LONG-TERM CARE INSURANCE CREDIT

EVALUATION SUMMARY | APRIL 2022 | 2022-TE17

TAX TYPE	Income	REVENUE IMPACT (TAX YEAR 2018)	$2.6 million
YEAR ENACTED	1999	NUMBER OF TAXPAYERS	12,500
REPEAL/EXPIRATION DATE	None		

KEY CONCLUSION: The Long-Term Care Insurance Credit does not appear large enough to encourage most individuals who qualify to purchase long-term care insurance and its relative benefit has declined since it was established because premium costs have increased.

WHAT DOES THE TAX EXPENDITURE DO?

The Long-Term Care Insurance Credit [Section 39-22-122 (1) and (3), C.R.S.] allows certain taxpayers to claim a credit against their state income taxes for 25 percent of the premiums they paid during the year for long-term care insurance, up to $150 per policy. Statute allows the credit only for taxpayers who:

- Have federal taxable income below $50,000, are filing a single or joint federal return, and are claiming the credit for one policy; or
- Have federal taxable income below $100,000, are filing a joint return, and are claiming the credit for separate policies that cover both individuals on the return.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the credit do not state its purpose; therefore, we could not definitively determine the General Assembly's original intent. Based on our review of the credit's legislative history and operation; similar credits in other states; and discussions with Division of Insurance staff, we considered two potential purposes:

1. To encourage taxpayers with lower and middle incomes to purchase long-term care insurance by making it more affordable, and
2. To reduce the State's costs for long-term care services and supports.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to:

- Consider amending statute to establish a statutory purpose and performance measures for the credit.
- Review the effectiveness of the credit and could consider changes to the credit cap and income limits.

LONG-TERM CARE INSURANCE CREDIT

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

The Long-Term Care Insurance Credit (Long-Term Care Credit) [Section 39-22-122(1) and (3), C.R.S.] allows certain taxpayers to claim a credit against their state income taxes for 25 percent of the premiums they paid during the year for long-term care insurance, up to $150 per policy. If the credit exceeds the taxpayer's income tax liability, the remaining credit cannot be carried forward to be used in a future tax year or refunded. Statute allows the credit only for taxpayers who:

- Have federal taxable income below $50,000, are filing a single or joint federal income tax return, and are claiming the credit for one policy; or

- Have federal taxable income below $100,000, are filing a joint income tax return, and are claiming the credit for separate policies that cover both individuals on the return.

Long-term care insurance is designed to help pay for care that is needed due to chronic illness, disability, injury, or the general effects of aging. To be eligible for the credit, policies must provide coverage for no less than 12 consecutive months, and help cover the cost of assistance with activities of daily living, such as bathing and dressing; nursing care; and physical, occupational, or speech therapy for individuals who cannot perform the tasks independently due to a chronic illness or disability. Additionally, policies: (1) must provide coverage for care in a setting other than an acute care unit of a hospital, and (2) shall not include any insurance policy offered primarily to provide basic hospital expense or Medicare supplemental coverage [Section 10-19-103(5), C.R.S.].

