

AMERICAN BAR ASSOCIATION

LAW STUDENT DIVISION

LAW PRACTICE DIVISION

NATIONAL CONFERENCE OF BAR EXAMINERS

SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

- 1 RESOLVED, That the American Bar Association urges the bar admission authorities
- 2 in each state and territory to expeditiously adopt the Uniform Bar Examination in their
- 3 respective jurisdictions.

REPORT

Introduction

The Uniform Bar Examination (“UBE”) is now in its fifth successful year. It has been more than five years since the Conference of Chief Justices and the Council of the American Bar Association’s Section of Legal Education and Admissions to the Bar adopted resolutions urging “the bar admission authorities in each state and territory to consider participating in the development and implementation of a uniform bar examination.”¹

Seventeen jurisdictions are currently scheduled to administer the exam in February 2016.² In July 2016, New York will become the eighteenth UBE jurisdiction when it administers its first UBE.³ Other jurisdictions have held discussions in favor of adopting the UBE: the Vermont Supreme Court has conveyed its support to the state Board of Bar Examiners for adopting the UBE and recommended that rule amendments be prepared for public comment before the end of 2015;⁴ the District of Columbia Court of Appeals has published for comment rule amendments to adopt the UBE;⁵ and Massachusetts and New Jersey have formed committees to study the possibility of adopting the UBE.⁶ Additionally, Dean Erwin Chemerinsky of the University of California Irvine School of Law has called for California to adopt the UBE.⁷

Such momentum is right on schedule, if not a little late. National adoption of the UBE would make the bar examination process more efficient and less costly for recent law graduates who are already saddled with significant debt. Because the UBE results in a portable score for bar applicants that can be transferred to other UBE jurisdictions to seek admission, the UBE increases the opportunity for bar admission for recent graduates and provides them with mobility and flexibility necessary to find employment. UBE jurisdictions maintain local control over bar admissions while administering a uniform, high-quality examination of minimum competence to practice law.

¹ Resolution of the Conference of Chief Justices, “Endorsing Consideration of a Uniform Bar Examination,” adopted as proposed by the CCJ Professionalism and Competence of the Bar Committee at the 2010 Annual Meeting (July 28, 2010), <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/07252012-Endorsing-Consideration-of-a-Uniform-Bar-Examination.ashx>; Resolution “Endorsing Consideration of a Uniform Bar Examination,” adopted by the Council of the Section of Legal Education and Admissions to the Bar on August 6, 2010, [http://www.abajournal.com/files/Uniform_Bar_Exam_2010_Council_\(9-14\)_v2.pdf](http://www.abajournal.com/files/Uniform_Bar_Exam_2010_Council_(9-14)_v2.pdf).

² See Appendix A for a full listing of all of the jurisdictions that have adopted the UBE.

³ Notice: *Uniform Bar Examination (UBE)*, NEW YORK STATE BOARD OF LAW EXAMINERS (May 5, 2015), <http://www.nybarexam.org/>.

⁴ *Board Of Bar Examiners Announces That Vermont Expects To Adopt Uniform Bar Examination For July 2016 Bar Exam*, VERMONT JUDICIARY LEGAL COMMUNITY, <https://www.vermontjudiciary.org/LC/d-BBELibrary/Uniform%20Bar%20Exam%20Announcement.pdf>.

⁵ See Notice Number M-252-15 at <http://www.dccourts.gov/internet/appellate/notices/main.jsf>.

⁶ *Supreme Judicial Court Announces Uniform Bar Examination Advisory Committee* at <http://www.mass.gov/courts/news-pubs/sjc/sjc-announces-uniform-bar-exam-advisory-committee.html>; *Committee to Study Uniform Bar Exam Formed*, at <http://www.judiciary.state.nj.us/pressrel/2015/pr151028a.pdf>.

