



Podcast Transcript

2024 Elections: The Race for the White House and Congress

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Guest: Peter Roskam, Heath Shuler and Jim Ellis, **Host:** Randall Rubenking

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For questions and comments contact:



Peter Roskam

Partner
Washington, D.C.
T: +1.202.861.1605 | proskam@bakerlaw.com



Heath Shuler

Senior Advisor
Washington, D.C.
T: +1.202.861.1763 | hshuler@bakerlaw.com

Rubenking: The race for the White House is shaping up like nothing we've ever witnessed before. How will a Biden-Trump rematch influence races for Congress? Can Republicans maintain their narrow House majority? Will Democrats remain in charge of the Senate? And what does all of that portend for the policies Congress needs to tackle? I'm Randall Rubenking, and you are listening to BakerHosts.

On today's episode, we'll discuss the state of the 2024 presidential and congressional elections. Our guests today are former Congressman and Federal Policy team leader, Peter Roskam, former Congressman, Heath Shuler, and election forecaster, Jim Ellis. It is going to be a wild year in politics, and this will be an insightful discussion here on BakerHosts. Let's listen in.

Roskam: I'm Peter Roskam, the leader of the Federal Policy practice here at BakerHostetler, and I'm joined with my colleague Heath Shuler, who is a senior

advisor. We both bring a good perspective to things because we were friends in Congress, and we represented both sides of the aisle. I'm a Republican, and Heath's a Democrat. And yet we represented parts of our party that could take yes for an answer, which is going to be an interesting part of today's discussion. And we're joined by Jim Ellis, who is the president of Ellis Insight and somebody who knows a lot about politics, having served almost four decades as a political consultant, and operator, and pollster, and analyst. And we're here today to unpack the elections, 2024 is a big year. We know all kinds of things are going on, some of them predictable, some of them really unpredictable. So, gentlemen, it is great to be with you both today. Thanks for taking the time.

Shuler: Thank you, Peter. It is always a pleasure to be on the podcast with you.

Ellis: As it is for me, thank you again for inviting me.

Roskam: Well, Jim, we're glad you're here. Alright. So, Jim, you're the expert. Heath and I are both practitioners, you know, haven't had our names on the ballot. But you're the expert with a little more distance and objectivity and an ability to analyze things. We know you've spoken at our legislative seminar in the past, and we've always gotten great feedback from the participants there. How would you characterize the 2024 election based on what you've seen so far, and what are trends in particular that you're finding that differentiate this election from others?

Ellis: Well, I think it is safe to say Peter and Heath, that we have never had an election like we're going to have this time. And we've got a, really, a rerun from 2020 in terms of the candidates. It is pretty clear right now that both President Biden and Donald Trump will be the nominees of their respective parties. And this is the first time since Grover Cleveland did it in the 1880s that a president, a former president, has come back to attempt to win another term. And so it is, but it is a first obviously, in the modern political era. This time he is also saddled with 91 felony charges, some of which that may be dealt with before the election. So, that is also something we've never seen before, and how people respond to that, I think is a big question mark.

But as we saw in 2020, this will be a very close election. You can argue it came down to about 65,000 votes last time, despite Biden winning the popular vote by several million. When you added the closest states of Georgia, Arizona, Wisconsin, and the 2nd District of Nebraska, it ends up being just 65,000 votes that decided that race, and I think we're going to see something similar to that this time.

Roskam: So, let's go back and look at just a couple of these candidates. Can you look at Ron DeSantis, the governor of Florida, now former presidential candidate? What happened to Ron DeSantis? He was running high, running hot. Came out of Florida with a big, big win over his opponent, Congressman Charlie Crist. Really was bringing his game, flying high, and really underperformed. What is the story?

Ellis: Yes, he sure did. His reelect campaign was fantastic. It was one of the better ones I've seen. And the presidential campaign just fell flat, I think for a couple of

reasons. The polling is interesting from the standpoint of, he just didn't have the base that Trump does. I mean, Trump, say what you will about him, he has a very strong base within the party. And if you look below the surface of the Trump voters, they like DeSantis. So, it really wasn't a question of them going against DeSantis, they were for Trump. And I think his timing was off. It is easy to say in hindsight, oh, he should have stayed out and just had a real strong second term as governor, and then he would have been in perfect position for 2028. That is easy for all of us to say right now. But at the time they made the decision that looked like he had a shot. His other problem was, as we've seen, DeSantis is not a good retail politician, and to do well in both Iowa and New Hampshire, you have to be. And you can argue that maybe those are about the two worst states for DeSantis and his campaign abilities for him to start with. So, I think add it all together, does explain how he did.

