

**Perpetuity or Bust: A Guide and Resources for Private Foundation Boards to
Consider in the Development of Spending Rationale
Joshua Mintz and Emma Hagle¹**

Introduction

Deep cuts in federal spending that have affected many not-for-profit organizations, and growing threats to democracy and the rule of law have once again triggered suggestions that foundations spend more than the legally required five percent of their assets. Some foundations, including MacArthur, have indeed raised their payout beyond what they would ordinarily spend.

The debate about how much foundations created to exist in perpetuity should spend, especially in times of crisis is not, however, a recent phenomenon. This debate has periodically arisen throughout history and intensifies in times of market volatility and crisis—such as what the field is experiencing now.

In such moments, there is an inevitable tension: exceptional circumstances arguably call for increased support and “counter-cyclical philanthropy,” as John Palfrey, President of MacArthur, and others have argued. Substantially increasing payout today will, however, run the risk that, absent extraordinary market returns, the amount of assets available to address future crises will be substantially lower. Future generations will therefore not enjoy the same benefits from the foundation as the current generation, which some argue is contrary to the notion of a perpetual foundation. In this landscape, there are many reasons why foundations incorporated to exist in perpetuity would choose to either pay out more or stay the course.

This paper will (1) provide historical context to distribution requirements for private foundations, (2) summarize the arguments most frequently made for and against perpetual foundations spending more than five percent annually, and (3) present a series of considerations for boards of directors to discuss when determining whether to spend more than the legally required minimum. It does not take a position on the debate, except that the authors believe that each foundation should have the freedom to decide its spending philosophy consistent with law, donor intent, the mission of the foundation and the attendant circumstances. The freedom to choose how much to spend above legal requirements, when and on what is a hallmark of American philanthropy. Government intervention in the form of statutory or regulatory requirements that seek to limit that freedom would be a mistake.

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1. Historical Context

Studies suggest that, historically, the vast majority of foundations are established in perpetuity,² either by reason of clear donor intent or, perhaps, the prevailing form of corporate articles provided limited options. Despite the prevalence of perpetual foundations, there have long been critics of the practice and robust debates regarding longevity of foundations. Julius Rosenwald, who made his fortune in Sears stock and created a private foundation in the 1920s, was one of the earliest strong proponents of limited life foundations, in contrast, for example, to the Rockefeller and Carnegie Foundations.³

Prior to 1969, however, neither State nor Federal law required foundations to make minimum distributions nor placed limitations on foundations' life spans. In reaction to perceived abuses by foundations in the 1950s and 1960s, Congress passed legislation in 1969 imposing a new regulatory regime on private foundations.

The 1969 Tax Act first introduced a statutory requirement on foundations to distribute a minimum amount of the value of the assets. The minimum distribution rate was initially set at 6 percent and revised to 5 percent in 1976. The required distribution rate was both a political compromise and intended to allow a foundation to include low-risk financial assets in its investment portfolio, make the required distributions, and maintain the real value of assets in perpetuity.

During the floor debate on the 1969 legislation, Senator Gore pushed for an amendment limiting foundations to a twenty-five-year term, echoing earlier suggestions of Congressman Wright Patman, a strong critic of foundations.⁴ This position was defeated on the Senate floor and Congress has not seriously considered legislation limiting a foundation's lifespan since that time.⁵

² See Ruth McCambridge, *More Foundations Are Opting Out of Perpetuity—So What?*, NONPROFIT QUARTERLY (Jan. 21, 2020) (estimating that 70% of foundations are perpetual), <https://nonprofitquarterly.org/more-foundations-are-opting-out-of-perpetuity-so-what/>; see also *Perpetuity or Limited Lifespan, How Do Family Foundations Decide?*, FOUNDATION CENTER (April 2009), <https://candid.issuelab.org/resources/13587/13587.pdf>. More recently, see Alex Daniels, *What is More Urgent Than Today? Why Some Foundations Are Choosing to Spend Down*, Chronicle of Philanthropy, August 11, 2025

³ Heidi Waleson, *Beyond Five Percent: The New Foundation Payout Menu*, at 7 (2007), [/https://beldon.org/beyond5_report.pdf](https://beldon.org/beyond5_report.pdf).

⁴ See U.S. Senate Committee on Finance, *Compilation of Decisions Reached in Executive Session on the Tax Reform Act of 1969*, 91st Cong., 1st Sess. (1969), <https://www.finance.senate.gov/imo/media/doc/Prttax8.pdf>.

