



# Insights

MAY | 2022 Newsletter



**Archbright™**  
WORKPLACE PERFORMANCE EXPERTS



## Build Your Community Through mozzo

Why rely on a search engine to figure out how other PNW companies are handling their HR business, when you can ask the HR pros directly?

In mozzo, Community is an easy-to-use forum for you to connect with other Archbright members to receive and share advice. There are no “dumb questions,” if you want to know, chances are someone else is wondering too! Interact with one another by posting questions, responding to threads, and liking posts. Plus, by connecting with other HR professionals, you can expand your professional network along the way!

mozzo is available to Bronze, Silver, and Gold members and is one of the major benefits of membership. You'll find that mozzo has hundreds of updated HR, safety, and legal documents, short and valuable training videos, and more!

Easily access mozzo through your browser or download the mobile app. To access mozzo Mobile, you must have an active mozzo user account. If you aren't sure about your status, please reach out to your Account Executive or contact [info@archbright.com](mailto:info@archbright.com) for assistance.

Also, check out our new page at the end of Insights! This will be reserved for mozzo updates of the month, and other exciting mozzo news.

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## LOOKING AHEAD

# CEO Corner



**Shannon  
Kavanaugh**

President and CEO at Archbright

## 2022 Survey Updates

Thank you to all of our members who participated in this year's Wage & Compensation Survey! Your participation year after year ensures our survey remains a valuable resource for compensation planning in the Pacific Northwest.

We have some exciting plans for the survey data later this year! In addition to publishing the following reports in June:

- **The Wage Report.** Contains exempt and non-exempt pay data from for-profit and nonprofit organizations.
- **The Nonprofit Report.** Contains pay data collected from nonprofit organizations and includes executive compensation data.
- **The Executive Report.** Contains executive compensation data for both for-profit and nonprofit organizations.

We will also, for the first time, be providing access to the survey data in mozzo with an all-new feature that allows mozzo users to view pay data and filter on region, industry, and other demographics. It is an all-new way to experience the survey data and we cannot wait to share it with our survey participants in the coming months!

If you did not participate in the survey, we will have more information about how you can access this mozzo feature, as well as purchase the 2022 Wage & Compensation Survey Reports, when all are available this summer.

*P.S. We are also launching our annual benefits survey this spring, newly renamed the Benefits Plus Survey! Keep an eye out for your invitation to participate. Remember, if you participate, you receive the reports for free when they are published later this year!*

## UPCOMING EVENTS

### Looking Beyond the Pandemic: The Top Five Non-COVID-19 Employment Law Updates

For the last two years, the pandemic put HR professionals' expertise, stamina, and patience to the test through ongoing COVID-19-related work rules, regulations, and the need for constant policy review and revision. As we move towards re-opening, now is the time to assess how other employment law updates may impact your organization.

**Date:** May 11, 2022, 9:00 AM-1:00 PM (PDT)

**Speaker:** Kellis Borek, Vice President of Labor & Legal Services and General Counsel

Register at <https://sps.shrm.org/events/2022/05/springing-forward-joint-event-wshrma-and-sps>

This presentation is part of **Springing Forward! A Joint HR Event with WSHRMA and SPS SHRM.**

### Environmental & Climate Justice: Solving Deadly Outcomes Hidden in the Land, Water, & Air

Join the Institute for Sustainable Diversity & Inclusion (ISDI) for their third workshop of 2022, **Environmental & Climate Justice: Solving Deadly Outcomes Hidden in the Land, Water, & Air**, which will cover the environmental and climate impacts on DEI efforts in the workplace.

**Date:** May 25, 2022, 9:00 AM-11:30 AM (PDT)

**Speakers:** Deb L. Morrison and Chris Cameron

Register at <https://www.i4sdi.org/s3-may-25-2022>

Archbright is a proud sponsor of the Northwest Diversity Learning Series, currently celebrating its 24th year providing relevant, substantive, thought-leading, and cost-effective educational programming on diversity, equity, and inclusion for managers, and employees in the Puget Sound Region.



**ISDI**  
INSTITUTE FOR SUSTAINABLE  
DIVERSITY & INCLUSION

## Legal Support for Managers & Supervisors Through Archbright University

Archbright University has long been known for its successful leadership training, offering public and private courses to meet members' needs. While soft skills such as communication and emotional intelligence are important, employers are also finding value in adding legal-based compliance courses to the training mix.

