

# North Carolina Board of Law Examiners

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**Presentation to  
Legal Professionalism Committee of  
The North Carolina Commission on the Administration of Law  
and Justice**

# Presentation Overview

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- Recent Trends Regarding Applicants
- Recent Trends Regarding Bar Examination Pass Rates
- Development and Grading of Essay Portion of NC Bar Examination
- Uniform Bar Examination

# Recent Trends Regarding Applicants

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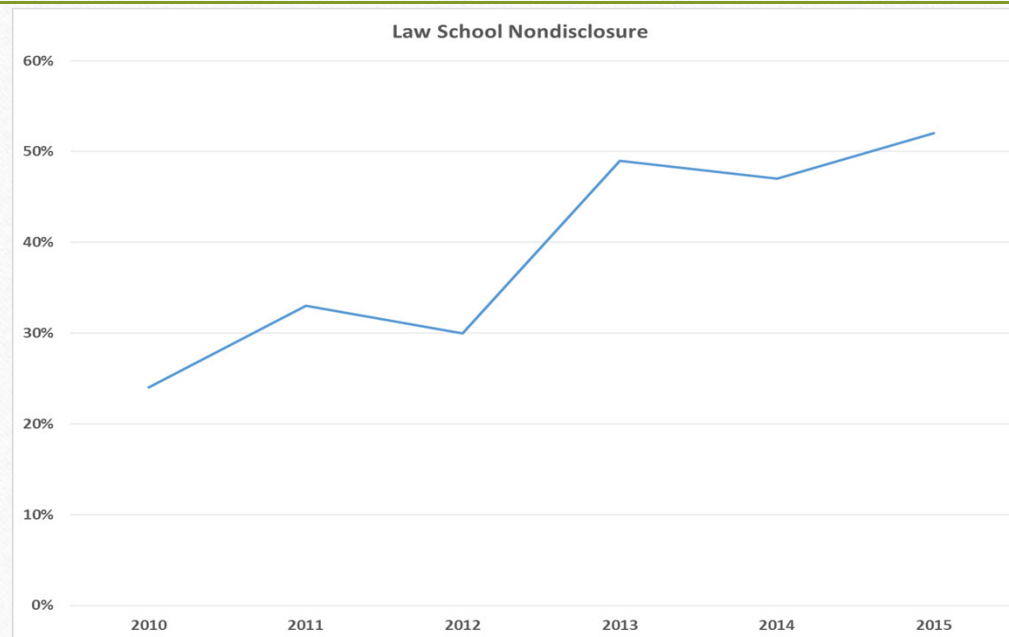
- **Increase in % of Character and Fitness applicants with more serious character and fitness issues**
  - Non-disclosure on Law School Applications
  - DWI/Driving After Consuming Alcohol Incidents
  - Multiple DWI/Driving After Consuming Alcohol Incidents

## Non-disclosure on Law School Applications

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- In past 3 years – up 22%
- 2012: 30%
- 2015: 52%

## Percentages of Character and Fitness Applicants with Non-disclosure on Law School Applications

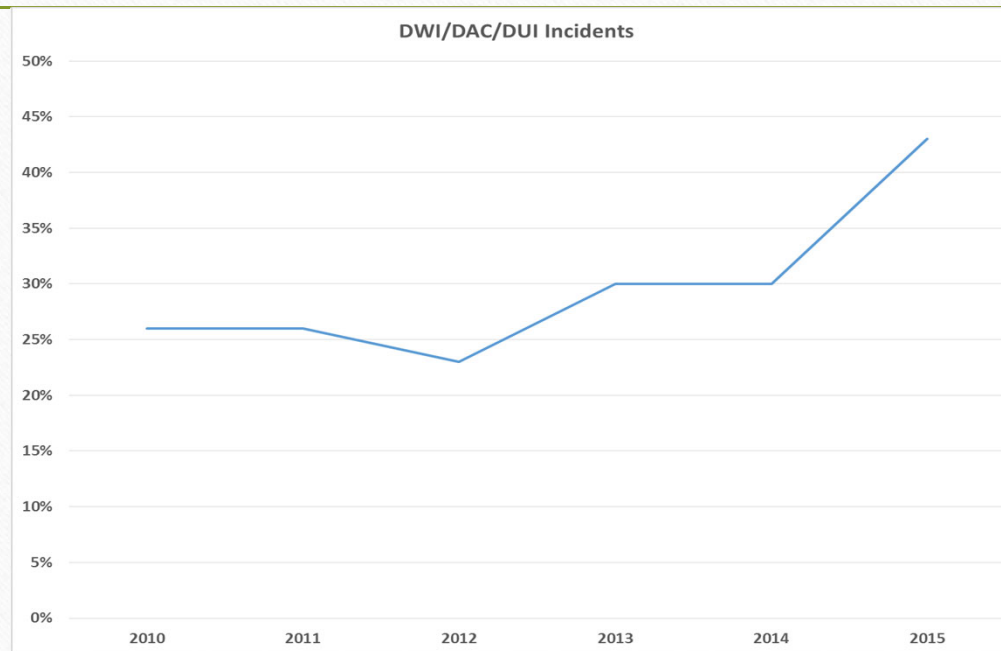


## DWI/Driving After Consuming Alcohol Incidents

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- In past 3 years – up 20%
- 2012: 23%
- 2015: 43%

## Percentages of Character and Fitness Applicants with DWI/Driving After Consuming Alcohol Incidents



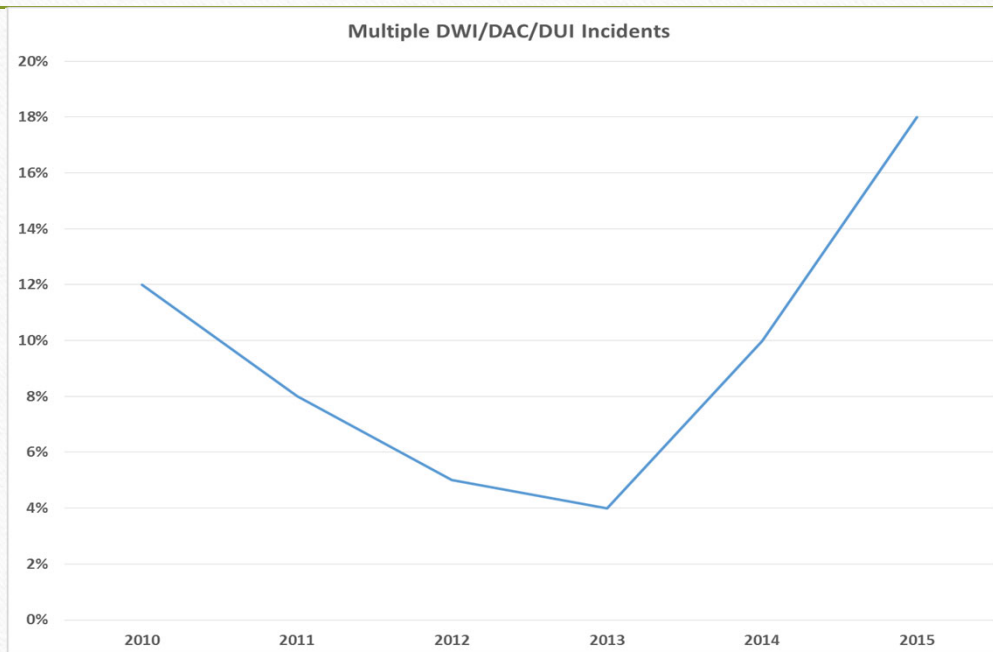
## Multiple DWI or Driving After Consuming Alcohol Incidents

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- In past 3 years – up 13%
- 2012: 5%
- 2015: 18%
- In past year – nearly doubled (10% to 18%)



# Percentages of Character and Fitness Applicants with Multiple DWI/Driving After Consuming Alcohol Incidents

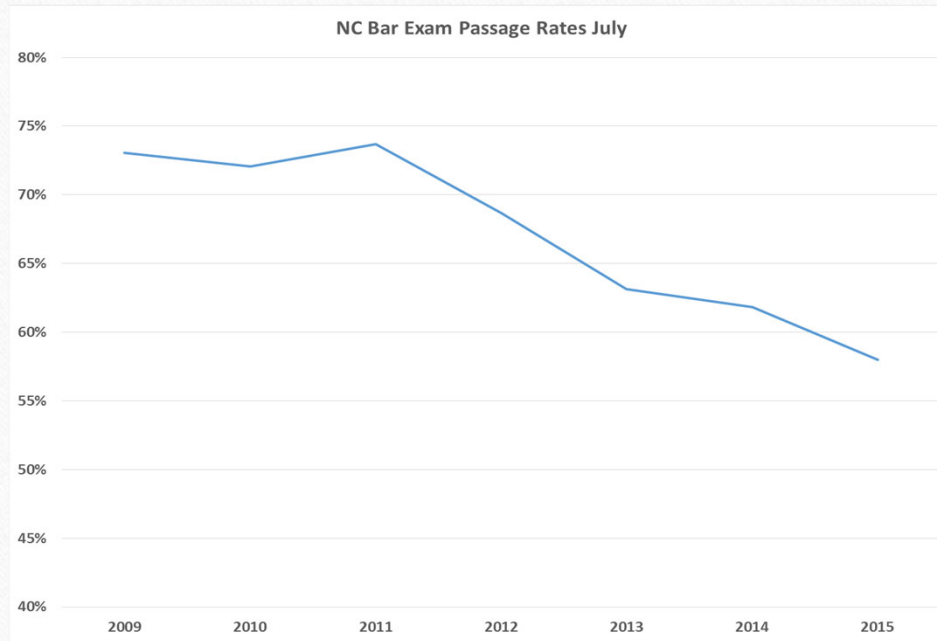


# Recent Trends Regarding NC Bar Examination Passage Rates

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- July NC bar exam pass rates
  - In last 3 years – pass rates have steadily declined
    - 2012: 68.99%
    - 2013: 63.15%
    - 2014: 61.81%
    - 2015: 57.99%