Roskam: Heath, I got a question for you. You and I came in together into Congress in 2006, and I don't know about you, but that seems like a different era. A different era politically in Congress. A different era in campaigns. You came in in a big, strong election for the Democrats in '06. I came in in that same cycle. As you look at the, these campaigns of 2024 and the campaigns of 2006 in our era, how different does it feel to you?

Shuler: Well, I think obviously the social media has played such a big part of engaging people into the elections. If you'll recall, during our time, we were still mailing out mail pieces. You were always trying to get TV and radio, and it almost seems a little archaic at this point in time. Unlike now, today, the, with Twitter and some of the other social medias, they are able to communicate with their constituents and, at any given time. And I think that's kind of, I think it's helped create this divide between the parties, because those people that follow you are more like-minded, so, you ultimately find yourself communicating as they would like to hear you communicate. As opposed to what you and I were doing when we got into, when we were elected. We looked around the room and we, all of us freshmen showed up, you really couldn't tell who was a Democrat and who was a Republican.

Roskam: Right.

Shuler: You have a conversation with them. And I remember Kevin, the very first conversation I had with Kevin. Kevin thought I was a Republican, and I thought he was a Democrat and we laughed about it.

Roskam: Yeah, you're talking about Kevin McCarthy?

Shuler: Yeah, Kevin McCarthy. I mean we're, it is kind of like, it was a very different time and era, and today you're, it is a divisive creation that is going on in this country. And I don't think that is in the best interest of who we need to portray, not only in our own country, but how we're seen abroad.

Roskam: Jim, let's pick up on Keith, Heath's observation about divisiveness. You mentioned the 65,000 votes split between, in key electoral votes in 2020 between

Donald Trump and Joe Biden. How does that manifest itself for both of these campaigns moving forward? What advice would you give to Trump for his campaign to put this together? What advice would you give to Biden and his campaign to put this together in 2024, based on the divisiveness that Heath mentioned?

Ellis: I think that is a great question, and a lot deals with messaging and how they message their campaigns. And both of them have to make big changes. Here is an interesting statistic coming from Bill McInturff over at Public Opinion Strategies, and he is running polls for NBC News. And what McInturff did at the end of 2023, noting that Biden, the Biden campaign spent almost \$50 million in the off year, advertising in the battleground states. And that was an all-time record for an off year, as you might imagine. And what McInturff found when they went in with the NBC polls, in all the states that Biden advertised, he went down.

Roskam: Wow.

Ellis: He went down in support in every one of them by three to five points. His message was Bidenomics. That clearly wasn't working. On the Trump standpoint, if he continues on his retribution theme, he is not going to win. If he creates a vision for the future like he did in 2016, then I think he's got a chance. But he needs to make fundamental changes in his message, as does Biden. So, we've seen, I think both sides get off to what I would say is, it is a bad start in terms of messaging. And both of them will need to make changes if they expect to win the race.

Roskam: Jim, what do you make of the two Donald Trumps that we saw on these victory speeches? Victory speech at Iowa was fairly magnanimous, fairly sunny. And there was a brightness to it from Trump. The speech in New Hampshire, wow, was there an edge to that. It was sharp elbowed against Nikki Haley. Really, really hot. You can tell she has gotten under his skin. How do you think that plays moving forward?

Ellis: It seems to be kind of typical of him, and I think it needs to change if he is going to win the nomination. I think even in South Carolina, he is up two to one over Nikki Haley, even in her own state. If she loses her home state, I think then it is over. But it is, he has to make fundamental changes in this message if people are going to start to come back to him. And I think there is a willingness from some people that maybe hadn't voted for him to maybe look at him, but he's got to give that vision of the future, as I mentioned. And that is one reason I thought DeSantis ran such a great campaign, because he talked about not only highlighting the negatives on his opponent at the time, Charlie Crist, but here is what we will do for you. People vote on the future and not the past. And Trump has to understand that if he is going to be a better national candidate.