"Even sensible managers can make seemingly minor errors—like failing to document a worker's performance—that could result in seven-figure payouts in court," according to the Society of Human Resource Management ([SHRM](#)). "That's why failing to train and educate managers may well be HR's biggest mistake."

Archbright University draws upon the talents of subject matter experts across the organization to teach key compliance classes on topics from HR to safety to workers' compensation. Public courses are open to anyone globally, and Archbright members receive a discount on the price. But private team training is available to members only, for organizations to offer courses solely to their employees.

At a minimum, leaders should be skilled in the basics of Human Resources, including leave, wage, and hour laws. Recommended legal courses for supervisors and managers include:

### Managing Leaves and the Law

This course will help HR professionals navigate the many protected leave laws at the federal and state levels. It will outline employer responsibilities to manage the new WAPFML law. It will identify legal obligations when managing absences, taking into consideration the many types of protected leaves such as sick leave, FMLA, ADA, and domestic violence leave, to name a few. The next public Archbright University course is on [June 10](#).

### Understanding Legal Issues for Supervisors and Managers

This course is designed to assist supervisors and managers in identifying situations in which statutory or contractual legal mandates or restrictions will affect their course of action and determine whether additional assistance is required. The next virtual public Archbright University course is on [July 27](#).

For more information on legal courses for leaders or on how to enroll, contact your Archbright Account Executive or email [info@archbright.com](mailto:info@archbright.com).



*Amy Bachmann | Director of Sales and Training*

## Upcoming Classes

For the complete course schedule, please go to [Archbright.com](https://www.archbright.com).

- May 17, 18, & 19 - [Management Fundamentals \(Virtual Class\)](#)
- May 20 - [Delegating and Setting Expectations \(Virtual Class\)](#)
- May 23 - [Leadworker Effectiveness \(Virtual Class\)](#)
- May 23 - [Tackling Ethical Issues \(Virtual Class\)](#)
- May 24, 25, & 26 - [Supervisory Skills \(Virtual Class\)](#)
- June 2 - [Workplace Harassment Awareness \(Virtual Class\)](#)
- June 3 - [Coaching for Success \(Virtual Class\)](#)
- June 6 - [Emotional Intelligence at Work \(Virtual Class\)](#)
- June 7, 8, & 9 - [Supervisory Skills \(In-Person\)](#)
- June 9 - [Change Management for Leaders \(Virtual Class\)](#)
- June 10 - [Managing Leaves and the Law \(In-Person\)](#)
- June 13 - [Building Interpersonal Awareness with DiSC® \(In-Person\)](#)
- June 13, 14, & 15 - [Management Fundamentals \(Virtual Class\)](#)
- June 16 - [Crucial Conversations® Focused: 1-Day \(Virtual Class\)](#)
- June 21 - [Time Management \(Virtual Class\)](#)

## How to Register:

**Register online anytime at [Archbright.com](https://www.archbright.com).**

You will need to log in to the website to register and see pricing for your membership level.

If you do not have an account on our website, it's easy to set up. Click on the **Sign In** button, then select **Sign up now** and follow the prompts.

If you have any questions, please contact us at **206.329.1120, 509.381.1635, or [info@archbright.com](mailto:info@archbright.com).**



## HR ADVICE & COUNSEL

### New Employment Laws Address Confidentiality and Access to the Courts

Human Resources professionals should note several new state and federal employment laws that impact issues related to confidentiality and access to the courts following complaints of discrimination or harassment. These laws will change the types of agreements that employers can make with employees to resolve disputes.

#### New Federal Law Ends Forced Arbitration of Sexual Harassment Claims

On March 3, 2022, President Biden signed the “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021.” Arbitration is a process where parties can choose to have their disputes heard privately by a neutral third party rather than through the court systems. Although arbitration can be less formal and less expensive than a lawsuit, arbitrators are not active judges. Since the 1990s, an increasing number of private employers have required employees to sign arbitration agreements as a condition of employment. This means that when a dispute arises, the employee and employer must resolve it in arbitration and cannot file a lawsuit in state or federal court. Because arbitration is not a government-run process, it is not open to the public, and the public has little to no insight into how matters are resolved.

