JOINT LEGISLATIVE
REGIONAL TRANSPORTATION DISTRICT
OVERSIGHT COMMITTEE

Report to the General Assembly

for the period May, 1981,
through April, 1982

(Submitted to the Fifty-third General Assembly,
Second Regular Session, pursuant to Joint Rule No. 32)

Colorado Legislative Council
Research Publication No. 268
April, 1982

JOINT LEGISLATIVE
REGIONAL TRANSPORTATION DISTRICT
OVERSIGHT COMMITTEE

Members of the Committee
July, 1981 to Present

Representative Jeanne Faatz, Chairman
Senator Sam Zakhem, Vice-Chairman
Senator Al Meiklejohn
Senator Paul Sandoval
Representative Jack McCroskey
Representative Jim Reeves

Legislative Council Staff
Assigned to the Committee

Stanley Elofson
Principal Analyst

Daniel Chapman
Research Associate

COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
866-3521
AREA CODE 303

April, 1982

Honorable Senator Fred E. Anderson,
President of the Senate
Honorable Representative Carl "Bev" Bledsoe,
Speaker of the House of Representatives
Members of the Fifty-Third Colorado General Assembly

Pursuant to the provisions of Joint Rule No. 32 (Senate Joint Resolution No. 12, 1979 session), the Committee on Regional Transportation District Oversight herewith submits its report for the period of May, 1981, through April, 1982.

Respectfully submitted,

/s/ Representative Jeanne Faatz
Chairman
Committee on RTD Oversight

JF/th

TABLE OF CONTENTS

I. Introduction -- Committee on RTD Oversight

The legislative Committee on RTD Oversight was established during the 1979 Session under legislative Joint Rule No. 32. House Joint Resolution No. 1005, 1982 Session, amended paragraph (g) of Joint Rule No. 32 to set the termination date for the committee on January 1, 1983, the date the elective RTD board first takes office.

The RTD Oversight Committee was created in response to a legislative finding that there was "a need for continuing legislative vigilance of the manner in which the regional transportation district is fulfilling its statutory charge." (Senate Joint Resolution 12, 1979) The rule charges the committee with the following responsibilities.

(a) To meet at least twelve times each year to review all functions of the district, including:

- -- content and revision of the mass transportation plan;
- -- revenues and expenditures of the district;
- -- short- and long-range planning for the district;
- -- the effect of the district's services and plans on employment, commercial and industrial activities, housing within the district, and transportation habits and practices of the district residents;
- -- compliance with the statutory provisions governing the district; and
- -- feasibility of appointment of board members on the basis of population representation.

(b) To review and comment on the district's annual budget before it is adopted.

(c) To hold public hearings concerning the level of services, routes, schedules, fees, charges, and any other matters of general public interest to the district.

II. Activities of the Committee

A total of eleven meetings were held by the committee between May, 1981, and April, 1982. Meetings in the months of September and October were used for an analysis and review of the proposed RTD budget for 1982. Committee recommendations concerning the budget were made to the RTD Board of Directors prior to adoption of the 1982 budget. Part IV of this report concerns the committee's budget activities.

Multi-Modal Mass Transit and Other Capital Projects

The committee continued to actively monitor RTD capital projects during the period covered by this report. Of particular interest was the progress of ongoing planning for a multi-modal mass transit system for the Denver metropolitan area. RTD is continuing to purchase right-of-way along key transit corridors, when available, and preliminary engineering work on a proposed initial segment is being performed.

Testimony was presented by Leslie Rogers, Regional Counsel for the Urban Mass Transportation Administration (UMTA) on the future of federal funding and involvement in urban mass transit. It was reported that there was very little likelihood of federal funding for new rail starts, such as light rail. The committee also heard representatives of the Denver Chamber of Commerce (February 12, 1982) indicate ongoing support from the business community for the rapid implementation of a multi-modal mass transit system.

In addition to information on planning for light rail, the committee received periodic updates on the progress of construction on the 16th Street Transitway Mall. The committee toured the RTD facilities at the former Burkhardt Steel Company property on South Broadway and the new RTD administrative headquarters on Blake Street. The committee also followed the progress of construction of the mall and the northwest transfer facility, the northern terminal of the mall.

Development of the Kassler-Cheeseman Block

A principal focus of committee activity during 1981 was an examination of RTD's contractual arrangements with the John W. Galbreath Company of Columbus, Ohio, for the joint development of the Kassler-Cheeseman Block.* RTD had entered a joint development agreement with the Galbreath Company in order to lease the air rights for a 600,000 square foot office tower to be constructed above RTD's underground transit terminal on the northeast corner of the block. This agreement was made as part of a "value capture" concept in which RTD would gain a fixed rental rate for the building in addition to a percentage (38 percent) of the cash flow from the building, after the Galbreath Company receives a 13.5 percent return on its cash equity.

The fiscal arrangements were the primary target of persons critical of the Galbreath/RTD agreements who contended that the lease arrangements did not guarantee any return to RTD beyond the fixed rental rate.

* The Kassler-Cheeseman Block is located in downtown Denver adjacent to Civic Center Park. It is bounded by Broadway, 16th Street, Lincoln Street and Colfax Avenue.

The committee received testimony and reviewed these criticisms at two meetings (November 2 and December 3) and requested an opinion from the Attorney General on various features of the development and lease option agreement (Attachment A).

RTD responded to the contentions of the critics at a December 16 press conference and in a January 5, 1982, presentation before the committee. A letter dated January 26 was received from the RTD legal counsel who also responded to each question raised by the committee. On February 12, 1982, the committee reviewed a staff memorandum (see Attachment B) which detailed the remaining points of contention between RTD and the state Attorney General's opinion. The committee declined to take any further action concerning this matter.

Copies of the responses to committee questions from the Attorney General and RTD legal counsel are on file in the Legislative Council office.

RTD Safety Records/Public Access to Data

A third major area of concern in 1981 was the accessibility of RTD safety and performance records, specifically records regarding traffic accidents involving RTD vehicles. RTD responded to requests for this information by stating that discretion must be exercised by the district over the release of some types of information due to the confidential nature of the subject matter, such as certain commercial and financial data and privileged information such as lawyer/client communications. RTD contended that accident reports represent an uncertain area involving confidentiality of records because, among other information, they contain information about RTD personnel, i.e., bus drivers. The original request for information, made on July 24, 1981, was fulfilled during the remainder of the year. The last of the information was released in December.

Testimony was presented concerning RTD's safety and training procedures by members of the RTD staff. The committee also heard testimony concerning Colorado's Open Public Records Law and its possible applications to records maintained by RTD. The committee decided to continue inquiries into this area as individual legislators rather than as a committee. Finally, a committee staff memorandum was reviewed which analyzed the accident report information submitted by RTD during the year. Copies of this memorandum are on file in the Legislative Council office.

III. Legislative Activity in 1982 Session

Two bills relating directly to RTD were enacted in the 1982 session. The first bill described below made several technical amendments to the election laws for the RTD Board of Directors. The second bill pertains to the development of a fixed guideway system of mass transit in the district.

RTD Board of Directors Election - House Bill 1012

During the 1981 interim, the committee reviewed preparations for the first election of the RTD Board of Directors scheduled for November, 1982. The committee recommended a bill to the 1982 session of the General Assembly effecting certain technical changes in the elected board statute, and requested that the Governor place this topic on the legislative call. The committee's recommendations were enacted in the following provisions of House Bill 1012.

-- Directs that the board shall create compact, contiguous director districts, to the extent practical, within county boundaries.

-- Assures representation of any new areas entering the district before July 1, 1985. Under the previous statute, such representation would not have been allowed until after the 1990 census.

-- Places the elected Board of Directors under the Campaign Reform Act.

-- Amends the statute in regard to "election sections" by conforming it with provisions for director elections.

-- Changes the requirements of a quorum for the elected board from eleven to eight, in keeping with the new number of directors to be elected (15).

-- Allows for the appointment of members to board vacancies occurring prior to January 1, 1983.

