his year, an oil and gas tax break is expected to grow so large — and gas prices drop so low — that many of Colorado’s oil wells would owe the state $0 in taxes.

Consider it the $308 million elephant in the room as Colorado lawmakers reassess the state’s crumbling fiscal picture amid the new coronavirus outbreak.

That’s how much Colorado gave back to the oil and gas industry in 2018 through one of the state’s largest tax breaks, the ad valorem tax credit. It’s only expected to grow in the coming years, depleting the state’s coffers at the time it needs money the most.

That uncertain backdrop has injected new urgency — and new complications — into conversations that lawmakers have quietly been having for months. Top lawmakers told The Colorado Sun that they plan to convene a study committee this summer to scrutinize the taxes the fossil fuel industry pays — as well as the ones it doesn’t.

A recent nonpartisan legislative analysis released found that the industry pays the second lowest severance tax rate of nine Western oil-producing states.
states, and the third lowest rate when factoring other state and local taxes. Most states impose severance taxes on minerals extracted from the earth, like coal, metals and oil and gas, in part to compensate communities for the loss of these resources. Colorado’s severance tax revenues are split between local governments and the Department of Natural Resources.

This week, lawmakers learned that severance tax collections are now projected to drop to $133 million this year, from $242 million in the 2019 fiscal year. The Legislative Council economic forecast says fossil fuel severance tax revenues could plummet even further, to $37 million next year. Because of a lag, the industry won’t get the massive tax credit owed from the 2019 production boom until 2021, even as production slows amid the one-two punch of coronavirus and an international price war. The declining revenues are part of the broader economic hit to the state budget from the current COVID-19 pandemic that is now projected to leave a hole in next year’s spending plan and prompting an 11th hour rewrite.

Want exclusive political news and insights first? Subscribe to The Unaffiliated, the political newsletter from The Colorado Sun. Join now or upgrade your membership.

Democrats and Republicans believe a study is warranted, but finding common ground may prove difficult to find — and new tax dollars even harder. Even in the best of times, an overhaul of severance taxes is a contentious political fight with one of the state’s largest industries.

The industry is hemorrhaging at the moment. Oil prices dropped 24% in a single day earlier this month amid growing hostilities between Russia and Saudi Arabia, and worldwide demand has followed prices downward as much of the industrialized world stops driving and flying during a pandemic. Closing below $24 a barrel Friday, oil prices are now well under the industry’s “breakeven” point of around $50 for new wells and short of what it costs to
keep existing operations running profitably, according to the Federal Reserve Bank of Dallas.

As a result, lawmakers in both parties say the state’s immediate budget problems can’t be addressed through higher taxes on the industry. “I don’t think there’s any blood to get out of that turnip,” said Sen. Bob Rankin, a Carbondale Republican who serves on the budget writing committee and is among those calling for a severance tax study.

Looming in the background of the financial discussion is a question that policymakers for years have avoided asking directly: Why is a state that’s committed to ambitious reductions in carbon dioxide emissions simultaneously subsidizing the fossil fuels that produce most of them?
How a tax credit benefits the oil and gas industry

Conversations about the ad valorem tax credit started long before the coronavirus ground the economy to a standstill, and long before two of the world’s largest oil producers sent the market into a tailspin.

Gov. Jared Polis, lawmakers and the state auditor’s office have all been conducting their own reviews of the state’s 208 tax breaks over the past year or more. And an unrelated audit released in January uncovered widespread reporting problems with oil and gas severance taxes that may have undermined accurate tax compliance for years.

Add in the growing pressure on the left to combat climate change, and lawmakers say they’re serious this time about taking up the issue of severance taxes — something that has come up year after year but gone nowhere.

The effort has the support of House Speaker KC Becker, and a number of lawmakers told The Sun they hope the committee will recommend legislation for the 2021 session. But given the abrupt interruption in the session from the coronavirus, much is unresolved.
The current ad valorem tax credit for the oil and gas industry allows companies to deduct 87.5% of last year’s local property taxes from their severance tax bills. And compared to other industries, oil and gas companies pay much higher local tax rates; oil and gas property values are assessed at three times the rate of other businesses. The industry has long cited this as justification for the state tax credit.