⁵ The ACE act, however, introduced in Congress in 2021 but never passed, provides additional incentives for foundations that spend more in the context of addressing donor advised funds.

2. Maintenance of Purchasing Power to Ensure Intergenerational Equity.

Many perpetual private foundations generally intend to maintain the “purchasing power” of their investment assets over time by ensuring that investment assets do not fall below their inflation adjusted value. This, in theory, allows foundations to address future needs with assets that have approximately the same value as at the time of funding, considering inflation—a concept known as intergenerational equity. The extent to which a perpetual foundation is required to maintain purchasing power as of a particular date is not an explicit legal requirement unless mandated by governing documents or clear donor intent; it logically follows from the concept of perpetuity, but there is scant case law addressing the specifics.⁶ A board of a perpetual foundation considering whether to spend in excess of the minimum distribution requirement has several fundamental questions to consider, including:

- Are we committed to preserving purchasing power (intergenerational equity) and, if so, what is the starting point for measurement?
- If we have flexibility or the desire to spend such that the size of the portfolio shrinks below the baseline value, is there a minimum size that would continue to allow the foundation to have impact?
- How is that size determined and by whom?
- How would we be guided in our spending and who makes the decisions?

Many perpetual foundations enact spending plans that use trailing average of assets (typically two to three years) as a target for annual spending, and foundations often link their target spending to the legal distribution requirement of 5% or thereabouts. This approach is intended to smooth spending and provide grantees a reliable source of funding rather than peaks and valleys tied to annual market volatility. These policies consider both the minimum distribution requirement (5%) and research on investment performance and spending.

3. How Much Should a Foundation Spend to Preserve Purchasing Power

Studies suggest that if a foundation wishes to preserve its purchasing power in perpetuity, it should be cautious about spending beyond 5 percent annually—especially during periods of high inflation. Williams, Veach, & Kienker’s 2020 article found, “increasing payout rates in the short term can be the equivalent of choosing to decrease

⁶ Boards must also consider applicable state law, in many cases a state’s Not for Profit Corporation Act and the Uniform Prudent Management of Institutional Funds Act (“UPMIFA”), a form of which has been enacted in 49 states and the District of Columbia. The linkage of perpetuity and preservation of corpus is not directly addressed in most state’s Not For Profit Corporation Act. Under UPMIFA, a gift to create an endowment is presumed to be perpetual and for the purchasing power to be maintained. *See infra* at p.10. A full discussion of UPMIFA is beyond the scope of this article. The appendix (page 17) includes some resources for those wishing to go deeper.

grants for 17 years (years 4-20) in favor of increased grants for the first 3 years.”⁷ Previous studies have also analyzed financially optimal spending for foundations--maximizing the impact of current grantmaking while preserving purchasing power. In general, these efforts have found that five percent represents the optimal level of spending to allow foundations to grow in tandem with inflation. A DeMarche Associates Study conducted for the Council on Foundations in 1995, and updated in 1999, compared hypothetical foundation spending at 5 percent, 6 percent, and 7 percent payout rates between 1950 and 1998. The study concluded that, by 1968 (or 19 years), a foundation spending 5 percent begins spending more each year than if it had been spending 6 percent during such time period. The 5 percent policy overtakes the 7 percent policy in 18 years. In other words, in the long-term, lower initial spending results in higher aggregate spending over time because of the diminishing size of the endowment due to higher spending.

When investment portfolios surge during strong financial markets, criticism often arises that foundations adhering to the spending plans described above are not distributing enough. Conversely, in times of market distress when portfolios shrink, there is often public pressure to maintain or increase spending to assist grantees who are suffering, even when spending policies would by their terms limit spending. This is especially true in times of great social distress and crises, including: the 2008 financial crisis, COVID-19 pandemic, and today’s large-scale defunding of nonprofit institutions by the federal government.

4. Perpetuity v. Spending Down or Spending More

In the face of crisis or alignment with donor priorities, an increasing number of foundations are deciding to exceed the statutory minimum payout or to spend down their assets over a set time. In most cases, decisions to spend-down have been made, or are heavily influenced, by living donors or were part of the organization’s founding charter.⁸

Even though the vast majority of foundations appear to remain perpetual, there are many examples of foundations that are established for limited lives (e.g. the Diamond Foundation) or decide to spend-down even if initially incorporated for perpetuity (e.g., Atlantic Philanthropies is a paradigmatic example of a donor deciding to spend down a philanthropy even if not the original intent). Time-limited foundations have been rising in popularity in recent years.⁹ Most recently, the decision by the Gates Foundation to spend

⁷ See Williams, Veach, & Kienker, *An Evaluation on Private Foundation Model Portfolios, Investment Returns, & Payout Rates*, COUNCIL OF MICHIGAN FOUNDATIONS (2020).

