

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

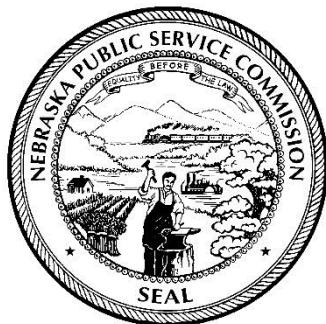
NEBRASKA PUBLIC SERVICE COMMISSION

DECEMBER 30, 2016

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December 30, 2016

It is with great pleasure that I submit the annual report on the status of implementing the statutory provisions related to the regulation of transportation network companies (TNCs) in the State of Nebraska. This report will cover pertinent information related to Nebraska's taxicab and TNC industries from January 2016 through December 2016.

This November, the Commission's TNC rules and regulations were approved. These new rules were integrated into the complete rewrite of the Commission's Motor Carrier rules and regulations, which also went into effect this fall.

Additionally, the Commission continues to monitor and investigate TNC operations and compliance. The Commission also opened a public investigation into driver misconduct and the background check process completed by all passenger carriers, including TNCs, in order to ensure that carriers are taking all necessary steps to ensure passenger safety.

The Commission has endeavored to include information in this report to assist the Legislature in assessing the effectiveness of LB 629. We would be happy to provide additional information to the Legislature, if necessary. If you have any questions about the report or any other issue regarding the Commission, please contact our Commissioners or staff.

Sincerely,

Tim Schram
Chairman

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 granted the Commission the authority to regulate these new carriers. TNCs must apply for a permit to operate as a TNC in the State of

Nebraska prior to beginning operations in the State. The Commission does not approve these companies' rates, but each company is required to file its rates with the Commission.

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. As of December 15, 2016, the balance of the Fund was approximately \$65,959.45.

TNC Regulation

NEB. REV. STAT. § 75-324 requires TNCs to apply with the Commission for permits to operate in Nebraska. The application gathers company contact information and rates, and verifies insurance certificates and drug and alcohol and anti-discrimination policies. Additionally, companies must indicate whether they have 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.

Currently, two TNCs have authority to operate in the state of Nebraska: Raiser, LLC (Uber); and Lyft, Inc. The Commission has not received any applications for authority to provide TNC services in Nebraska between December 1, 2015 and December 1, 2016. The Commission estimates that there are approximately 500 people who work as TNC drivers for either of the two companies, mostly in the Omaha and Lincoln metropolitan areas. No TNC permits have 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 has received 48 lienholder notification forms between January 1, 2016 and December 1, 2016.

Additionally, NEB. REV. STAT. § 75-329 authorizes the Commission to conduct audits of TNC records to ensure public safety, including criminal background checks of drivers. Audits may be completed no more than once a calendar quarter unless the Commission deems it necessary to do so more frequently.

Dockets on Policy and Regulation

After the passage of LB 629, the Commission was tasked with creating policies and rules and regulations to administer and enforce the intent of the new statutory authority granted by the Legislature. The following dockets relate to the regulation of TNCs:

Rule and Regulation No. 194 *In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 3, Motor Carrier Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 629 [2015] regarding regulation of Transportation Network Companies (TNC).*

The Commission opened this rulemaking docket in conjunction with TNC-1 on June 16, 2015 to formally begin the process of adopting Commission rules and regulations specifically for TNCs and to release the first set of proposed rules for comment. The Commission received written comments and held a workshop to discuss the proposed rules and gather additional comment. A second set of proposed rules were released on October 20, 2015 and a public hearing was held December 1, 2015. A Certificate of Adoption was entered by the Commission April 19, 2016, and the final rules and regulations went into effect October 29, 2016.

