

Reprinted 4/79

FILED MAR 26 1979

SENATE FILE 478

By COMMITTEE ON JUDICIARY
Approved 3/23 (9.969)

Passed Senate, Date 3-30-79 (9/1021) Passed House, Date _____
Vote: Ayes 44 Nays 0 Vote: Ayes _____ Nays _____
Approved 4/26/79

A BILL FOR

1 An Act to legalize and validate the acts and agreements of
 2 north Iowa municipal electric cooperative association
 3 and its municipal members with allied power cooperative
 4 of Iowa and declaring said actions to have been legally
 5 taken.
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SENATE FILE 478

S-3325

1 Amend Senate File 478 as follows:
 2 1. Page 1, line 19, by striking the word
 3 "station" and inserting in lieu thereof the word
 4 "unit".
 5 2. Page 2, line 22, by striking the word
 6 "station" and inserting in lieu thereof the word
 7 "unit".

S-3325 FILED *Adopted 2/30*
MARCH 29, 1979 *(9/1021)*

BY A.R. BUD KUDART
JULIA GENTLEMAN
DICK RAMSEY

1 WHEREAS, proceedings have been heretofore taken for the
2 organization of the North Iowa Municipal Electric Cooperative
3 Association under the provisions of Chapter 499 of the Code
4 of Iowa for the purpose of obtaining electric energy and
5 selling and distributing such electric energy to its municipal
6 members, and a certificate of incorporation for North Iowa
7 Municipal Electric Cooperative Association was issued by the
8 Secretary of State of Iowa on November 23, 1965; and

9 WHEREAS, amendments to the Articles of Incorporation of
10 North Iowa Municipal Electric Cooperative Association have
11 been adopted and filed with the Secretary of State of Iowa
12 on March 6, 1979; and

13 WHEREAS, North Iowa Municipal Electric Cooperative Associa-
14 tion has become a member of and entered into a membership
15 Agreement dated February 14, 1979 with Allied Power Cooperative
16 of Iowa, a cooperative association organized and operating
17 under Chapter 499 of the Code of Iowa which Agreement obligates
18 Allied to plan, construct and operate an electric utility
19 generating station located on the Missouri River in Harrison
20 County, State of Iowa known as "Allied" for the purpose of
21 providing a source of electric energy for its members and,
22 which agreement obligates North Iowa Municipal Electric
23 Cooperative Association to finance and acquire facilities
24 for the generation and transmission of electric energy and
25 to comply with and be bound by the Articles of Incorporation
26 and By-Laws of Allied and to pay a membership fee of \$1,000
27 and to enter into a separate contract with Allied for the
28 purchase for itself or as agent for its members, not less
29 than 50,000 kilowatts or such greater amount as may be agreed
30 between Allied and NIMECA, from Allied for sale and distri-
31 bution by wholesale purchase contract on a take or pay basis
32 to the members of North Iowa Municipal Electric Cooperative
33 Association the same now being the Cities of Algona, Alta,
34 Bancroft, Cedar Falls, Coon Rapids, Estherville, Graettinger,
35 Grundy Center, Laurens, Milford, New Hampton, Spencer, Sumner,

1 Waverly, Webster City, West Bend, all in Iowa and further
2 obligating North Iowa Municipal Electric Cooperative
3 Association to finance and acquire capacity of not less than
4 such amount of electric energy through the use of tax exempt
5 financing on behalf of its municipal members or such other
6 method of financing as may be available to North Iowa Municipal
7 Electric Cooperative Association or its municipal members
8 pursuant to the laws of Iowa; and

9 WHEREAS, doubts have arisen concerning the validity and
10 legal sufficiency of the proceedings and acts taken by North
11 Iowa Municipal Electric Cooperative Association and its
12 municipal members as recited above, and it is deemed advisable
13 and necessary to put such doubts forever to rest; NOW
14 THEREFORE,