Roskam: When Heath and I were running for Congress, the 101 of politics was, secure your base, and then reach out for independents and voters that are persuadable in the middle. And it seems very common sense. And yet, it strikes me that both Trump and Biden have a problem right now with each of their parties. Twenty-five

percent of Republican voters, apparently, coming out of New Hampshire have said they're not going to vote for Donald Trump in the general election, which strikes me as a problem. And on the Biden end of things, it seems like Biden is almost afraid of his left flank right now in terms of making a deal on the border, which strikes me politically as would be really good for him. And yet, for some reason, it is like a Rubicon that he is not willing to cross. What do you think of where both of these candidates are, Jim, vis-à-vis their own parties moving into the general election?

Ellis: Well, I think that is, it is interesting, and it seems to be about a quarter of both sides, as you mentioned. Coming out of New Hampshire, 25%, approximately, of Republicans say, well I won't vote for him. That might be a bit skewed because that is, New Hampshire is not a good state for Trump, and he should have run closer than he did in his elections. So that may be a little bit of a skewed example. But 20, almost 25% of the people in the Democratic primary voted for a candidate other than Biden. So, from that standpoint they both have a similar situation coming out of New Hampshire where they don't have a complete united party behind them. So, both of them, again, have to make the same types of change in their operations. But I think you make a good point regarding Biden being afraid of the left flank, because he's gone so far that way that he is probably losing some of the folks in the middle. One last comment on that. The middle is a lot smaller in terms of size than it was when both you and Heath ran in 2006.

Shuler: And Jim, I think it brings up a point when you're talking about the, in both political parties, and I know we've all heard it privately, even with current members of Congress that are not happy or satisfied with either candidate or the candidates that are currently running. And privately, the Republicans are not for Trump personally, but because of their constituency, they endorse and they support. And the same way on the Democrat side and talking to a lot of my former colleagues and even newer elected Democrat colleagues, they're like, is, can we find someone else?

And I think there is kind of two parts to it. One is, often is, is a lot of times when you get to become an elected official, and the higher up in the food chain you go, certainly when you get to the presidential side, they end up surrounding themselves with more of the yes people that tells you what you want to hear. As opposed to what I am confident that Peter had, and I know that I had, that people told me what I needed to hear, whether it was good, bad, or indifferent. Which ultimately, in very purple districts that Peter and I ran in, we were over, able to win significantly in those campaigns because we were able to have a common support, the ideas and thoughts of your party. But really have your own ground that gets that, where I think 80% of American people really are, which is in the middle. Do you think that there, because of the uncertainty and the actual current slate of candidates, do you think there is a chance that a third party could come in? The No Labels, could they come in and, I hate to say it, but save the day for the American people?

Ellis: I think that is a very good point, and we will probably see a more active minor party slash independent lines than we've had in, probably since 1992 when Ross Perot got 19% of the vote. And you've got Robert F. Kennedy running as an Independent. The biggest advantage that he has is, everybody knows his name. And his, I think biggest problem is making sure he can qualify for the ballot in the requisite number of states. And I'm sure he thinks he is in to win, that is not going to happen, but can he affect the outcome? Yes. We'll see what No Labels does in terms of if they get, if they bring forth a slate, they want a Democrat and a Republican, and probably a Republican at the top of the ticket and a Democratic vice-presidential nominee.

Shuler: Right. That is what I had heard, that that could be a strong...

Ellis: Because if you look, if on No Labels, if you look at the Republican makeup of that organization, it is, they're all never-Trumpers. So, they do not want a candidate that they perceive will hurt Biden and elect Trump. So that is why I think they've kind of stepped back a bit. Senator Manchin would love to be, I think, their nominee, but they'll, they won't go with him because he clearly hurts Biden with moderate Democrats. So, it is going to be interesting to see what they do.

But I think, Heath, you raise a very good point about the role of the minor party slash independents. Right now, originally, I think they took a couple more points from Trump, according to polling. Right now, I think it is about even. So, but we will, I think those folks definitely will have a role to play in this election, and it will be significant.

Shuler: Would a _____ person be the candidate from the Republican side with maybe a VP candidate like a Manchin? Would it be that, or would they go to a more, not that a governor is not well known, but a Mitt Romney that's showed while in the Senate and as governor that he was able to be a neutral voice, and an independent voice, and be able to work with both sides? Who would be that Republican candidate that would, or maybe there is a couple that you'd like to mention that would say hey, this would be a very formidable candidate for an independent third-party group?

