

Act 250 and the Natural Resources Board

**Overview for Vermont Legislative
Committees- 2024**

Topics:

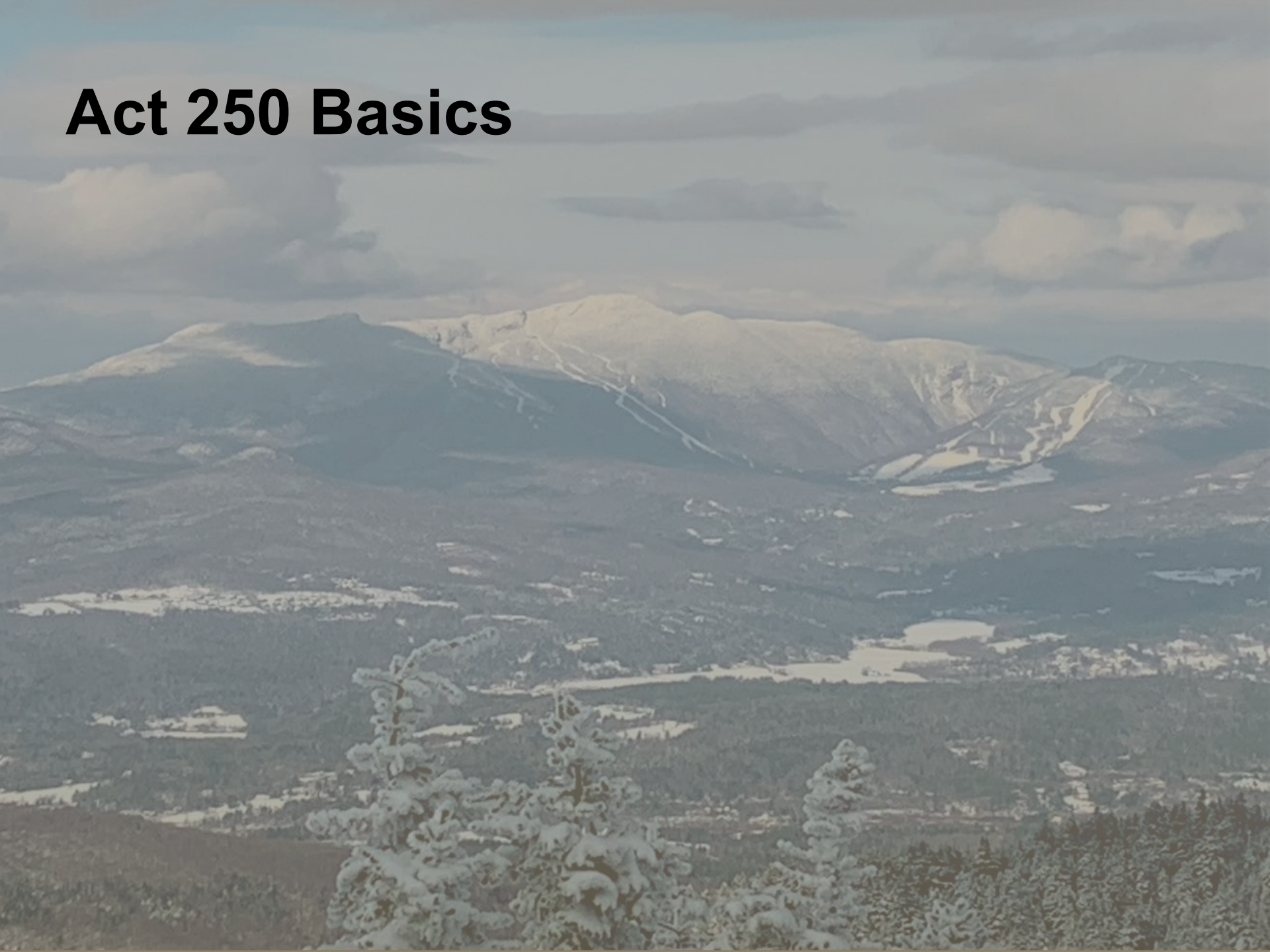
1. Act 250 basics

2. Report

3. Permitting trends

4. Updates and ARPA Funding

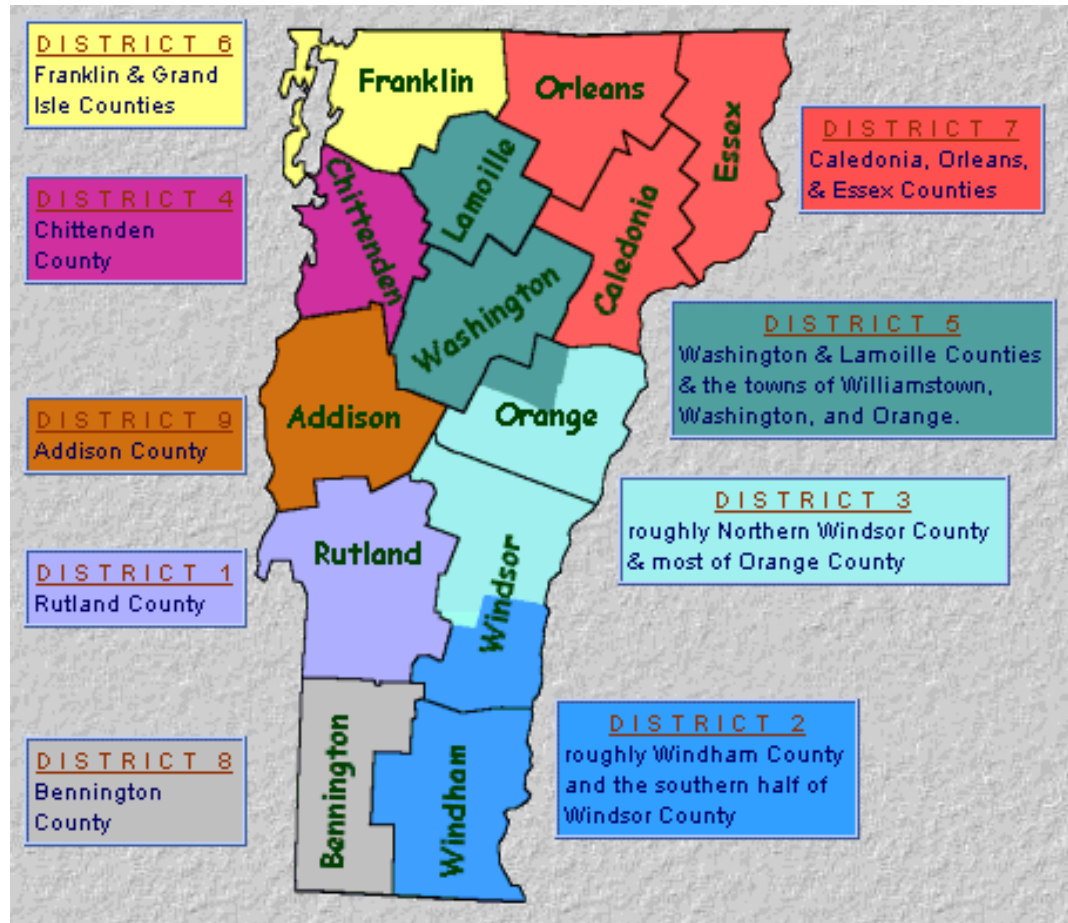
Act 250 Basics



Act 250 Basics

- Natural Resources Board oversees Vermont's statewide land use review process known as Act 250.
- Quasi-judicial process by which a proposed jurisdictional project is reviewed by a District Commission for adherence to 10 statutory criteria under the statute.
- The review integrates water quality, wildlife, traffic, historic preservation, aesthetic, town planning and services, and other reviews in cohesive permitting process.

9 District Environmental Commissions



[District Staff and Environmental Commissions | Natural Resources Board \(vermont.gov\)](http://vermont.gov)



District Commissioners

Our 10 District Coordinators work with 63 volunteer District Commissioners to review projects. Commissioners are appointed by the Governor for staggered 2-4-year terms.

Role of Act 250 District Coordinator:

- **Jurisdictional Opinions:** To determine whether a project requires a permit under the law.
- **Coordination:** To facilitate the review process for applicants, the Commission, & other parties (if any).
- **As a “Clerk:”** To draft the Commission’s written decision.