⁸ See Francie Ostrower, *Limited Life Foundations, Motivations, Experiences, and Strategies* at p. 9 (Urban Institute 2009); and *Perpetuity or Limited Lifespan* at p. 8 (Council on Foundations 2009).

⁹ See Elizabeth J. Dale, *More Foundations Opt for Planned Lifespans and Spend-Down Strategies*, DORTHY A. JOHNSON CENTER FOR PHILANTHROPY (Jan. 15, 2025), <https://johnsoncenter.org/blog/more-foundations-opt-for-planned-lifespans-and-spend-down-strategies/#:~:text=It's%20a%20bold%20approach%20that,7>.

down its immense portfolio over the next twenty years (instead of twenty years after the death of Bill and Melinda Gates) drew considerable attention and reflects the freedom of living donors to make this choice.¹⁰

Today, the philanthropic sector is faced with a confluence of factors that suggest additional spending is merited: a skeptical (if not hostile) Administration and Congress (foundations just narrowly escaped a significant increase in taxes on portfolio income that was proposed in the House version of the “Big Beautiful Bill”), market volatility, and severe funding cuts to nonprofit organizations and many federal agencies. In the last few months, several foundations have announced increased pay outs above their spending guidelines and the minimum distribution requirement. The MacArthur Foundation, for example, announced that it would set its spending rate at a minimum of six percent for the next two years,¹¹ and many other foundations have stepped forward to announce even higher payouts to meet the moment.¹²

Even before the most recent crisis, there are also foundations that, while not setting a sunset date, decided to spend more than five percent on an annual basis either because they believe their investment returns can support such spending or they are comfortable with the resulting erosion of the purchasing power of the endowment given the hoped for results from the spending (e.g., Bradley Foundation and the Evelyn and Walter Haas Jr. Fund).

5. Trade-Offs: The Principal Arguments

“The issue of foundation payout rates comes down to a tradeoff between charity for the current generation and charity for future generations. The lower the payout rate, the greater the amount saved and invested, and hence the greater the amount that can be distributed to future generations. Conversely, the higher the payout rate, the lower the amount available for future distribution.” Michael Klausner, *When Time Isn't Money: Foundation Payouts and the Time Value of Money*, at p. 52 (Stanford Social Innovation Review, Vol. 1, Issue 1:51-59 Spring 2003) (Footnotes omitted).

The Stanford Social Innovation Review teed up a fascinating debate around these issues during the COVID-19 Crisis. *See generally*, [Up for Debate: Should Foundations Increase Their Payouts During Big Crises?](#). This thread features several perspectives and

¹⁰ See Bill Gates, *My New Deadline: 20 Years to Give Away Virtually All My Wealth* (Gates Foundation 2025), <https://www.gatesfoundation.org/ideas/articles/next-chapter>.

¹¹ See John Palfrey, *Set it At Six: Supporting Civil Society in Need with Increased Giving* (MacArthur Foundation 2025), <https://www.macfound.org/press/perspectives/supporting-civil-society-in-need-with-increased-giving>.

¹² See generally Alex Daniels, *Philanthropy Opens the Vault: Payouts are Surging in Response to Trump*, THE CHRONICLE OF PHILANTHROPY (May 5, 2025); Buchanan, Heidemann & Bolduc, *A Wave Forming? Funders Taking Action in Response to a Challenging Context*, THE CENTER FOR EFFECTIVE PHILANTHROPY (Mar. 25, 2025); Maggie McGoldrick, *More Family Foundations are Paying More than Five Percent Annually. Here's Why*, NATIONAL CENTER FOR PHILANTHROPY (Apr. 24, 2025).

opinions on philanthropic spending during the COVID-19 pandemic with Larry Kramer, past president of Hewlett Foundation, arguing that spending more in a “crisis” has downsides and others, including John Palfrey, arguing for the benefits of being counter-cyclical. The Stanford Social Innovation Review more recently published a series of [articles](#) around the appropriate response to the cuts in government funding and how philanthropy should react which also implicates in various contexts the issues around perpetuity. John Palfrey kicked off the series with his [article](#) “Philanthropy must Accelerate Spending and Broaden Coalitions,” and others provided their perspectives on a range of matters. John will close the thread with an essay “Drawing Courage and Community for the Coming Challenges.”