In response to the #MeToo movement, Congress acted to end the process of “forced arbitration” for employment disputes involving sexual assault and sexual harassment. The new law prohibits employers from entering into pre-dispute agreements to resolve sexual assault and sexual harassment claims via arbitration. The new law also bars class action or collective action waivers in pre-dispute agreements.

The new federal law does not apply to other employment disputes, such as those involving discrimination, wage and hour matters, or additional types of harassment. It also only applies to pre-dispute agreements, which means that the employee and employer can agree to arbitration later after a dispute arises.

#### Washington’s “Silenced No More Act” Becomes Law

On March 24, 2022, Gov. Inslee signed Washington State’s version of the “Silenced No More Act.” The Act is similar to a law recently passed in California. It goes into effect on June 9, 2022.

The new legislation goes significantly further than a 2018 Washington law prohibiting nondisclosure clauses in pre-dispute employment agreements related to sexual harassment and sexual assault. The 2018 law permitted nondisclosure clauses in post-dispute settlement agreements and confidentiality instructions during “open and ongoing” investigations into allegations of sexual harassment.

The Silenced No More Act repeals the 2018 law. It prohibits nondisclosure clauses in pre and post-dispute employment agreements related to discrimination, harassment, retaliation, wage and hour violations, and sexual assault. This means that employers cannot prevent or prohibit an employee from discussing conduct that the employee reasonably believes violates the laws against discrimination, harassment, retaliation, wage and hour protections, and sexual assault. In addition, employers may not terminate, discriminate, or retaliate against an employee who discloses or discusses such conduct. The Act does permit confidentiality clauses concerning the amount paid to settle a claim.

#### Oregon Expands the Workplace Fairness Act

Also on March 24, 2022, Gov. Brown signed amendments to the 2019 Oregon Workplace Fairness Act (OWFA). The new law goes into effect on January 1, 2023.

The 2019 law prohibited employers from requesting confidentiality for discrimination claims in pre-dispute and post-dispute settlement agreements. It also prevented “no-rehire” provisions in such arrangements. However, if an employee asked for a confidentiality clause, the employer was permitted to include one.

The new amendments prohibit employers from requesting confidentiality regarding the amount of, or fact of, any settlement. However, employers can include a confidentiality provision regarding the amount if requested by the employee.

The law applies to current, former, and prospective employees. Before entering into any settlement or separation agreement, the employer must provide the employee with a copy of its anti-discrimination policy to include OWFA’s required language. When mediation of a discrimination claim occurs and the employee is not represented by an attorney, the mediator must provide the employee with a copy of Oregon’s model anti-discrimination policies.

Employers should review and update their employment agreements to comply with these new laws. Archbright attorneys are available to assist eligible members with this process.



**Beth Tauschner** | Attorney

## Juneteenth: Its Significance and How to Recognize the Holiday at Work

Juneteenth, celebrated each year on June 19, is a day to commemorate the end of slavery in the United States.

In 1863, President Abraham Lincoln signed the Emancipation Proclamation, which officially established that all enslaved people “shall be then, thenceforward, and forever free.” However, slavery continued in states under Confederate control that didn’t have a significant presence of Union troops, such as Texas. Many enslavers relocated to Texas due to the lack of enforcement, and the population of enslaved people there increased.

But on June 19, 1865, Union Army General Gordon Granger, along with 2,000 troops, traveled to Galveston, Texas, to announce that the Civil War had ended and, in turn, so had slavery. 250,000 enslaved people in Texas were suddenly free. Slavery was then officially abolished by the adoption of the 13th Amendment the following December.

Celebrations began the following year across the South, and soon, the recognition of Juneteenth spread throughout America and beyond. Today, Juneteenth is still a celebration of African American freedom, but it also serves as an important reminder of our country’s painful past. According to Juneteenth.com, Juneteenth “is a day, a week, and in some areas, a month marked with celebrations, guest speakers, picnics, and family gatherings. It is a time for reflection and rejoicing. It is a time for assessment, self-improvement, and for planning the future. Its growing popularity signifies a level of maturity and dignity in America long overdue. In cities across the country, people of all races, nationalities, and religions are joining hands to truthfully acknowledge a period in our history that shaped and continues to influence our society today.”