Mass Transit -- Senate Bill 132

The question of whether a fixed guideway mass transit system shall be constructed by the Regional Transportation District will be submitted to the district voters in 1983, not in the 1982 general election as previous law had provided. The question to be presented is whether the RTD will be authorized to levy an additional sales tax, not to exceed one percent, for mass transit. The date of the election will be determined by the RTD Board of Directors, but will be held sometime between March 1 and July 1, 1983.

A transit financing commission is to be established to advise the district on a comprehensive financing plan for the mass transit system. Beginning July 1, 1982, this commission is to be composed of five citizens appointed by the Governor, with concurrence of the Speaker of the House and the President of the Senate. Effective January 1, 1983, two members of the newly elected RTD Board of Directors are to be added to the commission. Duties of the transit financing commission include the following.

-- Submit a financing plan for a fixed guideway mass transit system by March 1, 1983.

-- Devise methods to use private financing to the maximum extent possible to finance a public transportation.

The commission is to continue to advise the board until a financing plan for a fixed guideway mass transit system is implemented by the board.

Another interesting feature of S.B. 132 is that metropolitan districts could be formed within RTD for the single purpose of financing a system to transport the public by bus, guideway, or other means of conveyance. Improvements and facilities to be financed by a metropolitan district may not duplicate or interfere with improvements or facilities of an existing district such as the RTD, but may be expected to augment mass transit facilities of RTD.

IV. Committee Review of the 1982 RTD Budget

Joint Rule No. 32 states that the Oversight Committee is to review and comment on the district's annual budget before it is adopted. This review was one of the major activities of the committee during the 1981 interim. Staff analysis of twelve budget issues were prepared by the Joint Budget Committee staff, assisted by the Legislative Council staff. JBC staff members participating were Nancy Peters, Kenneth Conahan, and Larry Buzick. Legislative Council staff members who assisted were Daniel Chapman and David Ferrill.

The analysis of the twelve budgetary issues were reviewed on September 9 and September 17. Committee recommendations on four issues were submitted to the RTD Board of Directors prior to adoption of the 1982 budget. RTD Executive Director/General Manager L.A. "Kim" Kimball responded to these recommendations in a letter, dated October 6 (Attachment C). Mr. Kimball stated, "Your specific recommendations on the above mentioned areas of concern have been forwarded directly by you to each member at the board, and I am certain they will give them full consideration prior to their adoption of the 1982 budget."

The budgetary issues reviewed by the committee are presented below.

I. Issues on which the committee submitted recommendations:

Issue #1	Follow Up on Last Year's Recommendation to the RTD Board.
Issue #3	RTD Budget Process.
Issue #6	Light Rail Information Campaign.
Issue #9	Special Services and Operations.

II. The following issues concerning the district's 1982 budget were also discussed, but formal recommendations on these issues were not submitted to the district. The JBC staff analysis of these issues are contained in Attachment D.

Issue #2	Peer Group Comparisons of U.S. Transit Agencies by Selected Factors.
Issue #4	Does the 1982 Budget Represent a 7.4% Decrease?
Issue #5	Funds for Primary Corridors.
Issue #7	Impact of the June, 1981 Fare Increase.
Issue #8	Revenue Projections.
Issue #10	Community Transit Centers (CTC's).
Issue #11	Route Specific Productivity Measures.
Issue #12	Workmen's Compensation Self-Insurance Program.

Issue #1 -- Follow-Up on Last Year's Recommendations to the RTD Board

JBC Staff Analysis

By and large, the RTD board has followed the recommendations made by the Oversight Committee last year. However, two major recommendations appear to have been ignored. Those two recommendations were that RTD should inform the Oversight Committee of all changes in the adopted budget (dollars and personnel) as they occur, and that RTD should adopt a formal policy on the necessary level of contingency funds (Category IV). The chart below points out that there have been major changes in RTD's 1981 budget, mainly as a result of the "Cost Savings Objectives" program implemented at mid-year.

Comparison of 1981 Adopted and Actual (Projected) Budgets

	1981 Adopted	1981 Actual (Projected)	% change
Revenues	$169,703,000	$163,586,000	(- 3.6%)
Expenditures:			
Category I (Transit Planning and Administration)	16,446,200	16,080,200	(- 2.2%)
Category II (Transit Operations)	62,438,400	63,005,700	.9%
Category III (Capital)	61,464,100	53,493,500	(-12.9%)
Category IV (Contingency)	29,354,300	31,006,700	5.6%)
TOTAL	$169,703,000	$163,785,100	(- 3.6%)

RTD maintains that the Oversight Committee was not informed of these changes because the RTD board has not "formally adopted" the changes as the new budget. The board, however, has made changes resulting from the Cost Savings Objectives binding on all departments. The reply to staff's hypothetical question "what if the situation improved and a department wanted to expend funds in excess of the Cost Savings Objective" was that board action would be necessary. It remains unclear to staff how "formal adoption" of the Cost Savings Objectives by the RTD board would make the situation any different.

In regard to contingency funds, RTD maintains that the concept of contingency is misunderstood and no policy is necessary, since such funds are merely surplus funds. The Oversight Committee's recommendation was that a formal policy be adopted so that RTD be assured a prudent level of reserves. The recommendation was based on the idea that the reserve: 1) provide enough working capital for 45 days of the proposed operations and administration budget; 2) cover 12 months operational costs assuming that revenues remain flat for one fiscal year, and inflation remains at about ten percent; and 3) provide a reserve for capital replacement. Establishment of such a policy would allow the legislature to monitor RTD's reserve and take action, if deemed appropriate, if the reserve fell below the established level.

Committee Recommendation

Despite past assurances to the contrary, RTD has not provided the Oversight Committee with information concerning changes in the RTD budget. The implementation of the Cost Savings Objectives program is an instance in which major changes in the budget were not submitted to members of the Oversight Committee.

RTD should submit to the legislative Committee on RTD Oversight quarterly financial data re the RTD budget which report actual expenditures, projected expenditures, changes in the adopted budget, and any changes made between budget categories I, II, III, and IV.

RTD Response

"As we indicated at the meeting of September 17, we had previously offered to the former chairman of your committee an explanation of the Cost Savings Objective program of the RTD, as it relates to the 1981 budget of RTD and will, of course, provide such information to your committee if that is desired ... the RTD will provide the Legislative Oversight Committee financial quarterly information as it is submitted to the Board of Directors."

Issue #3 -- RTD Budget Process

JBC Staff Analysis

RTD's 1982 budget was developed within the policies of the Board of Directors and within the framework of their 1981 Cost Savings Objectives program and the five-year Transit Development Program. Both dollar and FTE objectives were given to each department head. Each department head and his managers worked out a budget request which was submitted to the RTD Office of Management and Budget (OMB) for analysis. After analysis by OMB, the budget request was reviewed by OMB analysts and by the individual department head with the executive director. Any differences between OMB and the department were resolved by the executive director. After all departments were reviewed, a summary was prepared and presented to the Board of Directors. After the summary presentation, the Board met in its various working committees to deliberate on their portion of the budget. Each working committee voted on a recommendation for action by the Board. Later, the whole board met and formally voted on adoption of the proposed budget after hearing the various committee reports.

In the state budgetary process, state agencies follow much the same process. First, department heads and their managers receive broad guidelines from the governor and their executive director, and they develop requests. Next, these requests are reviewed by the department's budget office and differences are resolved by the executive director. Then the budget is summarized and delivered to the legislature for approval. A significant step missing from RTD's budgetary process now occurs. Each budget is reviewed and analyzed by staff reporting directly to the legislature. The legislature is made aware of different options available, what programs are not cost efficient, which parts of a request are unreasonable, etc. The legislature is then able to make decisions on the requests.

Although RTD maintains that its budgetary process is rigorous and its budget not inflated, several observations must be made. First, although RTD's internal budget staff reviews the departmental requests, the executive director makes the decision, often a compromise, on any differences. Because every employee of RTD works for the executive director, they are bound to support his decisions. Without a spending limit, there is little reason to question the status quo, but there is an inclination to merely add to it. In addition, board members are part-time, many holding full-time jobs which prevent them from having the time or the expertise necessary to question the budget requests and methodology used in its preparation. It is significant perhaps that only one change was made to the proposed RTD budget, that being to shift $110,000 from Contingency to Category I.