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

16 Section 1. That those proceedings and acts heretofore
17 taken by North Iowa Municipal Electric Cooperative Association
18 and its municipal members for the purpose of entering into
19 said Membership Agreement dated February 14, 1979 with Allied
20 Power Cooperative of Iowa which Agreement obligates Allied
21 to plan, construct and operate an electric utility generating
22 station located on the Missouri River in Harrison County,
23 State of Iowa known as "Allied" for the purpose of providing
24 a source of electric energy for its members, and the
25 organization and operation of North Iowa Municipal Electric
26 Cooperative Association in connection with said Membership
27 Agreement and the obligation of North Iowa Municipal Electric
28 Cooperative Association to finance and acquire facilities
29 for the generation and transmission of electric energy and
30 to comply with and be bound by the Articles of Incorporation
31 and By-Laws of Allied and to pay a membership fee of \$1,000
32 and to enter into a separate contract with Allied for the
33 purchase for itself or as agents for its members, not less
34 than 50,000 kilowatts or such greater amount as may be agreed
35 between Allied and NIMECA, from Allied for the sale and

1 distribution by wholesale purchase contract on a take or pay
2 basis to the members of North Iowa Municipal Electric Coopera-
3 tive Association and including the obligation to finance and
4 acquire capacity of not less than such amount of electric
5 energy on a tax exempt basis on behalf of municipal members
6 of North Iowa Municipal Electric Cooperative Association and
7 are hereby legalized, validated and confirmed and said
8 agreement and all acts, obligations and commitments herein
9 recited are legal and binding.

10 Sec. 2. This Act, being deemed of immediate importance
11 shall take effect from and after its publication in The Denison
12 Bulletin, a newspaper published in Denison, Iowa, and in the
13 Adams County Free-Press, a newspaper published in Corning,
14 Iowa, without expense to the state.

15 EXPLANATION

16 This bill legalizes agreements between north Iowa municipal
17 electric cooperative association and allied power cooperative
18 of Iowa for the acquisition by north Iowa municipal electric
19 cooperative association of interest in a power plant to be
20 constructed by allied power cooperative of Iowa in the state
21 of Iowa and enables the municipal members of north Iowa
22 municipal electric cooperative association to take advantage
23 of joint financing in connection with the project.

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See Judiciary 4/2
#/Recommended 4/4 (p. 1342)

SENATE BILL 478
BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE MARCH 30, 1979)

Passed Senate, Date 2-30-79 (p. 1021) Passed House, Date 4-18-79 (p. 1605)

Vote: Ayes 44 Nays 0 Vote: Ayes 61 Nays 31

Approved April 26, 1979

A BILL FOR

1 An Act to legalize and validate the acts and agreements of
2 north Iowa municipal electric cooperative association
3 and its municipal members with allied power cooperative
4 of Iowa and declaring said actions to have been legally taken.

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————— = New Language
by the Senate

1 WHEREAS, proceedings have been heretofore taken for the
2 organization of the North Iowa Municipal Electric Cooperative
3 Association under the provisions of Chapter 499 of the Code
4 of Iowa for the purpose of obtaining electric energy and
5 selling and distributing such electric energy to its municipal
6 members, and a certificate of incorporation for North Iowa
7 Municipal Electric Cooperative Association was issued by the
8 Secretary of State of Iowa on November 23, 1965; and

9 WHEREAS, amendments to the Articles of Incorporation of
10 North Iowa Municipal Electric Cooperative Association have
11 been adopted and filed with the Secretary of State of Iowa
12 on March 6, 1979; and

13 WHEREAS, North Iowa Municipal Electric Cooperative Associa-
14 tion has become a member of and entered into a membership
15 Agreement dated February 14, 1979 with Allied Power Cooperative
16 of Iowa, a cooperative association organized and operating
17 under Chapter 499 of the Code of Iowa which Agreement obligates
18 Allied to plan, construct and operate an electric utility
19 generating unit located on the Missouri River in Harrison
20 County, State of Iowa known as "Allied" for the purpose of
21 providing a source of electric energy for its members and,
22 which agreement obligates North Iowa Municipal Electric
23 Cooperative Association to finance and acquire facilities
24 for the generation and transmission of electric energy and
25 to comply with and be bound by the Articles of Incorporation
26 and By-Laws of Allied and to pay a membership fee of \$1,000
27 and to enter into a separate contract with Allied for the
28 purchase for itself or as agent for its members, not less
29 than 50,000 kilowatts or such greater amount as may be agreed
30 between Allied and NIMECA, from Allied for sale and distri-
31 bution by wholesale purchase contract on a take or pay basis
32 to the members of North Iowa Municipal Electric Cooperative
33 Association the same now being the Cities of Algona, Alta,
34 Bancroft, Cedar Falls, Coon Rapids, Estherville, Graettinger,
35 Grundy Center, Laurens, Milford, New Hampton, Spencer, Sumner,