Criteria for Evaluating Projects:

- **Criterion 1:** Air and water pollution

- 1(A): Headwaters
- 1(B): Waste disposal
- 1(C): Water conservation
- 1(D): Floodways
- 1(E): Streams
- 1(F): Shorelines
- 1(G): Wetlands

- **Criterion 2:** Water supply

- **Criterion 3:** Impact on water supply

- **Criterion 4:** Erosion and capacity of soil to hold water

- **Criterion 5:** Transportation

- 5(A): Traffic
- 5(B): Transportation

- **Criterion 6:** Educational services

- **Criterion 7:** Municipal services

- **Criterion 8:** Aesthetics, scenic & natural beauty

- Historic sites

- Historic sites - archeology
- Rare and irreplaceable natural areas
- 8(A): Necessary wildlife habitat

- **Criterion 9**

- 9(A): Impact of growth
- 9(B): Primary agricultural soils
- 9(C): Productive forest soils
- 9(D): Earth resources
- 9(E): Extraction of earth resources
- 9(F): Energy conservation
- 9(G): Private utility services
- 9(H): Costs of scattered development
- 9(J): Public utility services
- 9(K): Public investments
- 9(L): Settlement patterns (*formerly "Rural growth areas"*)

- **Criterion 10:** Local and regional plans

Act 250 Jurisdiction: What's in...

- Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations
- Commercial development on >1 or >10 acres, depending on a town's zoning and subdivision regulations
- State or municipal projects when >10 acres of land are used
- Housing projects with 10 or more units (higher unit thresholds for affordable housing in state designated centers)
- Communication towers >50 feet
- Commercial, residential, or industrial development above 2,500 feet elev.
- Material change to an Act 250-permitted subdivision or development, and
- Substantial change to a pre-1970 subdivision or development

Act 250 Exemptions: What's NOT in...*

- Farming, logging, or forestry below 2,500 feet in elevation
- Improvements for electric generation, energy storage, or transmission, or telecommunications facility that requires a Certificate of Public Good from the Public Utility Commission.
- Certain: Agricultural fairs, exhibitions, abatements, compost facilities, priority housing projects
- Many other exemptions for specific project types (including certain government projects such as wastewater treatment facility enhancements, water supply enhancements, building renovations, and public school reconstruction with an increase in capacity <10 %; registered slate quarries; replacement/maintenance of municipalities water and sewer lines, Priority housing in designate center,

*Consult 10 VSA Sect. 6000 et. seq. for specifics and full list.

Legislative Report



Report approach and engagement:

- Legislative Charge topic areas:
 - Location-based jurisdiction
 - Compatibility and Development Plan
 - Staffing Assessment
 - Fee Sufficiency and Source
 - Fee as Incentive
 - Assessment of costs on Applicants
- 16- person steering committee with broader stakeholder groups.
- 20 plus meetings including public meeting for statewide input.
- Professional, independent facilitation team managed 20+ meetings and drafted the report.
- Submitted December 31, 2023.

“Necessary Updates Report- Steering Committee Recommendations:

Location-based Jurisdiction – three tiers of jurisdiction based on mapped areas

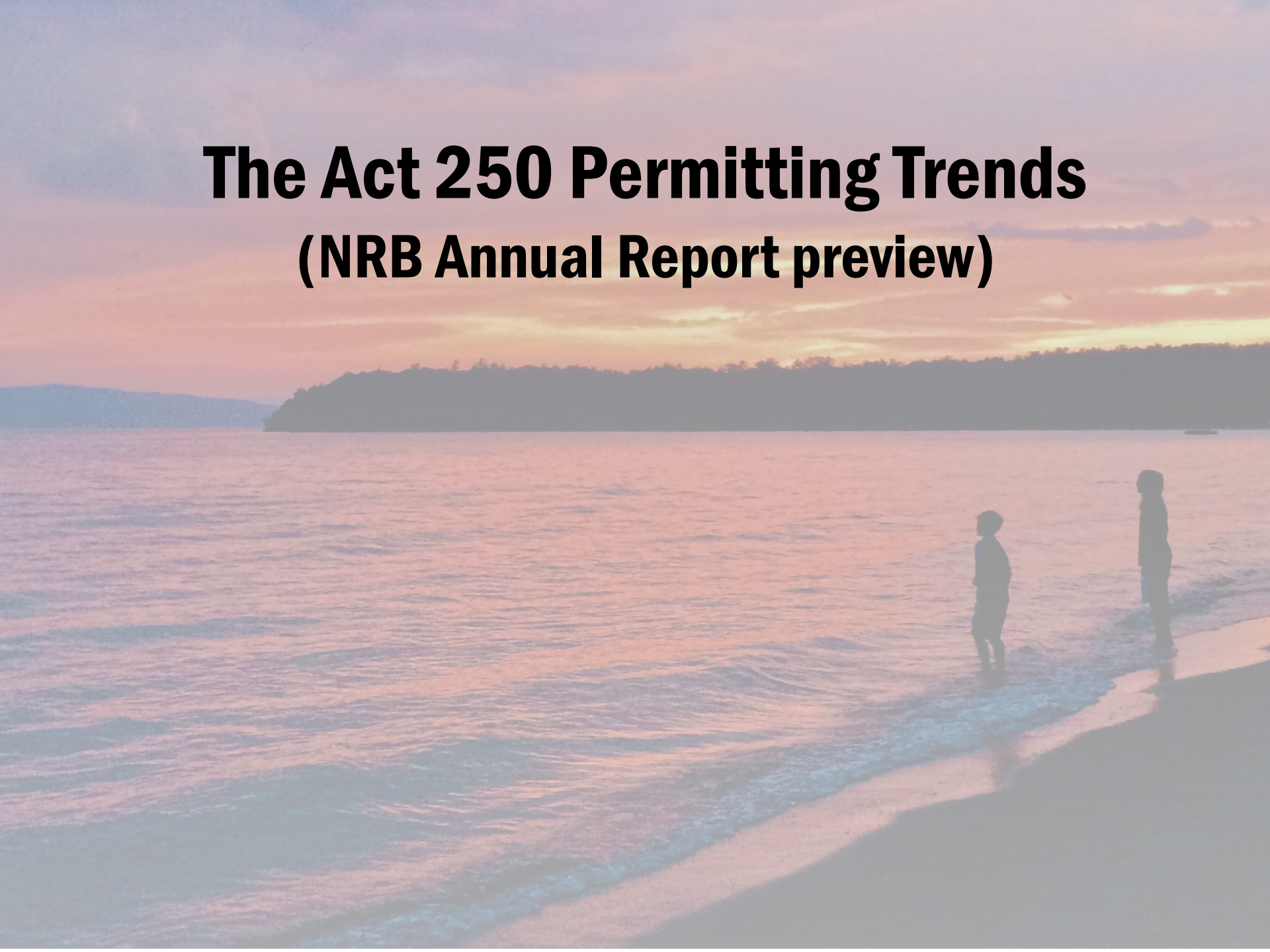
Forest fragmentation – modify criteria to reduce impact

Governance - shift to professional board with adequate staffing; shift revenue model away from fees; reduce redundant permitting;

Mapping/Planning – funding for mapping and integration with designation and future land use map studies

Working Lands – forest processing enterprises to 1:1 for prime agricultural soil mitigation

The Act 250 Permitting Trends (NRB Annual Report preview)



Every year the Act 250 District Commissions issue:

430 Land Use Permit Decisions/ year average

22 with hearing (5%)

408 without hearing (95%)

Over 65% issued within 90 days of application

7 decisions appealed/ year average

1.4 decisions (0.3%) denied/ year average

(Note: Data represents 5-year average from 2018- 2022 data)

Act 250 Permits by the numbers...