Listed below are some examples of concerns expressed by this staff.

-- The need for over $16,000 for special security;

-- The need for over $7,000 for miscellaneous radio repair when there is a $98,000 contract with Motorola to provide this service;

-- The need to lease space for employee parking for $15,000;

-- The need for $68,950 for library books and expenses;

-- The need for $45,000 for Board of Directors travel;

-- The need for $155,000 for employee travel;

-- The need for $560,000 for additional management services;

-- The need for $295,000 for outside legal and audit services;

-- The need for $23,000 for dues;

-- The need for $29,500 for employee recognition;

-- The need for $40,425 for education assistance for RTD employees;

-- The need for $25,000 for employee relocation expense;

-- The need for $60,000 for contractual surveyors; and

-- The need for $96,000 for outside financial services.

The above totals $1,476,300 in areas that JBC staff would question in a state budget review process.

JBC Staff Recommendation

The RTD Board should consider hiring staff responsible directly to the board for the purpose of analyzing the budget request.

Committee Recommendation

The committee encourages RTD to continue its practice of using sources other than RTD staff to assist in preparation and review of the budget so as to foster an attitude of cost consciousness in which programs and expenses are closely questioned.

RTD Response

"The RTD Board and staff have previously used outside consultants as part of its budget process which we believe is a rigorous examination of programs and expenses. We will continue to utilize such outside assistance in the future to assure that our budget process is subject to thorough review prior to adoption by the board."

Issue #6 -- Light Rail Information Campaign

JBC Staff Analysis

Colorado Revised Statute 32-9-119 (b) (I), as amended, states the following:

> "In addition to any sales tax levied ... to provide revenue to defray the costs of construction of a fixed rail mass transit system and acquisition of capital equipment or interests in real property necessary for such system ... the board, for and on behalf of the district after approval by election held pursuant to subparagraph (III) of this paragraph (b), shall have the power to levy uniformly throughout the district an additional sales tax ..."

Subparagraph III states:

> "Unless there is pending in any court an action questioning the validity of this section or the power of the district to proceed under this article, there shall be submitted, at an election held concurrently with the state general election on November 4, 1980, and, if not approved, on November, 2, 1982, the question ... of granting the authority to levy an additional sales tax pursuant to, and for the purposes specified in this paragraph (b)" (above).

Subparagraph IV states:

> "No money of the district shall be used to purchase commercial promotion or advertisement to urge electors to vote in favor of or against an additional sales tax at any election held pursuant to subparagraph (III) of this paragraph (b)".

RTD has proposed the following expenditures for an "informational campaign" related to light rail:

Item	Amount
Market Research	$ 40,000
Light Rail Information Spots	5,000
Weekly Ads	51,350
Radio Spots	33,000
Displays	10,800
Slide Show	34,100

Audio Visual Equipment	2,520
Filming Expense	4,356
Room Rent and Materials	500
General Information Brochure	800
TOTAL	$182,426

According to RTD budget documents, the $40,000 in "Outside Services" is to be used to "conduct two market research projects to determine patron and citizen awareness and attitude of RTD by service and light rail". Additionally, the Public Affairs/Marketing Department indicates it intends a "promotional campaign" that is designed to present RTD as a well-managed organization qualified to operate a complex transit system for the region. This promotion would be a straight forward image campaign.

Given what has previously been discussed regarding the defeat of the 1980 light rail referendum, staff wonders whether the information campaign is designed to address the issues that caused the defeat of the last referendum, therefore promoting light rail and consequent increases in taxes, which is prohibited ty statute. One definition of "urge" is "to serve as a motive or reason for". Depending on its exact nature, the information campaign could easily serve as a motive for voting in favor of light rail.

JBC Staff Conclusion

There exists a very fine line between informing and influencing the public regarding light rail. The informational campaign should be closely monitored to insure compliance with the statutes.

Committee Recommendation

The committee strongly recommends that no monies be expended for the promotion of light rail transit, and that any expenditures used for an informational campaign be closely monitored to assure compliance with statutory prohibitions placed on promotional campaigns. (Note: This recommendation was incorporated in S.B. 132, 1982 session, as reported on page 4 of this report.)

RTD Response

"As we stated at the meeting of September 17, RTD funds will only be expended for informational responsibilities in accordance with state law."

Issue #9 -- Special Services and Operations

JBC Staff Analysis

RTD has many special services and operations, including the following.

-- Mile Hi Shuttle. Commuters park their cars at Mile High Stadium and RTD provides a shuttle service to downtown.

-- BroncoRide. RTD provides charter and regular services to Denver Bronco home football games.

-- Charter Service. RTD provides charter service to requesting organizations.

-- HandyRide. RTD provides a curb-to-curb subscription service for handicapped riders in addition to providing service on regularly scheduled routes.

-- Reserve Fleet. RTD has rehabilitated older buses and maintains them as a "reserve fleet" in case of an energy emergency.

-- Package Express. RTD runs a package delivery system between Denver and Boulder/Longmont.

Mile Hi Shuttle. RTD is currently paying $17,200 to provide guard service at Mile High Stadium for commuters who park there. This is a requirement of the City and County of Denver. One of the purposes of a mass transit system is to decrease the amount of traffic and air pollution caused by use of private passenger cars. Encouraging commuters to continue driving downtown (rather than to a Park-N-Ride) and providing free parking seems contradictory.

BroncoRide. The Bronco Ride is supposed to be a self-sufficient operation. The following chart shows how successful RTD is in recovering full cost of this service.

1980 BroncoRide Costs

	Park-N-Ride	Federal	Auraria	Charters
Operator Wages	$ 95,562	$31,503	$4,762	$28,765
Ticket Handler Costs	11,286	2,027	599	--
Bus Parking	4,460	--	--	1,445
Road Supervisor Cost	2,445	964	136	916
Fuel, Oil, Tires and Repair	19,189	5,056	456	5,221
Brochure and Tickets	8,120	--	--	--
TOTAL COST	$141,062	$39,550	$5,953	36,347
Total Revenues	115,239	24,782	4,783	56,553
Gain or Loss	(-$ 25,823)	(-$14,768)	($1,170)	$20,206

Overall losses amount to $21,555, not including indirect costs incurred.

Charter Service. The following chart shows how successful RTD is in recovering full cost on charters, when indirect costs such as administrative costs are added into the equation.

1980 Charter Income Analysis

Revenue		$377,200
Expenses		
Operator Wages and Fringes	$224,450	
Maintenance Wages and Fringes	50,500	
Diesel Fuel	38,900	
Oil/Lubricants	1,400	
Anti-Freeze	100	
Tires and Tubes	5,300	
Repair Parts	24,600	
Special Services	28,100	
Other Special Services	2,300	
Total Direct Operating	$375,650	
Indirect Costs		
Other Category II		
Administrative Costs	75,130	
Total Costs	$450,780	450,780
NET INCOME		(-$ 73,580)

HandyRide. RTD went to considerable expense (over $3 million in 1981 just for wheelchair lifts) in an effort to comply with federal regulations (which have since been dropped) to have half of its peak time buses accessible to the handicapped. However, RTD is still continuing the HandyRide subscription service at a projected cost of $927,600 for 1981.

Reserve Fleet. RTD has $15,200 in the 1982 proposed budget to lease a lot to park the ninety buses currently in their reserve fleet. The rationale for the reserve fleet was to meet Urban Mass Transportation Administration (UMTA) regulations to have an "energy emergency contingency plan". However, according to UMTA, bus companies were never required to have such a plan; it was completely optional.

Package Express. Total revenues for the express package service in 1980 were $50,255.

Projected 1981 Package Express Costs

Salaries and Fringes	$ 58,700
Represented Wages and Fringes (3 operation agents)	67,400
Accounting Costs (1/2 accounting clerk)	12,337
3% Operator Premium	27,271
Trailways	6,600
TOTAL COST	$172,308

JBC Staff Conclusion

RTD is providing services that are either not cost effective, are duplicative, or are undesirable.