⁷ Erwin Chemerinsky, *It's time for California to accept the Uniform Bar Exam*, L.A. TIMES, May 11, 2015 available at <http://www.latimes.com/opinion/op-ed/la-oe-0511-chemerinsky-standard-bar-exam-20150511-story.html>.

Bar Exam History

The history of the written bar exam tells the tale of a steady path towards a national bar examination.⁸ In 1972, the National Conference of Bar Examiners (“NCBE”) introduced the Multistate Bar Examination (“MBE”).⁹ The MBE is now offered in 54 jurisdictions.¹⁰ Over time, NCBE developed additional exams, including: (1) the Multistate Professional Responsibility Examination (“MPRE”), first offered in 1980¹¹ and now used in all but 3 jurisdictions;¹² (2) the Multistate Essay Examination (“MEE”), first offered in 1988¹³ and now used in 31 jurisdictions;¹⁴ and (3) the Multistate Performance Test (“MPT”), first offered in 1997¹⁵ and now used in 41 jurisdictions.¹⁶

Today, given that nearly all jurisdictions use the MBE and the MPRE, and most utilize one or more of the other NCBE multistate examinations, “in effect, a common licensing test is already in force.”¹⁷

UBE Composition and Administration

The UBE is prepared and coordinated by NCBE and is composed of the MEE, the MPT, and the MBE.¹⁸ It is uniformly graded and offers test-takers a portable score that can be transferred to any other UBE jurisdiction. Jurisdictions that use the UBE continue to control the admission process locally and set their own admission requirements, including the following: deciding who may sit for the bar exam and who will be admitted to practice; determining

⁸ See generally Robert M. Jarvis, *An Anecdotal History of the Bar Exam*, 9 GEO. J. LEGAL ETHICS 359 (1996).

⁹ *Id.* at 378.

¹⁰ The exceptions are the civil law states of Louisiana and Puerto Rico. See COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2015 at 25 (Erica Moeser & Claire Huismann eds., 2015), available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2015_comprehensive_guide_to_bar_admission_requirements.authcheckdam.pdf; see also Appendix B.

¹¹ Arthur Karger, *The Continuing Role of the NCBE in the Bar Admission Process*, BAR EXAMINER, at 14, 19, available at http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F1996%2F650296_karger.pdf

¹² Maryland, Wisconsin, and Puerto Rico are the exceptions. See *Comprehensive Guide*, supra note 9.

¹³ Jane Smith, *Testing, Testing*, BAR EXAMINER, Nov. 1998, at 24, available at https://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F1998%2F670498_Testingtesting.pdf.

¹⁴ See *Comprehensive Guide*, supra note 9, and Appendix B.

¹⁵ Judith A. Gundersen, *Happy Birthday, MPT!*, BAR EXAMINER, Nov. 2007, at 18, 20, available at http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2007%2F760407_Gundersen.pdf.

¹⁶ See *Comprehensive Guide*, supra note 9, and see also Appendix B for a table of jurisdictions using these tests.

¹⁷ Frederic, *A Uniform Bar Examination: An Idea Whose Time Has Come*, BAR EXAMINER, Feb. 2009, at 6, 6-7, available at https://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2009%2F780109_UBEEssays_01.pdf.

¹⁸ *Jurisdictions that Have Adopted the UBE*, NATIONAL CONFERENCE OF BAR EXAMINERS (last visited Sept. 27, 2015), <http://www.ncbex.org/exams/ube/>.

underlying educational requirements; making all character and fitness decisions; setting their own policies regarding the number of times applicants may retake the bar examination; making disability accommodations decisions; grading the MEE and the MPT; accepting MBE scores earned in a previous examination or concurrently in another jurisdiction for purposes of making local admission decisions if they wish to; and setting their own passing scores. Additionally, each jurisdiction retains its own autonomy, through optionally assessing each candidate's knowledge of jurisdiction-specific content through a separate test, course, or some combination of the two if the jurisdiction so chooses.¹⁹

More than 26,800 examinees took the UBE between February 2011 and July 2015. The number of transferred scores has increased from year to year as the number of UBE jurisdictions has grown. As of October 2015, approximately 2,300 scores have been transferred.²⁰ With the addition of New York in July 2016, the number of UBE scores earned and transferred is expected to increase significantly because New York typically tests more than 15,000 candidates each year.²¹

Benefits of Nationwide UBE Adoption

Nationwide adoption of the UBE would have numerous benefits for new law graduates and young lawyers, jurisdictions, and the legal profession as a whole.

