

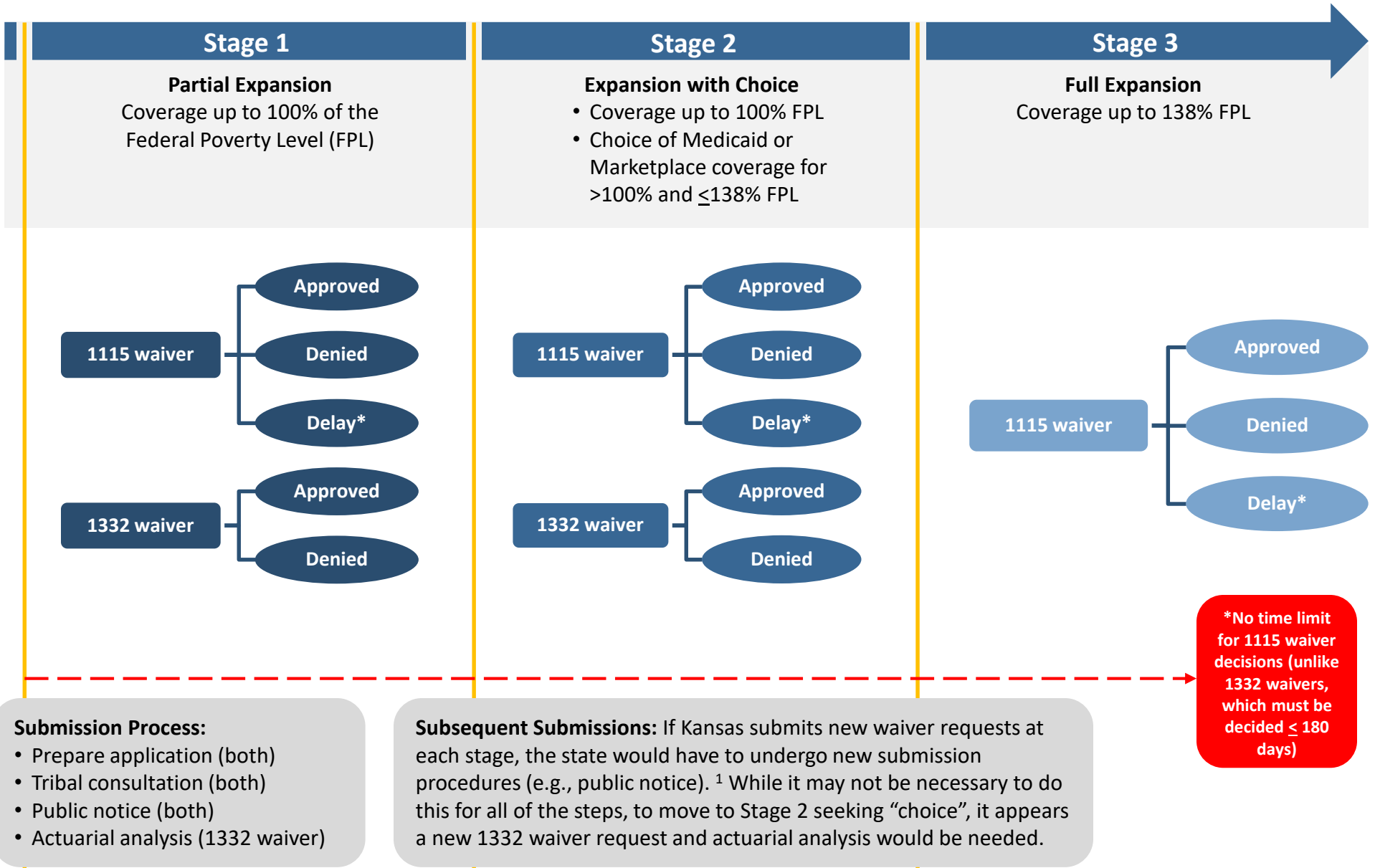
Coverage Components of Senate and House Proposals to Expand Medicaid in Kansas