# July NC Bar Exam Pass Rates

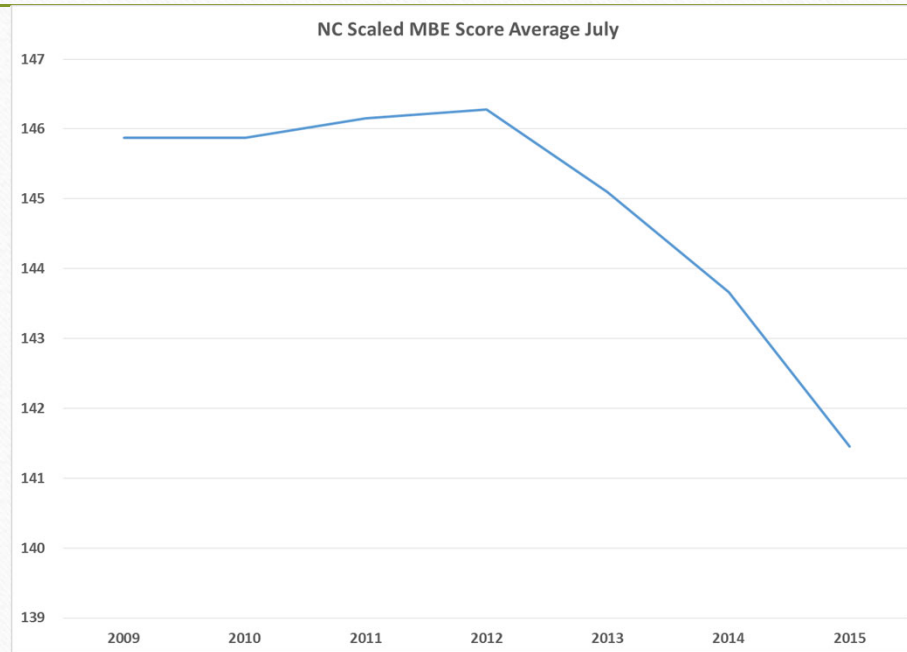


## July NC MBE Mean

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- Has declined last 3 years – as has NC bar exam pass rate
  - 2012 = 146.28
  - 2013 = 145.10
  - 2014 = 143.66
  - 2015 = 141.45

# July NC MBE Mean

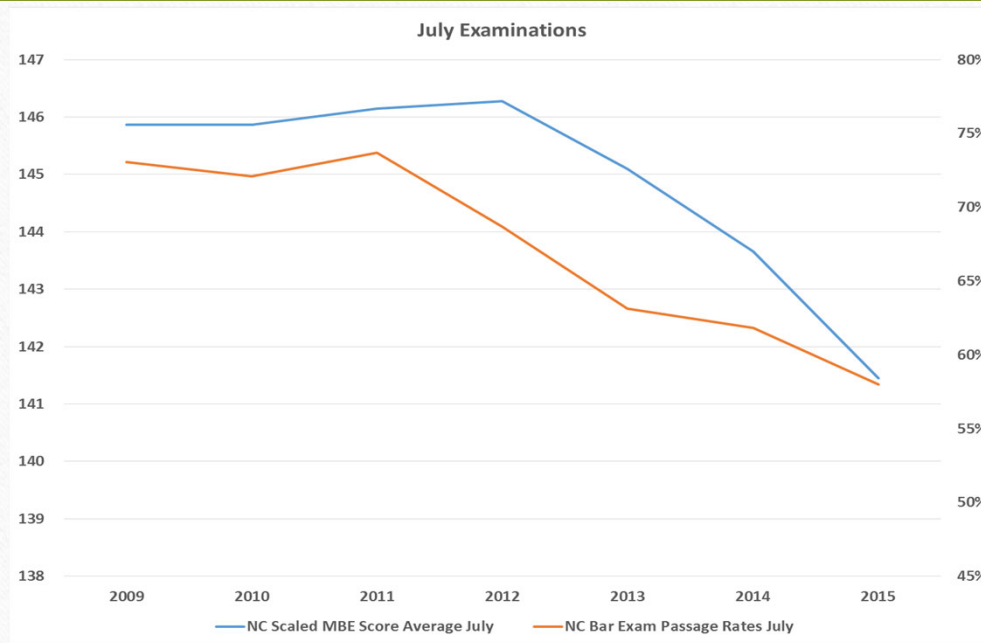


## July NC MBE Mean

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- Correlation between decline in MBE and decline in overall exam pass rate
  - The more significant the decline in the MBE mean, the more significant the decline in the exam pass rate

# July NC MBE Mean and July NC Bar Passage Rate



# February NC Bar Exam Pass Rates

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- Can also see correlation between February exam pass rates and MBE mean
  - Greater fluctuations in pass rates and MBE means from year-to-year for February exam than for July exam, due to differences in applicant pool
  - February statistics less meaningful as overall indicators, but helpful in illustrating strong correlation between MBE mean and overall pass rate



## February NC Bar Exam Pass Rates

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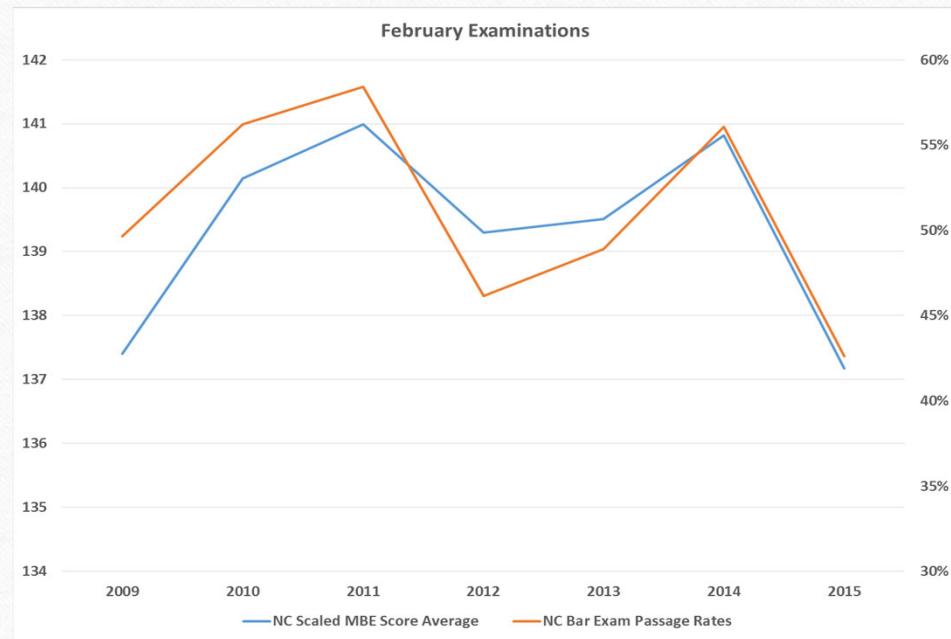
- 2012: 46.17%
- 2013: 48.90%
- 2014: 56.06%
- 2015: 42.62%

## February NC MBE Mean

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- 2012: 139.30
- 2013: 139.51
- 2014: 140.82
- 2015: 137.17

# February NC MBE Mean and February NC Bar Exam Pass Rate



## Correlation between NC MBE Mean and NC Bar Exam Pass Rate

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- Correlation exists because of scaling of essays to MBE
- NC scales essay scores to MBE to take advantage of equating of MBE scores, which controls for variability in difficulty of MBE over time

# Equating of MBE

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- For excellent explanation of Equating process, see “Equating the MBE” by the NCBE Director of Testing, Mark Albanese, Ph.D. in the September 2015 issue of The Bar Examiner magazine
- Purpose of Equating: to adjust for any change in difficulty in MBE so that current exam’s scores are comparable to scores of previous exams

## Equating the MBE – cont'd

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- Embedded “Mini-MBE” within each test; consists of previously used items
  - Items on Mini-MBE called “Equators”
  - Because items used previously, NCBE knows approximate % of applicants who will answer them correctly and how much more likely it is they will be answered correctly by examinees who do well on overall test

## Equating the MBE – cont'd

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- If examinees on current test perform more poorly on equators than those who took exam previously, can attribute examinee performance differences on equators to differences in examinees themselves, because equators unchanged
- NCBE then uses statistical adjustment to make performance on rest of items conform to that of equators

# Scaling of NC Essay Scores to MBE

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- Scaling essay scores to MBE takes advantage of equating done to MBE
- Equating of MBE scores ensures that MBE scores have a constant interpretation across test administrations
- Scaling essay scores to MBE helps ensure essay scores also have a constant interpretation across test administrations, taking advantage of standardization
- For more detailed explanation of Scaling Process, see “Scaling: It’s Not Just For Fish Or Mountains” by NCBE Director of Testing, Mark A. Albanese, Ph.D. in the December 2014 issue of The Bar Examiner magazine



## Scaling of NC Essays to MBE – cont'd

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- Result of scaling to MBE: The % of applicants passing at a given time is attributable to performance on the exam, not to relative ability of the group taking the test or to the particular test items used at that administration

## Scaling of NC Essays to MBE – cont'd

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- Scaling uses mathematical and statistical formulas to:
  - give the mean scaled essay score the same mean as the MBE for the jurisdiction, and
  - give the scaled essay scores the same standard deviation as the MBE standard deviation for that jurisdiction

## Scaling of NC Essays to MBE – cont'd

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- Scaling formulas developed by psychometricians/experts at NCBE
- NCBE has reviewed NC's scaling process results and has confirmed validity

# Decline in Bar Exam Pass Rate

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- Board shares Committee's concern regarding decline in bar exam pass rates
- Nationwide Issue
- National MBE Mean for July exams has declined the past 2 years, with July 2015 national MBE mean at lowest point since 1988

## Decline in Bar Exam Pass Rate – cont'd National MBE Mean – July Exam

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- 2013: 144.3
- 2014: 141.3
- 2015: 139.9

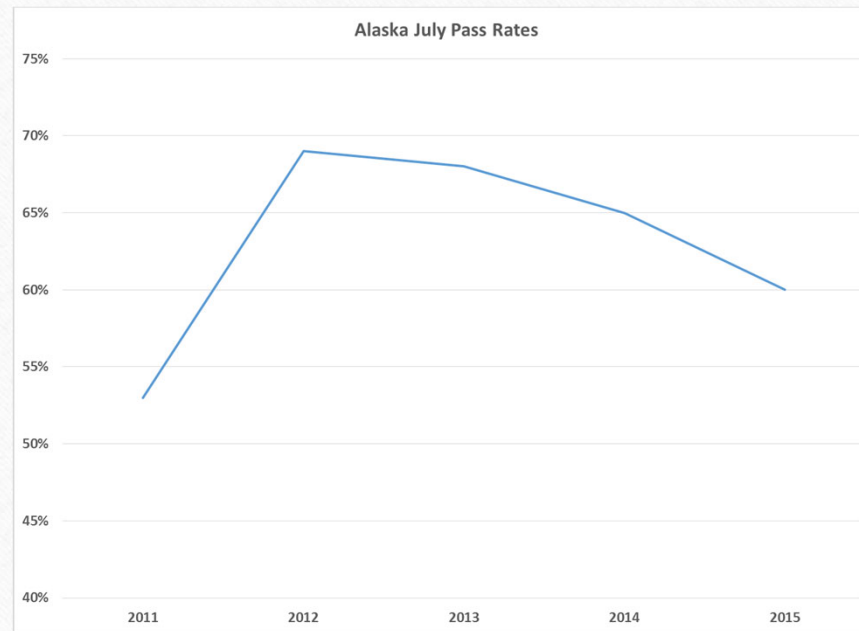
## Decline in Bar Exam Pass Rate – cont'd