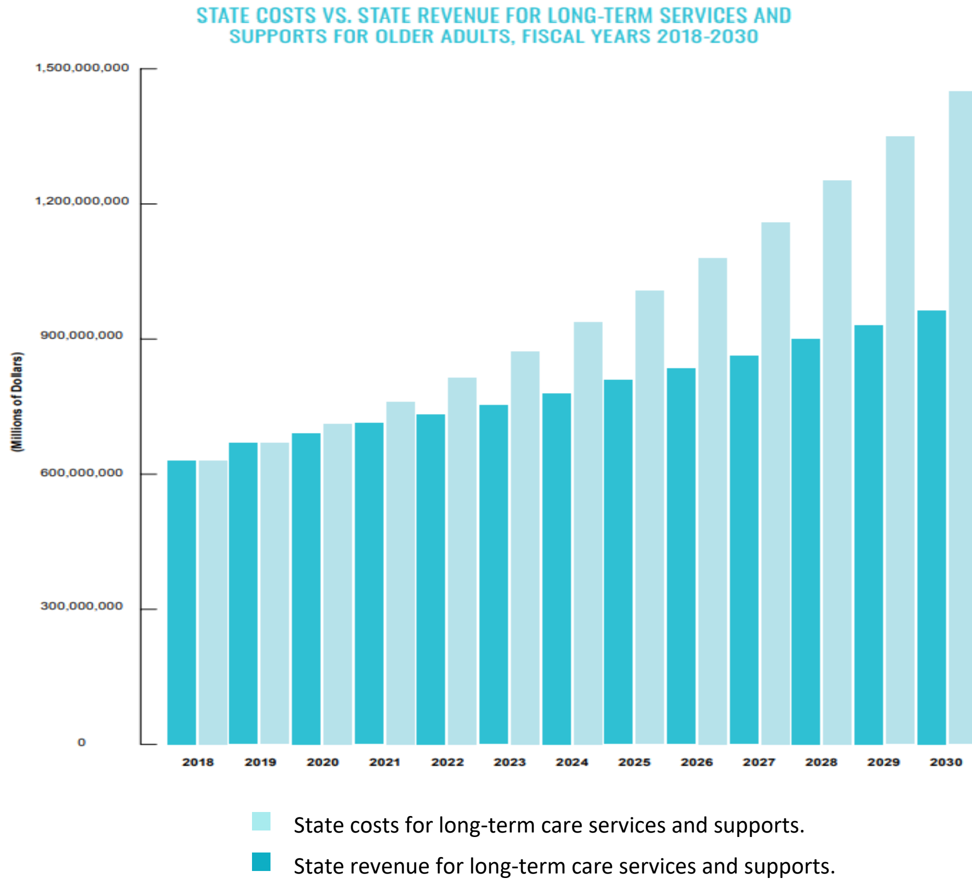
In 1999, House Bill 99-1246 created the Long-Term Care Credit and it has remained substantively unchanged since that time. Taxpayers claim the credit on Line 26 of the Individual Credit Schedule [Form 104 CR] when filing their income tax return and must also submit supporting documentation to show the premiums they paid.

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute does not explicitly identify the intended beneficiaries of the credit. Based on statute, Department of Revenue (Department) guidance, and discussions with the Division of Insurance within the Department of Regulatory Affairs (Division), we inferred that the beneficiaries of the Long-Term Care Credit are eligible Colorado taxpayers who incur expenses in purchasing or paying premiums on long-term care insurance. The U.S. Department of Health and Human Services estimated that 70 percent of individuals 65 years or older will require long-term care services or support at some point and that 48 percent will pay for at least some of their care. People buy long-term care insurance to protect their income and savings, and to give themselves options in their choice of care. In general, regular health insurance does not cover long-term care; Medicare provides limited coverage; and Medicaid offers some coverage, but with limited choices in service providers and requires recipients to have income and assets below certain thresholds.

Additionally, to the extent that the credit encourages individuals to purchase long-term care insurance, the State may also benefit, since individuals with insurance coverage may be less likely to need state-funded long-term care services. As shown in EXHIBIT 1, the cost for state-funded long-term care programs, such as those provided through Medicaid, are expected to increase significantly in the coming years, with costs significantly exceeding projected available revenue by 2030.

EXHIBIT 1. PROJECTED STATE-FUNDED COST AND REVENUE FOR LONG-TERM CARE SERVICES



SOURCE: The 2020 Strategic Action Plan on Aging by the State of Colorado's Strategic Action Planning Group on Aging.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the Long-Term Care Credit do not state its purpose; therefore, we could not definitively determine the General Assembly's original intent. Based on our review of the credit's legislative history and operation; news articles from the time of its passage; similar credits in other states; and discussions with Division staff, we considered two potential purposes:

1. To encourage taxpayers with lower and middle incomes to purchase long-term care insurance by making it more affordable, and

2. To reduce the State's costs for long-term care services and supports.

At the time the credit was created, there was significant interest at the federal and state levels in ensuring private long-term care insurance was accessible. For example, the federal government enacted tax benefits for qualifying long-term care insurance policies under the Health Insurance Portability and Accountability Act (1996) and other states, including Minnesota, New York, and Maryland, enacted long-term care insurance tax credits between 1999 and 2000. According to Division staff and reviews of similar policies in other states, these type of tax credits were created to incentivize consumers to buy long-term care policies. In addition, according to reviews of similar tax expenditures in other states and other reports, states were interested in encouraging individuals to purchase private insurance both to improve the accessibility of care for individuals who require long-term care and also to help reduce the costs that states ultimately bear, often through increased Medicaid costs, when uninsured individuals require long-term care.