I. Reducing the Burden on New Law Graduates and Young Lawyers

The practice of law has become multi-jurisdictional and global. Lawyers, like all professionals, are increasingly mobile, changing firms and locations more frequently than ever.²² While moving and transferring jurisdictions has become a more common practice, that fact is even truer for women. One study found of Ohio bar takers found that women were significantly more likely to move out of state than men within their first five years of practice, putting them at a greater disadvantage under current bar transfer rules.²³

Reciprocity agreements between jurisdictions, however, are generally only available to seasoned lawyers with several years of experience,²⁴ while young lawyers have to “study for,

¹⁹ See *Policies Set by UBE Jurisdictions*, National Conference of Bar Examiners (last visited Sept. 27, 2015), available at <http://www.ncbex.org/exams/ube/>.

²⁰ See Appendix C.

²¹ See Statistics Archives published by NCBE, <http://www.ncbex.org/publications/statistics/>.

²² See Hon. Rebecca White Berch, *The Case for the Uniform Bar Exam*, BAR EXAMINER, Feb. 2009, at 9, 10, available at http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2009%2F780109_UBEEssays_01.pdf; Mary Kay Kane, *A Uniform Bar Exam: One Academic's Perspective*, BAR EXAMINER, Feb. 2009, at 19, 20, available at http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2009%2F780109_UBEEssays_01.pdf;

²³ See Deborah Jones Merritt, *What Happened to the Class of 2010? Empirical Evidence of Structural Change in the Legal Profession* (April 8, 2015). 2015 MICH. ST. L. REV. (forthcoming); Ohio State Public Law Working Paper No. 290; HLS Center on the Legal Profession Research Paper No. 2015-3, available at <http://ssrn.com/abstract=2577272> (reporting that among new lawyers admitted to the Ohio bar in 2010 women were significantly more likely than men to move out of state within their first five years of practice - 18.4% of women left Ohio after gaining bar admission, while just 14.1% of the men did so).

²⁴ See *Comprehensive Guide*, supra note 9, at 34.

pay for, wait for, and take multiple bar exams with uncertain results.”²⁵ This limits a recent law graduate or young lawyer’s ability to transfer their legal license from state to state if a new job opportunity were to present itself. Because UBE scores can be transferred to other UBE jurisdictions, widespread adoption of the UBE would help alleviate this burden. Additionally, the UBE enables new lawyers to gain jobs with the federal government or with federal agencies because licensure in any state is sufficient for such positions regardless of where the federal office is located.²⁶

The need for greater mobility for recent graduates is particularly acute given the state of the legal job market. Currently, law graduates might have to choose a jurisdiction in which to take the bar exam before they have even found employment. If these graduates subsequently find employment in another jurisdiction, they will be forced to take the bar examination again, adding thousands of dollars to their already-considerable debt load.²⁷

II. Reducing the Burden on Jurisdictions

Some jurisdictions still have their individual board of bar examiners drafting essay questions, even though the topics are largely similar to those tested on the MEE and include little or no local content.²⁸ Adopting the UBE would reduce these duplicative efforts, freeing jurisdiction resources to focus on other areas of importance in bar admissions, such as conducting character and fitness examinations, enforcing rules for admission, and administering CLE programs.

Critics of the UBE often highlight that certain areas of the law vary considerably from one jurisdiction to another, such as probate, trusts and estates, and family law. However, a test of minimum competency should not require specialized knowledge of these areas of the law. Furthermore, the law is increasingly uniform throughout the states and territories, due to adoption of measures like the uniform codes and principles in the Restatements.