### July Exam Pass Rates – Other Jurisdictions

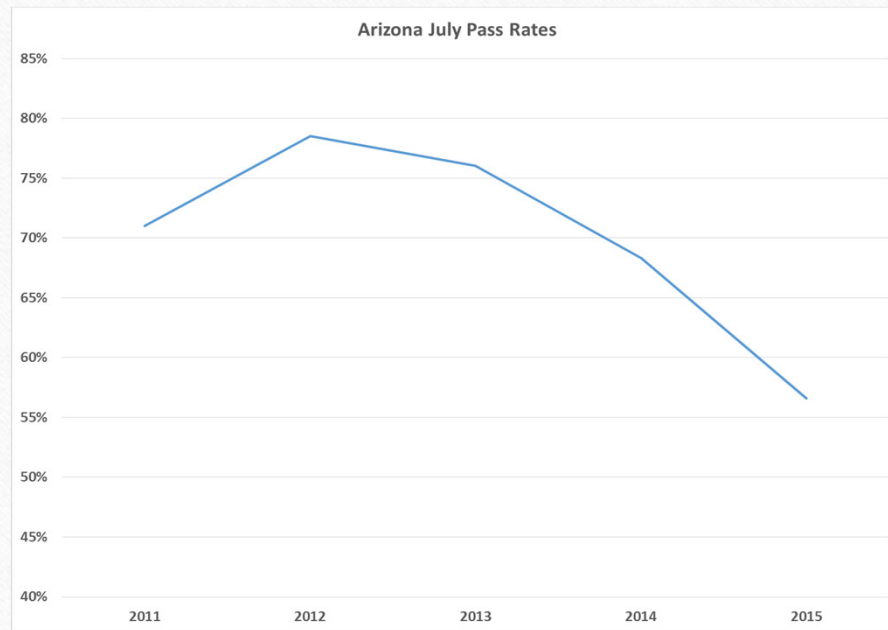
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- North Carolina is not alone in its recent pass rate decline; pass rates have declined in numerous jurisdictions nationwide in recent years
- Of 30 other jurisdictions who responded to inquiry:
  - 23 (77%) saw decline in July exam pass rate from 2014-2015
  - 6 saw slight uptick from 2014-2015, but not nearly back to historic levels
  - 1 had no change from 2014-2015

# July Exam Pass Rates – Other Jurisdictions Alaska



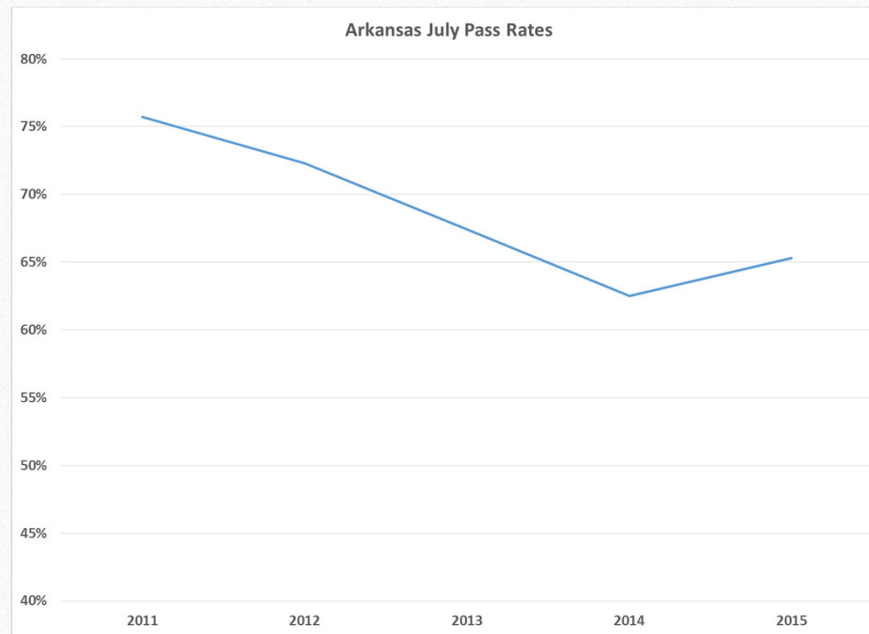
# July Exam Pass Rates – Other Jurisdictions Arizona



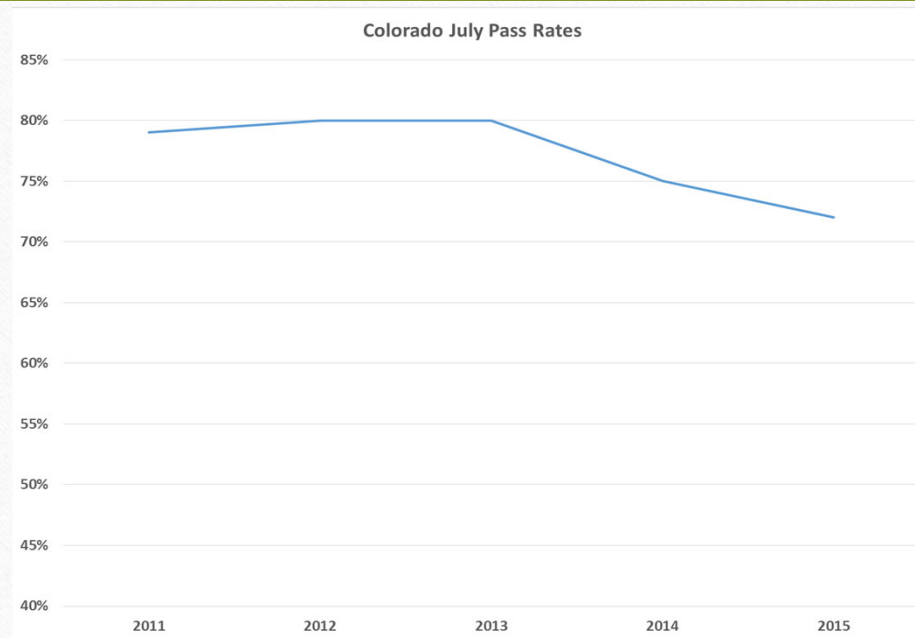


# July Exam Pass Rates – Other Jurisdictions

## Arkansas



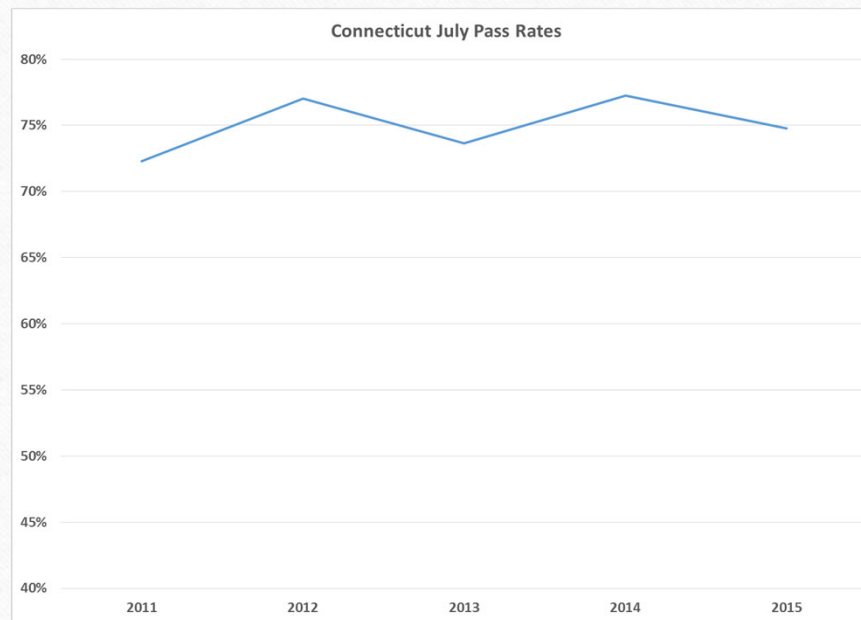
# July Exam Pass Rates – Other Jurisdictions Colorado



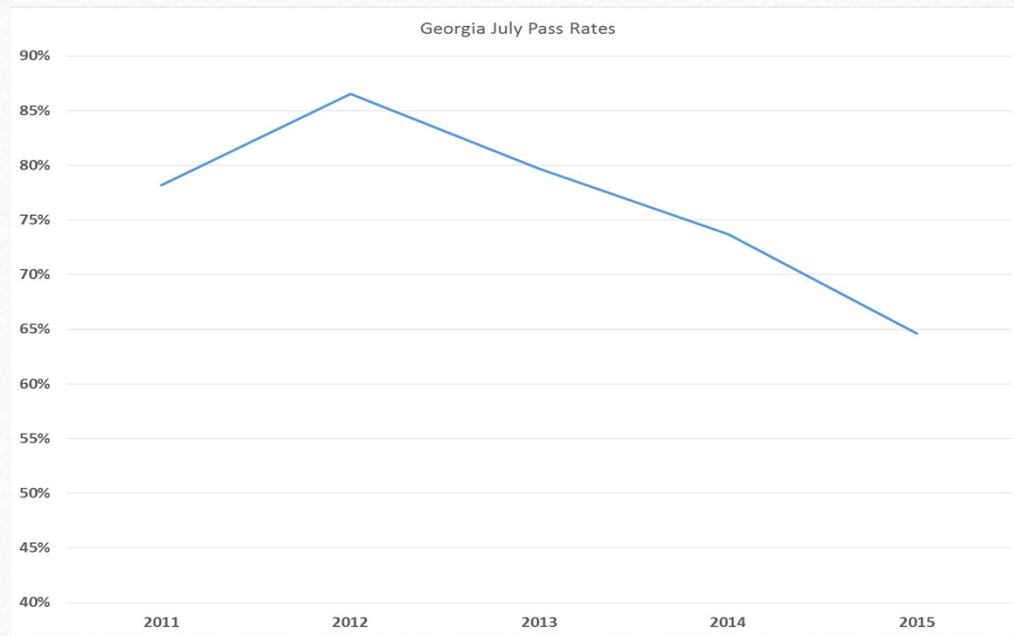
# July Exam Pass Rates – Other Jurisdictions

