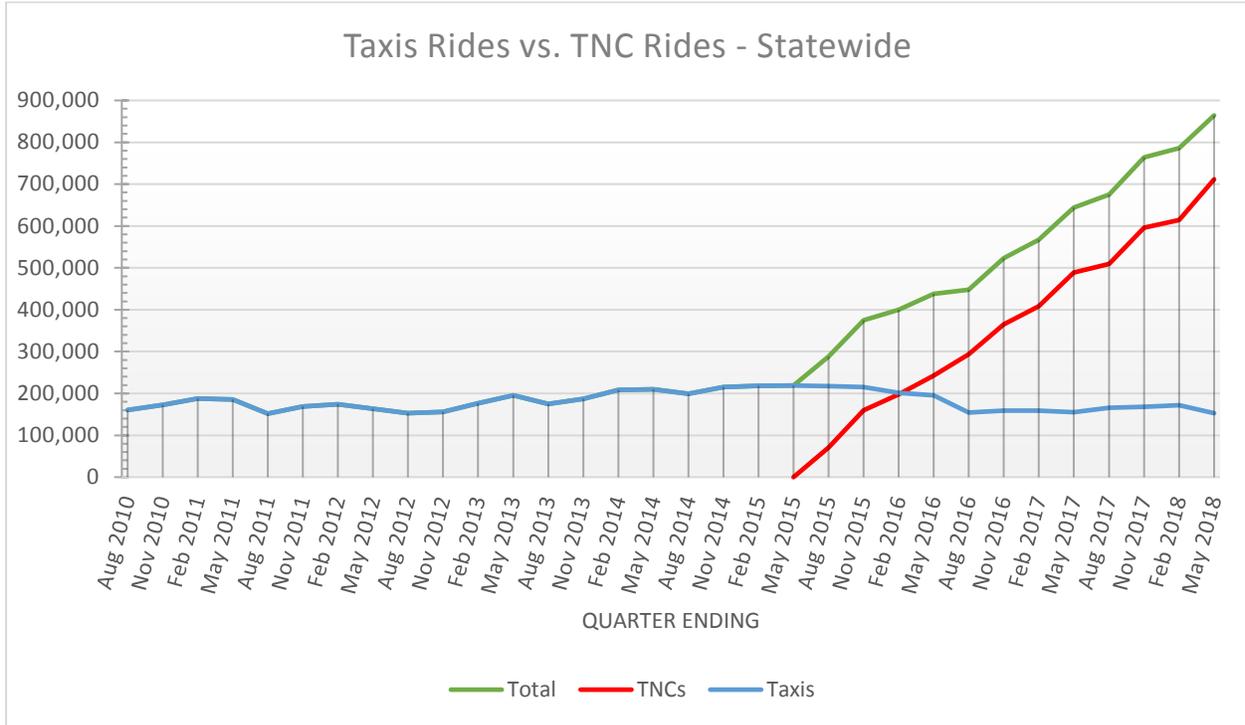
Neb. Rev. Stat. § 75-342 provides that TNCs may apply to provide similar transportation services for DHHS. Any TNC application for HHS Designation would be reviewed using the same standards that the Commission would utilize to review HHS Designation applications for other passenger carriers. No Nebraska permitted TNCs have applied to provide transportation for DHHS clients.

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.