2023:

394 permits issued

23 majors

224 minors

147 Administrative Amendments

2022:

379 permits issued

22 majors

209 minors

148 Administrative Amendments

NRB Budget Summary

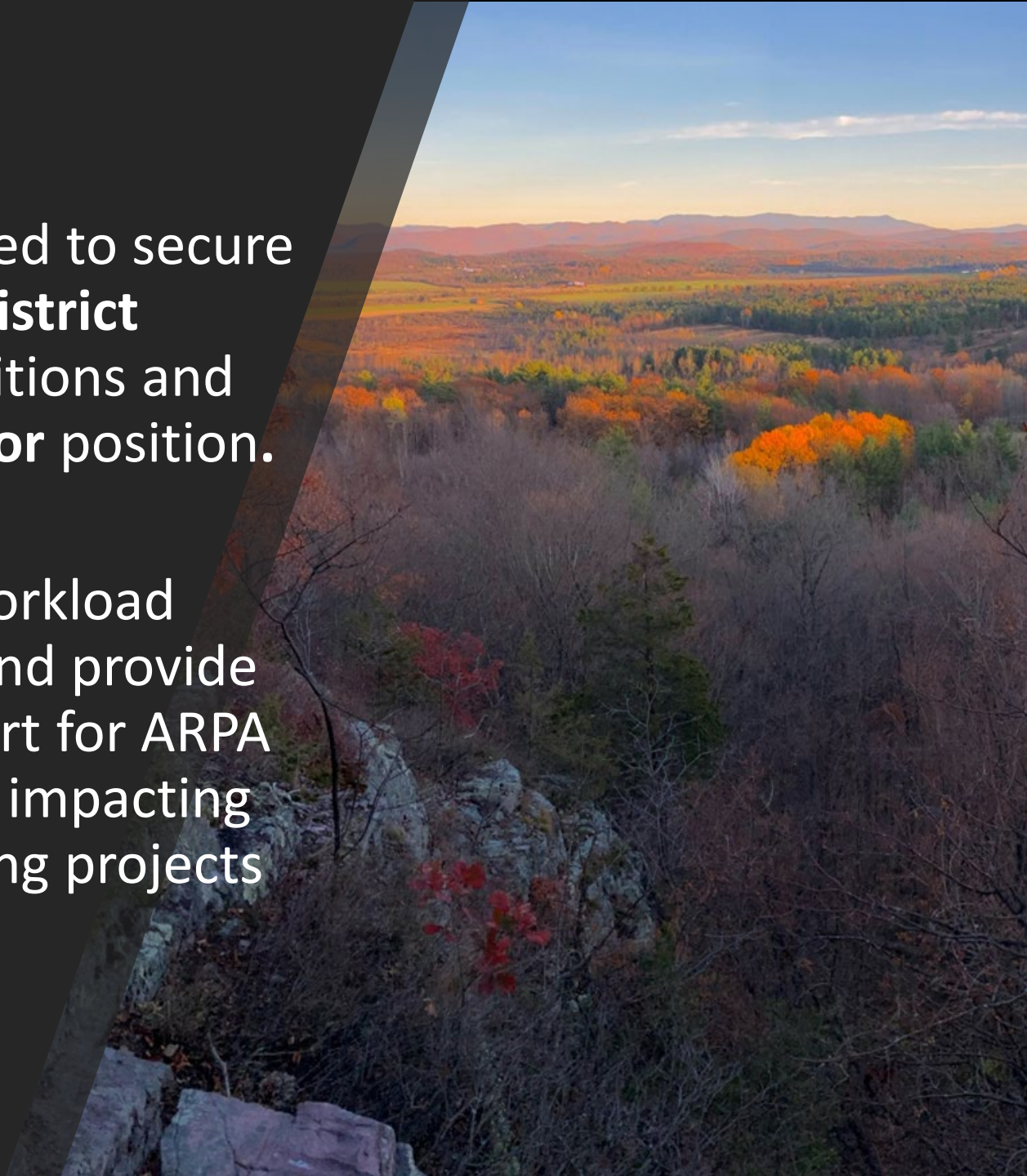
- **Annual budget (FY23):** \$3.28M
 - Personnel services (89%), and
 - Operating expenses (11%)
- **Funding Sources:**
 - Special Funds (80%)
 - Application fees and enforcement costs
 - General Fund (20%)
 - One-time, 3-year limited-service positions (3) funded through ARPA/SFR appropriation
- **FY24 request:**
 - \$3.48 M