## Connecticut

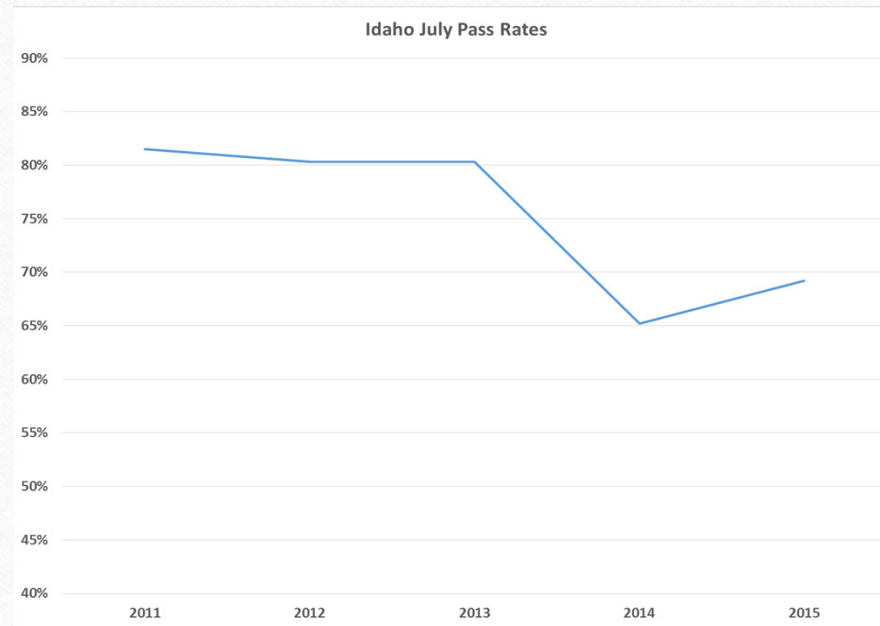
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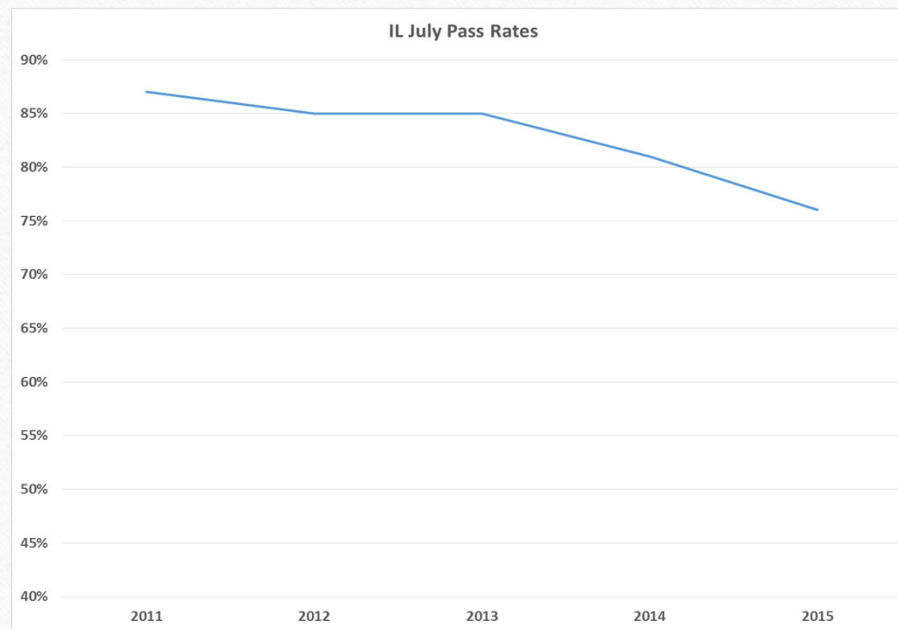
# July Exam Pass Rates – Other Jurisdictions Georgia



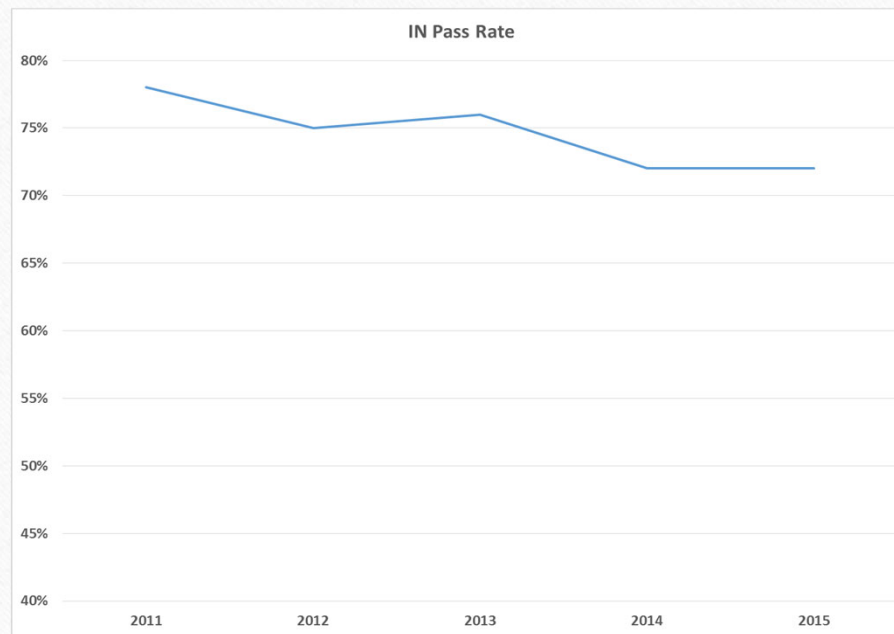
# July Exam Pass Rates – Other Jurisdictions Idaho



