

§ 302(e)

(c) **POINT OF ORDER.**<sup>231</sup> — It shall not be in order<sup>232</sup> in the House of Representatives or the Senate to consider any bill,<sup>233</sup> joint resolution, amendment,<sup>234</sup> motion,<sup>235</sup> or confer-

<sup>231</sup> Sections 904(c) of the Congressional Budget Act (*see infra* pp. 361-363) and 271(b) of Gramm-Rudman-Hollings (*see infra* p. 671) provide that the Senate may waive or suspend section 302(c) only by the affirmative vote of three-fifths of the Members, duly chosen and sworn — that is, 60 Senators. (Section 211 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 added section 302(c) to the list of points of order with this requirement. Pub. L. No. 101-119, § 211, 101 Stat. 754, 787 (1987) (codified at 2 U.S.C. § 900 note (Supp. IV 1992).) Section 275(b) of Gramm-Rudman-Hollings provides that this supermajority requirement expires on September 30, 1995. *See infra* p. 690.

<sup>232</sup> Congressional Budget Act prohibitions are not self-enforcing, and require points of order from the floor for their enforcement. *Cf. infra* note 293 (regarding section 303(a)).

The Congressional Budget Act makes no exception for violations of negligible amounts. *Cf. infra* note 520 (regarding section 311(a)).

<sup>233</sup> Because section 302(c) does not contain the words "as reported" here, points of order under section 302(c) will apply to bills and resolutions as amended by amendments against which points of order would lie under section 302(c). *Cf. infra* note 514 (regarding the meaning of "as reported" in section 311(a)).

<sup>234</sup> An amendment is subject to points of order under the Congressional Budget Act even if the Senate has specified by unanimous consent that the amendment is one of the amendments in order and the yeas and nays have been ordered. *Cf. infra* note 295 (regarding section 303(a)).

<sup>235</sup> Section 13207(a)(1)(A) of the Budget Enforcement Act added the word "motion" here. *See infra* p. 723. It is a rare instance when a motion can worsen the deficit. Two situations raise possibilities, however. First, a motion to recommit might include instructions specific enough that they would cause the deficit to increase.

Second, as the Chairman of the Appropriations Committee, Senator Robert C. Byrd, pointed out through his unanimous consent request in connection with the Dire Emergency Supplemental Appropriations bill for Fiscal Year 1989, H.R. 2072, where a Senate amendment reduces spending by striking the underlying text received from the House of Representatives, a motion to table the Senate amendment would result in increasing spending. Chairman Byrd avoided this threat to the fiscal integrity of the pending appropriations bill by seeking the following unanimous consent request:

Mr. BYRD. Mr. President, I ask unanimous consent that any motion, the effect of which, if adopted, would be to prevent the striking of the House language or any part thereof in chapter 1 of title I of the House bill, be

(continued...)