Ellis: Well, if Trump keeps alienating Nikki Haley, it might be her. But no, I think you, I think those are good points. I think what they need, and Kennedy already has this, as I mentioned. They need somebody that is well known. They can't take time and resources to educate the voting populace as to who their candidate is. It's got to be somebody that people already know. And I think that is a huge point. Now they've been, in terms of ballot acquisition, they've been working for over a year to qualify the No Labels party in many states. They've, they're in 14 states right now. The only third party or minor party that was on the ballot in all 50 states last time in 2020 was the Libertarians, and they were on the ballot as a Libertarian candidate in 48 states. The only two they weren't, their candidate, which was Alabama and Tennessee, was on the ballot as an Independent. But they were the only ones that had 50 state, a 50-state presence. And it is so difficult to get on the ballot in all of these states because they're all different, and you have to manage 50 different systems to qualify for the ballot. And I think

most of these people that run, I think Kennedy's now seeing that, that it is a lot more difficult than he thought. I noticed they've just dedicated \$15 million to get ballot placement in all these states. It is an extremely difficult process and made so on purpose by the major parties.

Roskam: Let's press in on that idea about the 65,000 votes that separated the two candidates in these key electoral states and districts, Jim...

Ellis: Yes.

Roskam: ...from 2020. Do you know off the top of your head, are No Labels on the ballot in Wisconsin, Pennsylvania, Georgia, Arizona? You mean some of those states that are really the center of this universe in 2024?

Ellis: Yes, some of them. Arizona, Nevada, and Alaska are the three I think that are the ones that are in play. Now Alaska is in play because of the ranked choice voting system they've got.

Roskam: Yeah.

Ellis: And those three votes that they have, the three electoral votes, could be very important. Trump cannot afford to lose any state, and he won Alaska both times, with about 53% of the vote. Now the Democrats were around 40, but the key with the rank choice voting is you've got to get over the 50%. And if you don't, and with Kennedy and possibly a No Labels person there, I think there is a good chance that Trump comes in first place in Alaska, but under 50. And if that happens, then the ranked choice voting starts and then he could easily lose.

Roskam: Man.

Ellis: So that, but in terms of No Labels right now, it is Alaska, Nevada, Arizona they are on the ballot.

Roskam: That is fascinating. And this, you couldn't make for a more tumultuous setup than what we've been describing for the last few minutes. Let's shift gears and talk about Congress because while this is interesting at a national level, it manifests itself down ballot into these Senate races and House races. Right now, we know we've got an incredibly narrow Senate majority for the Democrats and incredibly, shall I say, razor-thin, bare majority right now for the House Republicans. Jim, give us a foreshadowing of the direction that you think these majorities are going, because these are massive contests, millions and millions and millions of dollars being spent in various congressional races in, all across the country, and the direction, who gets the gavel is going to come down to the down-ballot impact on this. So, what are you, how is it looking now?

Ellis: Well, starting with the Senate, this is the year the Republicans have to cash in, because the Senate map favors them. And as we know, senators have six-year terms, and a third of the Senate comes up every two years. And in this particular year, the Democrats have to defend 23 States and Republicans only 11. And that is a huge advantage for the Republicans. And the only state that you can say,

well, maybe there is some competition that is going to happen is Ted Cruz in Texas, and in reality, that is not going to happen. That race is going to poll close, and Cruz wins by six points plus.

And so, this gives the Republicans really a chance to be on offense, totally, which is a huge advantage for them. But they really have to make this year count because it is not enough for them to get to 50 or 51. They have to get to 52, 53, 54 to protect themselves in the future when the map in 2026 and 2028 favors the Democrats. And so they have to take advantage and win these places. West Virginia is probably a given now without Manchin running for reelection. That would make it 50/50. Then you go next to Ohio, Montana, and Nevada, and they really need to run the table there in all three of those states. And with Arizona, with Kyrsten Sinema as an Independent, that is a total wild card. At the end of the day, I think all three candidates there, the Democrat Congressman Ruben Gallego, the Republican Kari Lake, and Senator Sinema, I think at the end of the day, they're all going to have a chance to win that. It is a pure wild card there in Arizona. And those are the races, really, that are going to matter. And from a Republican standpoint, I think they need to run the table, because a 51 or even a 52 majority probably is only a two-year stint for them.