The meaning behind Juneteenth holds great significance for many people. And now, it is finally being recognized formally. In 2021, Juneteenth became a federally recognized holiday and will be an official Washington and Oregon state holiday starting this year. Seven other states consider Juneteenth an official state holiday, and most other states consider it a day of “recognition” or “observance.”

While private employers are not required to provide state or federally recognized holidays to their employees, many employers have signaled their commitment to diversity, equity, and inclusion (DEI) by

**Lindsey Sosa** | Content Manager



adding Juneteenth to their holiday lineup. According to Hella Creative, a volunteer-based Juneteenth advocacy group, more than 700 large corporations observe Juneteenth, including Nike, Starbucks, Netflix, Target, Adobe, and Capital One. An Archbright poll conducted on mozzo last month showed that 48% of participating members plan to offer Juneteenth as a holiday, while 14% responded that they are considering offering it.

If your organization is considering offering this holiday to your employees, it’s not too late to add it this year, but planning should begin soon. Steps to implement the Juneteenth holiday in your organization may include:

1. Determine the policy. If you can’t cease all operations for the day, consider offering an extra floating holiday or incentive pay for those who must work. Ensure eligibility for the holiday is applied equitably and is based on job-related criteria.
2. Communicate the day off and/or office closure to employees, customers, and vendors. Identify alternate points of contact if necessary.
3. Update written materials as needed, for example, the employee handbook, intranet, company website, or any other location where holidays are listed.
4. Update your HRIS/Payroll system. If your system tracks paid holidays and codes them accordingly, you must add Juneteenth to the list.

If your organization can’t add Juneteenth as an official company holiday, consider educating employees on its importance and celebrating it in other ways. Examples include organizing a potluck, inviting a guest speaker, or providing resources for employees to learn more about black history and how they can further their own DEI journey.

### HR FAQ

**Question:** One of our employees was arrested and is currently in jail. His partner called in to report the absence on his behalf. Do we need to allow him to use sick leave or keep his job open? Can we terminate him?

**Answer:** Even if the jailed employee can call their employer or have someone else call to report the absence on their behalf, being incarcerated is not protected by the Family and Medical Leave Act (FMLA), Washington Paid Family and Medical Leave (WPFML), or Seattle or Washington paid sick leave laws. The employer may generally consider this situation an unexcused absence and end the employee’s employment.

However, before taking action, it is prudent to review the circumstances of the arrest and investigate any possible mitigating factors that might alter the decision. Examples of important factors include:

1. Has the employer treated all other employees in similar circumstances in the same manner?
2. Is this person a tenured employee? Do they have a positive track record for attendance and performance?
3. Is there any indication that the arrest was a mistake by law enforcement?
4. What was the nature of the offense?
5. What is the anticipated length of incarceration?

Rather than moving straight to termination, consider issuing a warning to the employee for the unexcused absence if this was an isolated incident. Keep in mind that any course of action taken will need to be applied consistently for other similar employee situations. If you decide to allow the employee to return to work, have a plan for what you will do if the employee is convicted. In that case, we recommend contacting an Archbright attorney to discuss the specific situation.



**Katherine Kummerow** | Sr. HR Advisor

## ARCHBRIGHT NEWS

# Archbright's Group Retrospective Rating Programs Provide Refunds on Workers' Comp Insurance

**Tim Lundin** | Director of Safety and Loss Control

Retrospective Rating is a voluntary financial incentive program offered by the Department of Labor and Industries (L&I) in Washington to reward proactive safety and claims management. Any employer with a state fund workers' compensation account can choose to join a Retro program in hopes of earning a refund on a portion of the workers' compensation premiums that they pay to L&I.

Archbright operates several retro programs to help our members earn refunds every year in the following industries:

### **Manufacturing**

For over 35 years, Archbright has sponsored the largest retro program in the state for manufacturers, with over 300 participating small to large manufacturers. This program has refunded over \$180 million to its participants averaging a 25% return to members since its inception.

### **Wholesale, Retail, and Professional Services (WRPS)**

In 2018, Archbright sponsored our second retro program to service the wholesale, retail, and professional services industries. This program has proven highly profitable in its short existence, with an average return to members of over 41%, leading all retail retro programs over the same period.

### **Tri-City Construction Council**

Since 2007, Archbright has been the third-party administrator for the Tri-City Construction Council-sponsored retro program. Archbright manages this program like it is one of our own and the positive returns to members show our commitment. We have helped the program earn an average 25% return since 2007.