1 Waverly, Webster City, West Bend, all in Iowa and further
2 obligating North Iowa Municipal Electric Cooperative
3 Association to finance and acquire capacity of not less than
4 such amount of electric energy through the use of tax exempt
5 financing on behalf of its municipal members or such other
6 method of financing as may be available to North Iowa Municipal
7 Electric Cooperative Association or its municipal members
8 pursuant to the laws of Iowa; and

9 WHEREAS, doubts have arisen concerning the validity and
10 legal sufficiency of the proceedings and acts taken by North
11 Iowa Municipal Electric Cooperative Association and its
12 municipal members as recited above, and it is deemed advisable
13 and necessary to put such doubts forever to rest; NOW

14 THEREFORE,

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

16 Section 1. That those proceedings and acts heretofore
17 taken by North Iowa Municipal Electric Cooperative Association
18 and its municipal members for the purpose of entering into
19 said Membership Agreement dated February 14, 1979 with Allied
20 Power Cooperative of Iowa which Agreement obligates Allied
21 to plan, construct and operate an electric utility generating
22 unit located on the Missouri River in Harrison County, State
23 of Iowa known as "Allied" for the purpose of providing a
24 source of electric energy for its members, and the organization
25 and operation of North Iowa Municipal Electric Cooperative
26 Association in connection with said Membership Agreement and
27 the obligation of North Iowa Municipal Electric Cooperative
28 Association to finance and acquire facilities for the
29 generation and transmission of electric energy and to comply
30 with and be bound by the Articles of Incorporation and By-
31 Laws of Allied and to pay a membership fee of \$1,000 and to
32 enter into a separate contract with Allied for the purchase
33 for itself or as agents for its members, not less than 50,000
34 kilowatts or such greater amount as may be agreed between
35 Allied and NIMECA, from Allied for the sale and distribution

1 by wholesale purchase contract on a take or pay basis to the
2 members of North Iowa Municipal Electric Cooperative
3 Association and including the obligation to finance and ac-
4 quire capacity of not less than such amount of electric energy
5 on a tax exempt basis on behalf of municipal members of North
6 Iowa Municipal Electric Cooperative Association and are hereby
7 legalized, validated and confirmed and said agreement and
8 all acts, obligations and commitments herein recited are legal
9 and binding.

10 Sec. 2. This Act, being deemed of immediate importance
11 shall take effect from and after its publication in The Denison
12 Bulletin, a newspaper published in Denison, Iowa, and in the
13 Adams County Free-Press, a newspaper published in Corning,
14 Iowa, without expense to the state.

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SF 478
sg/slc/26c

SENATE FILE 478

969

1 Amend the Pelton et al amendment, H-3850, to Senate
2 File 478 as passed and reprinted by the Senate, as
3 follows:

4 1. By striking lines 2 through 5 and inserting
5 in lieu thereof the following:

6 "_____. Page 3, by inserting after line 9 the
7 following:

8 "Sec. _____. Section four hundred forty-two point
9 two (442.2), Code 1979, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. In determining the assessed
12 valuation of all taxable property in a district, the
13 state comptroller shall include in the total assessed
14 valuation of the district for the purpose of computing
15 state school aid, the assessed valuation of the
16 property of municipally-owned gas and electric
17 utilities in the district not subject to assessment
18 under chapter four hundred thirty-seven (437) of the
19 Code. The director of revenue shall certify to the
20 state comptroller the assessed valuation of the
21 property of municipally-owned gas and electric
22 utilities not subject to assessment under chapter
23 four hundred thirty-seven (437) of the Code in each
24 district as determined by using the assessed value
25 per meter in service of an investor-owned utility
26 located in the state of Iowa and apply this assessed
27 value to the meters in service of the municipally-
28 owned utilities. The state comptroller shall compute
29 the foundation property tax of five dollars and forty
30 cents per thousand dollars of assessed valuation on
31 the assessed valuation of all taxable property in
32 the district including the assessed valuation of
33 municipally-owned utility property. The foundation
34 property tax of five dollars and forty cents per
35 thousand dollars of assessed valuation shall not
36 be levied against municipally-owned utility property
37 not subject to assessment under chapter four hundred
38 thirty-seven (437) of the Code but shall be included
39 in the district property tax base for purposes of
40 determining the district's state school foundation
41 aid."