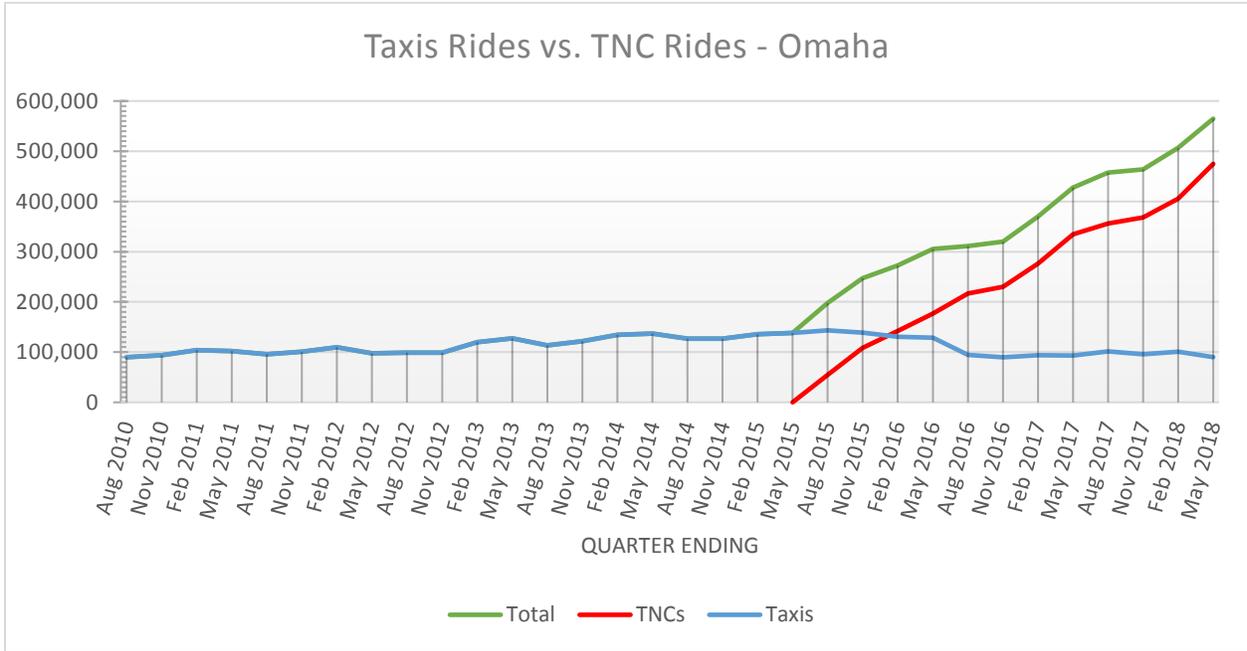
Statewide Impact



Overall, the data received suggests that TNCs are serving a previously unserved portion of the market. 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.

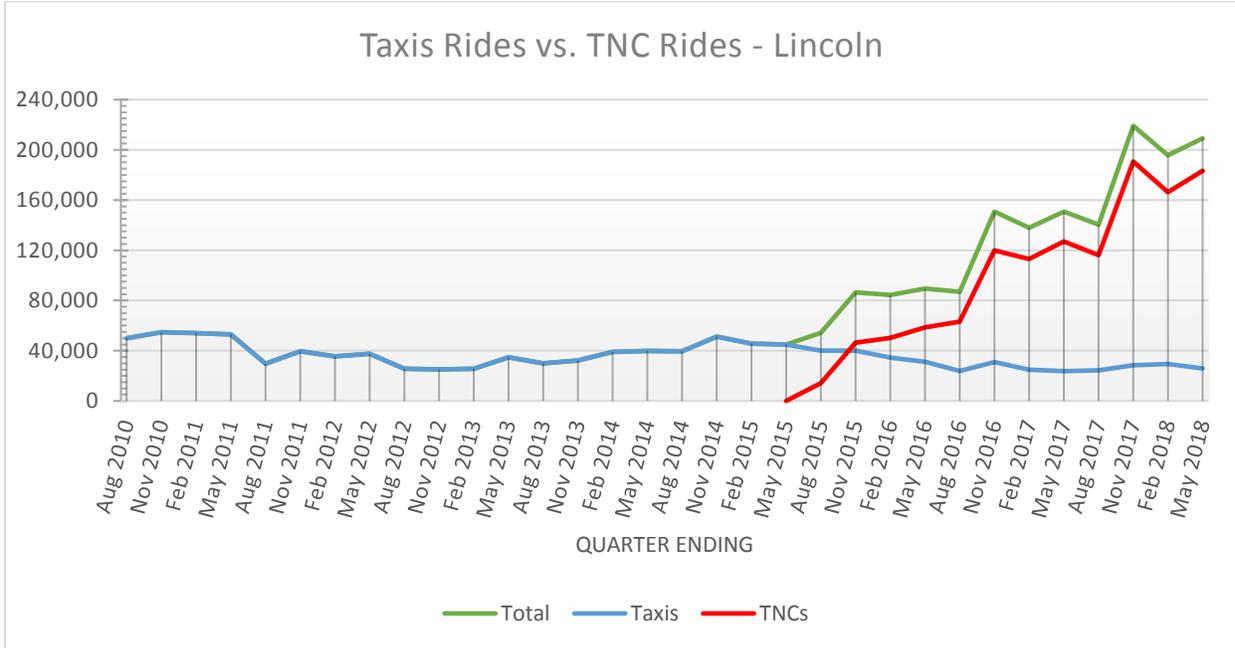
Omaha

In the Omaha metropolitan area, taxicab rides saw a drop between May 2016 and August 2016 and have since stabilized. TNC ridership has seen growth since their appearance in the market.