Medicaid Expansion Council Meeting

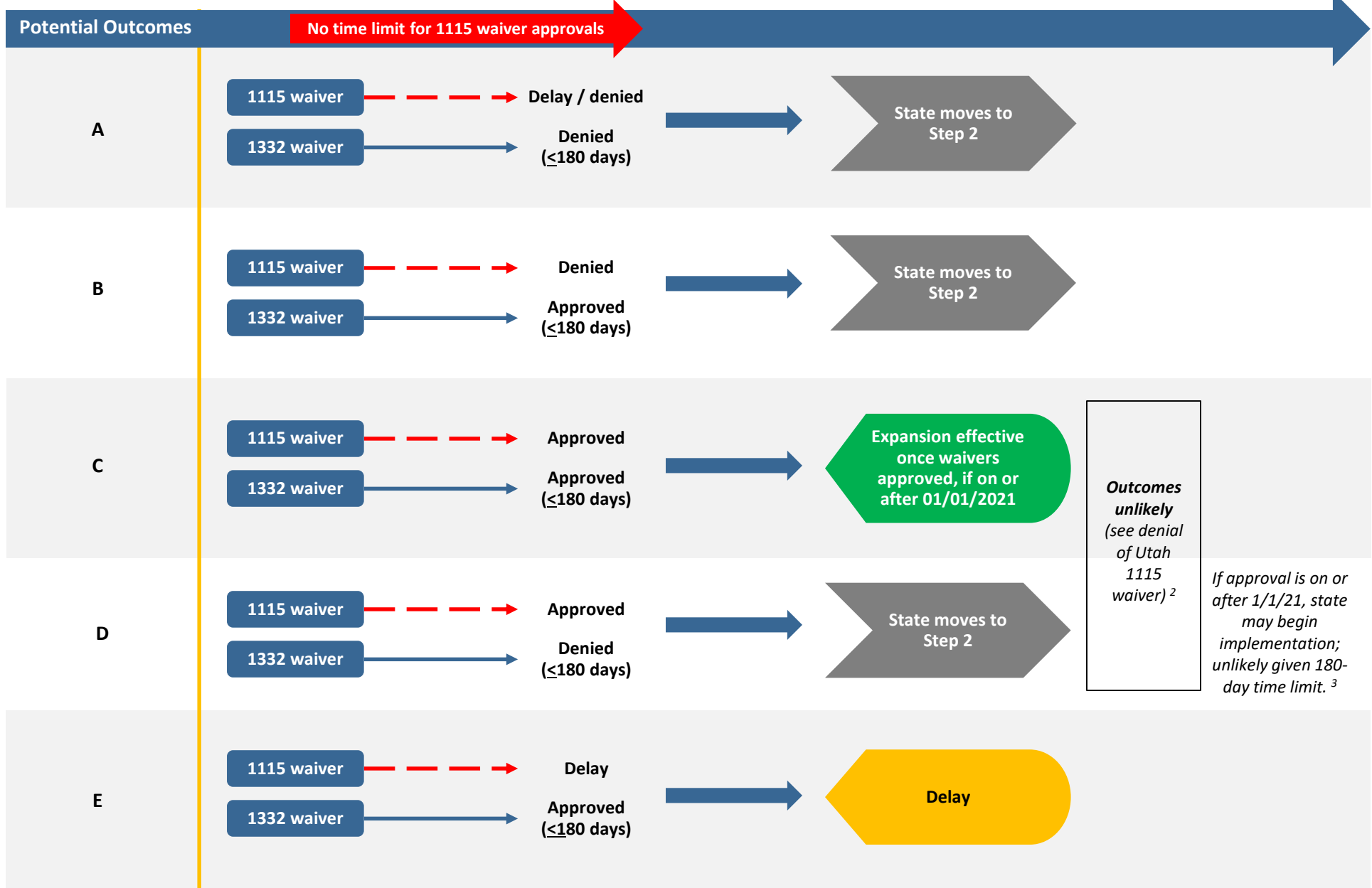
December 12, 2019

