Side-By-Side Language Comparison of SJR 2 and Article IX, Section 16

The following document has been prepared by the office of Senate State Affairs Chairman, Senator Mike Dunleavy.

Existing language in Article IX, Sect. 16 is presented in chronological order and compared side-by-side with applicable language in SJR 2 introduced on 1/27, version N.

Items which vary signficantly are highlighted.

NOTE: The language of SJR 2 is presented out of order, for the sake of comparison.

	Article IX, Section 16 - Existing Language:	SJR 2 - LS-0123\N (1/27/17) - Section 1 (only)	STAFF COMMENTARY
1		*(Repeal & Readopt To Read)*	
2	Except for	This subsection does not apply to an appropriation	
3	appropriations for Alaska permanent fund dividends,	(2) for payment of permanent fund dividends;	***LFD Recommendation:*** Remove Exemption ***STAFF:*** To include PFDs within the limit makes them directly compete with general government spending & growth. They are currently constitutionally outside the limit. This draft maintains PFDs outside the limit.
4	appropriations of revenue bond proceeds,	(4) of State general obligation and revenue bond proceeds;	Removes municipal debt reimbursement exemption. Exempts GO bond proceeds.
5	appropriations required to pay the principal and interest on general obligation bonds, and	(5) required to pay obligations under State general obligation bonds and revenue bonds;	***STAFF:*** GO Bonds are approved by voters statewide, and their exclusion from the limit is continued under this draft. <u>Revenue bonds are included--this will need to be refined</u>. ***LFD:*** Excluding debt service encourages borrowing. Unless some sort of revenue enhancement is established to pay for debt service, payments will be competing for UGF with other programs. ***LFD Recommendation:*** Remove exemption.
6	appropriations of money received from a non-State source in trust for a specific purpose,	(6) of money received from the federal government (9) of money held in trust by the State for a particular purpose;	Substantially same. This provision includes EVOS, MHTA, Pub School Trust, Retirement Funds, etc. ***LFD*** includes federal funds in this category, although the language arguably does not refer to federal receipts. This version adopts LFD recommendation to specify that federal funds are exempt from the limit. <u>There will need to be a discussion about unrestricted Federal Funds</u>. ***LFD Recommends*** clarifying and considering statutory changes to discourage the creation of sham corporations designed to circumvent the spending limit.
7	including revenues of a public enterprise or public corporation of the State that issues revenue bonds,	(11) of revenue of a public enterprise or public corporation that issues revenue bonds;	Removes reference to "of the State." This exemption may include appropriation of UA receipts, per Legal Services. LFD may need to clarify how this has historically been accounted. SSTA may wish to clarify whether UA receipts are intended to inside the limit.
8		(7) that is a reappropriation of a previous unobligated appropriation;	***LFD Recommendation:*** Remove exemption for Reappropriations because they can be abused to stash money in a large/mega-project for use in a future year. ***STAFF:*** Reappropriations are maintained outside of the limit under this draft. Reapropriations are spending of money which has already been applied to the limit in a prior year, but was not expended (beginning five years after effect of this amendment). Scope Changes are another question category which will arise.
9		(8) of money for expenditure by a State agency to provide internal services, or to provide services to another State agency, and another State agency has also received an appropriation of the same money;	This language is intended to exempt duplicate appropriations. ***LFD Recommendation:*** Further clarification of this item's language may be necessary.
10		(10) of money received by the State from a source other than the State or federal government that is restricted to a specific use by the terms of a gift, grant, bequest, or contract;	Statutorily Designated Program Receipts (SDPR) verbatim description from OMB.
11		(12) of money deposited into the budget reserve fund under Section 17(d) of this article back to the funds and accounts from which the money came;	CBR annual "Reverse-Sweep" until $13.2 bn repayment obligation is satisfied.
12		(13) of money to a State savings account or fund that requires a subsequent appropriation from that account or fund as prescribed by law; and	***STAFF:*** Statutory companion legislation at some point ought to have a clause clarifying which state fund(s) this is.

13		(14) of dedicated funds.	A spreadsheet of these 14 dedicated funds (not including PF) has been provided by LFD for reference. They total $82,594.6 in Gov's FY18 budget proposal.
14			
15	appropriations from the treasury made for a fiscal year shall not exceed:	(a) Appropriations made for a fiscal year shall not exceed	Broadens to include appropriations made from sources other than the treasury. This also is intended to capture the "AHCC loophole" ***Per LFD:*** "From the treasury" implies exclusion of transfers and duplicate appropriations
16	$2,500,000,000	four billion two hundred fifty million dollars	This is the base-number of the appropriation limit. ***STAFF*** : This number was arrived at by determining the FY18 proposed budget's spend under SJR 2, and subtracting $1.1 billion, which would take effect for FY2020.
17	by more than the cumulative change,	by more than fifty percent of the cumulative change in population and inflation	
18	derived from federal indices as prescribed by law,	derived from federal indices as prescribed by law.	***STAFF*** : A statutory companion may address the indices and how they are calculated.
19	in population and inflation	by more than fifty percent of the cumulative change in population and inflation	(50% of population plus 50% of inflation) cumulative change. ***LFD Recommendation:*** Consider using some portion of inflation and population as part of the annual adjustment.
20	since July 1, 1981.	since July 1, 2020,	Inflation adjusting to begin for FY21
21			
22	Within this limit,		
23	at least one-third shall be reserved for capital projects and loan appropriations.		Alaska has not once met this requirement since enactment. AG opinion states that whenever economic conditions impose a limit less than the Constitutional limit, then this 1/3 reservation may be disregarded. ***LFD*** agrees with removing this requirement.
24			
25	The legislature may exceed this limit in bills for		
26	appropriations to the Alaska permanent fund and	(1) to the Alaska permanent fund;	
27	in bills for appropriations for capital projects,		Simplifies that the capital budget is within the overall appropriation limit. Having the capital budget outside the limit provides a large loophole. It is easy to include primarily operating items in the capital budget, and it has been done.
28	whether of bond proceeds or otherwise,		
29	if each bill is approved by the governor,		
30	or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto,		
31	or becomes law without signature,		
32	and is also approved by the voters as prescribed by law.		
33			
34	Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type,		***STAFF*** : A similar provision to this ought to be included with any spending override mechanism, if added later. Spending which exceeds the limit may be clarified to be approved on an *item by item* basis.
35	and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects.		
36			
37	No other appropriation in excess of this limit may be made except		
38	to meet a state of disaster declared by the governor as prescribed by law.	(3) to meet a state of disaster declared by the governor as prescribed by law;	
39			
40	The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.	(b) The governor shall cause any unexpended and unappropriated balance in the general fund to be invested so as to yield competitive market rates to the treasury.	