IS THE TAX EXPENDITURE MEETING ITS PURPOSES AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We could not definitively determine whether the Long-Term Care Credit is meeting its purpose because no purpose is provided in statute or its enacting legislation. However, we found that the credit is only

meeting the potential purposes we considered to conduct this evaluation to a limited extent because the benefit it provides appears insufficient to make long-term care insurance significantly more affordable. Therefore, it likely has only a small impact on individuals' decisions on whether to purchase qualifying policies.

Statute and the credit's enacting legislation do not provide performance measures to evaluate its effectiveness. We created and applied the following performance measures to determine whether the Long-term Care Credit is meeting its potential purposes:

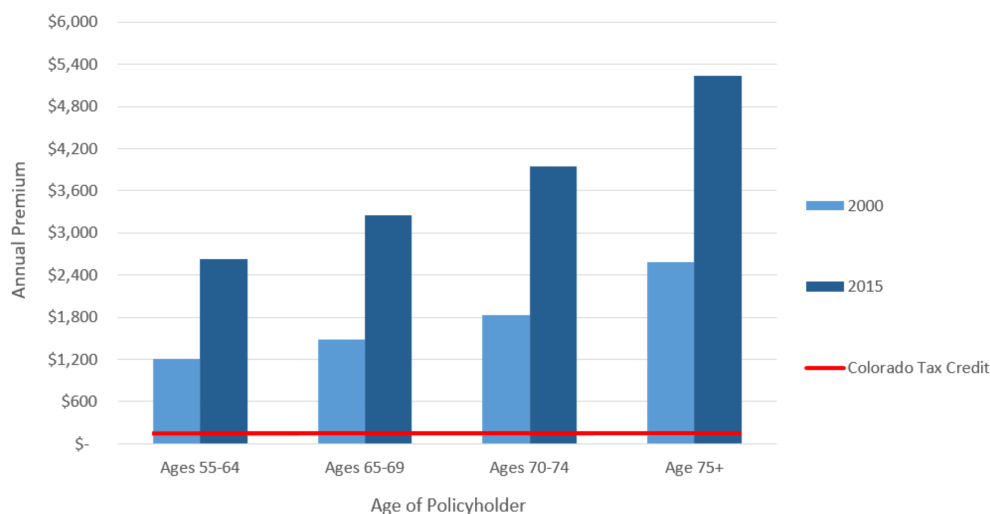
PERFORMANCE MEASURE #1: *To what extent has the Long-term Care Credit incentivized taxpayers to buy long-term care insurance policies, and made those policies more affordable for low- and middle-income taxpayers?*

RESULT: Overall, we found that the credit is likely too small to encourage most eligible taxpayers to purchase long-term care insurance, although it provides some financial support for individuals who qualify. As discussed, statute caps the credit at $150 per year, per policy. In comparison, according to information reported by the National Association of Insurance Commissioners (NAIC) and LifePlans, a long-term care and health insurance provider, in 2015, the most recent year with available data, the average cost of a policy ranged from $2,624 annually for individuals aged 55 to 64 years, up to $5,241 for individuals 75 and over. Therefore, in 2015, the credit would have offset the cost of these policies by between 3 and 6 percent. Although this tax benefit could be enough to influence some taxpayers for whom long-term care insurance is only marginally affordable, it appears insufficient to drive most individuals' decisions to purchase coverage or cause a significant increase in the number of individuals with long-term care insurance.

The cost of long-term care policies has continued to rise, while the credit amount has remained unchanged. EXHIBIT 2 compares the premium cost of long-term care insurance policies in 2000 and 2015 to the

maximum credit value. As shown, the premium cost for a policy more than doubled during this period, while the maximum credit amount, which has not been adjusted since it was created in 1999, has covered a decreasing proportion of the cost.

