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Legislative Document

No. 830

S.P. 276

In Senate, March 7, 2017

**An Act To Authorize Portions of the City of Caribou to Secede and
Form the Town of Lyndon**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator JACKSON of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. Separation of certain portions of the City of Caribou and**
4 **incorporation as Town of Lyndon.** Subject to a referendum election held in
5 accordance with section 2 of this Part, the following territory now within the City of
6 Caribou and Aroostook County, together with the inhabitants of that territory, is separated
7 and set off from the City of Caribou and incorporated into a separate town by the name of
8 the Town of Lyndon: certain portions of the City of Caribou, referred to in this Act as
9 "the Lyndon territory." The Town of Lyndon remains within Aroostook County.

10 The boundaries of the Town of Lyndon are described as follows: Lyndon's southwest
11 town line begins at a point on the Caribou/Washburn town line at latitude 46.81538 and
12 longitude -68.05818, it then follows the Caribou/Washburn town line south to a point that
13 intersects with the Caribou/Presque Isle Municipal line located at latitude 46.7770 and
14 longitude -68.05687, it then turns east and follows the Caribou/Presque Isle town line to a
15 point being Lyndon's southeast corner abutting the Township of Fort Fairfield at a point
16 of latitude 46.77946 and longitude of -67.91955, then north along the Caribou/Fort
17 Fairfield town line to the intersection of the Limestone town line at latitude 46.86591 and
18 longitude -67.91920, then west along the Caribou/Limestone town line to a point of
19 latitude 46.86638 and longitude -67.92709, then north along the Caribou/Limestone town
20 line to a point of intersection where the boundary lines of the four towns of Caribou,
21 Limestone, Caswell and the unorganized township of Connor meet, at latitude 46.95785
22 and longitude -67.92950. From this point the town line of Lyndon extends westerly along
23 the Caribou/Connor boundary to a point of intersection with the town line of New
24 Sweden at latitude 46.95574 and longitude -68.06271, it then goes south along the
25 Caribou/New Sweden then Woodland town line to a point of latitude 46.88072 and
26 longitude -68.06120. From here, Lyndon's town line turns easterly and extends to a point
27 on the east side of the former Bangor and Aroostook Railroad tracks, now the property of
28 the State of Maine, located at latitude 46.88150 and longitude -67.99563. It then goes
29 south by southeast following the eastern edge of the old rail bed to a point on the center
30 line of Maine State Highway 89, also known as the Access Highway, at latitude
31 46.87449, longitude -67.98872. The line then goes east-northeast along said center line of
32 Highway 89 to a point of latitude 46.87505 and longitude -67.97542. Here the line turns
33 south, following a right-of-way, then crossing the railroad tracks and continuing across
34 the Aroostook River to a high-water mark on its southerly bank to a point located at
35 latitude 46.87044 and longitude -67.97615. It then follows the high-water mark southwest
36 then south along the Aroostook River's eastern bank to a point at latitude 46.81702 and
37 longitude -67.98546. Lyndon's town line then turns west crossing the Aroostook River
38 and goes to a point along the eastern edge of U.S. Route 1 to a point of latitude 46.81654
39 and longitude -67.99490. The line then goes west and slightly north crossing said
40 highway to a point on the western edge of U.S. Route 1 to the northeast corner of Lot 4F
41 Caribou Tax Map 5 located at latitude 46.81690 and longitude -67.9967, it then goes
42 west/southwest following the northern boundary line of lot 4F to a point 2 rods from the
43 center line of the eastern side of Main Street at latitude 46.81628 and longitude
44 -67.99816. The town line then goes west by northwest crossing Main Street to latitude

1 46.81365 and longitude -67.99851, the northeast corner of Lot 10C on Caribou Tax Map
2 5. The town line then goes westerly to the Caribou/Washburn town line to its point of
3 beginning at latitude 46.81537 and longitude -68.05818.

4 **Sec. A-2. Referendum election.** This Part takes effect no sooner than 30 days
5 after completion of agreement or arbitration of debts and assets between the Lyndon
6 territory and the City of Caribou in Part B to permit its submission to the voters of the
7 Lyndon territory at a special referendum election to be held on January 10, 2018.
8 Warrants must be issued for this election notifying the qualified voters to vote on the
9 approval or rejection of this Part.

10 For the purposes of this referendum election, all persons resident and legally
11 registered to vote within the Lyndon territory are eligible to vote on the question with
12 respect to the separation of the Lyndon territory from the City of Caribou.