In the House, it is almost dead even, and I think it is going to be pretty close with that at the end of this particular cycle. The second round of redistricting is a big factor. And the Republicans have already gained three seats in the North Carolina redistricting, but they lose one in Alabama, they lose one in Louisiana. And the New York situation is the big wild card, just how many it may cost the Republicans there. So, redistricting again being a big deal. And don't forget the Republican majority, the five-seat majority they originally had, is based upon the Republicans over-performing in two of their weakest states in 2022. Because they over-performed the redistricting map in New York and in California by four seats apiece, and those eight seats created the Republican majority. They're going to have to do something like that again, which I think in a presidential year is a tall order. So, we could be in a situation, Heath and Peter, where we could see the presidency, the Senate, and the House flip and still have divided government.

Shuler: And not to mention, correct me if I'm wrong, but if a third-party group comes in and starts taking electoral colleges away...

Ellis: Yeah.

Shuler: ...and no one person gets the 270 electoral college's votes needed to become president, doesn't, at that point it, does it fall back to the House to be able to elect the president at that time?

Ellis: Yes, it does. And it is an interesting vote as well because each member doesn't have his or her own vote. Each state has one vote.

Shuler: That is correct.

Ellis: So, California with its 52 members, they get one vote. But places like Wyoming, and Alaska, and the Dakotas, and Vermont, and Delaware with one member, they get one vote, too. So, it skews to the small states. And that makes the House stakes for both parties even more important. Not just which members win, but which party controls each state delegation. Right now, the Republicans have 26 delegations, but it is based on the 2024 election. So, it is the new Congress, not the current one, that would vote on a president if a candidate doesn't receive 270 electoral votes.

Roskam: And you know what is interesting about that is, a few years ago, that would have been crazy talk. That was hypothetical, [27:04] completely speculative, in no way. But you can actually see a scenario where it ends up happening that that we could be talking about this in a few months. Well, here is where it is coming down to, and a single congressional district ends up making the difference here. Kind of mind blowing. So, whenever somebody says, oh, my vote doesn't count, and I'm not going to participate in this process. Wow. Don't believe that nonsense, because really, every vote does count. It is hugely impactful.

Shuler: The way Florida had during the Bush election...

Ellis: Yes.

Shuler: ...where you know...

Roskam: Yeah.

Shuler: ...one, they were checking every single...

Roskam: Oh, yeah.

Shuler: ..._____ that was actually on every single district, and just imagine if we get to that point what it is going to look like immediately after the election where there'll be days, I'm sure, that will be challenging for us too. So, the question I had when, as a response to that back to the House. But they have to wait until January when the newly elected members are actually voted into Congress before they cast those votes?

Ellis: Yes, they would.

Shuler: So, we would know nothing until we would be in a limbo waiting from the 1st of November all the way to the 1st of January before that, those ballots were actually cast to be able to elect the president.

Ellis: And if you want something to tear the country apart, let's go that route.

Shuler: Yeah.

Ellis: Can you imagine that?

Roskam: Yeah. No.

Shuler: Well, maybe that is what we need instead of something horrible happening from a, to, unites the country back together, and we get rid of this rhetoric and it, the us versus them mentality. And I knew Peter when he was there, and all of our colleagues, we're seeing people pledge allegiance to a political party as opposed to the United States. And I am, I just get more and more frustrated. And when I watch the rhetoric by these members of Congress, it is absolutely sickening to me that that we elect officials that feel like they only can, they can only cast their vote, they can't negotiate. They can't compromise.

I think every great business, every great relationship that I know, people compromise. And I think compromising is good because not always does one person have all the right answers or one political party have all the right answers. I think it takes that compromise, and it is a very unfortunate we're in this situation where we are today. But maybe something like an independent vote would actually put us in a situation where we can become more independently thinking in this country than we are a single-minded focus on the current political structure that we have.