Proponents for perpetuity, and the preservation of purchasing power, make one or more of the following points:

- A donor who chooses to create an organization to exist in perpetuity is making an intentional decision to maintain purchasing power in order to benefit future generations. Such intent should be respected.
- By maintaining purchasing power in perpetuity, the assets of the foundation are available for the benefit of future generations, facing new and different problems that may be as or more serious than today’s problems (the intergenerational equity argument). In addition to new problems that may arise, existing problems may be worse in the future—necessitating even more funds.
- In times of crisis, the investment portfolios of foundations usually shrink due to market turmoil. Spending more from the portfolio when the prices of assets are low makes it far more difficult for recovery to pre-crisis levels as a simple consequence of math and market performance, thereby potentially permanently shrinking the size of the foundation (a stock that decreases fifty percent in value would need to increase by 100 percent to reach its pre-crisis level).
- Society is best served by a private foundation sector that maintains a diversity of approaches to spending. Perpetuity is an important element of that diversification.¹³
- There are not a sufficient number of capable grantees able to effectively absorb substantial amounts of funds if foundations all choose to spend down or spend far in excess of 5 percent.

Those who argue that spending to ensure perpetuity and purchasing power is a flawed strategy make the following points:¹⁴

¹³ See John E. Craig, *New Financial Realities: The Response of Private Foundations* (Commonwealth Fund 2008 Annual Report, Executive Vice President and COO’s Report).

¹⁴ See generally, Akash Deep & Peter Frumkin, *The Foundation Payout Puzzle*, pp. 6-14 (The Hauser Center for Nonprofit Organizations, The Kennedy School of Government, Harvard University, Working Paper No. 9, 2001) (describing five arguments in favor of perpetuity and five arguments for a higher payout rate).

- In times of crisis, foundations should increase their giving, as the social return on funds is greater because the needs are more acute. Said another way, the time value of money suggests that spending more today is worth more to society than a dollar given in the future.¹⁵
- Even if portfolios shrink over time because of additional spending (which is not guaranteed), future generations will be served by future (and maybe richer) philanthropists, especially as the number of billionaires has increased markedly over the last twenty years and shows no sign of abating.
- Early and sustained interventions may allow a problem to be resolved before it increases and becomes more difficult to address. Certain fields—such as environmental protection, climate change or medical research—may require more immediate funding, as delays in addressing these issues could jeopardize the future or significantly reduce standards of living.
- In cases where the organization is created upon the donor's death, or the donor passes shortly after formation, spending assets more quickly makes it more likely that the uses of the money will be consistent with the donor's desires (avoiding a situation where the mission of the foundation is said to have strayed far afield from donor's interests).
- Perpetuity leads to lack of internal and external accountability, unnecessary bureaucracy, stagnation in giving, and it erodes the real value of societal assets.¹⁶

6. Board Considerations – Developing a Spending Rationale

The following are proposed considerations to guide internal board discussions regarding additional spending, with the acknowledgment that different funders have different goals and what works for one may not be appropriate for another.

Donor Intent:

Donor intent regarding perpetuity is entitled to deference and should be diverged from only for compelling reasons. In appropriate cases, where a board wishes to diverge substantially from evidence of donor intent, it should consult with the Attorney General of the State. Although a foundation may be intended to exist in perpetuity, it is far from clear that its assets' purchasing power must be preserved indefinitely—or even when that preservation should begin. A foundation that in today's terms is worth \$8 billion and spends more than the minimum amount and therefore drops to \$5 billion is still able to exist in perpetuity and make a difference for future generations.

¹⁵ See Paul Jansen & David Katz, *For nonprofits, time is money*, (McKinsey & Company 2005), and Opinion by Bill Bradley & Paul Jansen, *Faster Charity* (New York Times, May 15, 2002). But see Michael Klausner, *When Time Isn't Money: Foundation Payouts and the Time Value of Money* (Exempt Organization Tax Review, Vol. 41, issue 3:421-428, September 2003).

¹⁶ See, e.g., Buzz Schmidt, *Escaping the Perpetuity Mindset Trap*, THE NONPROFIT QUARTERLY (Dec. 9, 2008), <https://nonprofitquarterly.org/escaping-the-perpetuity-mindset-trap/>.