### **Washington Association of Sewer and Water Districts (WASWD)**

In 2020, we began a successful partnership with the Washington Association of Sewer and Water Districts as their third-party administrator. Our first ever refund under this partnership comes out in May and is projected to be over a 78% return to their members.

### **How Archbright Can Help You Earn Refunds**

Our retro participants have the opportunity to earn amazing returns on their workers' compensation premium, and they receive critical services through their participation to help improve their operations from the inside out. All our retro participants are assigned a team of Archbright claims examiners to take some work off their plate by ensuring that claims are managed appropriately and closed as quickly and cost-effectively as possible.

Our retro participants receive additional assistance from our safety consultants who perform much-needed safety services such as mock L&I inspections, written safety program reviews, safety training delivered to their employees, increased access to mozzo, assistance with safety committees, and much more.

### **Archbright ReClaim**

For our members who are not in one of the industries that we offer a retro program for, we offer Archbright ReClaim. This program provides members the opportunity to earn a refund for their safety and claims management performance. With Archbright ReClaim, any member can gain access to our safety and claims management services regardless of industry.

### **Free Claims Review & Consultation**

If you would like to know if you qualify for one of our retro programs or for Archbright ReClaim, let's meet for a free consultation on your claims. Regardless of whether you choose to participate in one of our programs, we are happy to help. You'll leave with new insights and some actionable information about your claims management processes. To get started, please reach out to your Archbright Account Executive.

## Get to Know Tim Lundin, Director of Safety and Loss Control

Part of the Archbright team since 2013, Tim Lundin leads a team of safety consultants and loss control analysts who ensure members receive top-notch support in both areas. Tim also oversees all of Archbright's Retrospective Rating Programs, including tracking performance and making plan choices, to help members reap the rewards of their retro participation.



## SAFETY & LOSS CONTROL

### New Heat Exposure Rules Are Coming

With summer temperatures consistently rising across the country year after year, new safety regulation development is underway to prevent work-related heat illnesses and injuries.

#### Federal Requirements

In the fall of 2021, the Occupational Health and Safety Administration (OSHA) announced plans to create a permanent safety standard to address the hazards associated with heat-related injuries and illnesses. Although the proposed rule is still under review, OSHA has announced the implementation of a new National Emphasis Program (NEP) related to heat illnesses and injuries for workers. This heat-related NEP will concentrate on heat-related ailments such as heat stroke, heat exhaustion, heat cramps, heat syncope (fainting), heat rash, rhabdomyolysis (muscle breakdown), and acute kidney injury. The NEP will also focus on injuries related to heat exposure, such as a fall or cut that occurs during or after heat exposure.

Until a permanent standard is in place, the heat-related NEP falls under the General Duty Clause, which states that employers must provide a work environment free from recognized hazards that are causing or likely to cause death or serious physical harm. This means that employers should address heat-related exposures as they would any other hazard in the workplace by taking measures such as:

- Implementing a heat exposure prevention program to mitigate injuries and illnesses;
- Conducting a job hazard analysis to identify indoor and outdoor tasks for risks that could increase with the exposure to heat;
- Designating someone at each worksite to monitor temperatures and workers on high temp days (above 80°F); and
- Reviewing OSHA 300 logs, incident reports, and near-miss reports for heat-related cases and developing mitigation strategies for future events

State-run safety emphasis programs such as those in Washington and Oregon must meet or exceed the OSHA regulations.

#### Washington Requirements

In Washington, employers must follow the safety planning, training, and other requirements outlined in the state's current Outdoor Heat Exposure rule, WAC 296-62-095. This rule applies to workers who perform job duties outdoors for more than 15 minutes in any 60-minute period, May 1 through September 30. Employers must address heat exposure in their Accident Prevention Program if temperature thresholds as minimal as 52°F are met, depending on the protective gear worn.

In addition to this rule, in July 2021, the Department of Labor & Industries (L&I) issued emergency temporary rules to address extreme high-heat procedures with requirements for mandatory preventive cool-down rest periods with specific amounts of shade when temperatures reach 100°F. L&I declared that they would begin incorporating the emergency temporary rules into the permanent rule as early as June 2022. Until then, Washington employers must follow both sets of standards.