Roskam: Just to build on that, Heath, I think your observation is spot on. And when I opened up the podcast, I said that you and I represented parts of our parties that could take yes for an answer. And by that, I mean sometimes in negotiation, it really just dissolves into well, if this person is for it, then I have to be against it simply because they're for it, and it becomes ridiculous. And here what you and I do at BakerHostetler is get our clients into a lane in terms of Capitol Hill where they're able to find common ground. And you're, the word that you said compromise, in some settings has become a dirty word, like it is a sellout. And maybe a better characterization is to say we're finding common ground here, and where can interests align. And I know you're sensitive to that when we're meeting with clients. I am too, trying to get them out of the controversial lane and into finding common ground on issues. And I think that that is a theme, and I, my sense is that there is a lot of Americans that are really longing for that. Yeah, they may like what I call government by bumper sticker for a while, but after a while, it becomes not very satisfying. And they're trying to figure out how do we get stuff done? How do we how do we find common ground? How do we align interests? And how do we learn to take a little bit, and a little bit, and a little bit. I think Ronald Reagan famously said I'd rather have somebody who agrees with me 70% of the time than 100%, and where we get nothing. So, I think that there is a real good lesson there.

So, Jim, if I'm hearing you, I, let me see if I can characterize and summarize what I think you've said in terms of predictions. Would you say that the White House is a jump ball right now, and that the Senate leans Republican majority? And the House leans Democrat majority in the next go around? Or am I projecting my own opinion onto what you said?

Ellis: I think that is generally correct. I think the prevailing opinion is, the Democrats have the advantage in the House, but if you go race by race it looks closer to even to me. Again, a lot depends. People are expecting that New York map to be heavily Democratic, but I think what they're missing is, the current map is heavily

Democratic. And when they start making some of these seats more Democratic on Long Island and into the Hudson Valley, where the big changes will be made, they're going to weaken some of the seats that they already have, they being the Democrats.

Roskam: Yeah.

Ellis: So, I just think it is a total wild card, and once we see that map then we'll have a better picture. But yes, probably the Democrats could get a small majority, but I don't think it is out of the realm of possibility that the Republicans could hold. And as Peter, in particular, you know Republicans have lost a lot of races that it looked like they would win, so I, even the Democrats retaining control of the Senate may not be out of the realm of possibility.

Roskam: Oh, hey, listen, when you were going through these races. Montana, Senator Tester is a very serious incumbent. Sherrod Brown in Ohio.

Ellis: Right.

Roskam: I mean, he's overperformed time and time again. Kari Lake in, having to live down the kind of the past reputation of her previous campaign, is tough in Arizona. So, I think there is, look, there is a lot there for the Democratic Party to work with, which I think, when we talk to Senate Republicans, they are not cavalier about their possibilities of a majority. Steve Daines, former colleague of ours, chairs the Senate committee from the National Republican Senatorial Committee. He is from Montana, and he is not pumping sunshine. He is, they're working hard, and they see these same strong incumbents that we just mentioned. So, it is going to be super interesting. Well, Jim...

Ellis: The one difference for, if I may just add this last point for now.

Roskam: Yeah.

Ellis: Sherrod Brown and Tester would have been Manchin had he run again. This is the first time they will have had to have run where the political winds are against them. And that is, Trump will carry both of those states, Ohio and Montana. And that is the first time they've had to deal with that. Remember when they've run in the past, these Senate terms are so long that you go back to 2018 was the last time this group was on the ballot. Well, that was a good Democratic year. And then previous to that 2012. Well, they had Barack Obama running for reelection. This year they've got an unpopular Joe Biden, and that is a big difference on these close elections.

Roskam: And these elections are going to be close, and it could be historic. It could come down, like Heath outlined a couple of minutes ago, could come down to the House of Representatives literally making a decision, which will, if and when that happens, we'll have to have a whole podcast series to unpack that.

So, one announcement. We've got our legislative seminar at BakerHostetler, which is scheduled for May 7 and 8. And if you're listening to this, you're on a list

to look for an invitation in the weeks and months ahead, and it'll be in Washington, D.C. We will have lawmakers, both sides of the aisle, come in. We'll have Jim Ellis there from Ellis Insight to give us more insight on where these elections are going. And we hope you're able to attend. So, on behalf of everybody at BakerHostetler, on behalf of Heath Shuler and myself, Peter Roskam, thanks for joining us today. Bye, bye.

Rubenking: Thank you, former Congressman Peter Roskam, former Congressman Heath Shuler, and Jim Ellis. It was a great discussion about the 2024 presidential and congressional elections. If you have questions for BakerHostetler's Federal Policy team, Peter's contact information is in the show notes. As always, thanks for listening to BakerHosts.

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