TNC-1 *In the Matter of the Nebraska Public Service Commission, on its own motion, to Establish Interim Policies for the Implementation of LB 629 [2015] pending Final Rulemaking.*

On June 16, 2015, the Commission opened TNC-1 to propose a process for TNCs to comply with LB 629 while awaiting the adoption of final Commission rules and regulations. The Commission adopted an application form and fee schedule to be submitted by the TNC, as well as a Lienholder Notification form to be submitted by TNC drivers who must notify their lienholder of the intent to use the driver's personal vehicle to provide transportation services. Based upon comments collected during the rulemaking process, the Commission entered an order on April 19, 2016 to amend the policy and lienholder form.

TNC-2 *In the matter of the Commission, on its own motion, seeking to determine the annual fee for Transportation Network Companies.*

On October 14, 2015, the Commission opened TNC-2 to review the annual fee associated with TNCs. NEB. REV. STAT. § 75-305 requires TNCs to pay an annual fee of either twenty-five thousand dollars (\$25,000) or up to eighty dollars (\$80) per personal vehicle operated by a TNC driver. The annual fees are due to the Commission by January 1 of each year. The Commission must annually review the per-vehicle fee to ensure that the collected amount does not exceed what is necessary for the Commission to administer and enforce the laws, rules and regulations regarding TNCs. On October 19, 2016, a hearing was held to determine the appropriate fee amount for 2017. On October 25, 2016, the Commission entered an order setting the 2017 per-vehicle fee at eighty dollars (\$80) per personal vehicle.

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.*

On March 15, 2016, the Commission opened PI-204 to investigate carrier safety procedures as it relates to drivers. The Commission asked all passenger carriers, including TNCs, questions related to background checks, driver qualifications, and how carriers deal with any alleged driver misconduct. The Commission is currently determining the next steps.

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 2016, the Commission received two informal complaints and several tips which have led to investigations by Commission staff. These have involved reports of TNC drivers charging cash for trips outside of the TNC operating platform or soliciting rides without prearranging the ride through the use of the TNC app. The Commission continues to monitor the activities of TNC drivers and investigate consumer reports and tips.

Additional Information

The Commission monitors TNC issues on the national level. One issue of particular interest is the recent testing of self-driving cars by TNCs. Both Uber and Lyft announced plans this year to begin testing vehicles, with Uber testing self-driving cars with select passengers in Pittsburgh, Pennsylvania in September 2016. Other issues of note are background checks and possible discriminatory practices of drivers in some markets.

The Commission is active on the state and national level to contribute and give insight to transportation policy matters. In January 2016, the National Association of Regulatory Utility Commissioners (NARUC) established the Taskforce on Transportation to study TNC issues and give support to states' efforts in regulation and enforcement. The Task Force is comprised of commissioners and staff from several states that have regulatory authority of TNCs and other motor carriers. The Task Force collected information from participating states, including Nebraska, concerning how their particular jurisdictions regulate TNCs. Ten states responded to the survey, and the responses were presented at a Town Hall meeting at the NARUC Annual Meeting in La Quinta, California on November 13, 2016. The chart is available on NARUC's website: <http://www.naruc.org/committees/committee-resources/transportation-resources/>.

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 operating under a Certificate of Public Convenience and Necessity in the State of Nebraska. The Commission did not authorize any new taxicab carriers in 2016.

The Commission requested that all certificated taxicab companies submit information regarding the number of rides provided, taxicabs operated, and drivers employed or contracted by the company. The following tables illustrate these statistics as provided by 20 of the 23 carriers for the period of May 2010 to May 2016. More detailed charts may be found in Appendices A and B. For questions or other inquiries regarding this data, please contact the Motor Transportation Department of the Commission.

Statewide Impact

The addition of TNCs into the market does not appear to have had a profound impact on the operations of taxicab companies in the State of Nebraska. The total number of rides given by taxicab companies has generally been on an upward trend over the past five years, with occasional dips that can likely be attributed to some combination of inclement weather, the school year and the football season. See Figure 1 “Rides Given Quarterly” below.

Although the number of rides has increased over time, the number of taxicabs in operation has remained fairly consistent with a minimum value of 255 in August 2012 and a maximum value of 307 in May 2014. See Figure 2 “Cabs” below. Similarly, the number of drivers employed or contracted had a minimum value of 300 in August 2012 and a maximum value of 355 in February 2014. See Figure 3 “Drivers” below.