#### Oregon Requirements

In Oregon, the Heat Illness rule 437-002,0155 applies when the heat index equals or exceeds 80°F. Some of the requirements include acclimatizing workers, providing cool drinking water and access to shade, and training on heat illnesses and prevention. Similar to federal OSHA and Washington, in July 2021, Oregon adopted two emergency temporary rules—one for agriculture and another for all other workplaces that further specify actions to be taken as temperatures rise.

For more information on these rules and their requirements, please see Archbright's blog post, [New Heat Exposure Rules To Watch For This Summer](#). Eligible members can find helpful tools such as a *Heat Exposure Plan* and *Heat Exposure Quickstart* in the Resource Library on mozzo, and are encouraged to reach out to the Safety Hotline with any questions.



Tiffany Knudsen | Content Manager



## mozzo MONTHLY UPDATES

### New Trainings in the Video Training Library

Facing some challenges between two or more employees at your organization? We recently launched a couple of new videos to assist you with conflict management in the workplace:

- **Conflict Resolution in the Workplace:** When not appropriately addressed, workplace conflict can escalate and contribute to poor morale or even claims of bullying or harassment. To avoid this, HR should intervene early.
- **Transforming Conflict:** When handled well, conflict can be a powerful opportunity to build relationships with your direct reports, co-workers, supervisors, and managers. This course explores three important competencies that keep conflict productive: an awareness of thoughts, facts, and words.
- **Conflict Traps:** When in conflict, it is easy to fall into unhelpful thought patterns that make resolution more difficult. This course describes common conflict traps and the solutions for each.

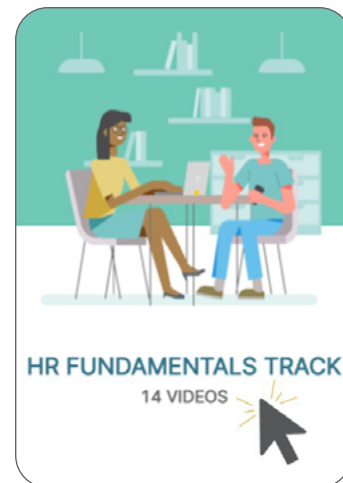
We've also added all these new trainings:

- **Stay Interviews:** Help improve retention with sample questions provided to get you started.
- **Change Management:** Outlines key stages employees go through in response to change and appropriate leadership responses for each.
- **The 5 Whys:** Even if you think you know the answer to a workplace issue or problem, it's always best to confirm your ideas with data.
- **Bring Your Own Device:** Learn how creating a separate policy to address the use of personal devices is highly recommended.
- **Washington Experience Factor Part 1 – Introduction:** Focuses on the methods used by the Washington State Department of Labor and Industries to determine the experience factor for employers in Washington state.
- **Washington Experience Factor Part 2 – Special Rules for Calculations:** Describes special rules and situations that can impact the calculation of experience factors for employers in Washington state.
- **Introduction to Washington Retrospective Rating:** Learn how employers can earn back a portion of workers' compensation premiums.
- **Workplace Violence Part 1:** An overview of common factors that put employees at risk for workplace violence.
- **Customer Styles:** Learn the different possible customer styles and tips for spotting each so that they remember you and recommend your services to others in the future.

These videos are easy-to-watch animated videos that employers can assign to employees. Other videos available in the Video Training Library range on topics from FMLA to safety. Sign in to mozzo to see for yourself! If you do not have access, check with your organization's main contact with Archbright.

Each employee that is taking the trainings must have a learner seat. The user can assign as many videos or training tracks to learners and track employees' completion. All members receive three learner seats as part of membership. If you need more learner seats, contact your Archbright Account Executive!

*Some mozzo features are only available based on membership level and user permissions.*



### Consumer Price Index

#### US Cities Average—March 2022

CPI-W: 283.176 + 1.518% (1 month change) + 9.362% (1 year change)  
CPI-U: 287.504 + 1.335% (1 month change) + 8.473% (1 year change)

#### Seattle/Tacoma/Bellevue—January/February 2022

CPI-W: 305.702 + 1.515% (bimonthly change) + 8.100% (1 year change)  
CPI-U: 310.078 + 1.713% (bimonthly change) + 8.060% (1 year change)

1982-84 Base; CPI-U = Urban Consumers; CPI-W = Wage Earners & Clerical Workers

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