Over the years, special taxing districts have multiplied across the state, adding more layers of local taxes for the industry. Meanwhile local agencies and school districts have been steadily raising property tax rates to offset mandated cuts to residential taxes. This means more local taxes for oil and gas companies — and more tax breaks from the state. From 2008 to 2013, the ad valorem tax credit reduced severance taxes by $162 million a year on average, according to the legislative analysis, offsetting about 55% of the severance taxes owed. In the five years since then, the average tax credit has climbed to $276 million a year, reducing their severance tax bill by 72%.
As a result of the tax credit, oil and gas companies paid an average effective severance tax rate of 1.3% from 2008 to 2018. Add in other state and local taxes, and the total tax burden on oil and gas production was estimated at 5% in the 2018-19 fiscal year, or $775 million in taxes on $15.6 billion worth of production.

That’s half the 10.1% Wyoming charges, and lower even than conservative strongholds like Texas and Kansas.

**Oil and gas effective tax rates by state (FY 2018-19)**

Colorado's severance tax rates are effectively the second lowest rate among nine major fossil fuel producing states, according to a Colorado Legislative Council analysis. When you factor in all state and local taxes, Colorado has the third lowest oil and gas taxes of the group.

<table>
<thead>
<tr>
<th>State</th>
<th>Total Oil and Gas Production Value</th>
<th>Severance Taxes</th>
<th>Effective Severance Tax Rate</th>
<th>Total State and Local Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wyoming</td>
<td>$9,681.2</td>
<td>$472.9</td>
<td>4.9%</td>
<td>$977</td>
</tr>
<tr>
<td>Montana</td>
<td>$1,368.3</td>
<td>$123.1</td>
<td>9.0%</td>
<td>$127.2</td>
</tr>
<tr>
<td>North Dakota</td>
<td>$29,776.4</td>
<td>$2,618.7</td>
<td>8.8%</td>
<td>$2,697.1</td>
</tr>
<tr>
<td>Texas</td>
<td>$112,600.1</td>
<td>$5,114.6</td>
<td>4.5%</td>
<td>$9,000</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$20,814.3</td>
<td>$5,114.6</td>
<td>4.5%</td>
<td>$1,330.4</td>
</tr>
<tr>
<td>Kansas</td>
<td>$2,658</td>
<td>$54.8</td>
<td>2.1%</td>
<td>$155.8</td>
</tr>
<tr>
<td><strong>Colorado</strong></td>
<td><strong>$15,558.9</strong></td>
<td><strong>$235.7</strong></td>
<td><strong>1.5%</strong></td>
<td><strong>$775</strong></td>
</tr>
<tr>
<td>New Mexico</td>
<td>$17,024.1</td>
<td>$424.6</td>
<td>2.5%</td>
<td>$598</td>
</tr>
<tr>
<td>Utah</td>
<td>$2,914.3</td>
<td>$27.2</td>
<td>0.9%</td>
<td>$79</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$212,395.7</strong></td>
<td><strong>$10,224.8</strong></td>
<td><strong>4.8%</strong></td>
<td><strong>$15,739.5</strong></td>
</tr>
</tbody>
</table>
The recent growth of Colorado’s tax credit is one reason that if the economy goes from bad to worse, the state may have few tools to cushion the blow. In the aftermath of the dot-com bubble and the Great Recession, lawmakers transferred more than $286 million in severance tax dollars to help close budget shortfalls, according to a recent legislative memo. But over the next few years, budget writers fear Colorado won’t even have enough oil and gas tax revenue to fund Department of Natural Resources programs like clean energy, conservation and water and agricultural projects.

“In the past, the severance tax has been one of those funds that the legislature has looked to to help balance the budget,” said Sen. Dominick Moreno, a Democratic budget writer from Commerce City. “That’s not really an option we have this time around.”

Pressure is mounting to act. But to what end?

While there’s bipartisan interest in addressing the state’s severance tax pinch, political and constitutional barriers will determine what, if anything, gets done.

Reducing or eliminating the tax break outright may run afoul of the Taxpayer’s Bill of Rights, if it increases revenue by more than a “de minimis” amount — a shaky threshold that the Supreme Court recently established. In 2018, the court ruled that the Regional Transportation District and other cultural districts in Metro Denver could eliminate certain sales tax breaks that would have increased revenue by less than 1%. But changes raising a significant amount of money would likely require voter approval, which is one reason the issue has not received much political traction on the left.