Committee Recommendation

In keeping with RTD Board policy, the RTD charter service and the Boulder-Denver Package Express shall be operated so that full cost recovery is achieved, including all direct and indirect administrative costs. If such a break-even policy cannot be implemented, these services should be discontinued.

RTD Response

"The RTD staff is preparing a report and recommendation for the Board so that a break-even position can be achieved on package express service."

IV. Issues Under Consideration -- Ongoing Concerns

A number of issues have carried over into the interim of 1982. Among the topics having an ongoing impact are the following.

Fixed Guideway Mass Transit. Committee members expressed an ongoing interest in RTD's plans for implementation of a multi-modal mass transit system for the metropolitan area. Discussions were held concerning financing, plans for an initial segment, and the mechanics of a possible 1982 ballot proposal on the subject. The committee expressed support for RTD's continued efforts in planning for a mass transit system. The committee cautioned RTD to avoid even the appearance of using district monies for an information campaign in any way that could be considered as promotional.

Senate Bill 132, 1982 session, contains the following prohibition of this use of RTD funds:

> "No moneys of the district, from whatever source, nor any other public moneys shall be expended to advertise, promote, or purchase commercial promotion or advertisement to urge electors to vote in favor of or against any additional sales tax at any election held pursuant to this paragraph ...".

Election of the RTD Board of Directors. The Oversight Committee monitored RTD efforts in preparation for the November, 1982, election of a new board of directors. RTD provided periodic updates concerning the drawing of districts and on technical changes regarding the initiated statute for director elections.

Access to Public Records. Discussions concerning RTD's responsibility in releasing information to the public led to a committee decision to pursue further clarification of this issue as individual legislators. It was agreed that RTD as a public agency should encourage a spirit of openness and cooperation with its public on the subject of release of information.

Safety and Accident Policies and Procedures. The committee continued to encourage RTD to examine its safety and accident procedures, particularly those applying to compilation of accident reports. Members expressed concern that RTD recordkeeping was not being utilized as efficiently as possible, and asked to be kept apprised of RTD staff efforts to use accident reports more consistently.

ATTACHMENT A

STATE OF COLORADO

GENERAL ASSEMBLY

Joint Legislative Committee
on RTD Oversight

Room 46, State Capitol Building
Denver, Colorado 80203

December 3, 1981

The Honorable J. D. MacFarlane
Attorney General
Department of Law
State Services Building - 3rd Floor
1525 Sherman Street
Denver, CO 80203

Dear Mr. MacFarlane:

Two reports criticizing the option and proposed air rights lease between the RTD and the John W. Galbreath Company have been submitted to the Legislative Committee on RTD Oversight. These reports are an economic analysis by Mr. Frank Vorhies, an economist at the University of Colorado, dated April 15, 1981, and a commentary submitted November 2, 1981, and authorized primarily by Mrs. Louise Vigoda, a developer, and Mr. Rodney Wycoff, a professional appraiser.

These reports along with oral testimony received by the Committee have raised numerous legal questions. We would like to request your opinion on those questions that appear to be the most important in judging the basic fairness of the agreement and in framing a recommendation concerning its consummation.

Our questions, based on the proposed lease as modified in July of this year, are as follows:

1. Section III D (1) (iii) provides for subtracting "a dollar figure representing one year's level debt service on the original long term mortgage" on the Galbreath office tower for the purposes of computing cash flow for participation by RTD. Does this mean that the District's participation is subordinated to payment of the principal on the original debt financing by Galbreath of the tower? If so,

would such subordination place the District in the position of helping Galbreath pay for the tower?

2. Section III D (1) (i) provides for computing cash flow for participation starting with net income "other than proceeds from capital transactions." Does this mean that any profits from refinancing or sale of the leasehold would not be available for participation by the District?

3. Section XIX states that after the tower is completed "Tenant shall have the right to transfer its leasehold interest. Upon such proposed transferee's execution of an assignment with Tenant in which the transferee fully assumes all of the obligations created herein, Tenant shall be released from any and all obligations accruing after the effective date of such transfer." Does this mean that the District has no right to approve or disapprove a new tenant on the basis of its own determination of such things as the proposed tenant's experience, reliability, and financial strength? Does it mean that after a sale of the leasehold Galbreath would not remain secondarily liable?

4. Section XVII deals with Galbreath's right to mortgage the tower. Does this section give RTD the right to approve, reject, or in any way limit the amount, timing, or terms of payment for any such financing or refinancing?

5. As noted, Section III D (1) (iii) permanently fixes a "dollar figure representing one year's level debt service on the long term mortgage financing for the tower. This amount is to be deducted throughout the term of this lease" in computing cash flow available for participation. Section III D (2), on the other hand, states that "Tenant's Cash Equity" as defined for purposes of computing the preferential 13.5 percent return to Galbreath on equity out of cash flow "shall be determined at the end of each calendar year." The annual recomputation of equity is stated to include all monies invested by Tenant "and parties claiming through or under Tenant" both "to develop the improvements, including Tenant improvements not reimbursed" and "all contributions made to cover operating cash deficits." The proceeds of mortgage loans are excluded. Does the combined language of Subsections III D (1) and D (2) allow for the establishment at the out-set of a permanent debt service deduction based on a high level of debt followed by a refinancing based on a lender equity participation that would have the effect of increasing equity for purposes of calculating the preferential return to Galbreath? In the definition of cash equity is any provision made for reduction of equity by the amount of the capital recovery or principal buildup implicit in the cash flow being returned to Galbreath?

6. Cash flow available for participation by RTD is based on net rather than gross income. The proposed lease does not appear to give RTD any direct veto over the level of expenses. Instead Section XVI sets forth three covenants, the third of which states that "the level of all expenses incurred in operation, managing and leasing" the tower: Shall be reasonable when compared to that experienced by comparable building operations in the central business district of Denver, Colorado." Enforcement of this convenant and other provisions of the proposed lease is to be through an arbitration procedure spelled out in Section XXXIV. Do the combined provisions of Sections XVI and XXXIV preclude Galbreath from managing expenses in a way that reduces cash flow available for participation by RTD?

7. Apart from the potential for participation in cash flow does the proposed lease contain any provisions which protect payments to RTD from the effects of inflation?

8. Section VI of the proposed lease states that the District shall pay all real property taxes "for ... the land." Does this mean that Galbreath will not have to pay a pro rata share of the taxes on the land? If not, will the taxes on the portion of the land allocable to the Galbreath tower have to be paid by RTD to the City and County of Denver or will this pro rata land value be exempt from real property taxes by virtue of RTD's public agency exempt status?

9. So far as can be determined RTD has never, either before or after entering the lease option, prepared systematic projections of the returns it could reasonably expect under the lease. As a state-created public agency is the District required to undertake such an analysis before entering into a transaction of this type?

10. What actions would RTD have to take in order to withdraw from the lease option? What liability could the District realistically expect to incur as the result of such withdrawal? Further, are there any time or action periods in which the contract cannot be voided, and if so, what magnitude of liability would be incurred if contract noncompliance is charged against either RTD or Galbreath?

In addition to copies of the lease option and the proposed lease as recently modified we are enclosing copies of the two reports mentioned above.

We recognize the complexity of the issues raised here and appreciate your willingness to make the resources of your office available in addressing them.

Very truly yours,

Representative Jeanne Faatz
Chairman,
Legislative Committee on
RTD Oversight

Representative Jack McCroskey
Member

Representative James Reeves
Member

JF/SE/pn

ATTACHMENT B

MEMORANDUM

February 11, 1982

TO: Members of the Committee on RTD Oversight

FROM: Legislative Council Staff

SUBJECT: RTD Response to the State Attorney General's Opinion re the Joint Development and Air Rights Lease Agreement Between RTD and the John W. Galbreath Company

On January 26, 1982, members of the RTD Oversight Committee were provided a document from the Department of Legal Counsel of the Regional Transportation District which detailed RTD's response to the state Attorney General's opinion regarding development of the Kassler-Cheeseman block. The purpose of this memorandum is to highlight any differences of opinion which may still remain between the Attorney General's and RTD's interpretation of the contractual arrangements existing between RTD and the John W. Galbreath Company.