Senate Proposal

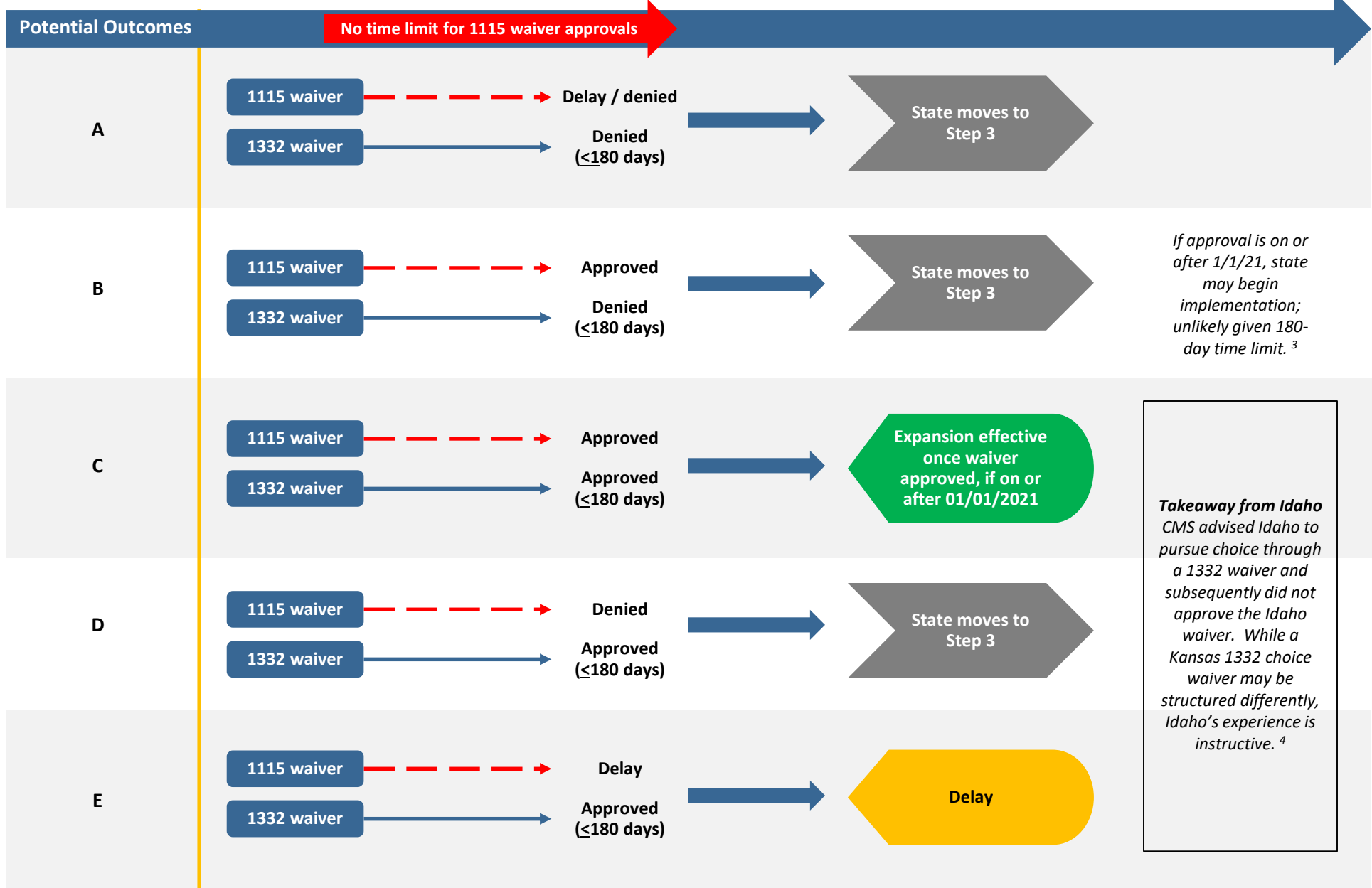
Overview: Three Step Approach to Coverage