Although the UBE does not test specialized areas of practice or unique aspects of state-specific law, jurisdictions that adopt the UBE are free to develop supplementary jurisdiction-specific components in any areas they deem significant to practicing in their borders. Some UBE jurisdictions require completion of online courses, online open-book tests, or live seminars as an admission requirement in order to focus on significant and unique aspects of practicing in the jurisdiction.²⁹ New York, for example, will require both an online course and an online

²⁵ New York Court of Appeals Chief Judge Jonathan Lippman, Address at the Court of Appeals for Law Day 2015 (May 5, 2015), *available at* <http://www.nycourts.gov/ctapps/news/LawDay2015.pdf>.

²⁶ Carla J. DeVelder, *Working for Uncle Sam*, STUDENT LAWYER, Sep. 2011, http://www.americanbar.org/publications/student_lawyer/2011-12/september/working_for_uncle_sam.html.

²⁷ There are expenses not only in registering for exams, but also in preparation for the examination itself. Popular courses “cost between \$3,000 and \$4,000, and many finance those fees—as well as their living expenses while they study—with a bar review loan of up to \$16,000.” Sarah Mui, *Did you take a bar exam prep course? If so, did you take out a loan to finance it? Any regrets?*, ABA JOURNAL, June 5, 2013, http://www.abajournal.com/news/article/did_you_take_a_bar_preparation_course.

²⁸ See White, *supra* note 16, at 6-7.

²⁹ Completion of a jurisdiction-specific component before admission is required by the following jurisdictions that adopted the UBE prior to 2015:

- Alabama: An online course on Alabama law is required for applicants seeking admission by examination or by UBE score transfer.
- Arizona: An online course on Arizona law is required prior to admission for all applicants.

examination on New York law.³⁰ In New Mexico, which has a significant Native American population, applicants must attend and complete a course approved by the New Mexico Supreme Court, which includes Indian law, as well as community property law and professionalism.³¹ Likewise, the Washington Law Component includes Indian law and community property law, among other subjects deemed important for newly licensed lawyers to be educated about.³² Jurisdictions can provide applicants access to outlines containing critical information about local law, and administer a corresponding online open-book test, as is the case in Missouri. Such materials can easily be updated to remain a relevant, accessible resource for the entire legal community.³³

III. Ensuring the Quality and Consistency of the Bar Exam

Widespread adoption of the UBE would help ensure the consistency and quality of the bar exam.³⁴ States can lack the resources to retain test writers, which can result in exam questions that are unreliable tests of legal competency. Diverse committees composed of practicing attorneys, law professors, and judges draft the tests prepared by NCBE. Moreover, NCBE employs test editors who are lawyers to support these committees. NCBE's test questions are reviewed by outside subject matter experts and are pre-tested.³⁵

The UBE also has the ability to potentially improve exam grading. NCBE provides jurisdictions with uniform model answers and grading materials, and offers extensive opportunities for graders to participate in question-specific training, which takes place after the exam is administered and before grading begins. Graders of the MEE and the MPT rank-order

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- Missouri: Applicants have to complete an open-book online test, the Missouri Educational Component Test (MECT), as a condition of licensure. Review materials are posted to assist applicants.
 - Montana: The Montana Law Seminar, which covers Native American Law and Jurisdiction, the Montana Constitution, and Labor and Employment law, among other topics, is required prior to admission.
 - Washington: Washington Law Component (WLC) is an open-book, timed, online multiple-choice test with Washington-specific study materials available online to review prior to and during the test.

See Comprehensive Guide, supra note 11, at 32-33.

³⁰ See <http://www.nybarexam.org/>.

³¹ N.M. Ct. R. 15-103.G, available at http://www.nmcompcomm.us/nmrules/NMRules/15-103_10-15-2015.pdf.