# July Exam Pass Rates – Other Jurisdictions Illinois

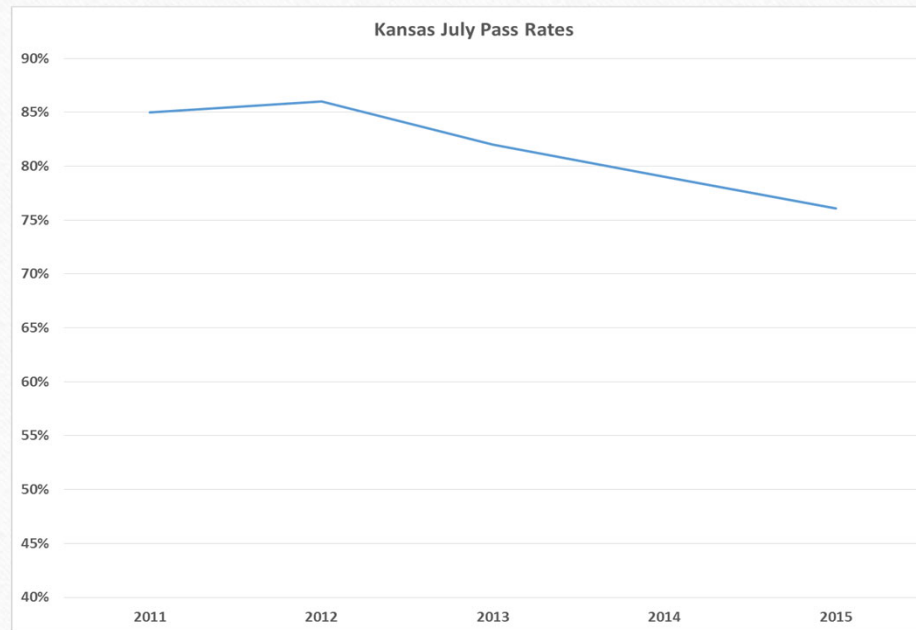


# July Exam Pass Rates – Other Jurisdictions Indiana



# July Exam Pass Rates – Other Jurisdictions

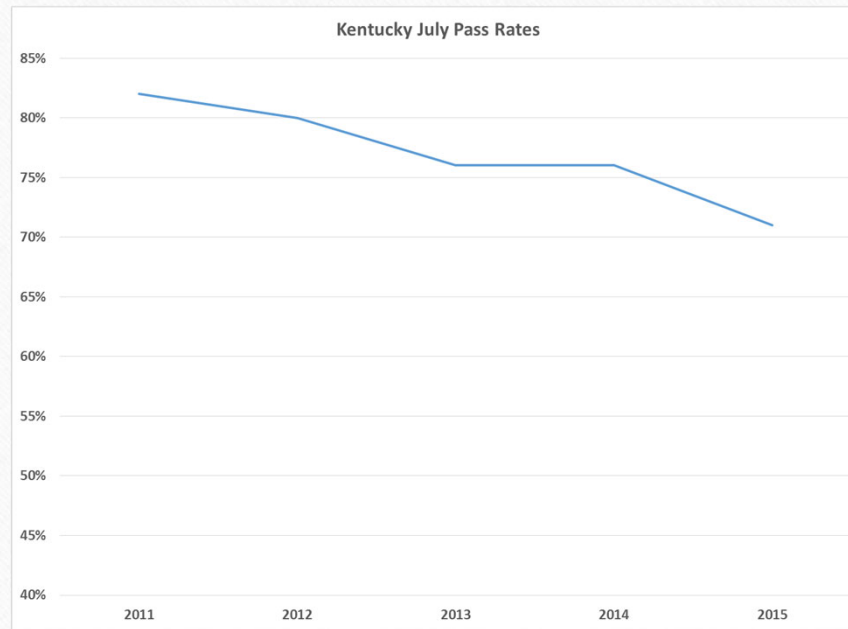
## Kansas



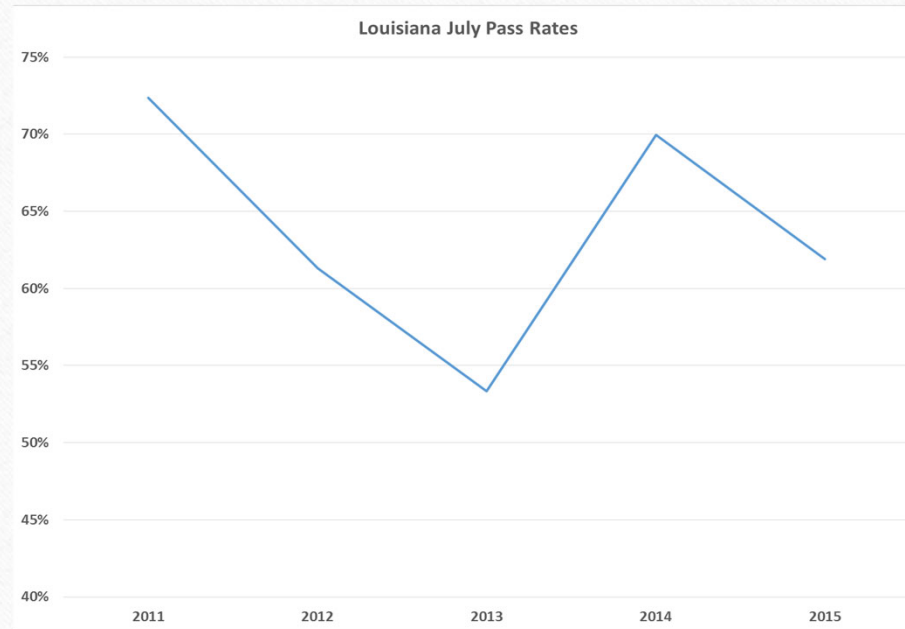


# July Exam Pass Rates – Other Jurisdictions

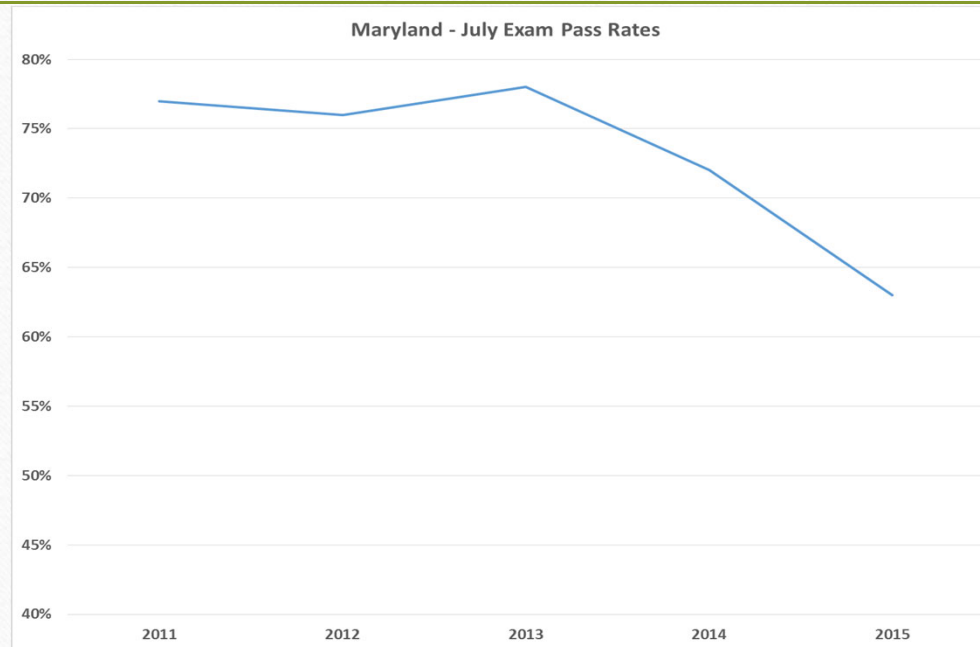
## Kentucky



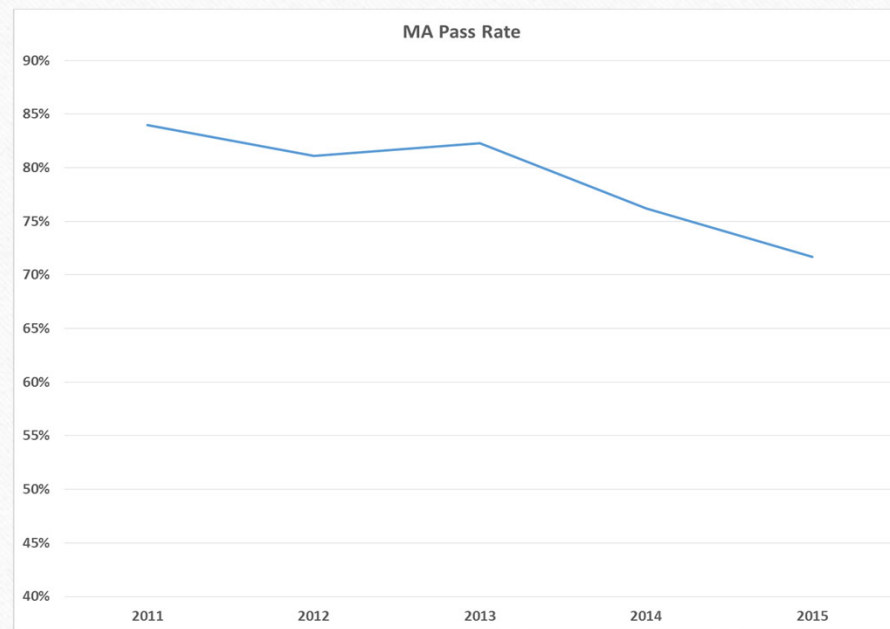
# July Exam Pass Rates – Other Jurisdictions Louisiana



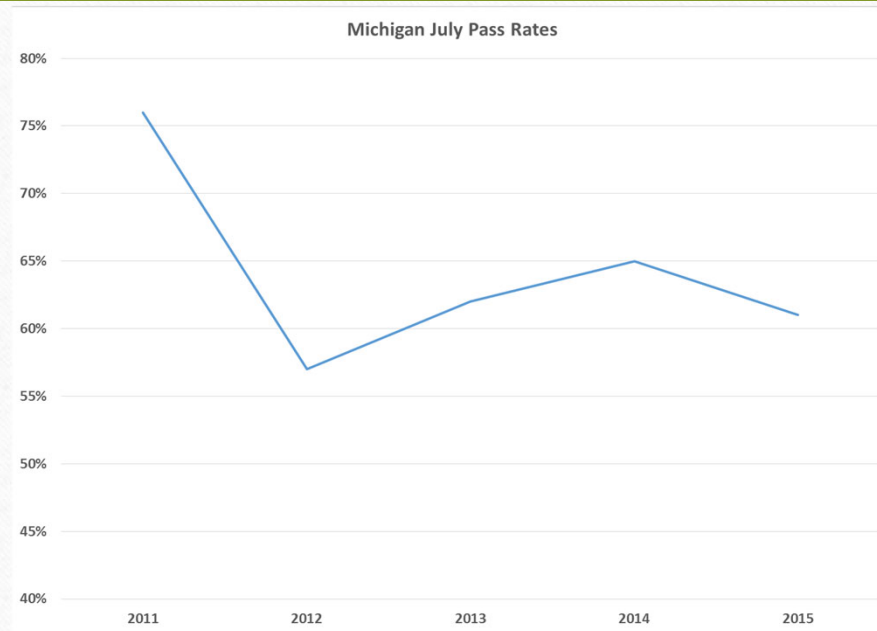
# July Exam Pass Rates – Other Jurisdictions Maryland



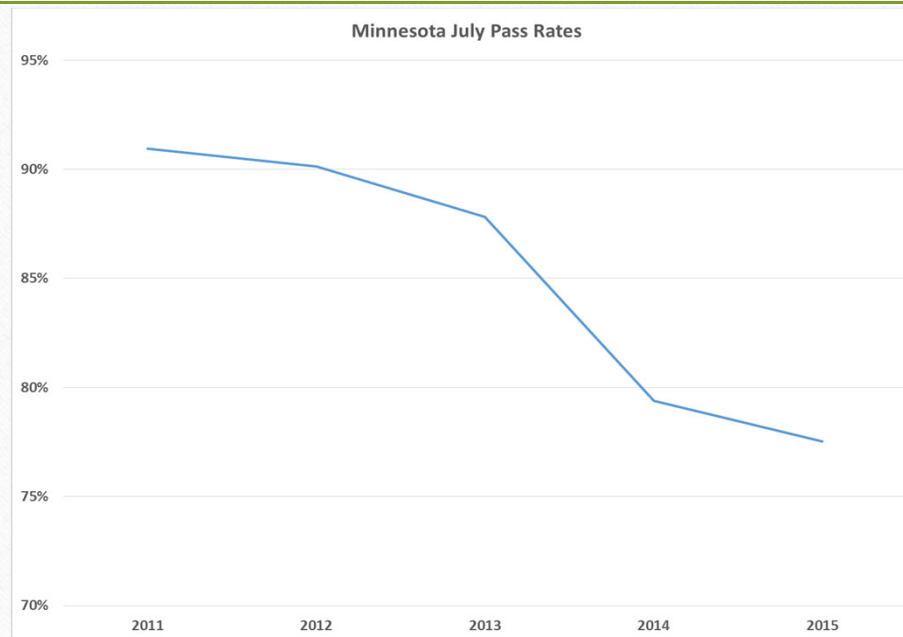
# July Exam Pass Rates – Other Jurisdictions Massachusetts