Milway and Galligan's 2020 study, "[The Myth of Perpetuity in Foundation Strategy](#)" examined the governing documents of the top 50 U.S. private foundations to assess how strictly donor intent constrains modern philanthropic action. "Our research shows that foundation boards have room to maneuver, perhaps more than they realize."¹⁷ Contrary to conventional belief, the research found that foundation trustees possess significant flexibility to adapt payout strategies in response to evolving social needs, with many institutions even amending founding intentions when necessary.

Articulating a Spending Rationale and Identifying Criteria:

Where perpetual existence is desired, but the intent to retain purchasing power is ambiguous, a Board should have a clear and articulated rationale for spending amounts that would erode the purchasing power of the corpus. Establishing criteria for such exceptional spending and requiring the application of the criteria when considering spending decisions is a prudent governance step. John Palfrey identified a series of factors for a board to consider in this piece: [Six Hard Questions about 'Set it at Six'](#).

A record of the board's deliberations and rationale—and the support for any decision—should be maintained through minutes or otherwise documented. This practice helps ensure that a current Board, which is naturally inclined to focus on the crisis before it, also hews to its fiduciary duties to both current and future generations.

Such criteria can include a range of factors that a board considers relevant to its situation. An example of possible criteria might include the following:

- i. Whether the spending is necessary to address an urgent problem(s).

In assessing this factor, a board should consider whether (i) the amount of foundation spending is reasonably likely to have significant and timely impact on addressing the identified problem(s) based on evidence and not speculation and (ii) the failure to intervene now would mean the opportunity to have impact would be lost, perhaps irrevocably.

- ii. Whether attention to the problem is time sensitive.

In assessing this factor, a board should consider whether, if the problem is not immediately addressed, there is a reasonable consensus that it will result in serious consequences for people or the planet, and whether the passage of time will make solving the problem disproportionately more difficult.

- iii. Whether there is reasonable prospect that timely intervention can make a difference.

¹⁷ Katie Smith Milway & William Galligan, [The Myth of Perpetuity in Foundation Strategy](#), STANFORD SOCIAL INNOVATION REVIEW (Dec. 11, 2020), https://ssir.org/articles/entry/the_myth_of_perpetuity_in_foundation_strategy.

In assessing this factor, a board should consider whether the amount of foundation spending is reasonably likely to have significant impact and/or leverage additional financial contributions to address the problem from identified sources, such as other foundations, government, individuals, or companies. The additional contributions should not be speculative but based on evidence that such contributions are being actively considered or would likely arise in the near future as a result of the foundation's contributions.

- iv. Whether the foundation has a comparative advantage to address the problem.

In assessing this factor, a board should consider whether the foundation has expertise in-house to help address the problem, can access the expertise or has networks or other relationships that make its intervention more likely to succeed (other than just spending money).

- v. Whether funding from other sources is limited but could be catalyzed in a meaningful way.

In assessing this factor, a board should consider whether the foundation's support is critical due to a lack of other funding and whether its contribution could help attract additional capital to address the issue. The foundation should also consider, however, that a lack of funding might signal that other funders recognize the problem is particularly intractable.

- vi. Whether the amount by which proposed overspending is reasonably expected to erode the investment portfolio over the next five to ten years, given reasonable expectations for future growth of the portfolio, and whether the resulting size of the portfolio will remain sufficient to allow the foundation to continue to have the desired impact in its grantmaking and impact investments.

In assessing this factor, a board should consider the amount of additional spending in the context of the recent historical performance of the portfolio, current market environments, reasonable expectations for future growth, and the resulting impact on the size of the portfolio. A foundation may also want to consider whether the resulting size of the portfolio, given the past shrinkage, would allow the foundation to continue to have significant impact over time.

- vii. Whether the spending represents the best use of the foundation assets given the state of the financial markets, expected returns of the portfolio, the growth of the portfolio over the past ten years, and relative impact.

This factor is closely related to (vi) above, as it considers the context of the proposed additional spending in light of the current state of the investment portfolio, informed judgment about expected future returns (acknowledging inherent uncertainty), and the portfolio's relative growth over the past ten years.

In assessing this factor, therefore, a board should consider whether the expected return of the investment portfolio would be significantly in excess of recent returns because, for example, the market has had a period of underperformance, valuations are attractive, and there are compelling investment opportunities.