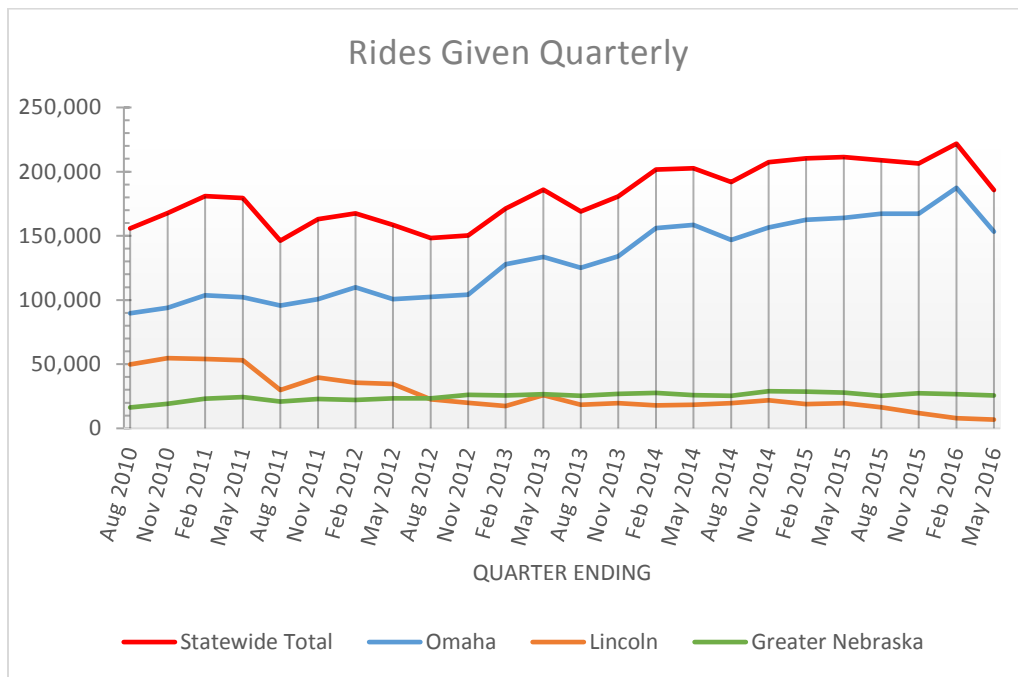


FIGURE 1. RIDES GIVEN QUARTERLY

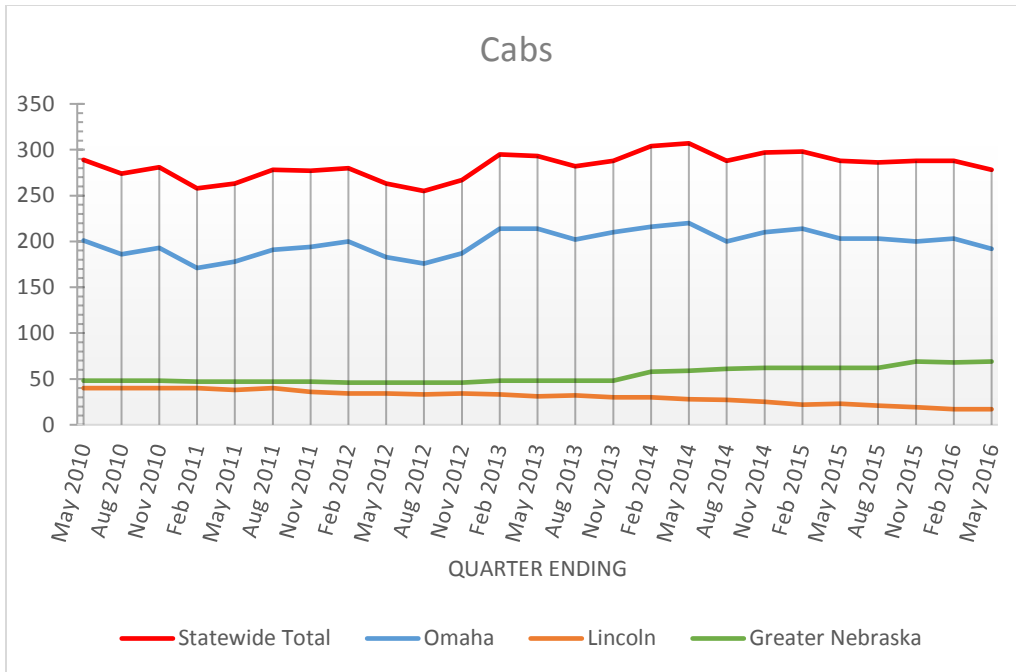


FIGURE 2. CABS

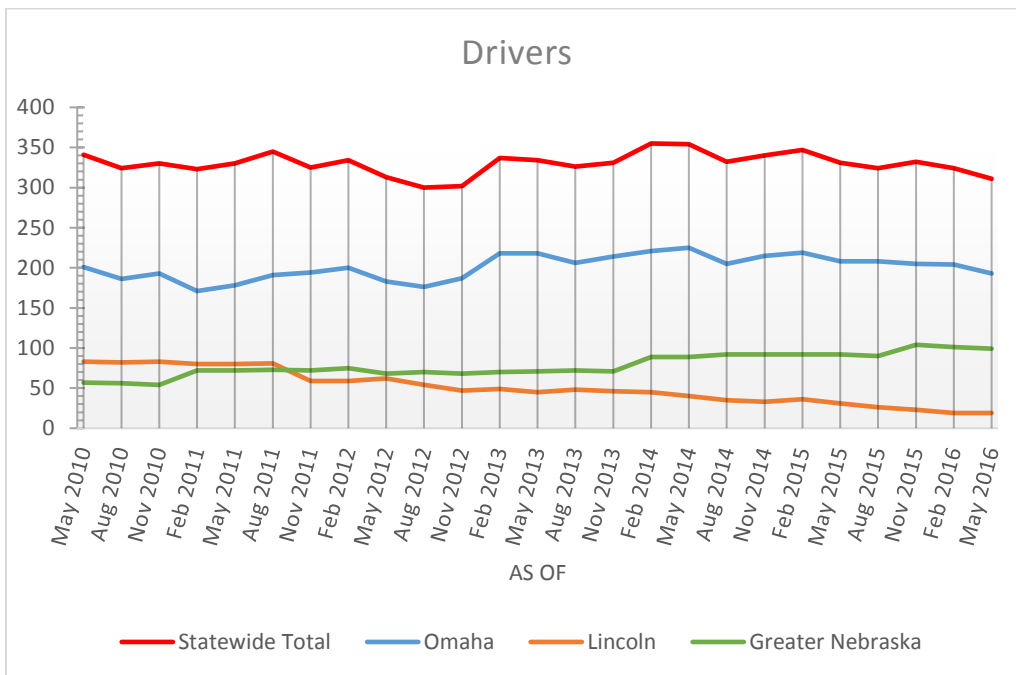


FIGURE 3. DRIVERS

Lincoln Impact

The Lincoln market presents a significant exception to the statewide trends. The number of rides given, the number of cabs in service and the number of drivers employed or contracted have generally been declining in Lincoln over the past five years. See Figure 4 “Rides Given Quarterly – Lincoln,” Figure 5 “Cabs – Lincoln” and Figure 6 “Drivers – Lincoln,” respectively. However, it is significant to note that these trends pre-date the passage of LB 629 and the licensure of the State’s two TNCs, which would seem to indicate that these declines are due to some factor other than the operation of the TNCs.

