AN ACT to create 71.05 (6) (b) 39., 71.26 (3) (hf) and 71.45 (2) (a) 16. of the statutes; relating to: creating an individual income and corporate income and franchise tax deduction for a donation of a conservation easement to a unit of government.

Analysis by the Legislative Reference Bureau

This bill creates an individual income and corporate income and franchise tax subtract modification, or deduction, for the fair market value (FMV) of a permanent conservation easement on eligible land that a taxpayer donates to the state or to a county. Under the bill, for a conservation easement to qualify, it must allow the occurrence of hunting, fishing, hiking, sight-seeing, cross-country skiing, and generally accepted forestry management practices and, in general, preclude development of the land.

The maximum deduction, based on the FMV of the donated conservation easement, that may be claimed is an amount of up to 50 percent of the taxpayer’s federal adjusted gross income (FAGI) or, if the taxpayer is a farmer or rancher, up to 100 percent of the taxpayer’s FAGI. If the FMV of the claimant’s donation exceeds the maximum allowable amount of the claimant’s deduction, the claimant may carry forward any unused amount of the deduction for the next 15 taxable years.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.
For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (b) 39. of the statutes is created to read:

71.05 (6) (b) 39. The fair market value of a permanent conservation easement on eligible land that is donated by a claimant, in an amount of up to 50 percent of the claimant’s federal adjusted gross income if the claimant is not a farmer or a rancher or up to 100 percent of the claimant’s federal adjusted gross income if the claimant is a farmer or a rancher, to the state or to a county in this state, in the year in which the donation occurs. If the allowable amount of a claimant’s subtraction under this subdivision exceeds the amount of the claimant’s federal adjusted gross income, the claimant may carry forward the amount of the unused subtraction for the next 15 taxable years and may subtract any unused amount as provided under this subdivision. In this subdivision, the following terms have the following meanings and the following conditions apply:

a. “Claimant” means an individual who donates a permanent conservation easement on eligible land to the state or to a county in this state and who claims the subtraction under this subdivision.

b. “Conservation easement” is an easement that has the meaning given in s. 700.40 (1) (a) and that is an easement that allows the occurrence of outdoor nature-based recreational activities and generally accepted forestry management practices.
c. “Eligible land” means a parcel of real property that is at least 10 contiguous acres as calculated under s. 77.82 (1) (a) 1. and that meets the percentage and the timber production requirements specified under s. 77.82 (1) (a) 2.

d. “Farmer or rancher” means an individual whose gross income from the trade or business of farming, as defined in section 2032A (e) (5) of the Internal Revenue Code, is greater than 50 percent of the individual’s gross income in the taxable year to which the subtraction relates.

e. “Generally accepted forestry management practices” has the meaning given in s. 823.075 (1) (d).

f. “Outdoor nature-based recreational activities” means hunting, fishing, hiking, sight-seeing, and cross-country skiing.

SECTION 2. 71.26 (3) (hf) of the statutes is created to read:

71.26 (3) (hf) Section 170 is modified so that a claimant may subtract from income the fair market value of a permanent conservation easement on eligible land that is donated by the claimant, in an amount of up to 50 percent of the claimant’s federal adjusted gross income if the claimant is not a farmer or a rancher or up to 100 percent of the claimant’s federal adjusted gross income if the claimant is a farmer or a rancher, to the state or to a county in this state, in the year in which the donation occurs. If the allowable amount of a claimant’s subtraction under this paragraph exceeds the amount of the claimant’s federal adjusted gross income, the claimant may carry forward the amount of the unused subtraction for the next 15 taxable years and may subtract any unused amount as provided under this paragraph. In this paragraph, the following terms have the following meanings and the following conditions apply:
1. “Claimant” means a corporation that donates a permanent conservation easement on eligible land to the state or to a county in this state and who claims the subtraction under this paragraph.

2. “Conservation easement” is an easement that has the meaning given in s. 700.40 (1) (a) and that is an easement that allows the occurrence of outdoor nature-based recreational activities and generally accepted forestry management practices.

3. “Eligible land” means a parcel of real property that is at least 10 contiguous acres as calculated under s. 77.82 (1) (a) 1. and that meets the percentage and the timber production requirements specified under s. 77.82 (1) (a) 2.

4. “Farmer or rancher” means a corporation that has gross income from the trade or business of farming, as defined in section 2032A (e) (5) of the Internal Revenue Code, in an amount that is greater than 50 percent of the corporation’s gross income in the taxable year to which the subtraction relates.

5. “Generally accepted forestry management practices” has the meaning given in s. 823.075 (1) (d).

6. “Outdoor nature-based recreational activities” means hunting, fishing, hiking, sight-seeing, and cross-country skiing.

SECTION 3. 71.45 (2) (a) 16. of the statutes is created to read:

71.45 (2) (a) 16. By subtracting from federal taxable income the fair market value of a permanent conservation easement on eligible land that is donated by the claimant, in an amount of up to 50 percent of the claimant’s federal adjusted gross income if the claimant is not a farmer or a rancher or up to 100 percent of the claimant’s federal adjusted gross income if the claimant is a farmer or a rancher, to the state or to a county in this state, in the year in which the donation occurs. If the
allowable amount of a claimant’s subtraction under this subdivision exceeds the
amount of the claimant’s federal adjusted gross income, the claimant may carry
forward the amount of the unused subtraction for the next 15 taxable years and may
subtract any unused amount as provided under this subdivision. In this subdivision,
the following terms have the following meanings and the following conditions apply:

a. “Claimant” means a corporation that donates a permanent conservation
easement on eligible land to the state or to a county in this state and who claims the
subtraction under this subdivision.

b. “Conservation easement” is an easement that has the meaning given in s.
700.40 (1) (a) and that is an easement that allows the occurrence of outdoor
nature-based recreational activities and generally accepted forestry management
practices.

c. “Eligible land” means a parcel of real property that is at least 10 contiguous
acres as calculated under s. 77.82 (1) (a) 1. and that meets the percentage and the
timber production requirements specified under s. 77.82 (1) (a) 2.

d. “Farmer or rancher” means a corporation that has gross income from the
trade or business of farming, as defined in section 2032A (e) (5) of the Internal
Revenue Code, in an amount that is greater than 50 percent of the corporation’s gross
income in the taxable year to which the subtraction relates.

e. “Generally accepted forestry management practices” has the meaning given
in s. 823.075 (1) (d).

f. “Outdoor nature-based recreational activities” means hunting, fishing,
hiking, sight-seeing, and cross-country skiing.

SECTION 4. Initial applicability.
1 (1) This act first applies to taxable years beginning on January 1 of the year
2 in which this subsection takes effect, except that if this subsection takes effect after
3 July 31 this act first applies to taxable years beginning on January 1 of the year
4 following the year in which this subsection takes effect.
5
   (END)