# July Exam Pass Rates – Other Jurisdictions Michigan

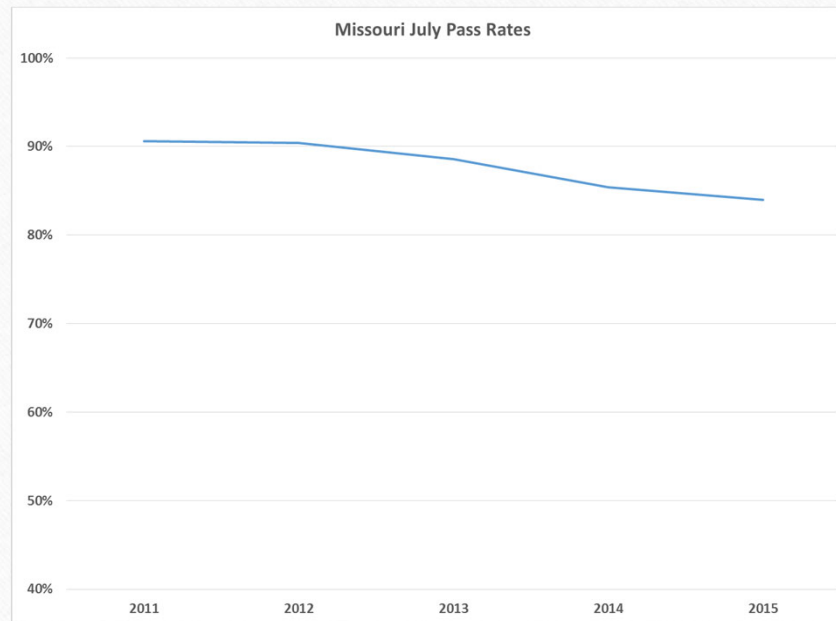


# July Exam Pass Rates – Other Jurisdictions Minnesota

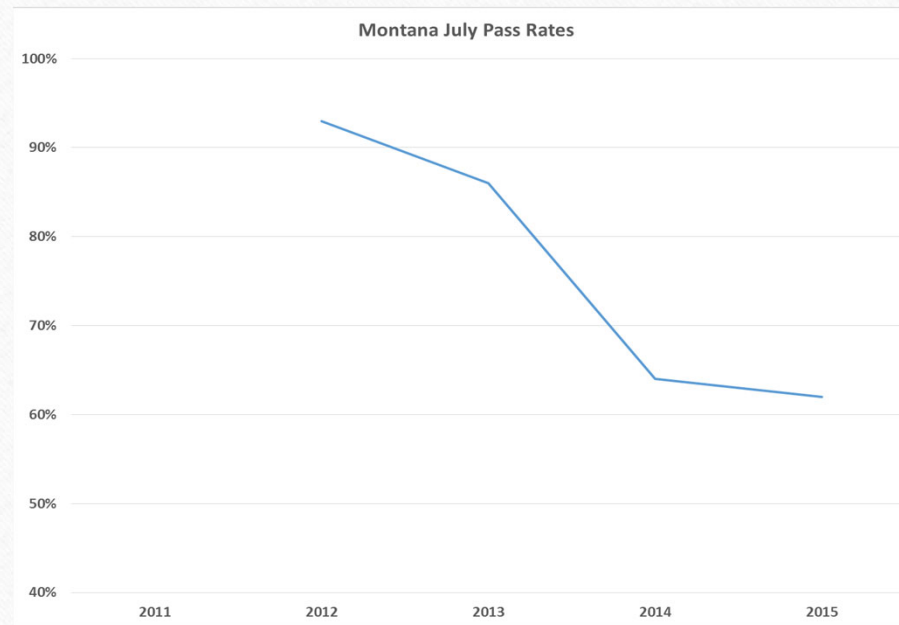


# July Exam Pass Rates – Other Jurisdictions

## Missouri

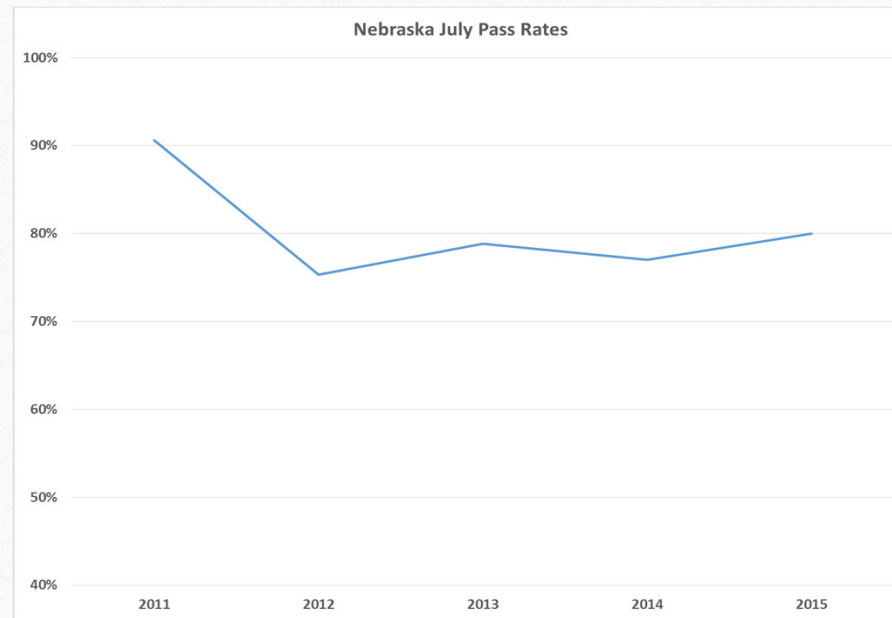


# July Exam Pass Rates – Other Jurisdictions Montana

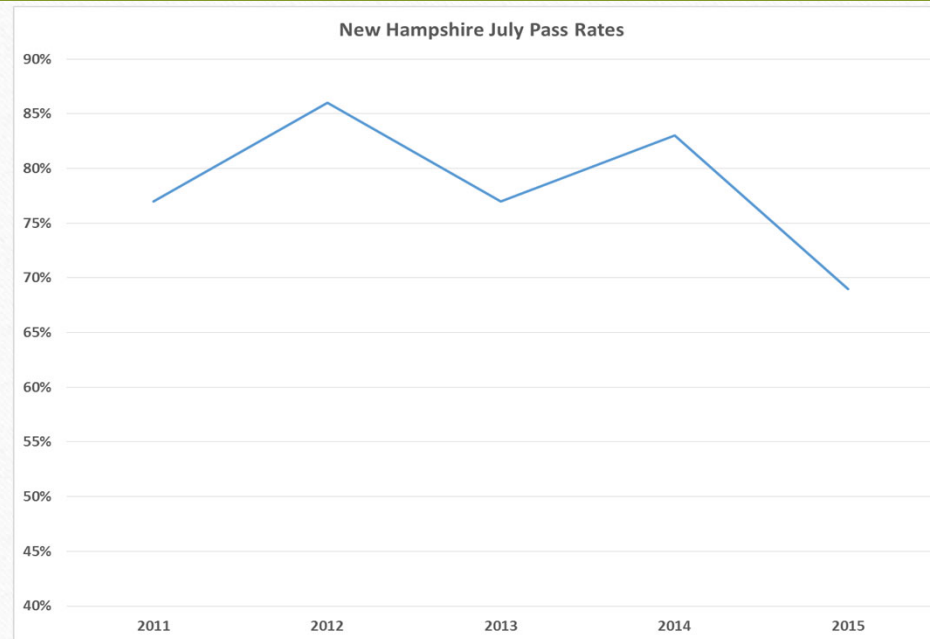




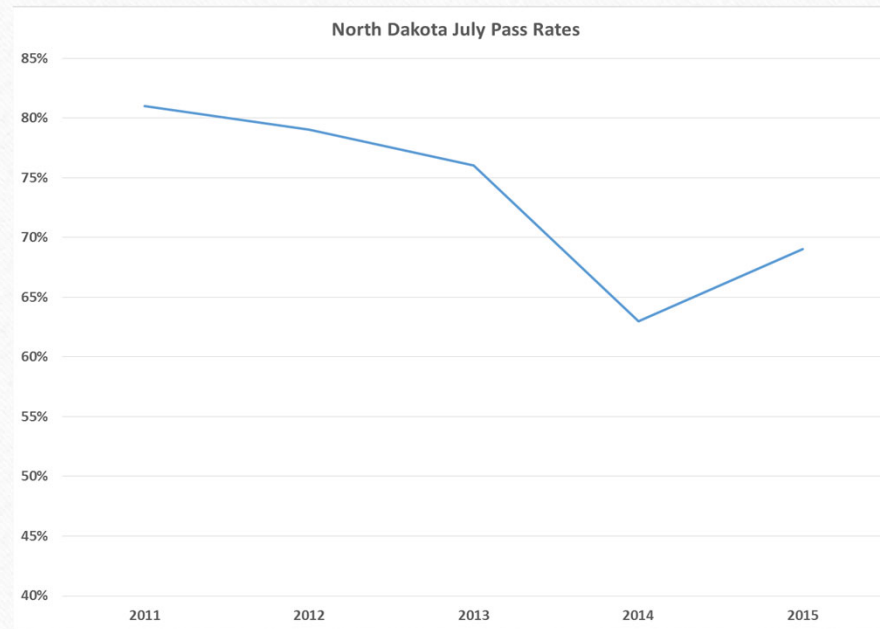
# July Exam Pass Rates – Other Jurisdictions Nebraska



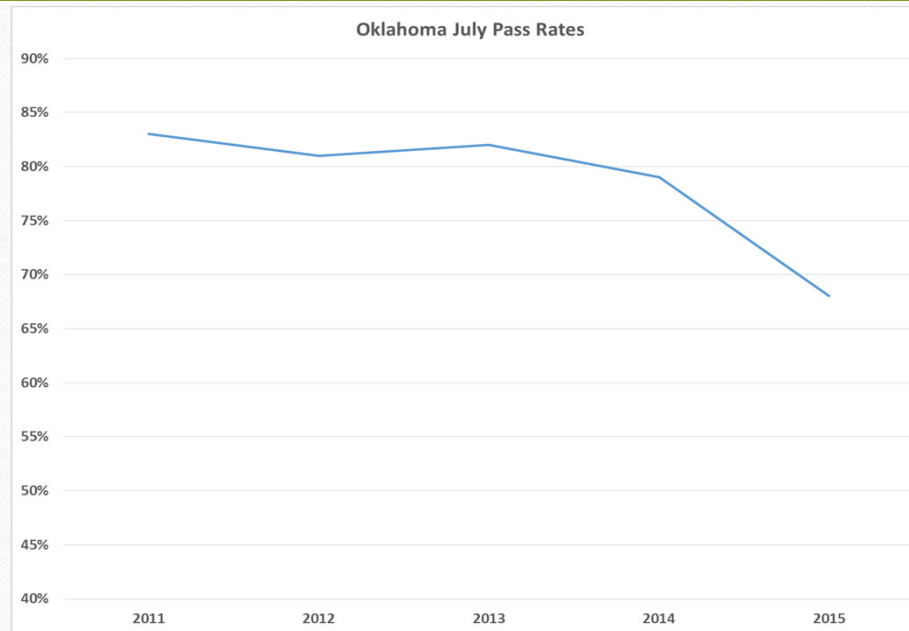
# July Exam Pass Rates – Other Jurisdictions New Hampshire