³² See WASHINGTON LAW COMPONENT RESEARCH MATERIALS, <http://www.wsba.org/Licensing-and-Lawyer-Conduct/Admissions/Uniform-Bar-Exam>.

³³ Cindy L. Martin, *Local Law Distinctions in the Era of the Uniform Bar Examination: The Missouri Experience (You Can Have Your Cake and Eat It, Too)*, BAR EXAMINER, Sep. 2011, at 7, available at https://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2011/800311Martin.pdf.

³⁴ Susan M. Case, Ph.D., *A Uniform Bar Examination: What's in It for Me?*, BAR EXAMINER, Feb. 2010, at 50, 52, available at https://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2010/790110_TestingColumn.pdf.

³⁵ See C. Beth Hill, *MBE Test Development: How Questions are Written, Reviewed, and Selected for Test Administrations*, BAR EXAMINER, Sept. 2015, at 23, available at <http://www.ncbex.org/pdfviewer/?file=%2Fassets%2FUploads%2FBE-Sept2015-MBETestDev.pdf>; Judith A. Gundersen, *MEE and MPT Test Development: A Walk-Through From First Draft to Administration*, BAR EXAMINER, June 2015, at 29, available at <http://www.ncbex.org/pdfviewer/?file=%2Fassets%2FUploads%2F840215-Gundersen.pdf>

the answers of candidates from best to worst. The raw scores are then converted to the MBE scaled score distribution in order to make the scores comparable from one exam administration to another.³⁶ A more detailed explanation of scaling written component scores to the MBE can be found in the December 2014 issue of *The Bar Examiner*.³⁷

IV. Benefit to the Public and to the Profession

The UBE is consistent with several current ABA policies that help shape the profession and its service to the public.

In 2006, the ABA House of Delegates adopted a resolution concerning minorities in the pipeline to the profession. Among other policies within the resolution, it urged state and territorial bar examiners to address significant problems facing minorities within the pipeline to the profession. A barrier in the form of duplicative and expensive tests and administrative hurdles for each jurisdiction is just the type of significant problem that should be addressed.³⁸

In addition, in August 2014, the ABA House of Delegates adopted Resolution 108, sponsored by the Legal Access Job Corps Task Force, regarding the access-to-justice gap.³⁹ Resolution 108 outlines that “most states have substantial rural areas and some of them have an aging lawyer population. As a result, many communities are now without lawyers. For example, in one South Dakota community, the nearest lawyer is 120 miles away. State bars faced with this challenge are creating rural placement projects designed to encourage and give incentives for recently admitted lawyers to set up or assume practices in these communities.” Wider adoption of the UBE provides greater portability of bar examination scores, which would make it significantly easier for new law graduates to seek employment in areas with under-served populations. Consequently, this helps to alleviate the problems of both recent graduate

³⁶ Judith A. Gundersen, *The Testing Column: Essay Grading Fundamentals*, BAR EXAMINER, Mar. 2015, at 54, available at http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2015%2F840115-TestingColumn.pdf.

³⁷ Mark A. Albanese, *The Testing Column: Scaling: It's Not Just for Fish or Mountains*, BAR EXAMINER, Dec. 2014, at 50, available at http://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2014%2F830414-testingcolumn.pdf.

³⁸ Resolution 113 of the American Bar Association, also referred to as the “Pipeline Diversity Resolution” adopted at the 2006 Annual Meeting, available at http://www.americanbar.org/content/dam/aba/migrated/2011_build/diversity/pipeline_diversity_resolution.authcheckdam.pdf (calling upon bar associations and bar examiners to provide greater collaboration and assurance to address potential disparate impact on minorities in the pipeline to the profession). While Resolution 113 specifically addressed possible disparate impact on bar passage rates of minority candidates, Judge Cynthia Martin testified to the NY Advisory Committee that “no one has voiced a concern that the UBE has negatively impacted the gap between general pass rates, and the pass rates for certain demographics,” and speaking anecdotally given the lack of data “readily available in the public domain,” she noted that at the one school she spoke with, the “pass rate for... minority demographic groups... actually increased.” See Supplemental Testimony before the Advisory Committee on the Uniform Bar Examination by the Honorable Cynthia L. Martin at <https://www.nycourts.gov/ip/bar-exam/pdf/Supplemental-Testimony-Hon.C.Martin-NYUBE-Advisory-Comm.pdf>. See also “New York County Lawyers Association Report on the New York Uniform Bar Exam Proposal, available at https://www.nycla.org/siteFiles/Publications/Publications1746_0.pdf.