EXHIBIT 2. PROPORTION OF ANNUAL PREMIUM COSTS[1] COVERED BY THE CREDIT BETWEEN 2000 AND 2015



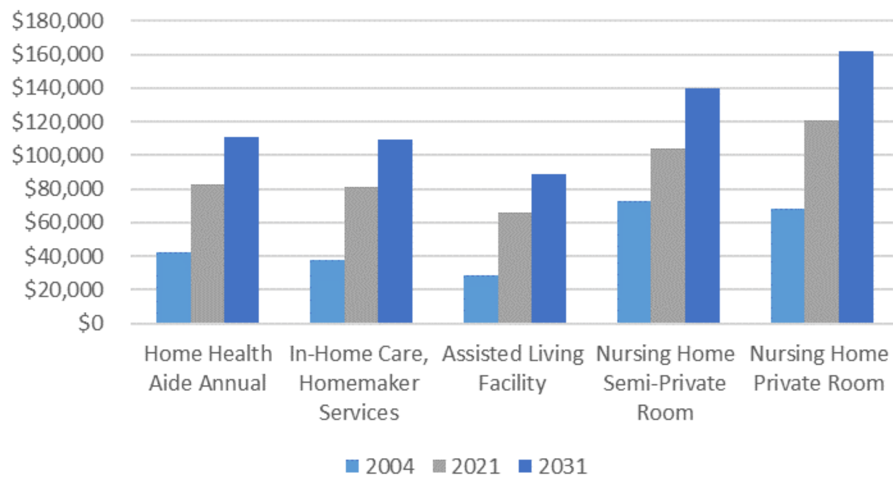
SOURCE: Office of the State Auditor analysis of data from LifePlans and the National Association of Insurance Commissioners.

1 The premium costs in this chart are an average of both single male and single female policies, ages 55 to over 75.

According to Division staff, long-term care insurance is increasingly difficult for most individuals to afford and is primarily purchased by those with higher incomes. This is consistent with Department data, which shows that between Tax Years 2011 and 2018, the number of taxpayers who claimed the credit decreased from 18,975 to 12,532, a 34 percent decline. Furthermore, the taxpayers who claimed the credit in 2018 represent only about 10 percent of the 127,216 long-term care insurance policies that were active in Colorado as of 2018, according to the NAIC. Therefore, although it is possible that some eligible taxpayers did not claim the credit, it appears that most individuals with long-term care insurance may not qualify for the credit, likely because those who can afford long-term care insurance policies are primarily individuals with higher incomes.

Increases in long-term care costs have caused insurance companies to increase premiums to cover expected benefits payments. As shown in EXHIBIT 3, the annual cost of long-term care services has increased over time and is expected to grow between 2021 and 2031. Therefore, it appears that the cost of long-term care insurance policies is likely to increase, further reducing their overall affordability and decreasing the relative impact of the credit because it will cover a decreasing percentage of annual premiums.

EXHIBIT 3. ANNUAL COSTS OF LONG-TERM CARE 2004 TO 2031 (ESTIMATED)



SOURCE: Office of the State Auditor review of Genworth Financial report anticipating long-term care insurance services and supports costs. Genworth Financial is an insurance provider that collaborates with the National Association of Insurance Commissions to produce reports on long-term care insurance.

PERFORMANCE MEASURE #2: *To what extent has the Long-Term Care Insurance Credit reduced the State's long-term care program costs?*

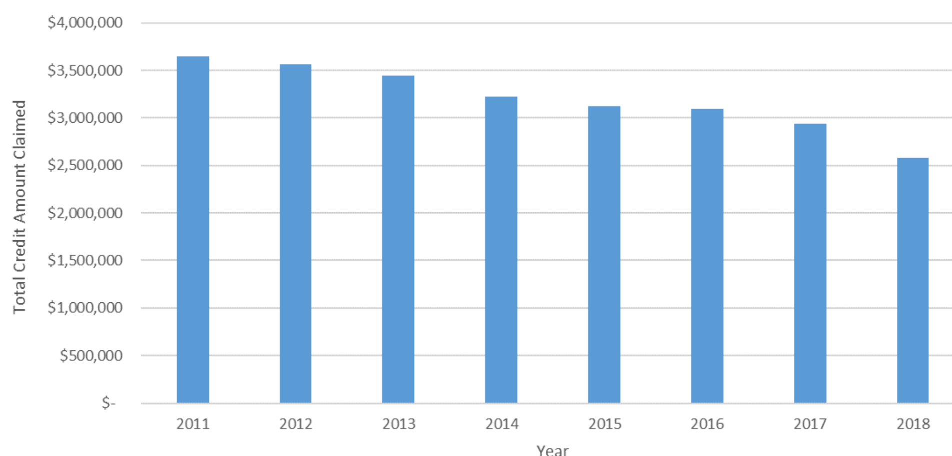
Due to the relatively low dollar amount of the credit, it appears that the credit is too small to influence many taxpayers to purchase long-term care insurance. As a result, the credit has also likely had a relatively small impact on the State's cost for providing long-term care services. Further, although $2.6 million in credits were claimed in Tax