42 _____. By numbering and renumbering the remaining
43 sections in accordance with this amendment.

44 _____. Amend the title, line 4, by inserting after
45 the word "taken" the words ", and by providing for
46 the inclusion of municipally-owned utilities in
47 assessed valuation for the purpose of determining
48 state aid".

SENATE FILE 478

H-3862

1 Amend Senate File 478 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 3, by inserting after line 9 the following:
4 "Sec. ____ Chapter four hundred seventy-six (476),
5 Code 1979, is amended by adding the following new
6 section:

7 NEW SECTION.

8 1. As used in this section, "association" means
9 an association which is organized under chapter four
10 hundred ninety-nine (499) of the Code and which
11 acquires facilities for the generation and transmission
12 of electric energy as permitted by section one (1)
13 of this Act.

14 2. All rates and charges made, demanded or received
15 by an association for or in connection with the
16 transmission or sale of electrical energy and all
17 rules and regulations affecting or pertaining to the
18 rates or charges shall be just and reasonable and
19 any rate or charge that is not just and reasonable
20 is unlawful. An association shall not, with respect
21 to a transmission or sale, either make or grant an
22 undue preference or advantage to any person or subject
23 any person to an undue prejudice or disadvantage,
24 or maintain an unreasonable difference in rates,
25 charges, service, facilities, or in any other respect,
26 either between localities or between classes of
27 service.

28 3. The Iowa state commerce commission shall review
29 all contracts of an association involving sales of
30 power to determine whether the rates and charges are
31 just and reasonable, and are not unduly discriminatory
32 or preferential within the meaning of subsection two
33 (2) of this section. The commission may investigate
34 those contracts and hold hearings when necessary.
35 In enforcing the authority granted by this section,
36 the commission has all of the powers granted to the
37 commission by chapter four hundred seventy-six (476)
38 of the Code with respect to rates and charges for
39 electric service furnished to the public for
40 compensation. If the commission undertakes to review
41 a contract of an association, the contract and all
42 rates and charges associated with that contract are
43 conclusively presumed to be lawful upon the expiration
44 of ninety days after the commission gives notice to
45 the association of the intended review, except those
46 contract terms, rates, or charges which the commission
47 has determined to be unlawful by a written decision
48 rendered prior to the expiration of the ninety-day
49 period. This subsection does not authorize the
50 commission to impair the obligations of an association

1 under a contract with its bondholders.
2 4. For purposes of this subsection, the Iowa state
3 commerce commission has authority to the extent
4 permitted by the Constitution and the laws of the
5 United States, over all contracts of an association
6 involving the sale of power. If a contract of an
7 association involving the sale of power is not subject
8 to the authority of the Iowa state commerce commission
9 as a result of the Constitution or the laws of the
10 United States, the Iowa state commerce commission
11 shall petition any federal agency which has
12 jurisdiction over that contract, and is authorized
13 to take any other action necessary, to obtain
14 compliance by the association with applicable law
15 respecting rates and charges for sales of power."

H-3862 FILED *Filed into journal*
APRIL 11, 1979 *4/17/79 (1604)*

BY PELTON of Clinton
WALTER of Pottawattamie
6 RITSEMA of Sioux
4/17

SENATE FILE 478

H-3831

1 Amend Senate File 478 as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by striking lines 10 through 14.

H-3831 FILED *Filed 4/15 (p. 1604)* BY PELTON of Clinton
APRIL 10, 1979

SENATE FILE 478

H-3850

1 Amend Senate File 478 as follows:
2 1. Page 2, lines 4 and 5, by striking the
3 words "through the use of tax exempt financing".
4 2. Page 3, line 5, by striking the words "on a
5 tax exempt basis".

H-3850 FILED *W. Drawn 4/15 (p. 1605)* BY PELTON of Clinton
APRIL 10, 1979 WALTER of Pottawattamie
6 RITSEMA of Sioux
4/17

SENATE FILE 478

AN ACT

TO LEGALIZE AND VALIDATE THE ACTS AND AGREEMENTS OF NORTH IOWA MUNICIPAL ELECTRIC COOPERATIVE ASSOCIATION AND ITS MUNICIPAL MEMBERS WITH ALLIED POWER COOPERATIVE OF IOWA AND DECLARING SAID ACTIONS TO HAVE BEEN LEGALLY TAKEN.