ARPA Funds and NRB Updates



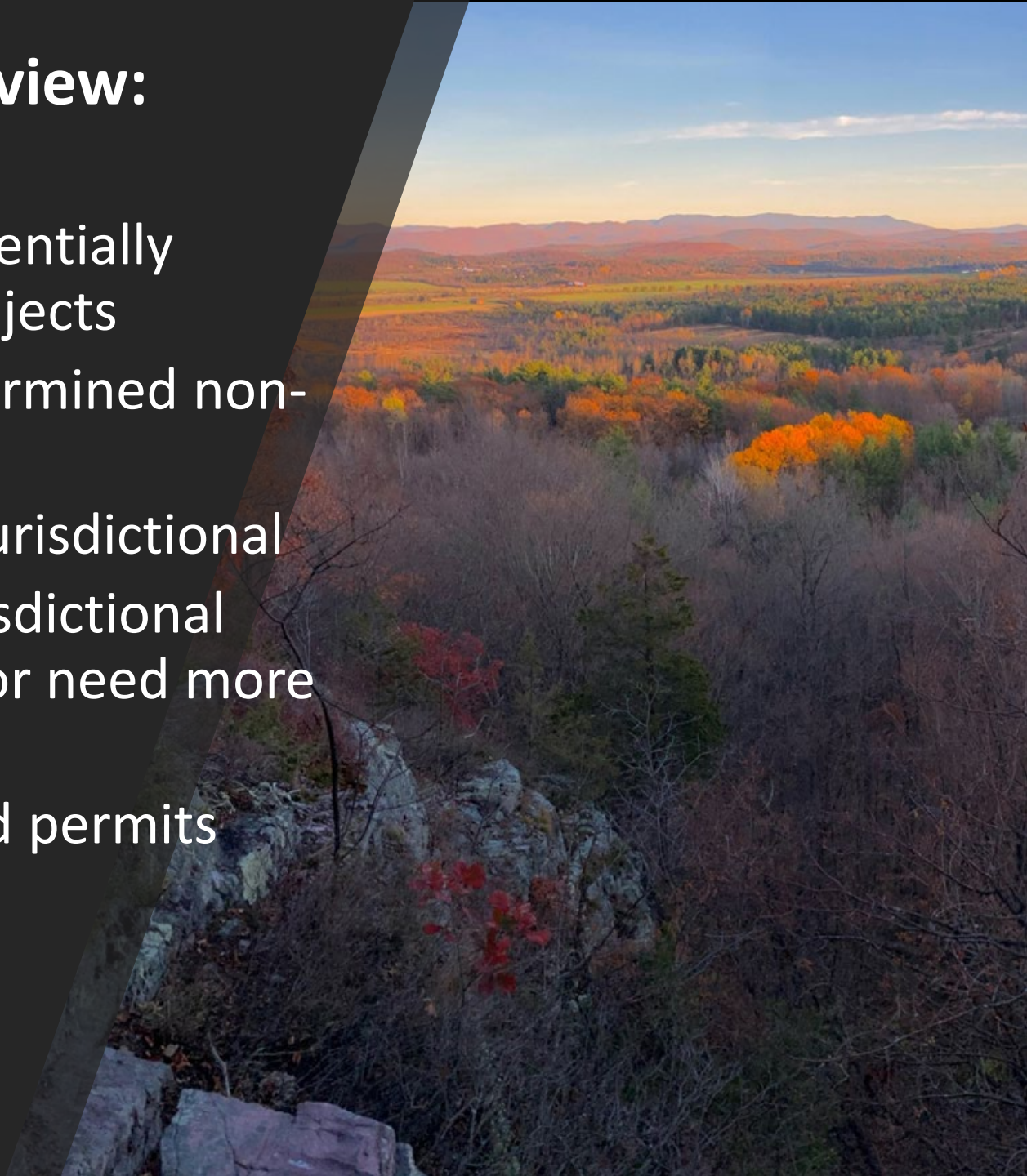
ARPA Funding:

- ARPA funding used to secure two additional **District Coordinator** positions and **Executive Director** position.
- **Goal:** manage workload across districts and provide additional support for ARPA projects without impacting services to existing projects



ARPA Project Review:

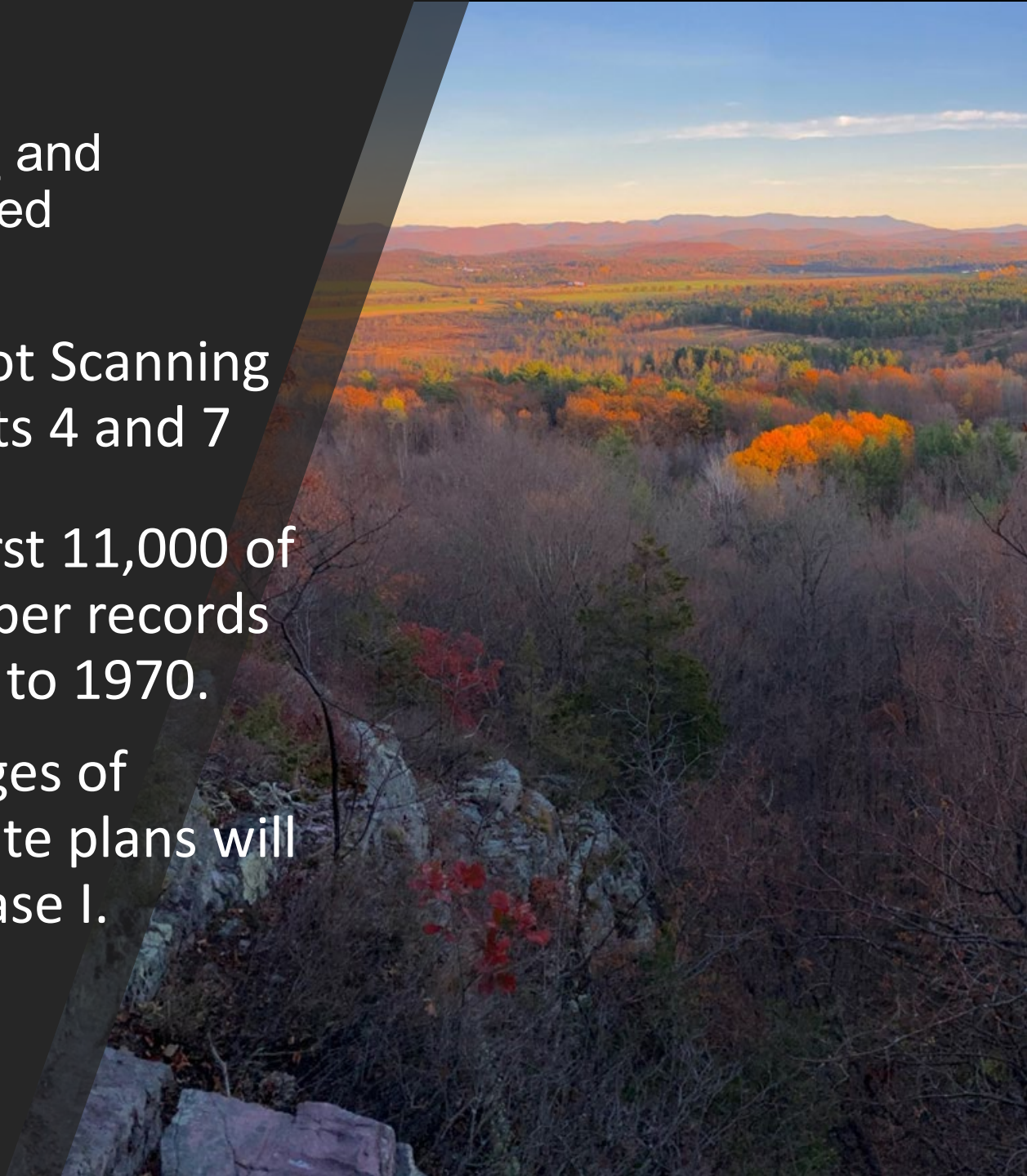
- Tracking 390 potentially jurisdictional projects
- 147 already determined non-jurisdictional
- 37 determined jurisdictional
- 158 pending jurisdictional determinations or need more information
- 20 already issued permits



