§ 669-h. Excelsior scholarship. 1. Eligibility. An excelsior scholarship award shall be made to an applicant who: (a) is matriculated in an approved program leading to an undergraduate degree at a New York state public institution of higher education; (b) if enrolled in (i) a public institution of higher education prior to application, has completed at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study or (ii) an institution of higher education prior to application, has completed at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study and which were accepted upon transfer to a public institution of higher education; (c) enrolls in at least twelve credits per semester and completes at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study except in limited circumstances as prescribed by the corporation in regulation. Notwithstanding, in the student's last semester, the student may take at least one course needed to meet his or her graduation requirements and enroll in and complete at least twelve credit hours or its equivalent. For students who are disabled as defined by the Americans With Disabilities Act of 1990, 42 USC 12101, the corporation shall prescribe rules and regulations that allow applicants who are disabled to be eligible for an award pursuant to this section based on modified criteria; (d) has an adjusted gross income for the qualifying year, as such terms are defined in this subdivision, equal to or less than: (i) one hundred thousand dollars for recipients receiving an award in the two thousand seventeen--two thousand eighteen academic year; (ii) one hundred ten thousand dollars for recipients receiving an award in the two thousand eighteen--two thousand nineteen academic year; and (iii) one hundred twenty-five thousand dollars for recipients receiving an award in the two thousand nineteen--two thousand twenty academic year and thereafter; and (e) complies with the applicable provisions of this article and all requirements promulgated by the corporation for the administration of the program. Adjusted gross income shall be the total of the combined adjusted gross income of the applicant and the applicant's parents or the applicant and the applicant's spouse, if married. Qualifying year shall be the adjusted gross income as reported

on the federal income tax return, or as otherwise obtained by the corporation, for the calendar year coinciding with the tax year established by the U.S. department of education to qualify applicants for federal student financial aid programs authorized by Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, for the school year in which application for assistance is made. Provided, however, if an applicant demonstrates to the corporation that there has been a change in such applicant's adjusted gross income in the year(s) subsequent to the qualifying year which would qualify such applicant for an award, the corporation shall review and make a determination as to whether such applicant meets the requirement set forth in paragraph (d) of this subdivision based on such year. Provided, further that such change was caused by the death, permanent and total physical or mental disability, divorce, or separation by judicial decree or pursuant to an agreement of separation which is filed with a court of competent jurisdiction of any person whose income was required to be used to compute the applicant's total adjusted gross income.

2. Amount. Within amounts appropriated therefor and based on availability of funds, awards shall be granted to applicants that the corporation has determined are eligible to receive such awards. The corporation shall grant such awards in an amount up to actual tuition; provided, however, (a) a student who receives educational grants and/or scholarships that cover the student's full cost of attendance shall not be eligible for an award under this program; and (b) an award under this program shall be applied to tuition after the application of payments received under the tuition assistance program pursuant to section six hundred sixty-seven of this subpart, tuition credits pursuant to section six hundred eighty-nine-a of this article, federal Pell grant pursuant to section one thousand seventy of title twenty of the United States code, et seq., and any other program that covers the cost of attendance unless exclusively for non-tuition expenses, and the award under this program shall be reduced in the amount equal to such payments, provided that the combined benefits do not exceed the resident undergraduate tuition charged by the state university of New York.

3. Duration. An eligible recipient shall not receive an award for more

than four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years. An eligible recipient enrolled in an eligible two year program of study shall not receive an award for more than two academic years. Notwithstanding, such duration may be extended for an allowable interruption of study including, but not limited to, death of a family member, medical leave, military service, and parental leave, as established by the corporation in regulation.

4. Conditions. (a) An applicant who would be eligible for a New York state tuition assistance program award pursuant to section six hundred sixty-seven of this subpart and/or a federal Pell grant pursuant to section one thousand seventy of title twenty of the United States code, et. seq., is required to apply for each such award.

(b) An applicant who has earned a bachelor's degree is ineligible to receive an award pursuant to this section.

(c) An applicant who has earned an associate's degree is ineligible to receive an award for a two year program of study pursuant to this section.

(d) Notwithstanding paragraph c of subdivision four of section six hundred sixty-one of this part, a school shall certify that a recipient has achieved a grade point average necessary for successful completion of his or her coursework to receive payment under the award.

(e) A recipient shall agree to reside exclusively in New York state, and shall not be employed in any other state, for a continuous number of years equal to the duration of the award received within six months of receipt of his or her final award payment, and sign a contract with the corporation to have his or her full award converted to a student loan according to a schedule to be determined by the corporation if such student fails to fulfill this requirement. The terms and conditions of this paragraph may, as established by the rules and regulations of the corporation, be deferred: (i) to complete undergraduate study; or (ii) to attend graduate school on at least a half-time basis. Any obligation to comply with such provisions as outlined in this paragraph may be cancelled upon the death of the recipient. Notwithstanding any provisions of this paragraph to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver

or suspension of any financial obligation which would involve extreme hardship.

(f) Notwithstanding paragraph (c) of subdivision one of this section, a student who otherwise satisfies all of the requirements under this section but fails to complete at least thirty combined credits, or its equivalent, applicable to his or her program or programs of study in any year shall be eligible to receive an award payment for the first semester of such year, provided however, the student shall be ineligible for any further payments under this section.

5. Recipient selection. The president may establish: (a) an application deadline and (b) a method of selecting recipients if in any given year there are insufficient funds to cover the needs of all the applicants provided that priority shall be given to eligible applicants who are currently in attendance at a public institution of higher education.

6. Rules and regulations. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section including, but not limited to, the criteria for distributing the awards, which may include a lottery or other form of random selection.