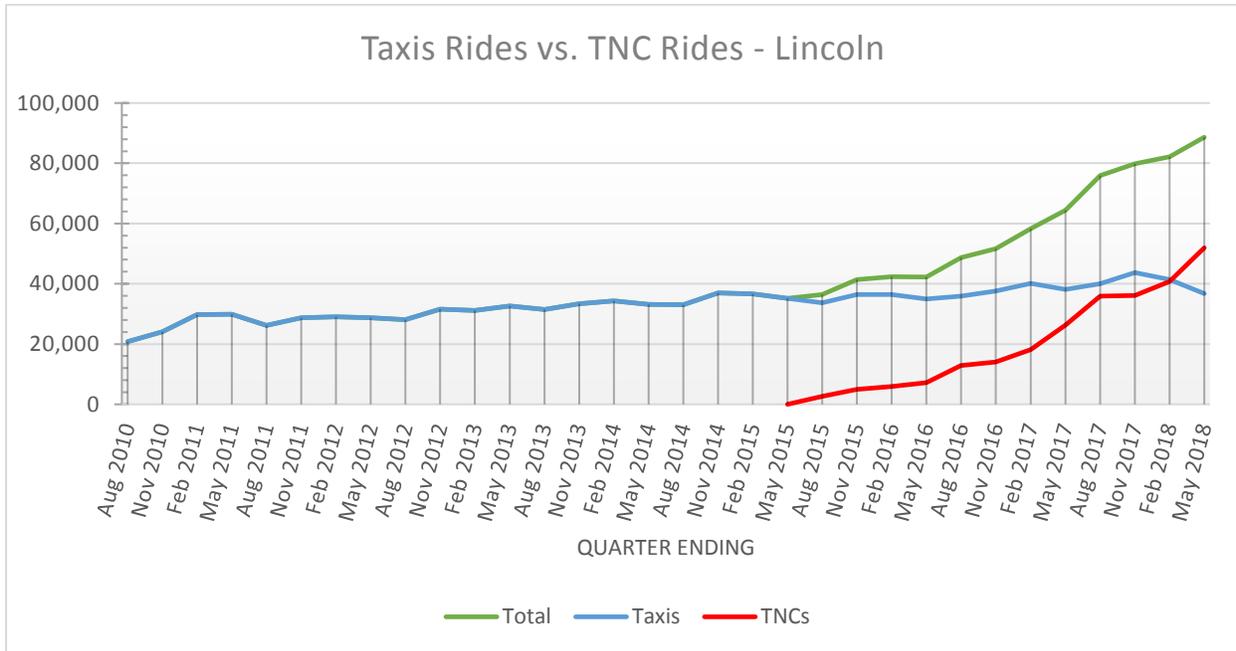
Lincoln

In contrast to other areas of the state, Lincoln shows an almost immediate decline in taxicab rides when TNCs entered the Lincoln market.



Greater Nebraska

The remaining parts of the state outside of Lincoln and Omaha have actually seen a slight upward trend in taxicab service.



Recommendations for the 2019 Legislative Session

The Commission has the following issues that the Legislature may want to consider for the 2019 Legislative Session:

1. Insurance: Since TNCs entered the market, insurance coverage and liability has continued to be of concern. Nebraska TNC drivers are now able to purchase additional TNC auto insurance coverage for their personal auto policy. The Commission would recommend that steps be taken to ensure that there are no gaps in coverage.
2. TNC Vehicles Trade Dress: State law does not currently require TNC vehicles be identified in any manner, but many drivers have opted to use some form of trade dress when providing transportation services. 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.

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