There are, of course, many other criteria that a foundation could consider, and boards may come out differently in their analysis. A balancing act will inevitably be required, with significant weight given to the mission of the foundation and the current climate.

Regardless of its ultimate spending decision, the board should be clear on its rationale and the potential consequences to grantmaking strategy, impact on grantees, and investment portfolio strategy (including liquidity and risk parameters, particularly if the overall goal would still be to maintain perpetuity). Periodic, thoughtful discussions of spending rates informed by philosophy, history and circumstances are valuable.

Generally, perpetual foundations value being perceived as steadfast, predictable sources of funding for grantees. Boards will want to maintain a sufficient asset size to be effective in the field(s) in which they have chosen to work. It is helpful to reflect on your organization's values, societal needs, and align financial decisions with broader goals.

7. Maintaining an Investment Portfolio:

Boards should be cognizant of how spending decisions may affect their investment portfolio and strategy, including asset allocation, liquidity, size, risk and potential returns. As noted earlier, boards must be attentive to state law requirements, including UPMIFA and any other legal requirements that might constrain a board's actions. Boards should design guidelines that comply with the law and avoid abrupt declines or increases in spending without a plan to address the potential results.

Because private foundations must continue to spend each year, and many foundations have no fresh infusion of funds, it is often difficult to recover erosion of the corpus resulting from spending or losses. Further, as noted earlier, to recover from losses, the portfolio must earn back an increasingly higher percentage than the percentage lost.

A board may reasonably conclude that eroding the corpus is justifiable, but a decision to spend that erodes the corpus will likely mean a smaller portfolio over time to address future problems. Whether future dollars from others would make up for this is a judgment that a board must consider.

A perpetual foundation may also want to craft a plan to restore erosion of assets caused by spending more than the total return, keeping in mind that a higher investment return objective would require the Foundation to assume more risk in its portfolio.

Another option for boards to consider is reserving amounts in advance to support spending in periods when assets decline or special grantmaking opportunities arise. Some foundations may also consider raising money through the sale of bonds rather than selling assets after significant drops in value (several foundations, including MacArthur, did this

during the pandemic as others had done before). Much will depend on prevailing interest rates and a prudent plan for payment of the bonds.

Conclusion

There are competing considerations that perpetual foundations must consider in establishing spending plans and deciding whether to increase spending in times of crisis. Foundations may well come out differently on the key questions depending on their risk tolerance, culture, perception of need, and donor intent. Foundations should be free to assess their decisions within the fiduciary framework applicable to foundations. It would be a mistake for the government to intercede with regulatory requirements that would impact a foundation's freedom to decide what is best for its institution.

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This strategy guide challenges private foundations to think beyond the IRS’s 5% minimum payout rule by offering a holistic framework for philanthropic spending rooted in purpose, context, time horizon, and mission-aligned asset use. Rather than prescribing a specific payout rate, it encourages foundation leaders to reflect deeply on their values, equity considerations, and societal needs—particularly in times of crisis—and to align financial decisions with broader goals. The guide questions assumptions around perpetuity, explores flexible approaches to governance and spending, and promotes intentional, values-based board discussions. Designed primarily for U.S.-based family and independent foundations, the guide offers tools and prompts to support thoughtful and adaptive investment stewardship.

Billitteri, Thomas J. “Linking Payout and Mission: A National Dialogue with Foundation Leaders,” Nonprofit Sector Research Fund Working Paper Series, The Aspen Institute, September 2007

Summary from meetings with selected foundation leaders which addresses, among other issues: Balancing the needs of current generations with future generations; balancing duties of trustees with the intent and desires of donors and family members; and addressing a foundation’s mission and obligation to society within the context of regulatory oversight and public scrutiny.

Daniels, Alex, “Philanthropy Opens the Vault: Payouts are Surging in Response to Trump,” *The Chronicle of Philanthropy*, May 2025.”

This article examines how various foundations have chosen to significantly increase their payout rates in response to federal funding cuts and growing societal challenges. Many funders argue that in moments of crisis, maintaining perpetuity should not outweigh the immediate needs of vulnerable communities. As a result, some foundations are rethinking traditional endowment strategies to prioritize greater impact now over longevity.

Dale, Elizabeth, “More Foundations Opt for Planned Lifespans and Spend-Down Strategies,” *Dorothy A. Johnson Center for Philanthropy*, January 2025.