³⁹ Resolution 108 of the American Bar Association, adopted at the 2014 Annual Meeting, http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2014_hod_annual_meeting_108.authcheckdam.pdf.

unemployment and the lack of access to legal services that Resolution 108 addresses.⁴⁰

Moving toward greater adoption of the UBE will also help align the legal field with other professions, such as accounting and medicine, that already utilize a uniform exam for board licensure. In the late 1980s, the National Board of Medical Examiners went through the same process that NCBE is going through now. Specifically, it established a uniform exam that ensured the competency of medical professionals and eased the expenses of state and territorial medical boards in administering separate exams across the country.⁴¹

Summary

The recommended resolution will enable the ABA to remain a leader in representing the interests of law students, young lawyers, and the bar in new and innovative ways. The time has come for widespread adoption of the UBE, which would better reflect today's multijurisdictional practice of law, while ensuring a standard level of competency for all lawyers throughout the United States. The exam greatly assists law school graduates who face tremendous challenges finding employment and managing student debt. At the same time, it reduces inefficiency and expenses by eliminating duplicative efforts among state bar examiners. Finally, because many states already administer the functional equivalent of the UBE, formal adoption is the next logical step.

Respectfully submitted,

Christopher Jennison
Member, Board of Governors

Fabiani Duarte
Chair, Law Student Division

⁴⁰ See New York Advisory Committee on the Uniform Bar Examination, *Ensuring Standards and Increasing Opportunities for the Next Generation of New York Attorneys*, April 2015, at 40, <http://www.nycourts.gov/ip/bar-exam/>. (“The portability afforded by the UBE also may result in the increased provision of legal assistance to traditionally under-served areas, such as low income or rural communities. Likewise, it may help funnel students into public interest practice, where employers often do not hire until the spring of applicants’ final year of law school, after students have chosen which bar to take.”)

⁴¹ See Susan M. Case, Ph.D., *A Uniform Licensure Examination: It Can Be Done*, BAR EXAMINER, Feb. 2009, at 30, 31-32, available at https://www.ncbex.org/pdfviewer/?file=%2Fassets%2Fmedia_files%2FBar-Examiner%2Farticles%2F2009%2F780109_UBEEssays_01.pdf.

APPENDIX A: UBE Jurisdictions by State and Passing Score

| State | First UBE Administration | Passing Score |
|--------------------|---------------------------------|----------------------|
| Alabama | July 2011 | 260 |
| Alaska | July 2013 | 280 |
| Arizona | July 2012 | 273 |
| Colorado | February 2012 | 276 |
| Idaho | February 2012 | 280 |
| Iowa | February 2016 | 266 |
| Kansas | February 2016 | 266 |
| Minnesota | February 2014 | 260 |
| Missouri | February 2011 | 260 |
| Montana | July 2013 | 270 |
| Nebraska | February 2012 | 270 |
| New Hampshire | February 2014 | 270 |
| New Mexico | February 2016 | 260 |
| New York | July 2016 | 266 |
| North Dakota | February 2011 | 260 |
| Utah | February 2013 | 270 |
| Vermont (proposed) | July 2016 | 270 |
| Washington | July 2013 | 270 |
| Wyoming | July 2013 | 270 |