In essence, it would appear that most of the legal points raised in the committee's letter of December 3, 1981 have been resolved. What remains to be resolved are largely questions relating to language and interpretation of language. Specifically, there are two committee questions in which the Attorney General's opinion and the RTD Legal Department response appear still to differ.

- Question #5 (see page 3). In response to the question of whether the tenant could establish an initially high debt service deduction, followed by a refinancing based on equity participation that would have the effect of decreasing RTD's participation in cash flow, the Attorney General's opinion indicated that it is unclear that such an arrangement is prohibited under the terms of the lease. RTD countered that such an interpretation "amounts to a strained construction of words to reach an inequitable result clearly not intended by the parties...".

  A question which the committee may wish to consider is whether clarification of the language surrounding the debt service requirements might resolve this point of contention?

- Question #8 (see page 3). The Attorney General's opinion maintains that possible interpretations of the possessory interest statute could leave RTD liable for taxes against the land which are levied against Galbreath, since RTD has agreed to pay these taxes under the terms of the lease. RTD contends that the possessory interest statute (39-3-112, C.R.S. 1973, as amended) will not apply to Galbreath's interest in the land because of the nature of the air space lease. This conclusion seems to be supported by the Deputy Manager of Revenue for the City and County of Denver. However, interpretations of the possessory interest statute remain somewhat unclear at this time, and the committee may wish to question RTD as to their conviction that the statute will absolutely not apply in this case.

Responses to Committee Questions

Question #1. Is RTD's participation in cash flow subordinate to the payment of principal on the original debt financing of the office building?

The Attorney General's opinion and the RTD response concur that RTD's participation in cash flow, as defined in the lease, occurs after certain amounts related to debt service (including both principal and interest) have been subtracted from "net income" derived from the project. RTD objected to use of the word "subordinate" by noting that by definition cash flow is not produced until after all cash expenditures including the amoritization payments on the first mortgage (are made).

Question #2. Will the profits from refinancing or sale of the leasehold be available for cash flow participation by RTD?

The Attorney General's opinion and the RTD response concur that the cash flow formula specifically excludes such profits from the definition of net income. There seems to be some disagreement, however, as to whether profits realized by the tenant through sale of the leasehold are excluded from net income. The Attorney General cites this area as "unclear", while RTD clarified that the transaction never intended RTD to participate in the capital gains on the leasehold estate but only in the base lease payments and the cash flow.

Question #3. Under the terms of the lease, does RTD have the right to disapprove assignments of the leasehold by tenant? Will developer remain secondarily liable for performance of tenant's obligations under the lease after such an assignment?

The Attorney General's opinion and the RTD response concur in that RTD has no legal right to disapprove assignments of the lease, which occur after completion of the office building. RTD noted that the Attorney General's analysis was incorrect only in the assumption that the lease was negotiated simultaneously with the development agreement: the development agreement was finalized in the fall of 1980, while the actual lease was then negotiated in late 1980 and early 1981.

Question #4. Does section XVII of the lease give RTD the right to approve, reject, or in any way limit the amount, timing, or terms of payment of any loan for which the office building on the leasehold estate serves as collateral.

Both the Attorney General and RTD concur that this is not the case.

> Question #5. Could the tenant establish an initially high debt service deduction, followed by a refinancing based on equity participation in the project, that would have the effect (of) decreasing the paticipation of RTD in cash flow?

RTD disagrees with the conclusion and analysis of the Attorney General that "such an arrangement does not appear to be prohibited by section III D of the lease, althought the question is not free from doubt." RTD's argument is that it takes a strained construction to conclude that an investment to payoff a loan is money invested "to develop the improvements..." "it is our opinion that possible construction as exposed by the A.G. amounts to a strained construction of words to reach an inequitable result clearly not intended by the parties and which a court could not reach except through error."

> Question #6. Does the lease preclude tenant from managing expenses in a way that reduces cash flow available for participation by RTD?

The Attorney General's opinion and the RTD response concur that this is precluded, within certain parameters.

> Question #7. Apart from the potential for participation in cash flow, does the lease contain any provisions which protect payments to RTD from the effects of inflation?

The Attorney General and RTD concur that the cash flow participation of RTD is the only payment to RTD which will fluctuate depending on market conditions. RTD has registered its opinion that such participation is one of the better, if not the best, approaches to protection from inflation.

> Question #8. Is the developer required to pay a pro rata share of the taxes on the land? If not, will taxes on the land beneath the office buildings be paid by RTD or will such land be exempt from taxation.

The Attorney General's opinion concluded that while the developer may be required to pay the city a tax on the land under CRS 1973, 39-3-112 (supp 1980), under the terms of the lease, the RTD has agreed to pay this cost. The Attorney General reasoned that if the city of Denver finds that the developer is required to pay taxes under the possessory interest statute, it will assess the tax against the developer. "However, under the terms of section VII of the lease the RTD has agreed to pay all real property taxes/on/the land". If the possessory interest tax is construed to be a tax on the land, RTD has agreed to pay these taxes under the terms of the lease, and its tax exempt status will not insulate it from this liability."

RTD contends that the question and the Attorney General's conclusion and analysis misinterpret the transaction, as RTD does not lease the land to Galbreath, but rather the space above the land. The tenant's tax liability lies with his improvements within the air space and upon all support structures below the air space attributable to the building. RTD cited a letter from Mr. Mike R. Licht, Deputy Manager of Revenue for the City and County of Denver, to Representative Jack McCroskey, which stated in part: "In summary, the land, the substructure, including the parking garage, will be tax exempt because of RTD ownership. The tower if conveyed properly os that ownership invests clearly to Galbreath, will be taxable.

RTD has indicated that, in their opinion, the lease will constitute a proper conveyance.

> Question #9. Was RTD required to prepare systematic projections of the returns reasonably expected under the lease before entering into the lease option?

The Attorney General's opinion and the RTD response concur that this was not the case.

> Question #10. What actions would the RTD have to take in order to withdraw from the development agreement and lease option? What liability could the district realistically expect to incur as a result of such withdrawal?

The Attorney General and RTD agree that there are several circumstances under which either party can terminate the development agreement; and that if RTD were to breach the contract, it would run the risk of being liable to the developer for a money judgment which could include special damages, general damages including lost profits, and attorney's fees. RTD has additionally noted that that if it intentionally breached the contract, it would probably be disadvantaged in negotiating a new contract by reason of such prior actions.

Regional Transportation District

L. A. Kimball
Executive Director and General Manager

RTD

ATTACHMENT C

October 6, 1981

1325 South Colorado Boulevard
Denver, Colorado 80222
303/759 1000

The Honorable Jeanne Faatz
House of Representatives
Chairman, RTD Oversight Committee
State Capitol
Denver, Colorado 80203

Dear Representative Faatz:

In response to your letter of September 24th expressing concerns of the committee and recommendations regarding the proposed budget of the RTD for 1982, I submit the following responses for your consideration:

Areas of Concern:

1. As we indicated at the meeting of September 17th, we had previously offered to the former chairman of your committee an explanation of the Cost Savings Objectives program of the RTD, as it relates to the 1981 budget of RTD and will, of course, provide such information to your committee if that is desired.

2. The RTD Board and staff have previously used outside consultants as part of its budget process which we believe is a rigorous examination of programs and expenses. We will continue to utilize such outside assistance in the future to assure that our budget process is subject to thorough review prior to adoption by the Board.

3. We stated at the September 17th meeting that the proposed budget for operating expenses for 1982 constitutes a 4.2% increase over 1981. This statement was repeated during the public hearing conducted by the Board on September 24th.

4. As we stated at the meeting of September 17th, RTD funds will only be expended for informational responsibilities in accordance with state law.

5. The RTD staff is preparing a report and recommendation for the Board so that a break-even position can be achieved on package express service.