WHEREAS, proceedings have been heretofore taken for the organization of the North Iowa Municipal Electric Cooperative Association under the provisions of Chapter 499 of the Code of Iowa for the purpose of obtaining electric energy and selling and distributing such electric energy to its municipal members, and a certificate of incorporation for North Iowa Municipal Electric Cooperative Association was issued by the Secretary of State of Iowa on November 23, 1965; and

WHEREAS, amendments to the Articles of Incorporation of North Iowa Municipal Electric Cooperative Association have been adopted and filed with the Secretary of State of Iowa on March 6, 1979; and

WHEREAS, North Iowa Municipal Electric Cooperative Association has become a member of and entered into a membership Agreement dated February 14, 1979 with Allied Power Cooperative

of Iowa, a cooperative association organized and operating under Chapter 499 of the Code of Iowa which Agreement obligates Allied to plan, construct and operate an electric utility generating unit located on the Missouri River in Harrison County, State of Iowa known as "Allied" for the purpose of providing a source of electric energy for its members and, which agreement obligates North Iowa Municipal Electric Cooperative Association to finance and acquire facilities for the generation and transmission of electric energy and to comply with and be bound by the Articles of Incorporation and By-Laws of Allied and to pay a membership fee of \$1,000 and to enter into a separate contract with Allied for the purchase for itself or as agent for its members, not less than 50,000 kilowatts or such greater amount as may be agreed between Allied and NIMECA, from Allied for sale and distribution by wholesale purchase contract on a take or pay basis to the members of North Iowa Municipal Electric Cooperative Association the same now being the Cities of Algona, Alta, Bancroft, Cedar Falls, Coon Rapids, Estherville, Gracettinger, Grundy Center, Laurens, Hilford, New Hampton, Spencer, Sumner, Waverly, Webster City, West Bend, all in Iowa and further obligating North Iowa Municipal Electric Cooperative Association to finance and acquire capacity of not less than such amount of electric energy through the use of tax exempt financing on behalf of its municipal members or such other method of financing as may be available to North Iowa Municipal Electric Cooperative Association or its municipal members pursuant to the laws of Iowa; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the proceedings and acts taken by North Iowa Municipal Electric Cooperative Association and its municipal members as recited above, and it is deemed advisable and necessary to put such doubts forever to rest; NOW THEREFORE,

S.F. 478

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. That those proceedings and acts heretofore taken by North Iowa Municipal Electric Cooperative Association and its municipal members for the purpose of entering into said Membership Agreement dated February 14, 1979 with Allied Power Cooperative of Iowa which Agreement obligates Allied to plan, construct and operate an electric utility generating unit located on the Missouri River in Harrison County, State of Iowa known as "Allied" for the purpose of providing a source of electric energy for its members, and the organization and operation of North Iowa Municipal Electric Cooperative Association in connection with said Membership Agreement and the obligation of North Iowa Municipal Electric Cooperative Association to finance and acquire facilities for the generation and transmission of electric energy and to comply with and be bound by the Articles of Incorporation and By-Laws of Allied and to pay a membership fee of \$1,000 and to enter into a separate contract with Allied for the purchase for itself or as agents for its members, not less than 50,000 kilowatts or such greater amount as may be agreed between Allied and NIMECA, from Allied for the sale and distribution by wholesale purchase contract on a take or pay basis to the members of North Iowa Municipal Electric Cooperative Association and including the obligation to finance and acquire capacity of not less than such amount of electric energy on a tax exempt basis on behalf of municipal members of North Iowa Municipal Electric Cooperative Association and are hereby legalized, validated and confirmed and said agreement and all acts, obligations and commitments herein recited are legal and binding.

Sec. 2. This Act, being deemed of immediate importance shall take effect from and after its publication in The Denison

Bulletin, a newspaper published in Denison, Iowa, and in the Adams County Free-Press, a newspaper published in Corning, Iowa, without expense to the state.

TERRY E. BRANSTAD
President of the Senate

FLOYD H. MILLEN
Speaker of the House

I hereby certify that this Bill originated in the Senate and is known as Senate File 478, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved 4/26 1979

ROBERT D. RAY
Governor