Read more energy coverage from The Colorado Sun.
“When everything has to go to the ballot, there’s a question: Is it going to raise sufficient resources to justify the amount of funding that has to be raised (to run a campaign)?” said Carol Hedges, who runs the Colorado Fiscal Institute, which advocates for higher taxes. For years, the answer has been no, with her group and other liberal advocates pushing for things like income tax hikes instead.

To environmentalists, the discussion is long overdue. And the growing pressure to tackle climate change is a key reason the issue may break through. “What we are talking about is the oil and gas industry’s social license to operate — if they are using public resources and polluting a public good, our environment, our communities, they need to be paying into the system,” said Jessica Goad, the deputy director of Conservation Colorado. “Zero payment is just absolutely unacceptable.”

A Democratic proposal to take away a similar tax break provided to the coal industry and replace it with a solar garden tax break may provide a template. But the financial impact is minimal, increasing coal severance taxes by less than $6 million a year.
Oil and gas activities have moved closer to neighborhoods in Colorado, including this Crestone Peak site known as the Pratt pad in Erie. (Doug Conarroe, The Colorado Sun)

Sen. Chris Hansen, the Denver Democrat who co-sponsored the coal bill, is among those pushing for an interim study, which he hopes will help inform broader negotiations on state tax changes.

“Which tax expenditures do we want and which are not working well for the state?” Hansen asked. “The earned income tax credit is important ... but severance tax exemptions, is that really how we want to spend taxpayer money?”

Others who support severance tax changes say they’re “very skeptical” of raising taxes on fossil fuels in the process. Rankin, the Republican budget writer, wants Hansen’s coal bill to get more study, rather than pass this session.
Coal companies, Rankin said, “are distressed now. So that certainly affects my counties.”

An oil and gas industry spokesman said he’s open to “broader discussions involving additional stakeholders about our tax system,” but warned against the added damage a tax hike could inflict on the economy and people’s livelihoods at a time of crisis.

“Now is definitely not the time for a tax increase,” said Dan Haley, the president and CEO of the Colorado Oil and Gas Association. “The global economy sits on the brink, given the pandemic we’re facing, and our leaders need to be doing everything they can to make sure companies aren’t going bankrupt and laying off thousands of employees.”

To Goad, the environmental advocate, COGA and the companies it represents are the real reason these tax breaks persist even when they’re at odds with the state’s stated goals on climate change.

The industry has spent heavily to defeat ballot measures and candidates it views as hostile to its interests. However, the new Democratic statehouse majority in 2019 passed tougher industry regulations into law, breaking the legislative stalemate that persisted through years of divided government.

“It speaks to the power of the industry,” Goad said. “The industry for many years has had this stranglehold on Colorado politics — and I think we may be entering into a different phase.”
Colorado scrutinizes oil and gas tax breaks as severance taxes drop and the state budget gets tight – The Colorado Sun

Colorado child care centers fear for their survival as coronavirus brings closures, enrollment dips

Colorado scrutinizes oil and gas tax breaks as severance taxes drop and the state budget gets tight

Inside a Colorado coronavirus ward: The frightening reality for doctors as first cases arrive

Social distancing could drag on for months in Colorado. How will we stay sane?

Opinion: The ACA changed how we treat cancer — and it is all at risk because of our current leadership
Colorado child care centers fear for their survival as coronavirus brings closures, enrollment dips

The pandemic is testing the stability of the state’s child care system – one that will be critical to an economic recovery.

Erica Breunlin
CORONAVIRUS

Inside a Colorado coronavirus ward: The frightening reality for doctors as first cases arrive

A Denver Health physician describes her first week with confirmed and suspected patients, and her isolating routine at home

Jennifer Brown

MAR 23, 2020 3:00AM MDT
CORONAVIRUS

Social distancing could drag on for months in Colorado. How will we stay sane?

Experts offer ways to meet the mental health challenges — and risks including abuse and neglect — of prolonged social isolation.

Kevin Simpson

MAR 23, 2020 2:58AM MDT