APPENDIX B: Multistate Bar Exam Components Already in Use

| Jurisdiction | Multistate Bar Examination (MBE) | Multistate Essay Examination (MEE) | Multistate Performance Test (MPT) | Multistate Professional Responsibility Examination (MPRE) |
|--------------------|----------------------------------|------------------------------------|-----------------------------------|---|
| Alabama | X | X | X | X |
| Alaska | X | X | X | X |
| Arizona | X | X | X | X |
| Arkansas | X | X | X | X |
| California | X | | | X |
| Colorado | X | X | X | X |
| Connecticut | X | X | X | X |
| Delaware | X | | X | X |
| Dist. of Columbia | X | X | X | X |
| Florida | X | | | X |
| Georgia | X | | X | X |
| Hawaii | X | X | X | X |
| Idaho | X | X | X | X |
| Illinois | X | X | X | X |
| Indiana | X | | X | X |
| Iowa | X | X | X | X |
| Kansas | X | | | X |
| Kentucky | X | X | | X |
| Louisiana | | | | X |
| Maine | X | | X | X |
| Maryland | X | | X | |
| Massachusetts | X | | | X |
| Michigan | X | | | X |
| Minnesota | X | X | X | X |
| Mississippi | X | X | X | X |
| Missouri | X | X | X | X |
| Montana | X | X | X | X |
| Nebraska | X | X | X | X |
| Nevada | X | | X | X |
| New Hampshire | X | X | X | X |
| New Jersey | X | | | X |
| New Mexico | X | X | X | X |
| New York | X | | X | X |
| North Carolina | X | | | X |
| North Dakota | X | X | X | X |
| Ohio | X | | X | X |
| Oklahoma | X | | | X |
| Oregon | X | X | X | X |
| Pennsylvania | X | | | X |
| Rhode Island | X | X | X | X |
| South Carolina | X | | | X |
| South Dakota | X | X | X | X |
| Tennessee | X | | X | X |
| Texas | X | | X | X |
| Utah | X | X | X | X |
| Vermont | X | | X | X |
| Virginia | X | | | X |
| Washington | X | X | X | X |
| West Virginia | X | X | X | X |
| Wisconsin | X | X | X | |
| Wyoming | X | X | X | X |
| Guam | X | X | X | X |
| N. Mariana Islands | X | X | X | X |
| Palau | X | X | X | X |
| Puerto Rico | | | | |
| Virgin Islands | X | | | X |

Excerpted from http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2015_comprehensive_guide_to_bar_admission_requirements.authcheckdam.pdf

APPENDIX C

**UBE Scores Earned and Transferred by Exam Date
(as of October 27, 2015)**

| | FEBRUARY | | JULY | | TOTAL BY YEAR | |
|---------------|----------------------|---------------------------|----------------------|---------------------------|----------------------|---------------------------|
| Year | Scores Earned | Scores Transferred | Scores Earned | Scores Transferred | Scores Earned | Scores Transferred |
| 2011 | 216 | 11 | 1237 | 40 | 1453 | 51 |
| 2012 | 936 | 68 | 3169 | 364 | 4105 | 432 |
| 2013 | 1401 | 228 | 4670 | 593 | 6071 | 821 |
| 2014 | 2166 | 222 | 5475 | 448 | 7641 | 670 |
| 2015 | 2340 | 165 | 5197 | 174 | 7537 | 339 |
| TOTALS | 7059 | 694 | 19748 | 1619 | 26807 | 2313 |

Data provided by the National Conference of Bar Examiners.

GENERAL INFORMATION FORM

Submitting Entity: American Bar Association Law Student Division

Submitted By: Christopher Jennison, ABA Board of Governors, Delegate

1. Summary of Resolution(s).

The American Bar Association urges the bar admission authorities in each state and territory to expeditiously adopt the Uniform Bar Examination in their respective jurisdictions.