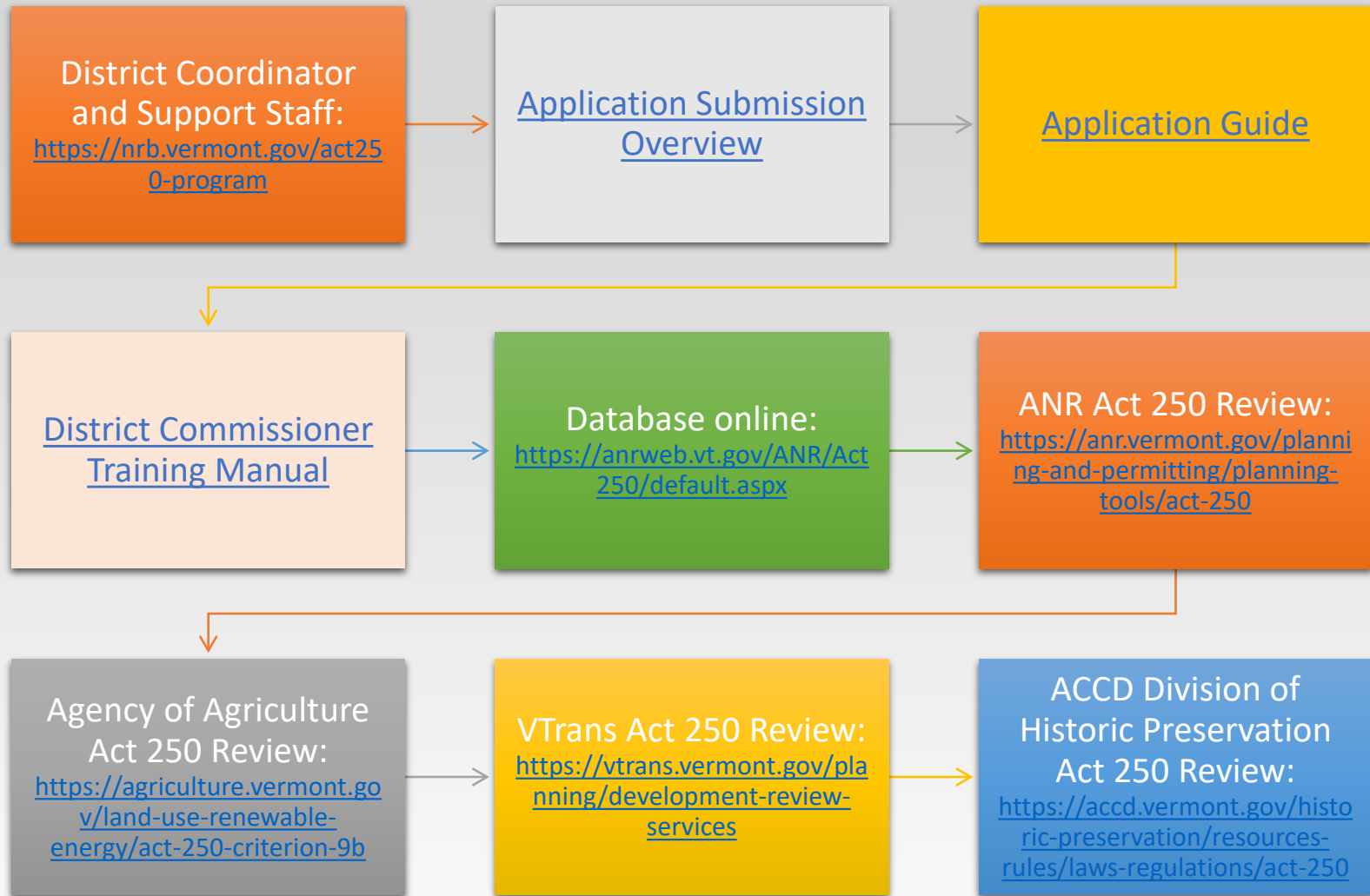
- Act 250 Database and Application Updated
- Commencing Pilot Scanning Project in Districts 4 and 7

Will scan the first 11,000 of over 35,000 paper records extending back to 1970.

2 million+/- pages of documents & site plans will go digital in Phase I.



RESOURCES



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Questions?