13 The city clerk of the City of Caribou shall prepare the required ballots on which the
14 subject matter of this Act must be reduced to the following question:

15 "Do you favor the separation of certain portions of the City of Caribou
16 from the City of Caribou and their incorporation as the Town of
17 Lyndon?"

18 The voters shall indicate by a cross or check mark placed against the word "Yes" or
19 "No" their vote on this question.

20 The referendum election must be conducted by the city clerk of the City of Caribou,
21 who shall declare the result of the election. After the polls close and after a ballot
22 inspection and recount, if one is necessary, the city clerk's declaration of the election
23 results is final, subject to review by the Superior Court for the County of Aroostook and
24 located in the City of Caribou. The city clerk shall file the results of the referendum
25 election with the Secretary of State. The Lyndon territory shall reimburse the City of
26 Caribou for the reasonable and necessary administrative costs the City of Caribou incurs
27 in conducting this referendum election.

28 **Sec. A-3. Effective date of separation.** If a majority of those voting in the
29 referendum under section 2 of this Part approve the question, this Part takes effect with
30 respect to the Lyndon territory and the Lyndon territory is separated from the City of
31 Caribou and is incorporated as the Town of Lyndon on July 1, 2018.

32 **Sec. A-4. Provision for first meeting.** If a majority of those voting in the
33 referendum under section 2 of this Part approve the question, within 30 days after the
34 election a justice of the peace or notary public may issue a warrant to a legal voter in the
35 Lyndon territory directing that legal voter to notify the inhabitants within the Lyndon
36 territory of a public meeting to select 5 transition representatives by written ballot. Notice
37 of the public meeting must be provided to the inhabitants at least 7 days prior to the
38 meeting.

39 Effective immediately after the election, the transition representatives selected at the
40 meeting are vested with the powers to represent the future Town of Lyndon and to enter

1 into letters of intent and memoranda of understanding for the establishment of its local
2 government, to negotiate interlocal agreements and to engage in other necessary
3 transition activities.

4 Any agreements made by the transition representatives must be presented for
5 ratification by the Town of Lyndon's legislative body after the incorporation of the Town
6 of Lyndon. The term of the transition committee members expires July 31, 2018.

7 Within 30 days prior to July 1, 2018, a justice of the peace or notary public may issue
8 a warrant to a legal voter in the future Town of Lyndon directing that legal voter to notify
9 the inhabitants of a public meeting to select municipal officers and school board members
10 and to transact municipal business, to be held at a time and place specified in the warrant.
11 Notice to the inhabitants must be provided at least 7 days prior to the meeting. Effective
12 July 1, 2018, municipal officers and school board members selected at the meeting are
13 vested with all the powers and duties that other duly elected municipal officers and school
14 board members have, including the power to raise, borrow and spend money.

15 **Sec. A-5. Form of government.** If a majority of those voting in the referendum
16 under section 2 of this Part approve the question, the Town of Lyndon will be
17 incorporated and separated from the City of Caribou on July 1, 2018 and shall adopt the
18 town meeting as its form of government.

19 This Act does not prevent the Town of Lyndon from subsequently voting to change
20 its form of government without the necessity of a further act of the Legislature.

21 **Sec. A-6. Allocation of debts and assets.** If the Town of Lyndon is
22 incorporated and is separated from the City of Caribou on July 1, 2018, the Town of
23 Lyndon shall assume its just and due proportion of the debts of the City of Caribou and
24 must receive the same proportion of the assets of the City of Caribou, including property
25 taxes collected from July 1, 2017 to June 30, 2018. Any debt or any asset may be
26 excluded upon agreement of both parties.

27 **Sec. A-7. Sewage treatment services.** If the Lyndon territory is separated from
28 the City of Caribou and is incorporated as the Town of Lyndon, the Caribou Utilities
29 District shall provide wastewater and sewage services to the Town of Lyndon in
30 accordance with the district's charter. The allocation of financing, operating and
31 maintenance costs and any other costs related to wastewater and sewage collection,
32 interception and treatment under this section must be consistent with the Caribou Utilities
33 District charter, except that, if agreement is not reached between the Town of Lyndon and
34 the City of Caribou, the arbitration panel established pursuant to Part B, section 2 may
35 allocate or reallocate between the City of Caribou and the Town of Lyndon any of the
36 financing, operating and maintenance costs and any other costs related to wastewater and
37 sewage collection in its total allocation of debts and assets.

