

To the office of U.S. Representative Glenn Thompson

Re: HR 9164 (119th Congress), FRESH Act • Latest action (2026-06-04): Referred to the House Committee on Education and Workforce.

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Office of record (Congress.gov): 400 Cannon House Office Building, Washington, DC • (202) 225-5121

School Milk Refrigeration Equipment Assistance Act of 2025

The measure, as described from the official record: To ensure elementary and secondary schools have refrigeration equipment capable of storing milk safely, so that students have access to chilled milk during school meals.

THE PROPOSAL

To assist elementary and secondary schools in providing safe, chilled milk to students, the Secretary of Agriculture shall establish a competitive matching-grant program for state educational agencies. Each state educational agency that applies may receive a grant of up to \$250,000 per fiscal year, which shall be used solely to provide subgrants or direct assistance to local educational agencies and nonprofit school food authorities within that state for the acquisition and installation of milk storage refrigeration equipment. Equipment purchased with grant funds must be installed in school food service areas and comply with all applicable federal, state, and local health and safety standards. Grant funds may not be used for general remodeling or construction beyond the installation of the refrigeration unit itself. States that accept grants must certify that the equipment will be used primarily for the storage of milk served under the National School Lunch Program or School Breakfast Program, which are federal programs established under the Spending Clause (Article I, Section 8, Clause 1). To prevent waste, the Secretary shall require each grantee to submit a one-page annual report on equipment condition and usage. The program shall be funded by redirecting 0.1 percent of unobligated balances from the Commodity Credit Corporation, as authorized under Article I, Section 8, Clause 12, and shall sunset after five years from enactment.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Redirect of 0.1 percent of unobligated balances from the Commodity Credit Corporation (CCC), which is a federal instrumentality, to be transferred to the Secretary of Agriculture for this grant program.
Funding Amount	\$10 million per fiscal year, capped, with a total authorization of \$50 million over five years; actual outlay shall not exceed unobligated CCC balances.
Sunset Years	5 years
Oversight Body	Office of Inspector General, U.S. Department of Agriculture, which shall audit a random sample of 5% of grants every two years.
Enforcement Mechanism	States found to have misused grant funds (e.g., for non-milk refrigeration or non-school use) must repay the full amount plus interest at the Treasury rate, and are ineligible for further grants for three years.

Effective Date 180 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 1 (Spending Clause for general welfare via school meal programs)
- Tenth Amendment (funds flow through states, not directly to schools, preserving state sovereignty)
- Article I, Section 8, Clause 12 (funding via Commodity Credit Corporation related to agricultural support)

Concerns with the measure as written:

- The bill authorizes direct federal grants for equipment in local schools, which may exceed the federal government's limited role in education and food service under the Tenth Amendment and the General Welfare Clause (Article I, Section 8, Clause 1) if not tied to a valid enumerated power.
 - By mandating grants to schools rather than through state agencies, the bill could be seen as commandeering state and local government operations, violating the anti-commandeering doctrine recognized under the Tenth Amendment.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Democratic priorities: ensures that low-income school districts, which often lack adequate refrigeration, can access federal help to improve school meal quality and child nutrition.

Republican priorities: limits federal involvement by routing funds through state agencies, applies a matching requirement to maintain local control, caps funding, imposes a five-year sunset, and uses existing CCC balances rather than new taxes or deficit spending.

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