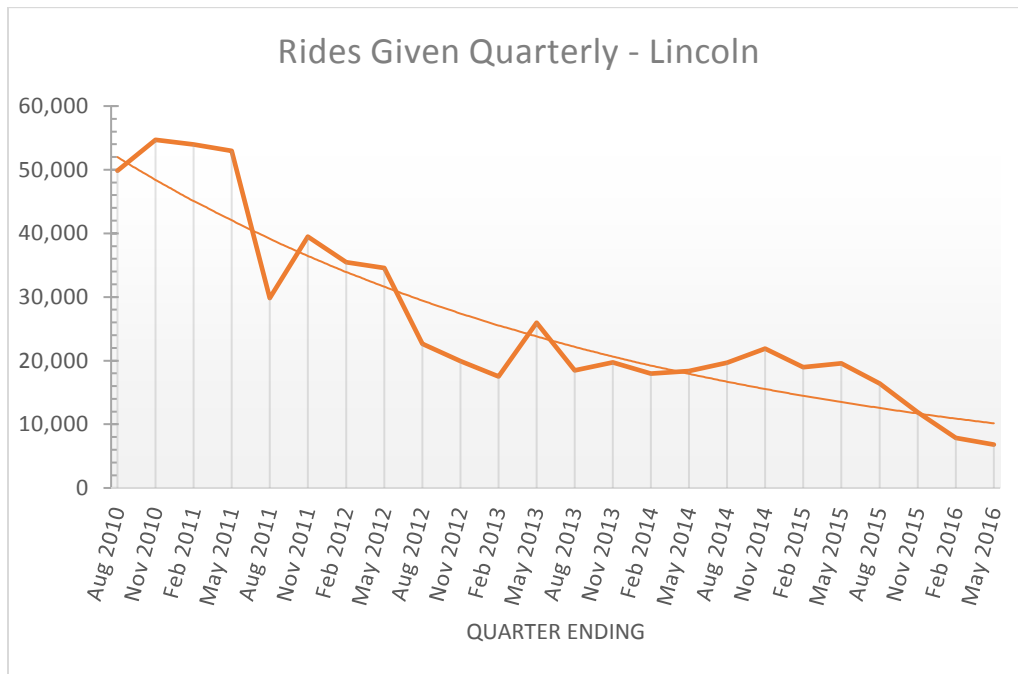


FIGURE 4. RIDES GIVEN QUARTERLY – LINCOLN

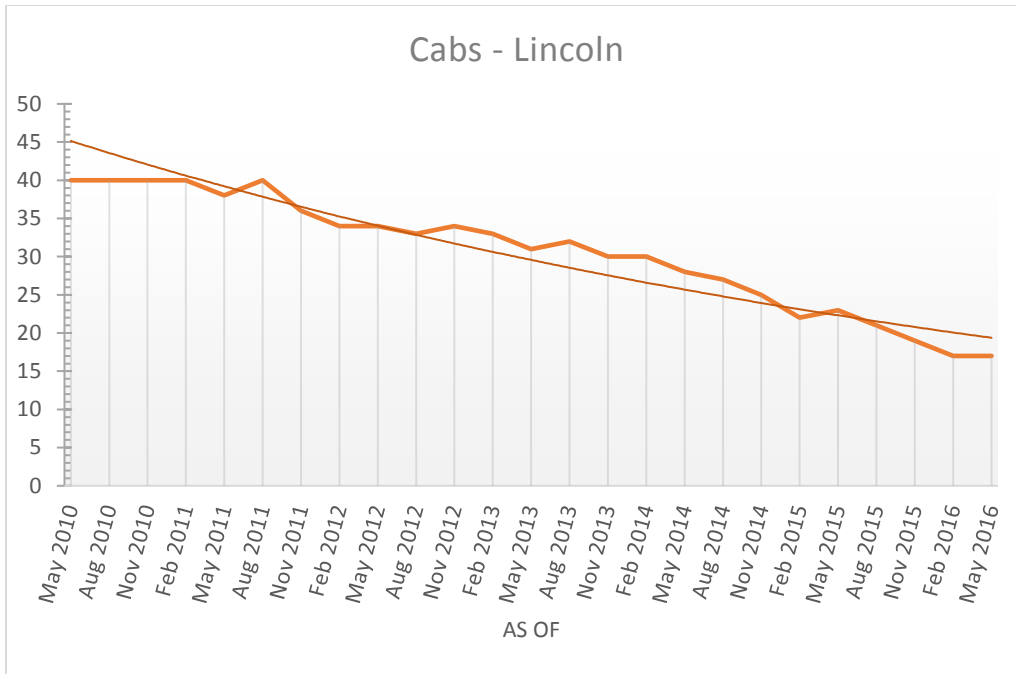


FIGURE 5. CABS – LINCOLN

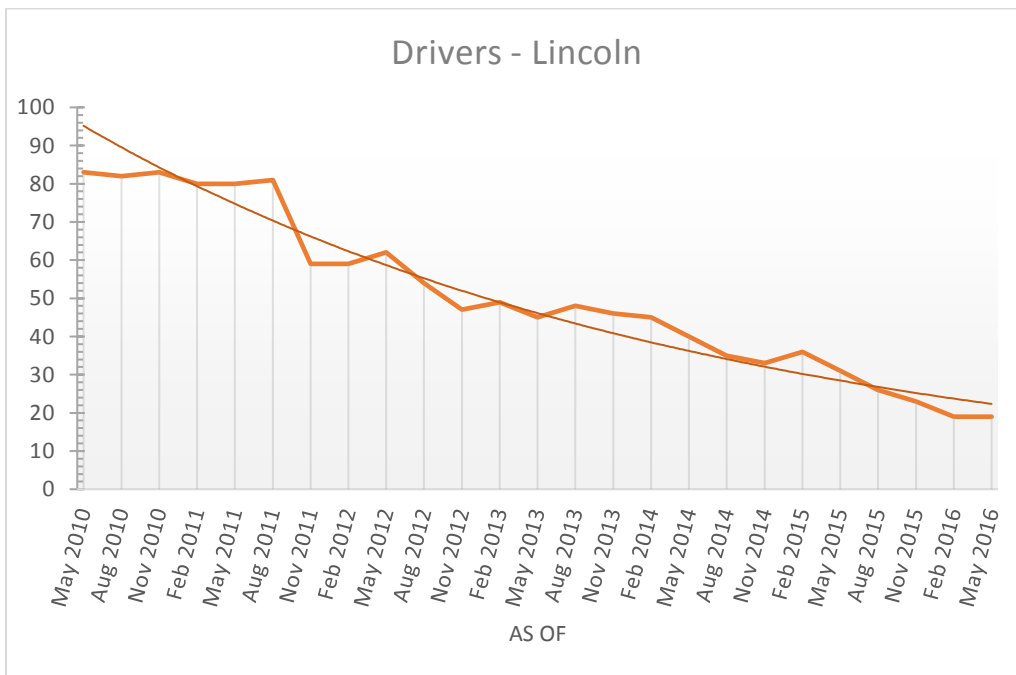


FIGURE 6. DRIVER – LINCOLN

Recommendations for the 2017 Legislative Session

The Commission has the following issues that the Legislature may want to consider for the 2017 Legislative Session:

The use of an identifier for the TNC Vehicles: Currently, state law does not require TNC vehicles be identified in any manner. TNC vehicles should be required to have some sort of identifier so that the passenger can more readily identify the vehicle as opposed to a vehicle that may be operating illegally without Commission approval and proper insurance to protect the public. The identifying piece 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 continue to monitor TNC operations and impacts to determine any additional legislative recommendations in the future.

Appendix A – Taxicab Data

The tables below represent a summaries of the data collected from the 20 of the 23 certificated taxicab companies operating in the State of Nebraska. Figures 1 through 6 rely directly on the data from these tables.