2. Approval by Submitting Entity.

October 2014, LSD Board of Governors
August 2015, LSD Assembly

3. Has this or a similar resolution been submitted to the House or Board previously?

No.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

Supporting the UBE would be consistent with several ABA policies. For instance, the ABA, along with NCBE and the Association of American Law Schools, has adopted a Code of Recommended Standards for Bar Examiners. The House of Delegates adopted the latest version of this code in August 1987. This code is consistent with using the UBE to test general subject matter taught in law school primarily for the purpose of testing legal reasoning and communication skills, rather than for the purpose of testing knowledge of specific local laws. Specifically, the code states that “[i]n selection of subjects for bar examination questions, the emphasis should be upon the basic and fundamental subjects that are regularly taught in law schools.”⁴²

In 1994, the ABA adopted as policy the recommendations from a report of the Task Force on Law Schools and the Profession. Among other recommendations, the task force urged “licensing authorities to consider modifying bar examinations which do not give appropriate weight to the acquisition of lawyering skills and professional values.” Adopting the UBE is consistent with this recommendation.

In 2006, the ABA House of Delegates adopted a resolution concerning minorities in the pipeline to the profession. Among other policies within the resolution, it urged

⁴² See COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2015 at ix (Erica Moeser & Claire Huisman eds., 2015), available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2015_comprehensive_guide_to_bar_admission_requirements.authcheckdam.pdf

state and territorial bar examiners to address significant problems facing minorities within the pipeline to the profession. Certainly, erecting a barrier in the form of duplicative and expensive tests for each state and territory is just the type of significant problem that should be addressed.⁴³

The January 2014 Final Report of the Task Force on the Future of Legal Education specifically recommend “that state supreme courts, state bar associations, and other regulators of lawyers and law practice” should “establish uniform national standards for admission to practice as a lawyer, including adoption of the Uniform Bar Examination.”⁴⁴

Finally, in August 2014, the ABA House of Delegates adopted Resolution 108 of the Legal Access Job Corps Task Force regarding the access-to-justice gap.⁴⁵ Resolution 108 outlines that “most states have substantial rural areas and some of them have an aging lawyer population. As a result, many communities are now without lawyers. For example, in one South Dakota community, the nearest lawyer is 120 miles away. State bars faced with this challenge are creating rural placement projects designed to encourage and give incentives for recently admitted lawyers to set up or assume practices in these communities.” The UBE by its very nature encourages portability of bar licensure and would remove barriers to access-to-justice in rural regions.

5. If this is a late report, what urgency exists which requires action at this meeting of the House? N/A
6. Status of Legislation. None.
7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The Law Student Division will work with the National Conference of Bar Examiners, the Conference of Chief Justices, the Young Lawyers Division and the ABA HOD members to disseminate official ABA policy to local bar examiners to encourage their adoption of the UBE expeditiously.

8. Cost to the Association. N/A
9. Disclosure of Interest. None.
10. Referrals.

⁴³ See Resolution 113, *supra* note 38.

⁴⁴ Report and Recommendations of the American Bar Association’s Task Force on the Future of Legal Education, available at http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf

⁴⁵ See Resolution 108, *supra* note 39.

Law Practice Division
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EXECUTIVE SUMMARY

1. Summary of the Resolution

The American Bar Association urges the bar admission authorities in each state and territory to expeditiously adopt the Uniform Bar Examination in their respective jurisdictions.

2. Summary of the Issue that the Resolution Addresses

Currently, law students must often choose a bar admission jurisdiction before they know where they will be employed, limiting the applicability of their first bar admission given limitations on admission and motion and transferability. Some state bar examiners draft essay questions, even though the topics are those tested on the MEE and include little local variation. States may also have variability in bar exam grading. The Uniform Bar Exam addresses these concerns and is also consistent with several ABA policies.

3. Please Explain How the Proposed Policy Position will address the issue

Through greater adoption of the UBE, the model of a portable exam becomes more effective because test-takers are able to transfer their scores to more jurisdictions.

4. Summary of Minority Views

While some critics of the UBE wish to retain local bar exams, no known ABA entities have formally presented any opposing views to this resolution.