Recommendations:

Your specific recommendations on the above mentioned areas of concern have been forwarded directly by you to each member of the Board, and I am certain they will give them full consideration prior to their adoption of the 1982 budget.

We thank you for your expressions of concern and recommendations, and assure you that they are helpful to the Board and staff in our deliberations of the 1982 budget.

Very truly yours,

L. A. Kimball
Executive Director
and General Manager

LAK:lq

cc: Board of Directors
Roger Walton

ATTACHMENT D

Provided below are the Joint Budget Committee staff analysis of eight budget issues discussed with the Oversight Committee members of the RTD Board of Directors, and RTD staff during the review of the District's 1982 budget. This information is contained in the appendix because the Oversight Committee did not submit formal recommendations to the District on any of these issues although there was thorough discussion of each topic. Budget issues for which the Committee submitted formal recommendations to the District are dicussed beginning on page 5.

Issue #2

Peer Group Comparisons of U.S. Transit Agencies by Selected Factors

JBC Staff Analysis and Conclusions

The following comparisons were developed from statistical data compiled and published by the Urban Mass Transportation Administration of the U.S. Department of Transportation in May, 1981. All financial and operating data were reported for fiscal years ending between July 1, 1978 and June 30, 1979. For purposes of this analysis, we have selected those transit agencies most similar to RTD in terms of numbers of revenue producing vehicles in the agency fleet. UMTA statistical reporting methods allow us to separate capital projects and expenses from operating costs and expenses, and also to break out costs and expenses for each transit made, i.e., motor buses, demand responsive vehicles, rapid rail, etc. (Note: In instances where wide variations in reporting by a transit agency may have occurred, UMTA has deleted that agency's report from the comparative tables.) From this distillation we have identified the following eight transit agencies as "peer systems" to RTD per number of operating revenue vehicles (motor buses exclusively for purposes of comparison).

1. St. Paul MTC, St. Paul, Minnesota .... 984 vehicles
2. MARTA, Atlanta, Georgia .... 864 vehicles
3. AC Transit, Oakland, California .... 839 vehicles
4. Seattle Metro, Seattle, Washington .... 760 vehicles
5. RTD, Denver, Colorado .... 623 vehicles
6. Metro Dade County TA, Dade County, Florida .... 609 vehicles
7. Milwaukee County TS, Milwaukee, Wisconsin .... 597 vehicles
8. Tri-County MTD, Portland, Oregon .... 555 vehicles
9. Niagara Frontier TA, Buffalo, New York .... 538 vehicles

Item #1: Age Distribution of Revenue Vehicles. The first item of interest presented in the statistical data concerns the average age of bus fleets in the United States. The average United States fleet age is 8.8 years; the RTD average in 1978-79 was 3.7 years. Where the national average finds 39.9 percent of buses to be five years old or less, the RTD fleet was 79.9 percent five years old or less. Within its peer group, RTD ranked as follows:

1. RTD	3.7 years	79.9%	11.2%	8.9%
2. St. Paul MTC	5.2	58.1	30.3	11.6
3. MARTA	7.0	60.3	16.7	23.0
4. Metro Dade County	7.3	48.3	18.4	33.3
5. Tri-County MTD	7.4	33.3	46.3	20.4
6. Niagara Frontier	10.7	33.5	4.8	61.7
7. AC Transit	11.0	26.0	23.0	51.0
8. Seattle Metro	11.2	43.1	9.7	47.2
9. Milwaukee County	13.5	16.8	0.0	83.2
NATIONAL AVERAGE	8.8	39.9	21.3	38.8

It appears that in 1978-79, RTD maintained one of the newest bus fleets in the United States. The rate of acquisition of new motor buses seems particularly hurried when viewed in light of RTD's plans to supplement by service with a light rail transit system. The average age of the RTD fleet (3.7 years, compared with New York -- 10.7; Philadelphia -- 10.0; Boston -- 7.1; and Chicago -- 5.9) may also indicate some premature retirement of RTD vehicles. RTD is currently involved in the purchase of additional vehicles, including 89 articulated buses, which will bring the total fleet size to 750 motor buses.

Conclusion. RTD should re-examine its current Transit Development Plan (TDP) to determine whether additional vehicles need to be purchased or whether rehabilitation of that portion of the existing fleet scheduled for retirement might be more appropriate. Although RTD plans to retire only 29 vehicles during the next three years, it could conceivably reduce the need for new purchases by studying the possibility of rehabilitating portions of what is an extraordinarily young fleet.

Item #2 -- Percent of Operating Expenses Consumed by General Administration. A second area of concern relates to the percentage of total operating expenses which is consumed for general administrative purposes (exclusive of costs for vehicle operations, vehicle maintenance, and non-vehicle maintenance). The size of the administrative staff as a percentage of total work force is listed below for each of the peer group agencies.

1. Seattle Metro	8.7%	(all figures approximate)
2. Tri-County MTD	7.0	
3. Niagara Frontier	7.0	
4. RTD	7.0	
5. Metro Dade County	6.9	
6. MARTA	6.5	
7. St. Paul MTC	5.8	
8. Milwaukee County	5.1	

(ATC Transit not reported)

The percent of operating expenses consumed by general administration (excluding capital projects) indicates a different alignment.

1.	RTD	29.1% of all operating expenses
2.	St. Paul MTC	21.1
3.	Seattle Metro	20.2
4.	MARTA	15.5
5.	Metro Dade County	13.1
6.	AC Transit	12.1
7.	Milwaukee County	12.0
8.	Niagara Frontier	11.9

(Tri-County MTD not reported)

The national average for general administration expenses is 18.7 percent.

RTD's percentage of costs used for general administrative purposes seems relatively high. Whether this is due to salary scale, employee benefits, or other factors is unclear. It does not appear that the number of RTD employees in general administration is excessively high, at least not as a percentage of total workforce.

Issue #4

Does the 1982 Budget Represent a 7.4% Decrease?

JBC Staff Analysis

Budget Overview

The budget overview (see page XX) does indicate an overall decrease of 7.4 percent. However, closer examination of the 1982 proposed budget reveals the following:

1. Contained in Category I are Transit development Department personnel related to light rail development. Their salary costs are "capitalized", meaning that, part of the salary is charged to Category III and becomes a construction expense. RTD projects $125,000 to be capitalized by this method in 1982. As long as the light rail system gets voter approval in 1982, this process works. If, however, the referendum fails, these costs will have to be repaid. $575,000 in personnel costs would have been paid via "capitalization". This would be RTD's obligation if light rail fails.

2. Category II, which contains the major portion of RTD's employees and operating costs, already shows an increase of $3.6 million. However, this increase does not reflect any changes in the current union contract which will expire in February, 1982. Depending on how the contract negotiations go, there could be a substantial understatement of real cost reflected in the budget.

3. Capital Expenditures -- Category III

	1980 Actual	1981 Projected	1982 Proposed	Dollar Change
The Mall	$10,676,192	$25,285,654	$24,215,349	($- 1,070,305)
Maintenance and Storage Facilities	5,599,690	1,381,112	3,977,941	2,596,829
Primary Corridors	1,927,957	1,847,000	1,970,000	123,000
Park-N-Ride	2,802,218	1,367,212	2,937,000	1,596,788
Transit Centers	1,004,783	754,700	1,926,397	1,471,697
Capital Support Projects	856,584	692,000	393,000	(- 299,000)
Fleet Modernization and Expansion	1,397,257	19,749,856	3,374,800	(-16,375,056)
Capital Support Equipment	1,392,019	980,947	2,852,924	1,871,977
Bond Principal	1,700,000	1,735,000	1,770,000	35,000
TOTAL	$27,356,700	$53,493,481	$43,417,411	($-10,076,070)
RTD Share	$11,970,581	$16,863,820	$21,559,160	
Federal Share	15,386,119	36,629,661	21,858,251	

While Category III reflects the biggest drop in expenditures, it must be pointed out that these are for the most part discretionary or one-time expenditures. For example, the two biggest 1981 costs under "Fleet Modernization and Expansion" are $15,561,115 for the purchase of new buses and $3,125,860 for wheelchair lifts. If those two items are discounted as one-time expenditures, actual proposed spending will increase $5,485,045 or 12.6 percent in the 1982 proposed budget. It is also important to note that the RTD share of the capital expenditures is actually increasing by 27.8 percent; it is the federal share that is decreasing.

