RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

BRIAN CALLEY
LT. GOVERNOR

August 19, 2014

Leonard Seawood, Superintendent
Benton Harbor Area Schools
636 Pipestone Road
Benton Harbor, Michigan 49022

Board of Education
Benton Harbor Area Schools
636 Pipestone Road
Benton Harbor, Michigan 49022

Dear Superintendent Seawood and Benton Harbor Area Schools Board of Education:

On August 1, 2014, the Benton Harbor Area Schools Financial Review Team submitted its report to my Office. The report concluded, pursuant to Section 5(4)(b) of Public Act 436 of 2012, the Local Financial Stability and Choice Act, that a financial emergency existed within the Benton Harbor Area Schools.

On August 11, 2014, I concurred in the assessment of the Review Team and determined, pursuant to Section 6(1)(b) of the Act, that a financial emergency existed in the Benton Harbor Area Schools. By letter dated August 11, 2014, I notified you of my determination and set forth the findings of fact upon which that determination was based. The letter also provided notice of the School District's right to request a hearing upon the determination.

Section 6(2) of the Act requires, in part, as follows:

> Following the hearing, or if no hearing is requested following the expiration of the deadline by which a hearing may be requested, the governor, in his or her sole discretion based upon the record, shall either confirm or revoke, in writing, the determination of the existence of a financial emergency. If confirmed, the governor shall provide a written report to the governing body and chief administrative officer of the local government of the findings of fact of the continuing or newly developed conditions or events providing a basis for the confirmation of a financial emergency and a concise and explicit statement of the underlying facts supporting these factual findings.

The deadline by which School District officials could have requested a hearing, August 18, 2014, expired without a hearing being requested. Therefore, for the reasons set forth below, I confirm my determination that a financial emergency exists in the Benton Harbor Area Schools.

I again have reviewed in detail the report submitted to me on August 1, 2014, by the Review Team. The Review Team found, or confirmed, the existence of the following conditions based upon information provided by School District officials, or the Benton Harbor Area Schools' audit firm, or other relevant sources:

- According to the School District's 2013 fiscal year financial audit report, the School District's cumulative General Fund deficit decreased by 3.6 percent, from $16.1 million on June 30, 2012, to $15.5 million on June 30, 2013. General Fund expenditures exceeded General Fund revenues by $1.3 million; however, the net change in fund balance was a positive $581,671, owing primarily to receipt of a $2.0 million emergency loan from the State. But for the emergency loan, the cumulative General Fund deficit would have increased 8.7 percent, from $16.1 million to $17.5 million.

- Financial audit reports for the School District for its last three fiscal years reflected notable variances between General Fund revenues and expenditures, as initially budgeted and as finally amended, versus revenues and expenditures actually realized. For example, School District officials overestimated General Fund revenues by $822,112 in fiscal year 2011, underestimated revenues by $903,925 the following fiscal year, and again overestimated revenues by $1.1 million in fiscal year 2013. Similarly, expenditures were overestimated in fiscal year 2011, but were underestimated in the remaining two fiscal years by $323,140 and $115,317, respectively.

- School District officials violated Section 17 of Public Act 2 of 1968, the Uniform Budgeting and Accounting Act, by permitting expenditures in excess of budgeted appropriations.

- According to the School District's 2013 fiscal year financial audit report, General Fund liabilities of the School District as of June 30, 2013, were $21.4 million, while General Fund assets totaled only $5.9 million.

- As of June 30, 2014, the School District owed more than $3.6 million in total accounts payable to various vendors. This total included more than $1.3 million that was more than 211 days past due. Furthermore, the accounts payable situation had worsened markedly, increasing by roughly 21 percent during just the one-month period May 31 to June 30.

I remain in agreement with the conclusions of the Review Team report. Furthermore, I note that School District officials have not disputed the accuracy of any of the information contained in the report, nor disputed any of its conclusions. Therefore, pursuant to Section 6(2) of the Act, I confirm my determination that a financial emergency exists in the Benton Harbor Area Schools.

Pursuant to Section 7(1) of the Act, the Benton Harbor Area Schools Board of Education must within seven days of the date of this confirmation adopt a resolution that selects one of the following four statutory options to address the financial emergency:

(a) The Consent Agreement option pursuant to Section 8 of the Act.

(b) The Emergency Manager option pursuant to Section 9 of the Act.

(c) The Neutral Evaluation Process option pursuant to Section 25 of the Act.

(d) The Chapter 9 Bankruptcy option pursuant to Section 26 of the Act.

The deadline by which the Benton Harbor Area Schools Board of Education must submit to my Office an adopted resolution selecting one of the foregoing statutory options is 5:00 P.M., Tuesday August 26, 2014. Pursuant to Section 7(3) of the Act, if the Benton Harbor Area Schools fails or refuses to select a statutory option by the deadline, the School District will be required to proceed under the Neutral Evaluation Process.

Sincerely,

Rick Snyder
Governor