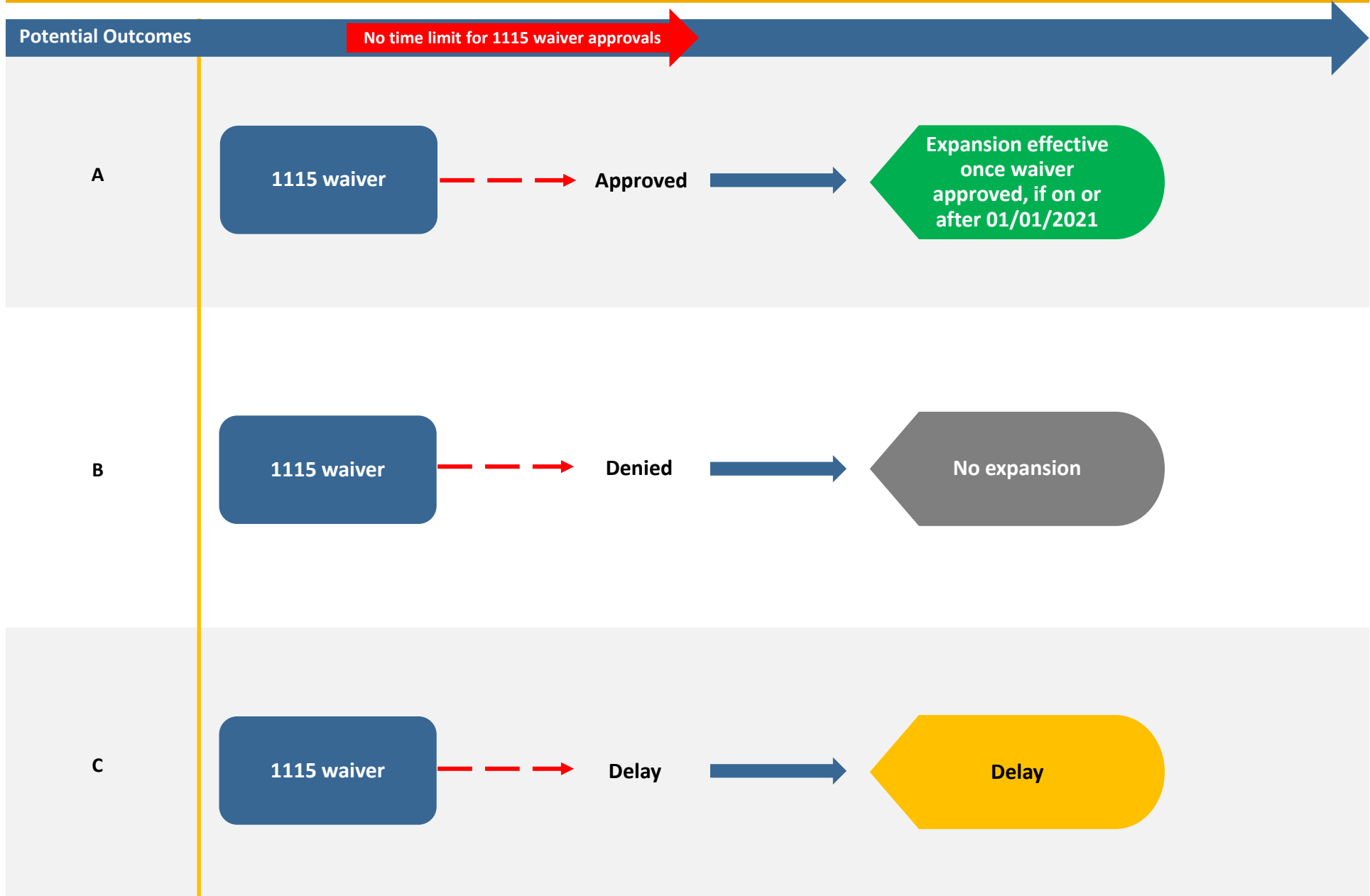
Mapping Out Step 1



Mapping Out Step 2



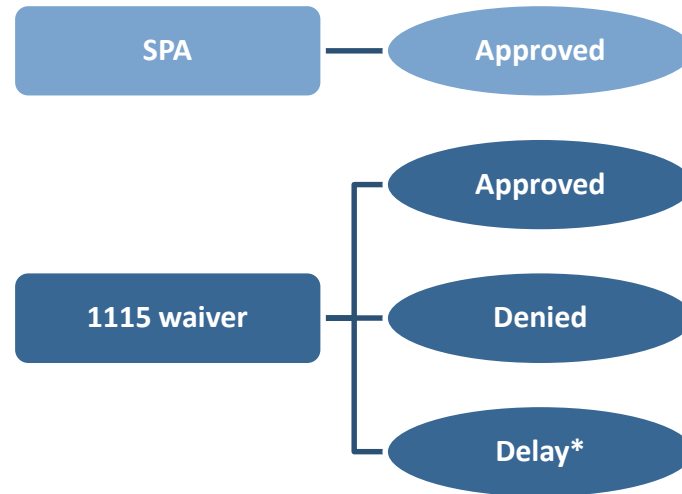
Mapping Out Step 3



H.B. 2066

Approach to Coverage

Full Expansion: Coverage up to 138% FPL ⁵



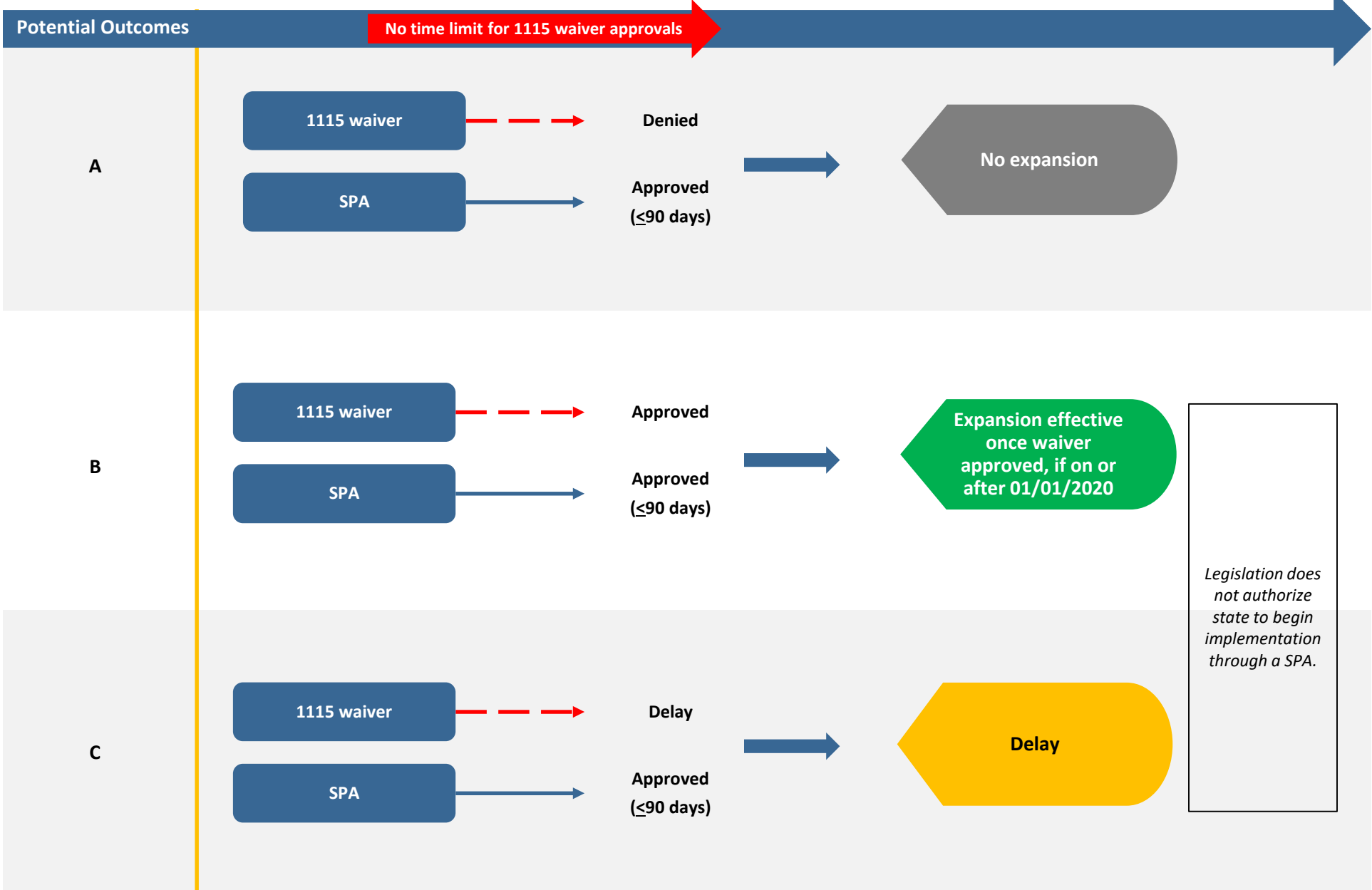
SPAs are submitted to effectuate expansions, regardless of whether a state is pursuing an 1115 waiver when expanding coverage. SPAs must be acted on ≤ 90 days (or else become automatically effective). CMS is permitted to “stop the clock” once for questions. Because expansion is a state option, a properly completed SPA will be approved.