The article explores the growing trend of foundations adopting spend-down strategies. High-profile examples include Warren Buffett’s directive for his fortune to be given away within 10 years of his death and The Gates Foundation’s original plan to sunset 20 years after the last founder passes away. The article notes that over the past five years, the percentage of family foundations actively spending down increased from 9% to 13%, with over 28% currently considering the approach.

Deep, Akash & Frumkin, Peter. “The Foundation Payout Puzzle,” Working Paper No. 9, The Hauser Center For Nonprofit Organizations, John F. Kennedy School of Government, Harvard University, June 2001.

This paper analyzes the public policy toward private foundations, finds that the minimum 5 percent payout requirement has effectively repressed foundation giving, and provides suggestions for payout policy reforms.

Friedman, Lawrence M. “Immortal Longings: Perpetuity in Context.” *Buffalo Law Review* 71, no. 4 (2023): 695-768.

This article explores the legal, social, and cultural dimensions of perpetuity. Tracing the evolution of accumulation trusts, the dead hand doctrine, and the rule against perpetuities, Friedman examines the American embrace of charitable foundations and dynasty trusts as vehicles for “vicarious immortality.” He details the legal transformations that have allowed modern foundations to thrive indefinitely, critiques the implications of perpetual control over wealth and public influence, and reflects on the psychological and cultural motives behind such legal constructs. This article interrogates not only the law’s technical development but its deeper human longing for legacy and permanence.

Gates, Bill, “My New Deadline: 20 Years to Give Away Virtually All My Wealth,” *Gates Foundation*, May 2025.

In this article, Bill Gates outlines his decision to accelerate the distribution of his wealth through the Gates Foundation over the next 20 years, with plans to spend down the foundation by 2045. Gates emphasizes the responsibility and urgency of the wealthy to contribute actively to society and sets ambitious goals for the next two decades.

Klausner, Michael. “When Time Isn’t Money,” *Stanford Social Innovation Review*, 2003

Rebuttal of McKinsey analysis of use discounted cash flow approach to advocate higher payout rate based, in part, on the unlikely assumptions built into the arithmetic, and on the lack of ethical and economic justification for using this purely financial measurement in the social context.

Krehely, Jeff & Rettig, Heidi. “Alternatives to Perpetuity,” *State of Philanthropy* 2004, *National Committee for Responsive Philanthropy*

This paper presents research findings on limited-life foundations, including findings from interviews which address motivations, focus of concern, spend-down options, planning, accountability, and operational matters.

McCambridge, Ruth. “More Foundations Are Opting Out of Perpetuity—So What?,” *Nonprofit Quarterly*, January 2020.

This article examines a growing trend among new philanthropists to establish time-limited foundations rather than those intended to exist in perpetuity. A 2020 study by Rockefeller Philanthropy Advisors and NORC found that nearly half of newly formed foundations were designed to spend down their assets, compared to just 20% a decade prior. However, perpetual foundations still make up about 70% of the sector.

Milway, Katie Smith & Galligan, William, “The Myth of Perpetuity in Foundation Strategy,” *Stanford Social Innovation Review*, December 2020.

This study analyzes the charters and founding documents of the 50 largest private foundations in the U.S. to evaluate how donor intent influences long-term philanthropic strategy. Milway and Galligan find that, contrary to popular belief, most foundation boards retain considerable discretion to reinterpret or amend original intentions. The authors argue that this flexibility allows institutions to adjust payout strategies and mission priorities in response to urgent or evolving societal challenges.

“More Family Foundations are Paying More than Five Percent Annually. Here’s Why,” National Center for Philanthropy, 2025.

This report finds that most family foundations view the IRS’s 5% payout requirement as a floor, not a ceiling—only 25% give at the minimum rate. It examines motivations for increased giving, including a desire to make transformative “big bets,” respond to urgent social needs, or align funding with evolving programmatic priorities.

Ostrower, Francie. “Limited Life Foundations: Missions, Experiences and Strategies,” Report for The Urban Institute and the Center on Nonprofits and Philanthropy, 2009.

This study examines the diverse motivations and strategies behind foundations that choose to sunset rather than exist in perpetuity. It also explores how this decision influences their grantmaking strategies. Donor motivations differ widely. Some are driven by a desire to give during their lifetime, while others express concern about the long-term preservation of their philanthropic intent.

Palfrey, John, “Set it at Six: Supporting Civil Society in Need with Increased Giving,” MacArthur Foundation, February 2025.