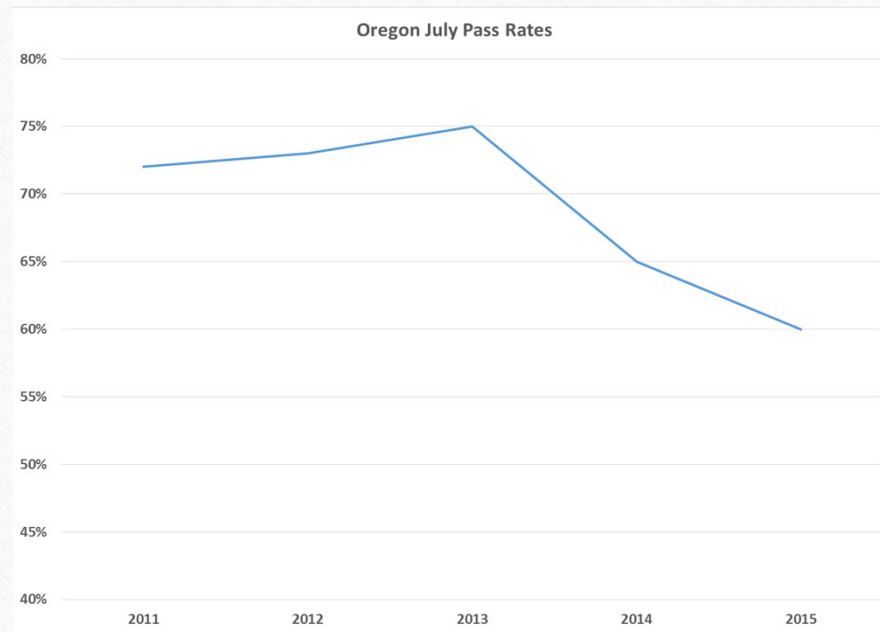
# July Exam Pass Rates – Other Jurisdictions North Dakota



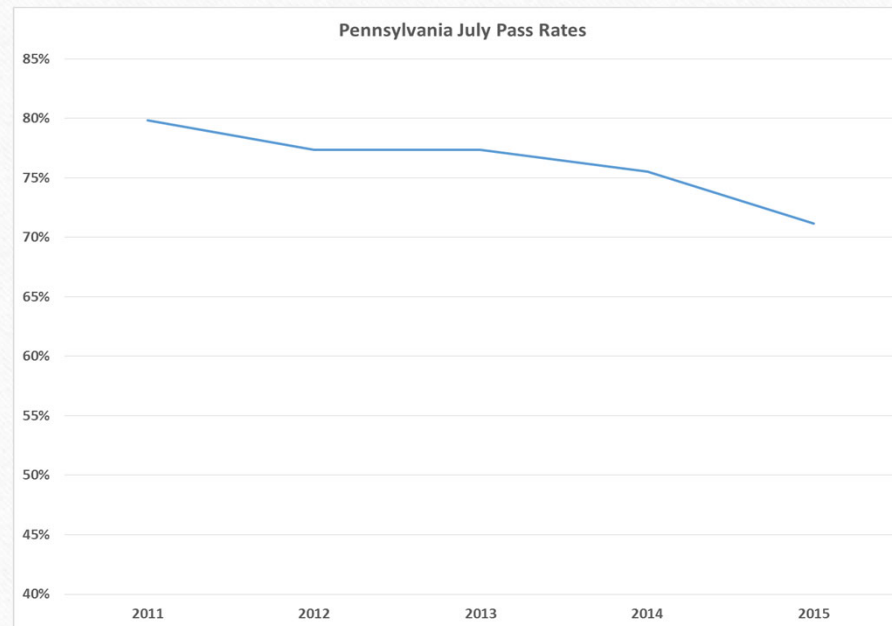
# July Exam Pass Rates – Other Jurisdictions Oklahoma