Rides Given

As of	Statewide Total	Omaha	Lincoln	Greater Nebraska
Aug 31, 2010	155,798	89,669	49,847	16,282
Nov 30, 2010	167,615	93,831	54,696	19,088
Feb 28, 2011	180,813	103,741	53,967	23,105
May 31, 2011	179,408	102,105	52,975	24,328
Aug 31, 2011	146,224	95,603	29,811	20,810
Nov 30, 2011	163,073	100,769	39,466	22,838
Feb 29, 2012	167,509	109,871	35,479	22,159
May 31, 2012	158,556	100,596	34,536	23,424
Aug 31, 2012	148,397	102,399	22,660	23,338
Nov 30, 2012	150,173	104,148	19,927	26,098
Feb 28, 2013	171,143	127,932	17,496	25,715
May 31, 2013	186,029	133,506	25,964	26,559
Aug 31, 2013	169,016	125,191	18,484	25,341
Nov 30, 2013	180,799	134,171	19,729	26,899
Feb 28, 2014	201,541	156,046	17,967	27,528
May 31, 2014	202,514	158,383	18,369	25,762
Aug 31, 2014	191,862	146,789	19,667	25,406
Nov 30, 2014	207,422	156,594	21,901	28,927
Feb 28, 2015	210,267	162,607	18,984	28,676
May 31, 2015	211,390	164,045	19,582	27,763
Aug 31, 2015	208,967	167,262	16,432	25,273
Nov 30, 2015	206,469	167,122	11,874	27,473
Feb 29, 2016	221,784	187,383	7,887	26,514
May 31, 2016	185,631	153,251	6,813	25,567

Cabs in Use

As of	Statewide Total	Omaha	Lincoln	Greater Nebraska
May 31, 2010	289	201	40	48
Aug 31, 2010	274	186	40	48
Nov 30, 2010	281	193	40	48
Feb 28, 2011	258	171	40	47
May 31, 2011	263	178	38	47
Aug 31, 2011	278	191	40	47
Nov 30, 2011	277	194	36	47
Feb 29, 2012	280	200	34	46
May 31, 2012	263	183	34	46
Aug 31, 2012	255	176	33	46
Nov 30, 2012	267	187	34	46
Feb 28, 2013	295	214	33	48
May 31, 2013	293	214	31	48
Aug 31, 2013	282	202	32	48
Nov 30, 2013	288	210	30	48
Feb 28, 2014	304	216	30	58
May 31, 2014	307	220	28	59
Aug 31, 2014	288	200	27	61
Nov 30, 2014	297	210	25	62
Feb 28, 2015	298	214	22	62
May 31, 2015	288	203	23	62
Aug 31, 2015	286	203	21	62
Nov 30, 2015	288	200	19	69
Feb 29, 2016	288	203	17	68
May 31, 2016	278	192	17	69

Drivers Employed/Contracted

As of	Statewide Total	Omaha	Lincoln	Greater Nebraska
May 31, 2010	341	201	83	57
Aug 31, 2010	324	186	82	56
Nov 30, 2010	330	193	83	54
Feb 28, 2011	323	171	80	72
May 31, 2011	330	178	80	72
Aug 31, 2011	345	191	81	73
Nov 30, 2011	325	194	59	72
Feb 29, 2012	334	200	59	75
May 31, 2012	313	183	62	68
Aug 31, 2012	300	176	54	70
Nov 30, 2012	302	187	47	68
Feb 28, 2013	337	218	49	70
May 31, 2013	334	218	45	71
Aug 31, 2013	326	206	48	72
Nov 30, 2013	331	214	46	71
Feb 28, 2014	355	221	45	89
May 31, 2014	354	225	40	89
Aug 31, 2014	332	205	35	92
Nov 30, 2014	340	215	33	92
Feb 28, 2015	347	219	36	92
May 31, 2015	331	208	31	92
Aug 31, 2015	324	208	26	90
Nov 30, 2015	332	205	23	104
Feb 29, 2016	324	204	19	101
May 31, 2016	311	193	19	99

Appendix B – Additional Charts

The charts below graphically represent the data from Appendix A in greater detail than in Figures 1 through 3. Figures 4 through 6, which pertain to Lincoln, have been recreated below for ease of reference.