In this article, Palfrey explains the MacArthur Foundation’s decision to raise its annual payout rate to 6% for two years in response to federal funding cuts. He advocates for countercyclical philanthropy (private foundations should increase giving during periods of public sector retrenchment to help sustain critical civil society infrastructure and meet urgent community needs).

Palfrey, John, “Six Hard Questions about ‘Set it at Six’,” MacArthur Foundation, March 2025.

In this piece, MacArthur President John Palfrey addresses major concerns raised by stakeholders after the Foundation’s decision to temporarily raise its annual payout rate. He frames the reasoning and responses around six critical questions: Will higher spending now reduce future giving; does it violate fiduciary duty to exceed charter limits; is it akin to the Great Recession strategy that shrank endowments; could higher asset values still support endowment growth despite a 6% payout; does private philanthropy just fill government budget holes; and why stop at 6%—why not more?

Renz, Loren and Wolchek, David. “Perpetuity or Limited Lifespan: How do Family Foundations Decide?,” The Foundation Center in cooperation with the Council on Foundations, April 2009

This report provides the results from the responses of 1,074 family foundations to a survey regarding decisions on the lifespan of the foundation, the timing of these decisions (at inception or after the establishment of the foundation) and the factors that weighed into the decision (donor intent, desire for immediate or longer-term impact, desire to engage future generations).

Salmon, Jack. “Private Foundations and the 5 percent Payout Rule,” *Policy Primer*, November 2023, Philanthropy Roundtable.

This article outlines the regulatory landscape and societal role of private foundations in the United States, emphasizing their significant philanthropic contributions—over \$100 billion annually. It highlights the impact of the 1969 Tax Reform Act, particularly the 5 percent minimum distribution rule mandated by the IRS, which seeks to balance immediate charitable funding with long-term sustainability. The article addresses recent critiques of private

philanthropy calling for stricter payout requirements, suggesting that empirical data on foundation spending trends does not support such reforms and warning that increased regulation could ultimately harm charitable organizations and vulnerable communities.

Thelin, John R. and Trollinger, Richard W. “Time is of the Essence: Foundations and the Policies of Limited Life and Endowment Spend-Down,” Program on Philanthropy and Social Innovation Research Report, The Aspen Institute, 2009.

Case studies of five limited-life nonprofit foundations that support the authors’ recommendation that more information regarding the option of spending down a foundation endowment, including successful examples of the limited-life foundations, will enhance the sector by informing it of options.

Waleson, Heidi. “Beyond Five Percent: The New Foundation Payout Menu,” A joint project of the French American Charitable Trust (FACT); the Northern California Grantmakers (NCG); and the New York Regional Association of Grantmakers (NYRAG), 2007.

This article examines 13 foundations that, as a result of their missions, are structured in non-traditional ways in terms of lifespan, payout or methodology. Motivated by mission alignment and a desire for greater responsiveness, these foundations have chosen to exceed the 5% minimum distribution requirement and, in some cases, to spend down entirely. The report highlights how these decisions enable foundations to engage more deeply in pressing issues and adapt to rapidly changing circumstances.

Williams, J., Veach, C., & Kienker, B., “An Evaluation of Private Foundation Model Portfolios, Investment Returns, & Payout Rates,” Council of Michigan Foundations, 2020.

This study showed that a payout rate above 5% would be difficult to sustain on an inflation adjusted basis. The likelihood of earning more than a 5% annual return is slightly above 50%. Short-term increases in payout can significantly reduce future grantmaking capacity. The study found that raising payout rates for a short period can lead to reduced grantmaking for up to 17 subsequent years. In some scenarios, it may take as long as 20 years for a foundation’s assets to return to their original level.

UPMIFA

For resources on UPMIFA and donor restrictions, see the following (credit to Lara Kalwinski, Associate General Counsel, John D. and Catherine T. MacArthur Foundation):

[Isaac-Mamaysky_Managing-Nonprofit-Endowments.pdf](#) - extensive historic background with citation to primary sources

[What Every Nonprofit Should Know About the Uniform Prudent Management of Institutional Funds Act](#)

[Strings Are Attached: Revealing the Hidden Subsidy for Perpetual Donor Limits on Gifts The Law of Endowments – The Uniform Prudent Management of Institutional Funds Act \(UPMIFA\) - Adler & Colvin](#)

[Attorney Says Proposed Payout Requirement Too High | Tax Notes](#) - while this IRS submission is about Type III NFIs, it does provide substantial explanation about the history and intent of perpetuity.