4. Category IV, Contingency, also shows a significant decrease. However, since this category represents a surplus, it does not indicate a decrease in spending, but rather a decrease in the reserve proposed for 1982.

Budget Overview

	1980 Actual	1981 Adopted	1981 Projected	1982 Proposed	Change from 1981
Category I	$ 14,969,400	$ 16,446,200	$ 16,080,200	$ 15,759,300	(-320,900) (-2.0%)
Category II	56,014,200	62,438,400	63,005,700	66,673,000	3,667,300 5.8%
Category III	27,356,700	61,464,100	53,493,500	43,417,400	(-10,076,100) (-18.8%)
Subtotal	98,340,300	140,348,700	132,579,400	125,849,700	(-6,729,700) (-5.1%)
Category IV	19,652,303	29,354,300	31,006,700	25,594,200	(-5,412,500) (-17.5%)
TOTAL	$117,992,603	$169,703,000	$163,586,100	$151,443,900	($-12,142,200) (-7.4%)

RTD Response

We stated at the September 17 meeting that the proposed budget for operating expenses for 1982 constitutes a 4.2 percent increase over 1981. This statement was repeated during the public hearing conducted by the board on September 24.

Issue #5

Funds for Primary Corridors

JBC Staff Analysis

In the november, 1980 election, the district voters defeated the ballot proposal which would have authorized RTD to levy a sales tax increase for purposes of funding a fixed rail transit system for the metropolitan area. The proposal is scheduled to be presented to the voters again in November, 1982. The 1981 RTD budget was based on the assumption that the so-called "light rail" proposal would pass, and the 1982 budget also includes the assumption that the proposal will pass. The primary capital expenditures are as follows:

	1980 Actual	1981 Estimate	1982 Request	Total
Primary Corridors	$1,927,957	$1,847,000	$1,970,000	$5,744,957

The expenditures are for corridor planning and land purchases of corridor rights-of-way. The source of the revenue is 100 percent local funds; additional expenditures are covered in the Category I review.

On December 11, 1980, the RTD Board directed its staff "to do all things necessary within available revenues to preserve critical rights-of-way for the rapid transit component of the Plan". The plan referred to is The Public Transportation Plan for the Year 2000. This has led, therefore, to the budget and expenditure items listed above.

A post election survey of the light rail question was made in November, 1980, to analyze the factors which led to the defeat of the light rail proposal, and to determine the future chances of approval of such a system. The survey determined that the issue failed primarily for three reasons: the "fears of the total expense of the system"; dissatisfaction with the proposed method of financing; and doubts over the ability of the present RTD Board to implement the system. The survey also found that fifty-five percent of the voters favor the system and fifty-nine percent want RTD to continue to seek authorization.

It appears that the referendum for 1982 will be essentially the same as in 1980. If the funding remains the same, new board members are not yet selected, and the system will be even more expensive. The same uncertainties may be present. With another defeat, the expenditure of funds would not have been necessary and the funds could have been used toward operating expenses.

Issue #7

Impact of the June, 1981 Fare Increase

During last year's review of the 1981 RTD budget, the RTD Oversight Committee supported the RTD proposed policy of fare box receipts to be thirty percent of operating costs (defined as Category II costs). The thirty percent ratio was to be achieved through consideration of three factors: fare structure, system productivity, and holding down operating costs. During the first quarter of 1981, RTD projected that at the continued rate of receipts, the farebox revenue would fall below thirty percent of costs. Consequently, a projected forty percent fare increase was developed and instituted in June, 1981. This has resulted in a considerable ratio change based on RTD's 1982 budget projections. The projected 1982 increase in revenues is based on the assumption that system ridership will increase thirteen percent.

As a result of this fare increase, the June, 1981 actual receipts are 27.6 percent above forecast. This is surprising for several reasons, such as a traditional decline in riders in June and an expected decline due to the fare increase, all of which were included in the forecast. Although it is too early to determine the impact, if revenues continue to exceed the forecast for the remaining six months, the revenue estimate and operating ratio may well be over 30.6 percent.

In April, 1981, the board made a change in the operating ratio director. While acknowledging the thirty percent policy, the board adopted a "General Objective" that in 1982 the operating ratio should be forty percent, and in 1983 and thereafter the ratio should be fifty percent.

Assuming that the model used by RTD for projecting 1982 fare receipts is correct, the increase of the percent of operating costs to receipts from 1980 (24.6%) to 1982 (42.1%) is quite a jump. While an increase was needed to meet the 30 percent policy, the 42.1 percent appears to be somewhat drastic. Perhaps if the fare increase had been scheduled as two increases in a twelve-month time span based on the needs of the district, the ratio would have increased on a more gradual scale, as was proposed in last year's review.

Issue #8

Revenue Projections

JBC Staff Analysis

The revenue projections and changes for RTD are as follows:

	1981 Estimate	1982 Request	Percent Increase/ (Decrease)
Sales Tax	$ 57,194,000	$ 63,100,000	10.3%
Federal Grants			
Capital	36,629,661	21,858,200	(-40.3%)
Operating Assistance	9,708,567	8,587,000	(-13.1%)
Technical	200,000	168,000	(-16.0%)
Proceeds from Sales Tax Revenue Bonds, 1977	19,407,163	8,940,000	(-53.9%)
Transit Operating Revenue	19,280,000	28,060,000	45.5%
Investment Income	3,000,000	2,288,000	(-23.7%)
Accrued Funds	18,085,711	18,300,700	1.1%
Other Income (CETA, Vanpool)	81,000	142,000	75.3%
TOTAL	$163,586,102	$151,443,900	(-7.4%)

Sales Tax: The estimate is based on RTD's financial consultant projections. Until 1979-80, the sales tax receipts averaged about sixteen percent. In 1980, the growth dropped dramatically to 5.8 percent. RTD attributes this to the 1979-80 recession. The 1981 estimate reflects a 12.9 percent increase over 1980, and the 1982 projection reflects an increase of 10.3 percent. Currently, RTD sales tax receipts are 14.2 percent over the 1980 collections.

Federal Grants: The decrease in capital is due primarily to the transit bus purchases in 1981. There are no planned purchases planned for 1982. The decline in capital does not affect operating revenue. The decline in operating assistance is based on estimates from the U.S. Department of Transportation. Future funding for this grant is projected to decline over the next three years until the assistance will no longer be available.

Bonds: The 1982 request is for the balance of the 1977 series.

Transit Operating Revenue: The operating revenue reflects a large increase primarily due to the 1981 fare increase and to an expected increase in ridership of thirteen percent. Although the fare revenues appear to be above RTD's projections for 1981, a 45.5 percent increase for 1982 may be somewhat ambitious. The original estimate for 1982 was $25,983,000. However, due to the June revenue receipts, the forecast was increased.

Issue #10

Community Transit Centers (CTC's)

JBC Staff Analysis

One year ago, the staff analysis of RTD's community transit center program concluded that RTD should scale down its plans to construct four CTC's and to begin planning for an additional three centers. The recommendation was made that only two CTC's should be funded at that time. The RTD Oversight Committee adopted the following recommendation:

> "We urge RTD to reevaluate the plans for establishing four Community Transit Centers in 1981. Until the need and success of these centers is established, it may be best to test the concept before building the entire program."

RTD has substantively acted to implement this recommendation, possibly as a result of diminished expectations for current revenues. Presently RTD is planning to include funds in its 1982 budget for final design and construction of the Boulder, Littleton, and Northglenn facilities. Of these three, the plans for the Northglenn facility deserve the closest scrutiny, as no agreement has been reached to date with Northglenn officials regarding location and design of the Northglenn CTC. Two additional facilities, Englewood and Aurora, will receive small amounts for planning purposes.

