

Wisconsin Senate's informal 'rule of 17' bypassed dozens of times in past 20 years, records show

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Dozens of bills have passed the state Senate since 2003 with fewer than 17 votes from the majority party, according to a spreadsheet Majority Leader Devin LeMahieu's office shared with WisPolitics.

The lone exception was the 2021-22 session, LeMahieu's first leading the GOP caucus.

While high-profile bills to allow online gaming and provide state money to three campuses to free up funds for paying athletes have drawn the most attention, a half dozen others passed with Dem help yesterday, when the Senate held its final regular session floor period.

In an interview with WisPolitics, Majority Leader Devin LeMahieu defended relying on Dem votes to pass the bills.

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"I thought they were good legislation," LeMahieu said of the online gaming and NIL bills.

AB 1034, the name, image and likeness bill, [passed](#) 17-16 with seven Republicans opposed and six Dems in favor. Sen. Dora Drake, D-Milwaukee, originally voted no, but quickly switched her vote to yes. She told WisPolitics afterward that she made a mistake with her original vote and had planned to support the bill.

LeMahieu said in the interview a "strong majority" of his 18-member caucus backed that bill.

Half of them [opposed](#) AB 601, which would allow Gov. Tony Evers to reopen the gaming compacts to allow Native American tribes to offer online gaming so long as the servers were on tribal land.

“There were a handful of our members who were fine with the bill moving forward that just wanted to vote against it for their districts,” LeMahieu said.

Dubbed the “rule of 17,” some have insisted that the majority party should only pass legislation if there is enough support from the caucus to avoid relying on votes from the minority party. LeMahieu dismissed the supposed rule at a WisPolitics event earlier this year, saying it was a tool for critics to try killing legislation.

Going into yesterday’s votes, Sen. Chris Kapenga, R-Delafield, suggested LeMahieu might lose his leadership post if he brought the NIL and online gaming bills to the floor without 17 GOP votes.

Kapenga, who served as Senate president last session, clashed with LeMahieu in 2023 as the majority leader maneuvered an overhaul of the state’s three-tiered system for alcohol through the Senate over the objection of several GOP members.

Kapenga didn’t speak on the floor during debate over the NIL or online gaming bills.

Beyond the NIL and online gaming legislation, the Senate approved another half-dozen bills yesterday that needed Dem support to pass.

By comparison: nine bills cleared the Senate with less than 17 GOP votes over the entire 2013-14 session, four in 2015-16, five in 2017-19, two in 2019-20, none in 2021-22 and four in 2023-24.

The 2003-04 and 2005-06 sessions had the most bills that passed without 17 votes from the majority party with 36 and 50, respectively.

That’s according to the [spreadsheet](#) from LeMahieu’s office that was prepared by the Legislative Reference Bureau. It didn’t include a total for bills from the 2025-26 session.

Former GOP Sen. Scott Fitzgerald first became Senate majority leader in 2011. He was succeeded by LeMahieu in 2021 after winning a seat in Congress.

With an 18-15 majority, Republicans can only lose one caucus member on a bill without needing Dem support. The bills in addition to NIL and online gaming that cleared yesterday and head to the governor thanks to Dem votes included:

- AB 182, which would require WHEDA to set aside 35% of the state's low-income housing tax credits annually for rural areas. It cleared 30-3 with Kapenga and fellow GOP Sens. Rob Hutton, of Brookfield, and Steve Nass, of Whitewater, opposed.
- AB 375, which would make changes to the state's income tax credit for the rehabilitation of certain historic buildings. Hutton and Kapenga opposed the bill, which cleared the Senate 31-2.
- AB 387, which would correct errors in the 2025-27 state budget and clarify some provisions. The Senate approved it 29-4 with Hutton, Kapenga and Nass among those opposed.
- AB 454, which would allow the Wisconsin Housing and Economic Development Authority to move up to \$10 million from one revolving loan program for housing to a newly created one to benefit workforce housing. Kapenga and Nass opposed the bill, which was approved 31-2.
- AB 598, which would allow a "patient's representative" to consent to someone who's incapacitated being moved from a hospital to a nursing home, with certain exceptions. Sen. André Jacque and Nass joined three Dems in opposition to the bill, which was approved 28-5.
- AB 700, which would authorize refundable credit payments for the long-term care insurance assessment credit. Hutton, Kapenga and Nass voted against the bill, which the Senate approved 30-3.
- AB 759, which would allow those granted deferred action under the Deferred Action for Childhood Arrivals program to receive certain occupational credentials if they meet all of the other requirements. Jacque and Nass opposed the bill, which the Senate approved 31-2.

The spreadsheet LeMahieu's office shared shows that the 2019 bills that cleared with less than 17 GOP votes including [one](#) that Kapenga supported to extend the lifespans and expenditure periods for two tax incremental districts in the Village of Lake Delton.

Following a WisPolitics luncheon yesterday, Assembly Speaker Robin Vos, R-Rochester, rebuffed the suggestion that LeMahieu should lose his leadership position for relying on Dem votes to pass the online betting and NIL bills.

“Whoever is saying those things doesn’t really know how the world works. Sometimes you have to have things passed because it’s in the best interest of the state,” Vos said, adding being Senate majority leader is the “the hardest job in the Capitol.”