Year 2018, this represents less than 1 percent of the $630 million the State spent on long-term care services during Calendar Year 2018. Therefore, it appears that the support the credit provides to taxpayers who purchase long-term care insurance has not likely had a substantial impact on overall state costs.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

Based on Department data, the Long-Term Care Insurance Credit had a revenue impact of about $2.6 million in Tax Year 2018, and provided a corresponding benefit to about 12,500 taxpayers, who claimed an average credit amount of about $200. This amount exceeds the $150 per policy credit cap because joint filers may claim the credit for one policy each, up to $300. As shown in EXHIBIT 4, the amount claimed has steadily decreased from about $3.6 million in 2011, to about $2.6 million in 2018.

EXHIBIT 4. TOTAL CREDIT AMOUNT CLAIMED TAX YEARS 2011-2018



SOURCE: Office of the State Auditor analysis of the Department of Revenue Annual Reports data.

As discussed, long-term care insurance costs have increased substantially in recent years, which has resulted in fewer lower and middle-income taxpayers, who would qualify for the credit, purchasing coverage. Because long-term care costs are expected to continue rising, it is likely that the total credit amount claimed will continue to decline as fewer lower and middle-income taxpayers are able to afford policies.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

If the credit was eliminated, the 12,500 taxpayers who claimed the credit in Tax Year 2018 would not be able to claim 25 percent of their long-term care insurance premiums, up to $150 per policy, as a credit against their state income tax liability. To the extent that the credit caused these taxpayers to purchase policies, this could result in fewer Coloradans being covered by long-term care insurance. As discussed, we estimated that the credit reduced the cost of eligible policies by about 3 to 6 percent, which appears unlikely to be a significant enough difference to change most taxpayers' decisions regarding whether to purchase coverage. However, eliminating the credit would have the largest impact on taxpayers for whom long-term care is marginally affordable. Further, the credit provides some financial support for lower and middle-income taxpayers who purchase long-term care insurance, which would no longer be available. To the extent that eliminating the Long-Term Care Insurance Credit would cause some current beneficiaries to no longer be able to afford insurance, these individuals would be at risk of having to pay for long-term care out of pocket, the cost of which could be prohibitively expensive, or foregoing necessary services. In addition, to the extent these individuals would qualify for the State's long-term care programs, eliminating the credit could increase costs to the State, although as discussed, it appears this impact would be small compared to the amount the State currently spends on long-term care.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

Forty-one other states (excluding Colorado) and the District of Columbia impose an individual income tax. Of these, 14 states and the District of Columbia allow taxpayers to take a deduction from state taxable income for long-term care insurance expenses, and, like Colorado, six states allow for a credit. For example, Maryland offers a onetime credit of $500 and Louisiana offers a credit equal to 7 percent of total premiums paid each year, which based on the cost of a policy, can exceed $150. Additionally, 21 states follow federal guidelines, which allow taxpayers to deduct the amount they spend for qualified long-term care insurance policies from their taxable income so long as 1) the taxpayer itemizes their deductions, and 2) their unreimbursed medical expenses exceed 7.5 percent of their adjusted gross income. However, as discussed below, most taxpayers do not meet these requirements.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

We did not identify any state tax expenditures with a similar purpose; however, there are several federal tax expenditures that may help individuals to purchase long-term care insurance. Additionally, because Colorado uses federal taxable income as the starting place to determine Colorado taxable income, taxpayers who claim a federal deduction would also receive a state deduction. Two federal tax benefits are:

FEDERAL DEDUCTIONS—Federal tax laws allow taxpayers to deduct the amount they spend for qualified long-term care insurance policies from their federal taxable income so long as 1) the taxpayer itemizes their deductions, and 2) their unreimbursed medical expenses exceed 7.5 percent of their adjusted gross income. If the insured qualifies for federal deductions, the deduction limit is determined by age. However, according to the American Association of Retired Persons Public Policy Institute, few taxpayers meet this qualification.