***No time limit for 1115 waiver decisions**

Submission Process:

- Prepare application
- Tribal consultation
- Public notice

Mapping Out the Approach



Potential Approach to Ensure Timely Implementation

- ✓ Allow the Department of Health & Environment to begin implementing expanded coverage once CMS approves the SPA (waiver approval would follow).

Other states where expansions contemplate 1115 waivers have taken a similar approach. Virginia’s authorizing legislation⁶ for its Medicaid expansion program provides as follows:

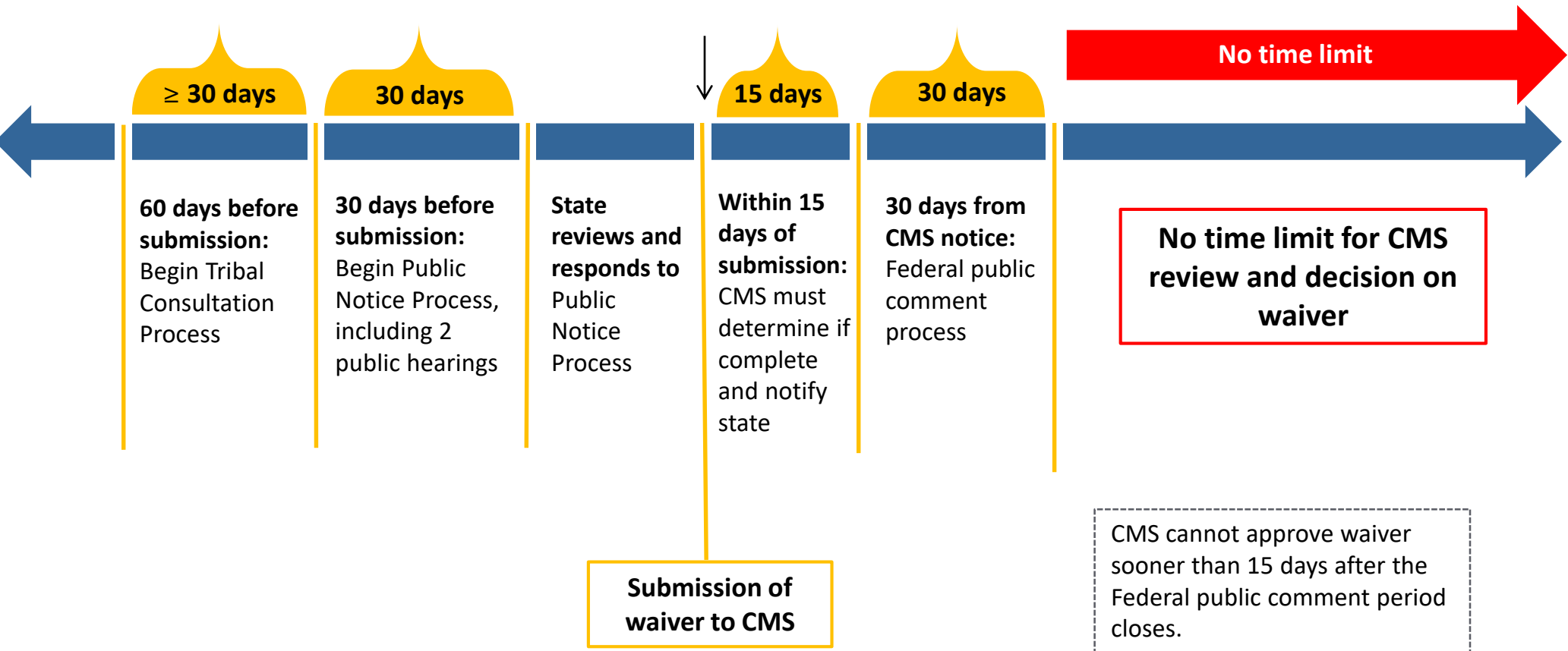
“[The Virginia Department of Medical Assistance Services] shall submit the § 1115 demonstration waiver application to CMS for approval. *If the State Plan amendments are affirmatively approved by CMS prior to the submission of the waiver, Medicaid coverage for newly eligible individuals may be implemented.*”