38 If the Town of Lyndon fails to make necessary payments on any bonded indebtedness
39 and interest for the wastewater and sewage collection facilities allocated to the Town of
40 Lyndon pursuant to section 6 of this Part, the City of Caribou shall pay the principal and
41 interest on any bonds issued by the Caribou Utilities District prior to July 1, 2018. If the
42 City of Caribou makes such payments, the Town of Lyndon shall reimburse the City of

1 Caribou those payments and the City of Caribou has a cause of action against the Town
2 of Lyndon for any unpaid amount of those payments.

3 **Sec. A-8. Water rates.** If the Town of Lyndon is incorporated and is separated
4 from the City of Caribou, the Caribou Utilities District shall provide water service to the
5 Town of Lyndon in accordance with the district's charter and may charge rates in
6 accordance with the provisions of the Maine Revised Statutes, Title 35-A, chapter 61.

7 **PART B**

8 **Sec. B-1. Other duties and responsibilities.** Projected debts, assets and
9 property taxes for the period June 30, 2017 to July 1, 2018 must be allocated between the
10 City of Caribou and the Town of Lyndon as set forth in Part A, section 6. The City of
11 Caribou and the Town of Lyndon shall allocate other duties and responsibilities between
12 themselves as they mutually determine to be necessary and appropriate and shall
13 negotiate with each other in good faith.

14 **Sec. B-2. Agreement binding; binding arbitration.** Negotiations under
15 section 1 of this Part must be completed by November 1, 2017. This deadline may be
16 extended by mutual agreement of the City of Caribou and the Town of Lyndon. If the
17 parties reach agreement by the date agreed upon by the parties, the agreement must be
18 reduced to writing and is final and binding on the City of Caribou and the Town of
19 Lyndon upon incorporation of the Town of Lyndon on July 1, 2018, if the referendum
20 question in Part A, section 2 is approved.

21 If the parties do not reach agreement by November 1, 2017, the parties shall submit
22 any matters remaining in dispute to a panel of arbitrators and shall reduce to writing all
23 matters agreed upon. The panel of arbitrators consists of one arbitrator selected by the
24 City of Caribou, one arbitrator selected by representatives of a committee for the
25 secession of the City of Caribou and one neutral arbitrator selected jointly by the other 2
26 arbitrators. Each party shall pay the cost of the arbitrator it chooses; the costs of the
27 neutral arbitrator must be apportioned and paid equally by the City of Caribou and the
28 Lyndon territory. Determination of disputed matters by the panel of arbitrators is final
29 and binding on the parties. The arbitration must be administered under the auspices of the
30 American Arbitration Association and, except for the selection of arbitrators, is governed
31 by the commercial rules and procedures of the American Arbitration Association. The
32 concept of "last best offer" must be used. These issues must be resolved no later than
33 December 1, 2017.

34 **Sec. B-3. Educational needs.** Upon the date of its secession from the City of
35 Caribou and incorporation as the Town of Lyndon, the Town of Lyndon remains part of
36 Regional School Unit 39 or its successor and pays its proportional share of costs,
37 including transportation service costs, unless or until such time as it withdraws from the
38 regional school unit in accordance with applicable state law. No further referenda,
39 legislation or dispensations by the State or any of its officers, departments or agencies is
40 required of the Town of Lyndon to effect the provisions of this section.

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PART C

Sec. C-1. Hold harmless provision and enforcement. The municipal officers, municipal officials and residents of the City of Caribou and the Town of Lyndon and all their agents are immune from liability for any action taken as a result of this Act. The City of Caribou and the Town of Lyndon, or their successors in interest, may enforce this Act by civil action in Superior Court. In any action between the City of Caribou and the Town of Lyndon, the court shall award reasonable attorney's fees to the prevailing party.

Sec. C-2. Equal rights. After the separation and incorporation of the Town of Lyndon, residents of the Town of Lyndon and the City of Caribou continue to enjoy equal access to municipally owned public lands for travel, recreation and related activities and enjoy all the rights and privileges they enjoyed before the separation, just as residents of other towns and municipalities enjoy.

SUMMARY

This bill authorizes the incorporation of certain portions of the City of Caribou into the Town of Lyndon if the legal residents of those parts approve, by referendum, separation from the City of Caribou and incorporation as a separate town. The bill clarifies the binding arbitration process and specifies the liability and rights of the City of Caribou and the Town of Lyndon. The meets and bounds describing the proposed Town of Lyndon have not been verified by a licensed professional land surveyor.