SAVINGS ACCOUNTS—Taxpayers may also pay for long-term care insurance expenses using other federal tax-advantaged medical accounts such as a Health Savings Accounts, or Archer Medical Savings Accounts. Furthermore, if a taxpayer's policy is used to reimburse qualified expenses, then the insured may not owe federal income tax on their benefits.

There are also state-level programs that may help individuals with long-term care costs:

PARTNERSHIP POLICIES—The General Assembly passed legislation allowing for long-term care insurance partnership policies in 2006. This policy type allows consumers to protect their personal assets in the event that they must apply for Medicaid to pay for long-term care services. It was the General Assembly's intent that the legislation would "encourage individuals to purchase long-term care insurance" instead of first expending all of their personal resources, then ultimately relying on Medicaid, to cover the cost of long term care [Section 25.5-6-110(2), C.R.S.]. According to information presented by the NAIC, partnership policies represented slightly over two in five sales nationally in 2015.

LONG-TERM CARE PROGRAMS—Several state programs administered by the Colorado Department of Health Care Policy and Financing and Department of Human Services provide support for long-term care services. These programs include home care, long-term home health, home- and community-based services, assisted living, skilled nursing, and others—all of which are primarily funded through Medicaid and Medicare, and are provided to eligible taxpayers. According to information from the Colorado Health Institute, the State spent about $630 million on long-term care programs in Calendar Year 2018.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

We did not encounter any data constraints that impacted our ability to evaluate the tax expenditure.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO ESTABLISH A STATUTORY PURPOSE AND PERFORMANCE MEASURES FOR THE CREDIT. As discussed, statute and the enacting legislation do not state the credit's purpose or provide performance measures for evaluating its effectiveness. Therefore, for the purposes of our evaluation, we considered two potential purposes for the credit:

1. To encourage taxpayers with lower and middle incomes to purchase long-term care insurance by making it more affordable.

2. To reduce the State's costs for long-term care services and supports.

We identified these purposes based on our review of other state credits, consideration of the historical context for long-term care insurance, and discussions with state departments. We also developed performance measures to assess the extent to which the credit is meeting this potential purpose. However, the General Assembly may want to clarify its intent for the credit by providing a purpose statement and corresponding performance measure(s) in statute. This would eliminate potential uncertainty regarding the credit's purpose and allow our office to more definitively assess the extent to which the credit is accomplishing its intended goal(s).

THE GENERAL ASSEMBLY MAY WANT TO REVIEW THE EFFECTIVENESS OF THE CREDIT AND COULD CONSIDER CHANGES TO THE CREDIT CAP AND INCOME LIMITS. As discussed, we found that the Long-Term Care Insurance Credit is only meeting its purpose to a limited extent because it is likely too small to encourage most eligible individuals to purchase long-term care insurance, covering approximately 3 to 6 percent of typical annual premiums. Even with the credit, according to Division staff, long-term care insurance is often difficult for many individuals to afford and most coverage is purchased by individuals with high incomes. Additionally, the impact of the credit has decreased over time because, since 1999 when the credit was established, the cost of long-

term care policies has more than doubled, but the maximum credit available has remained at $150 annually per policy.

We also found that there has been a steady decline in the number of taxpayers who claim the credit, with claims falling from 18,975 to 12,532—a 34 percent decrease—between Tax Years 2011 and 2018. This decline appears to have occurred, at least in part, because the number of individuals who meet the income limits for the credit (i.e., under $50,000 for individual filers and $100,000 for joint filers) and can afford long-term care insurance has declined as household incomes in the state and costs for long-term care have grown. When the credit was established in 1999, the household median income of Coloradans was about $47,000. Since that time, the median household income in Colorado has grown by about 60 percent, to $75,000 in Calendar Year 2020. However, the credit's income limits have not been adjusted since it was established.

Therefore, the General Assembly could consider evaluating the amount of the credit and the income limits to determine whether changes are needed to increase the effectiveness of the credit. Any changes to the credit cap or income limits would likely increase the credit's revenue impact to the State.