# July Exam Pass Rates – Other Jurisdictions Oregon

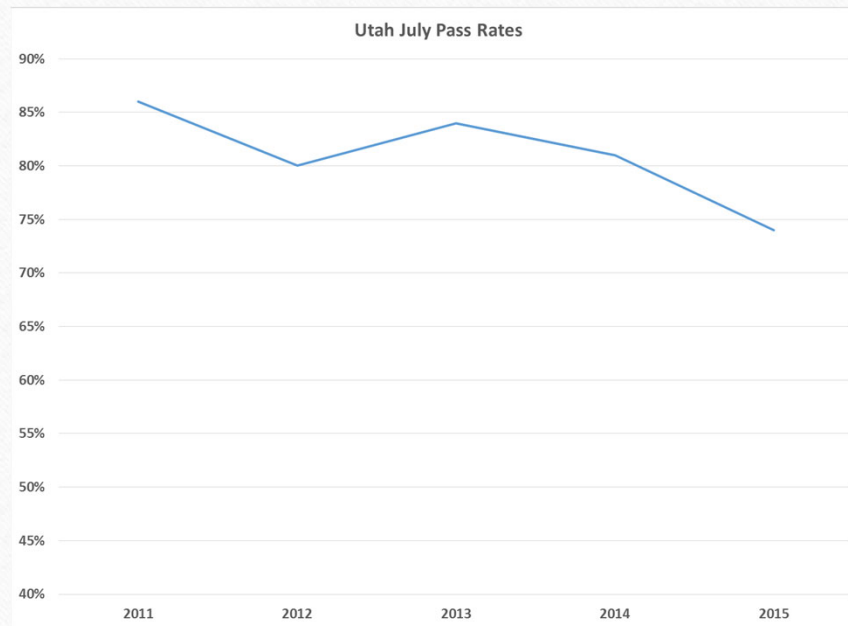


# July Exam Pass Rates – Other Jurisdictions Pennsylvania

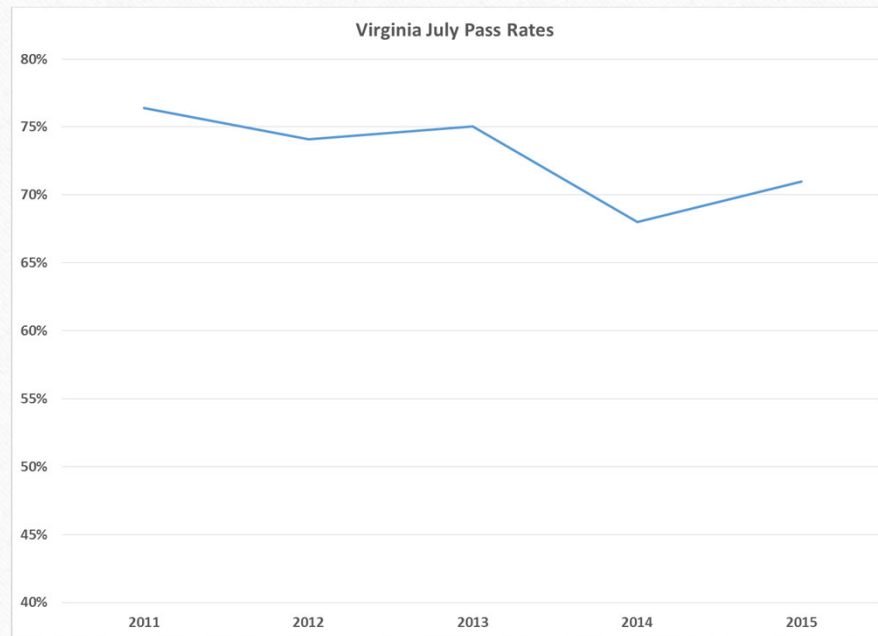


# July Exam Pass Rates – Other Jurisdictions

## Utah

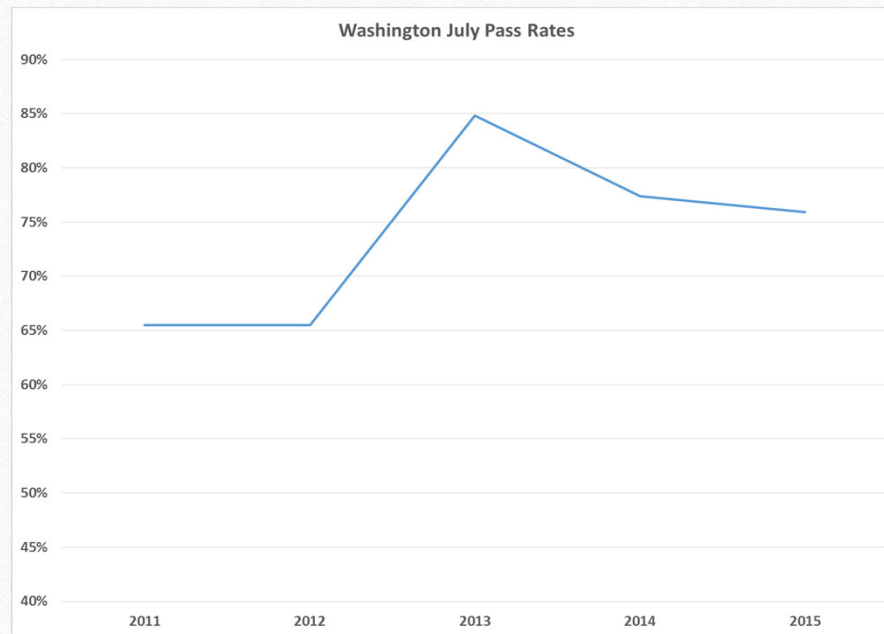


# July Exam Pass Rates – Other Jurisdictions Virginia

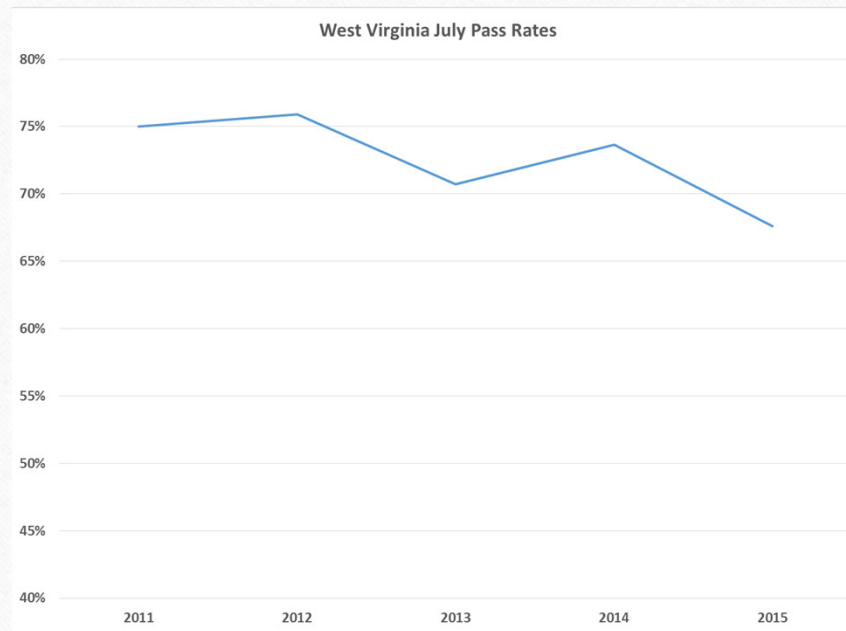




# July Exam Pass Rates – Other Jurisdictions Washington

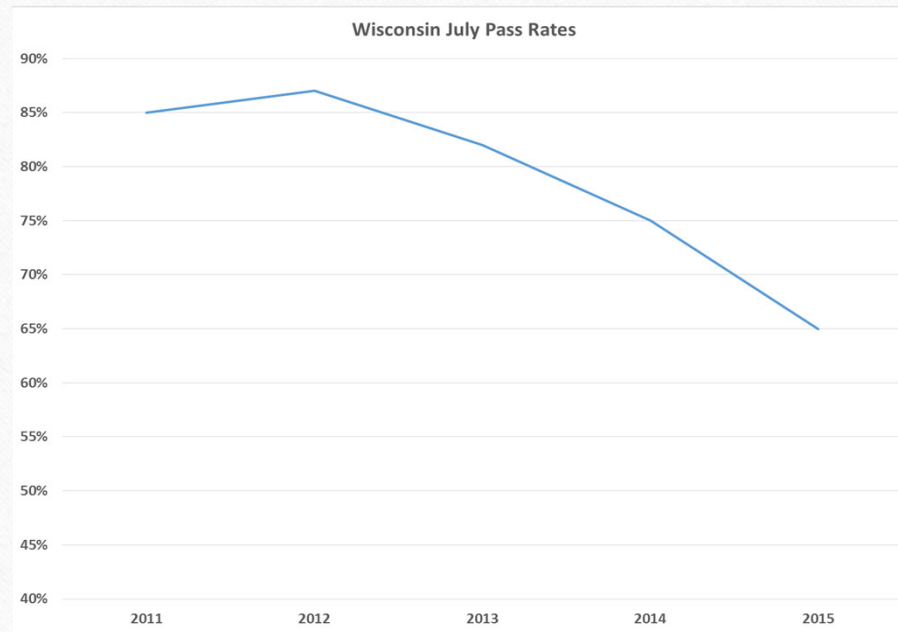


# July Exam Pass Rates – Other Jurisdictions West Virginia

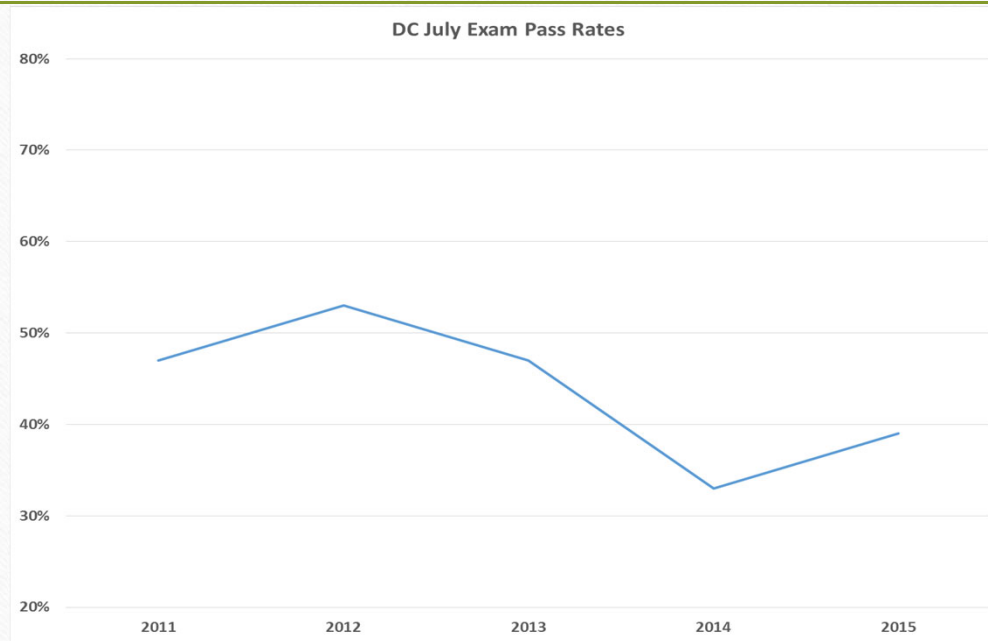


# July Exam Pass Rates – Other Jurisdictions

## Wisconsin



# Pass Rates - Other Jurisdictions – District of Columbia



## Decline in Bar Exam Pass Rate– cont'd

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- While several published articles have advanced different reasons for the decline in bar exam pass rates, the Board would not presume to speculate as to the validity of any one particular viewpoint

## Decline in Bar Exam Pass Rate – cont'd

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- Can definitively reassure Committee that way in which essay portion of the NC exam is developed has remained unchanged
- Board continues to follow the same diligent, thorough process in development of essay questions it has always followed

# Development of NC Bar Examination Essay Questions

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- Select Drafting Committee
  - Made up of attorneys and judges throughout the State with expertise in the various subject areas
  - Board members also participate in drafting of questions

# Review and Vetting of NC Bar Examination Essay Questions

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- Drafting Committee

- Includes 6 Board members
- Also includes outside attorney consultants with expertise in particular subject area
- Each committee member is assigned to review and vet two subject areas



# Review and Vetting of NC Bar Examination Essay Questions– cont'd

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- Drafting Committee – cont'd
  - Committee meets for 3 days; reviews questions in each subject area
  - Careful study of each question
  - Recommendations made regarding changes, additions, deletions and possible rejection of questions

# Review and Vetting of NC Bar Examination Essay Questions

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- Drafting Committee – cont'd
  - Questions are approved, deferred for further study or rejected at committee meeting
  - Those questions that are approved are presented to Full Board at June meeting
  - At June meeting – Full Board reviews and then approves, defers or rejects questions

# Selection of NC Bar Examination Essay Questions

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- From the questions approved by Full Board at June meeting, Drafting Committee Chair selects one primary and one back-up question for use on each examination

# Grading of NC Bar Examination Essay Questions

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- Grading of February Examination
  - 12 graders
  - Each of 11 Board members assigned to grade particular subject area
  - Emeritus member selected to serve as grader of 12<sup>th</sup> subject area

## Grading of NC Bar Examination Essay Questions – February Exam - cont'd

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- Grading is completely anonymous - no identifying information provided to grader – only applicant number
- After exam administered, each grader sent 50 randomly-selected answers, which grader uses to cut his/her grading pattern
- After grading these 50 sample answers, grader will adjust/modify his or her pattern as needed

## Grading of NC Bar Examination Essay Questions – February Exam - cont'd

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- After pattern cut, 50 sample answers returned to pool of all applicant answers-to be graded with all other answers in regular course of grading session

# Grading of NC Bar Examination Essay Questions – July Exam

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- Grading of July Examination
  - 24 Graders
  - Board utilizes Team Grading
  - Board member paired with Assistant/Team Grader (Emeritus Member, Judge or distinguished attorney with experience and expertise in particular subject area)

## Grading of NC Bar Examination Essay Questions – July Exam – cont'd

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- Grading is completely anonymous - no identifying information provided to grader – only applicant number
- Board member and team grader sent 50 randomly-selected sample answers to cut grading pattern



# Grading of NC Bar Examination Essay Questions – July Exam – cont'd

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- Before grading session begins, Board member and team grader meet to discuss grading pattern and calibrate scores to ensure consistency
- After grading these 50 sample answers, graders will adjust/modify pattern as needed
- After pattern cut, 50 sample answers returned to pool of all applicant answers-to be graded with all other answers in regular course of grading session
- Board member and team grader meet periodically during grading session to re-calibrate scores

# Uniform Bar Examination

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- October 2015 – Board formed Committee to study UBE

# Uniform Bar Examination – cont'd

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- What is UBE?
  - Prepared by NCBE
  - Composed of: MBE, MEE and 2 MPT tasks (states may also add a jurisdiction-specific component)
  - MBE: Multistate Bar Examination – 200 multiple choice questions
  - MEE: Multistate Essay Examination – 6 essay questions
  - MPT: Multistate Performance Test – 2 multistate performance tasks

# Uniform Bar Examination – cont'd

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- MEE and MPT given on last Tuesday of February and July; MBE on last Wednesday of these months
- MBE weighted 50%
- MEE weighted 30%
- MPT weighted 20%

## Uniform Bar Examination – cont'd

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- Jurisdictions that use UBE continue to:
  - Decide who may sit for exam and who should be admitted
  - Determine underlying educational requirements
  - Make Character and Fitness determinations
  - Make ADA decisions

## Uniform Bar Examination – cont'd

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- Jurisdictions that use UBE continue to:
  - Grade the MEE and MPT (following standards provided by NCBE)
  - Set passing score
  - Set minimum score for transfer of UBE score and how long transfer scores accepted

## Uniform Bar Examination – cont'd

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- Currently 19 states have adopted UBE
  - 7 of these have additional state-specific component
  - Additionally, DC, MA and NJ are currently studying the examination

# Uniform Bar Examination – cont'd

- States that have adopted UBE

Alabama*	Iowa	Nebraska	Utah
Alaska	Kansas	New Hampshire	Vermont
Arizona*	Minnesota	New Mexico*	Washington*
Colorado	Missouri*	New York*	Wyoming
Idaho	Montana*	North Dakota	

\*Have state-specific component



# Uniform Bar Examination – cont'd

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- Potential advantages of UBE asserted by proponents
  - Portability of Law Practice
  - Essay questions and performance tasks developed centrally, researched thoroughly and subject to quality control and review
  - UBE questions and grading materials developed by committees of content experts under direction of NCBE; same grading materials will be used by all UBE graders to ensure grading consistency across UBE jurisdictions
  - More consistency in bar admission requirements across the country

# Conclusions

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- Board appreciates opportunity to share observations and concerns regarding recent trends in Character and Fitness and Bar Exam pass rates
- Board is mindful of changing way in which the practice of law is conducted and the way in which legal services are delivered in the present time

## Conclusions – cont'd

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- Board is open to consideration of ways in which it can assist in enhancing the public's access to legal services
- **Primary duty of the Board is to protect the public**
- Board is fully committed to continuing to fulfill this duty by ensuring that only fit and competent individuals are licensed to practice law in North Carolina

# Contact Information for NC Board of Law Examiners

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