1. The Senate Committee Draft could be read to permit (1) a sequential submission of the necessary waiver requests for the three coverage approaches or (2) an initial waiver request that outlines all three potential coverage approaches. The latter strategy would likely only be available for an 1115 waiver application, since it appears a new 1332 waiver submission would be needed to request choice (the second coverage approach) from CMS. This is because asking for choice, rather than just reinsurance, would require CMS to waive different federal requirements and require the state to conduct a new actuarial analysis.
2. CMS rejected Utah's request to receive the enhanced federal match rate available under Medicaid expansion to cover individuals only up to 100% of the Federal Poverty Level (FPL) and subsequently announced this policy more generally. See CMS, Letter to Governor Gary R. Herbert (Aug. 16, 2019), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ut/per-capita-cap/utper-capita-cap-correspondence-ltr-20190816.pdf>; see also CMS, Statement on Partial Medicaid Expansion Policy (Jul. 29, 2019), <https://www.cms.gov/newsroom/press-releases/cms-statement-partial-medicaid-expansion-policy>.
3. Outcome D is unlikely: CMS's narrow window (180 days) to make a determination on 1332 waiver requests suggests the federal government may reach a decision on the state's 1332 waiver application first. However, if this scenario does occur, the Senate bill allows Kansas to begin implementing expansion if an 1115 waiver application is approved while the state awaits a decision on a 1332 waiver request. See § 2(c)(1)(B). Though the language is ambiguous, it is possible the Senate Committee Draft *requires* Kansas to begin this implementation if an 1115 waiver is approved on or after January 1, 2021, since the bill provides that Medicaid coverage "shall be granted" to eligible adults on and after that date "subject to all requirements and limitations established" in the bill. See § 2(b).
4. Idaho requested a 1332 waiver to allow individuals with incomes between 100% and 138% FPL to choose between Medicaid and subsidized Marketplace coverage. In response, CMS replied that the state's request would "not be approvable" because the state could not demonstrate compliance with the statutory guardrails for 1332 waivers, particularly the requirement for deficit neutrality. See CMS, Letter to Dean Cameron, Director, Idaho Department of Insurance (Aug. 29, 2019), <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Idaho-Notice-of-Preliminary-Determination-of-Incompleteness.pdf>. To the extent Kansas's proposal for choice is different from Idaho's, CMS may make a different determination.
5. While the text of HB 2066 refers to an income limit of 133% FPL for the expansion population, the *effective* income limit will be 138% FPL due to a 5% income disregard. See Social Security Act § 1902(e)(14)(I)(i). Because the Senate Committee Draft refers to an income limit of 138% FPL, we have used the effective income limit of 138% FPL when discussing the House legislation for consistency.
6. Virginia 2018-2020 Biennium Budget (HB 5002), Item 303, Section SS(4)(a), <https://budget.lis.virginia.gov/item/2018/2/HB5002/Chapter/1/303>.

Appendix

1115 Waiver Submission and Decision Timeline

The 1115 waiver review and decision process is often lengthy. There is no time limit for CMS to review and make a decision on a waiver.



Notes: The timeline above reflects changes that the Affordable Care Act (ACA) made to the Section 1115 waiver approval process, requiring more transparency and public input on these waivers. In April 2012, CMS updated the review process for Section 1115 in accordance with Section 10201(i) of the ACA.

Section 1332 Waiver Process Timeline