RTD has scaled down the costs of constructing CTC's in two ways: they are now designed to be located on-street, thus requiring little or no right-of-way purchase; and the cost of the shelter structure has been reduced from approximately $500,000 to $100,000 through design modifications. The total cost of the Community Transit Center program has been reduced $8.5 million to $4.49 million.

The staff recommends that the committee continue to monitor the construction of CTC's, and, in 1982, should review the utilization rates of the newly completed Boulder and Littleton facilities as a check on the "pulse point" activity at each center.

Issue #11

Route Specific Productivity Measures

JBC Staff Analysis

In the 1980 review of the RTD budget, one of the ten issues singled out for specific analysis was that of route specific productivity. At that time, it was noted that RTD is one of the few transit agencies in the country which uses these productivity measures on other than a system-wide basis. In its final report, the Oversight Committee issued a recommendation that productivity measures be made available for each route, and that a procedure be established for the year-to-year comparison of route specific productivity. The RTD Board's response to this recomendation was that productivity measures were already in use for the purpose of changing bus routes.

In April of 1981, the board adopted guidelines and procedures for route productivity and service standards. In summary, the policy adopted by the board provides for:

-- A quarterly productivity analysis of all routes based upon the measures of passengers per trip, passengers per mile, and passengers per hour.

-- Routes not achieving a minimum productivity standard will become candidates for service changes or deletions.

-- Routes that exceed a stated maximum number of passengers will become candidates for service additions.

-- The process for implementing service changes based on productivity factors, or for analyzing public requests for service changes, will follow the explicit procedures stated in the guidelines.

A review of productivity measures for RTD bus routes was included in the 1980 budget review, with routes grouped according to types of services, e.g. local, express and regional, circulator, etc. Although information on individual routes by classes of service was also provided to staff for the current review, a valid year-to-year comparison is not possible. This is due primarily to the fact that route productivity information provided in 1980 did not identify specific route,s only the rank order of routes by class of service. Also, the classes of types of service, as well as the types of productivity measures, were reported in 1980 in a different manner than for the previous year.

Nonetheless, a general comparison of the rank order of productivity for local by service is possible, using the passenger per hour and passenger per mile measures (direct variable cost information was not available). The following table compares the productivity of local routes, rank ordered by number of passengers per hour.

Rank	Passenger/Hour 1980*	Passenger/Hour 1981**	Passenger/Mile 1980*	Passenger/Mile 1981**	Adjustments 1981
1	41.21	52.0	3.18	4.2	X
2	38.60	45.3	2.79	3.6	X
3	33.40	44.7	2.65	4.2	X
4	32.66	44.4	2.61	3.4	X
5	31.12	40.8	2.75	4.0	
6	30.74	40.7	2.39	3.2	X
7	29.98	39.6	1.76	3.1	
8	28.50	39.5	2.06	3.5	
9	28.13	39.2	2.44	3.3	X
10	27.68	38.3	1.93	2.4	X
11	25.71	38.1	1.84	2.3	X
12	25.55	37.6	2.33	2.6	
13	24.35	37.2	2.71	2.6	
14	23.68	34.9	1.57	3.2	
15	23.10	34.9	1.83	2.3	
16	22.26	33.3	1.26	2.4	
17	21.36	31.8	1.70	3.7	
18	20.17	31.3	1.27	2.4	
19	19.50	27.5	1.45	2.2	X
20	19.43	26.6	.99	2.0	
21	19.03	26.1	1.56	1.4	
22	17.18	25.9	1.22	2.2	
23	16.83	25.6	1.05	1.9	
24	16.00	22.5	.95	1.4	X
25	13.37	20.0	.79	1.2	
26	12.37	19.9	.68	1.2	
27	10.16	19.0	.61	.9	X
28	9.77	18.0	.52	1.0	
29	9.54	17.2	.71	1.0	
30	6.33	14.5	.34	1.0	
31	4.32	8.5	.35	.5	
32	--	8.2	--	.6	

* 1980 report figures from December, 1979

** 1981 report figures from June, 1981

This comparison merely indicates the overall increase in productivity from the previous year when looking at ridership measures for routes with the same rank order. Also, the 1981 local routes which were reported to have received services adjustments based on productivity are indicated in the column on the far right. It is apparent that a large number of the productivity changes to this class of service were made to more productive routes.

It is important to note that information for RTD's productivity analysis is compiled by "traffic checkers" who tabulate ridership along specific routes on a random basis. It was explained that productivity analyses in the coming year will be constrained by the recent budget cuts for the current fiscal year, which reduced the number of traffic checkers from twenty to eight.

It seems clear from the action of the board in adopting a specific productivity that a commitment has been made to basing future service adjustments, at least in part, to these criteria. It is also apparent that service adjustments are being implemented on productivity measures is not possible because RTD is a taxing entity which must maintain some degree of "regional equity". Thus, some degree of unproductivity is assumed in the provision of regular service to routes with low ridership. This mitigates against RTD being totally productivity-oriented. It was also explained that part of the reason for productivity changes being made to a larger number of the higher-ranking local routes than low producers was to make these routes as productive as possible, while assuming some unproductivity on the lower end of the scale.

Issue #12

Workmen's Compensation Self-Insurance Program

JBC Staff Analysis

In March, 1980, RTD extracted itself from participation in the State Compensation Insurance Fund (SCIF) and entered into a self-insurance program. C.R.S. 8-44-109, as amended, allows employers with annual payrolls in excess of $1,000,000 to act as their own insurance carrier.

The cost of RTD's self-insurance program is as follows:

	1980 Actual	1981 Adopted	1981 Projected	1982 Request
Insurance claims adjustment	$ 2,507	$ 15,750	$ 8,256	$ 6,000
Taxes, licenses and permits	8,297	8,000	12,188	23,000
Excess liability coverage	24,498	33,000	23,402	33,000
Damage settlements	375,552	500,000	264,787	628,000
TOTAL	$410,854	$556,750	$308,633	$690,000

In addition to the direct costs listed above, approximately $100,000 must be added for staff and operating expenses associated with the self-insurance program.

A comparison of costs between RTD's self-insurance program and the premiums that would have been paid into SCIF reveals the following:

	1981	1982
SCIF Costs	$1,208,960*	$1,253,692**
Self-Insurance Costs	656,750	790,000
Difference (Savings	552,210	463,962

* Estimated by RTD

** Estimated by Staff

As can be seen, RTD appears to have experienced substantial savings from acting as its own insurance carrier. Staff discussed self-insurance programs with the SCIF administration and the State Insurance Commission. According to both sources, the major problem with self-insured employers relates to the amount of money reserved to pay off claims that are not closed during the year in which they occur. RTD has calculated its 1982 claims costs as follows:

A.	360 medical only claims at $225 each	$ 81,000
B.	90 medical and indemnity claims at $1,750 each	157,500
C.	20 severe cases at $18,000 each	360,000
D.	20 rehabilitation cases at $1,000 each	20,000
	Sub-total	$618,500
E.	Minus 10% reduction due to control	- 61,850
	Sub-total	556,650
F.	Increased medical costs due to uncapping of medical in Workmen's Compensation statutes	+ 70,694
	TOTAL COSTS BUDGETED	$628,000

Items A, B, C and F are expenditures without "carry over" that will occur in 1982. Item C is used to determine the amount being reserved for future years. A rule of thumb on reserves is to use a yearly historical average of claims paid out, plus ten percent. For 1974 through 1980, RTD's claim experience indicates $1,856,750 being paid to claimants for an average of $309,458. Adding the ten percent would indicate the need for a yearly reserve of $340,403. A second rule of thumb indicates that thirty percent of the costs of the severe cases will be paid out the year they occur. Therefore, of the $360,000 proposed, $120,000 will be expended in 1982, leaving the reserve amount of $240,000.

Thus far, however, RTD's loss experience is considerably less than that which occurred while they were with the SCIF. RTD attributes this difference to better and faster claims handling, accident prevention programs, and offering injured employees light work as an alternative to not working.